

OCT 24 2005



Homeland Security

Danielle Brian
Executive Director
Project on Government Oversight
666 Eleventh Street, NW, Suite 500
Washington, D.C. 20001-4542

Dear Ms. Brian,

This is in response to your letter of August 31, 2005, concerning Management Directive FOUO. Thank you for interest in this matter and we assure you that the policies of the Department are not designed to withhold information to which the public has a right to know, nor to circumvent the rights of our employees under the Whistleblower Protection Act.

The public has a right to know what its government is doing. As a Department, we honor, respect, and advocate that right. At the same time, there are instances in which the sensitivity of information requires discretion in its release to prevent its exploitation by adversaries bent on doing harm to our nation. The directive on FOUO allows our employees to recognize and safeguard potentially exploitable sensitive information, while also complying with the Freedom of Information Act (FOIA). The directive specifically states: "Designation of information as FOUO does not imply that the information is already exempt from disclosure under FOIA." The directive does not prohibit the disclosure of information that may be obtainable under FOIA. Additionally, the directive specifically prohibits the designation of information as FOUO "...in order to conceal government negligence, ineptitude, illegalities, or other disreputable circumstances embarrassing to a government agency."

The FOUO directive provides a standard for recognizing and protecting information that could be exploited for nefarious purposes – it is not a vehicle for withholding information that the public has a right to know. To have no standard would do a disservice to the Department, our partners in federal, state, local, and tribal governments, the private sector, and the public. It also would be an impediment to information sharing and a detriment to the security of our nation.

I appreciate your concerns on this matter and thank you for the opportunity to respond.

Janet Hale

A handwritten signature in cursive script that reads "Janet Hale".

Under Secretary for Management