



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
700 STOVALL STREET
ALEXANDRIA VA 22332 2400

IN REPLY REFER TO
JAGINST 5720.1A
JAG 13
5 Jan 93

JAG INSTRUCTION 5720.1A

From: Judge Advocate General

Subj: "FOR OFFICIAL USE ONLY" MARKING OF OJAG UNCLASSIFIED DOCUMENTS

Ref: (a) SECNAVINST 5720.42E, Department of the Navy Freedom of Information Act (FOIA) Program
(b) 5 U.S.C. § 552

1. Purpose. This instruction implements the requirement in reference (a) that unclassified documents containing information that may be exempt from disclosure under exemptions b(2) through b(9) of reference (b) must be marked "FOR OFFICIAL USE ONLY."

2. Cancellation. JAG Instruction 5720.1.

3. Discussion. The marking of a document "FOR OFFICIAL USE ONLY (FOUO)" alerts the holder of the document that it may contain information that is exempt from release under reference (b). Because FOUO documents are not automatically exempt from release, a document marked FOUO must still be examined to determine whether the document is exempt from disclosure under exemptions b(2) through b(9) of reference (b). Since FOUO is not a security classification, exemption b(1) of reference (b) does not apply.

4. Action. Addressees are directed to observe the following procedures as to any OJAG document produced on or after the date of this instruction:

a. Addressees shall place "FOR OFFICIAL USE ONLY" markings on any document they produce which should be protected from FOIA disclosure by a FOIA exemption other than exemption 1 (classified information). Reference (a) should be consulted to determine the applicability of the various FOIA exemptions. See paragraph 10e of reference (a) for the location of FOUO markings on documents.

b. All documents prepared in reasonable anticipation of civil litigation should be marked as follows:

FOR OFFICIAL USE ONLY -- PRIVILEGED ATTORNEY-CLIENT
WORKPRODUCT

JAGINST 5720.1A

05 JAN 1993

5. Assistance. The Deputy Assistant Judge Advocate General (Administrative Law) shall provide assistance on FOIA-related questions concerning the marking of OJAG documents.



D. A. ALBRECHT
Acting Judge Advocate General

Distribution:

01	02
06A	10
11	12
13	20
31	32
33	34
35	36
61	62
63	64

Copy to:
COMNAVLEGSVCCOM