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DEPARTMENT CIRCULAR NO. 022

SUBJECT : People's Freedom of Information (FOI) Manual

Pursuant to Executive Order No. 2, s. 2016, re: Operationalizing in the Executive Branch the People's Constitutional Right to Information and the State Policies of Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor, the attached People's Freedom of Information (FOI) Manual of the Department Proper is hereby issued as guide for the public on the filing and processing of requests for access to information.

The said Manual basically contains the following based on guidelines under Presidential Communications Operations Office Memorandum Circular No. 02, s. 2016:

1. General Provisions – policies, principles, implementors and exceptions;
2. Procedural Standards – requesting, processing, decisions and remedies;
3. Inventory of Exceptions – under Office of the President Memorandum from the Executive Secretary dated 24 November 2016;
4. Standard FOI Request Form; and
5. Location and Contact Information of Offices for Submission of Requests.

This Circular takes effect immediately and shall remain in force until further issuances amending or superseding the same.

For information and guidance of the public.

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Secretary

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Department of Justice
PEOPLE'S FREEDOM OF INFORMATION MANUAL

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Department of Justice
PEOPLE'S FREEDOM OF INFORMATION (FOI) MANUAL

Part I. General Provisions

A. Purpose of the Manual

This Manual (also herein referred to as “FOI Manual”) is issued pursuant to Section 8 of Executive Order No. 02, series of 2016, “Operationalizing in the Executive Branch the People’s Constitutional Right to Information and the State Policies of Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor” (Annex “A”), and provide detailed procedures for guidance to officers and personnel concerned for the effective implementation hereof.

B. Coverage

The Manual shall cover all requests for information directed to the Department of Justice (DOJ) Proper or Office of the Secretary, including all senior officials, Services/Offices in the central office, and regional/provincial/city prosecution offices of the National Prosecution Service (NPS). Each constituent/attached agency of the Department shall have its own FOI Manual.

C. FOI Receiving Officers

There shall be an FOI Agency Receiving Officer for the Department Proper and Office Receiving Officer in each of the central, regional and provincial/city offices, which will have the following functions:

1. Receive requests for information on behalf of the Department and the office;
2. Provide assistance and support to the public and staff with regard to FOI;
3. Conduct initial evaluation of the request;
4. Advise the requesting party on the requirements and procedures;
5. Compile and manage information as directed/required;
6. Forward such requests to the appropriate office/unit, as necessary;
7. Provide assistance and recommendations to the FOI Decision Maker; and
8. Monitor FOI requests and appeals;

The said Receiving Officers shall be as follows:

1. Chief of the Communications Division as the Agency Receiving Officer
2. Supervisors (i.e. section/division heads or chief administrative officer concerned, as the case may be) as Office Receiving Officers in Service-level units headed by a director-level officer in the DOJ main office; and
3. Administrative officers of Regional/Provincial/City prosecution offices

D. FOI Decision Makers

Heads of central, regional and provincial/city offices shall be the FOI Office Decision Makers who will evaluate FOI requests specific or limited to their respective jurisdictions/functional areas and authorized to grant the said requests, or deny based on exclusions herein provided.

The Undersecretary in charge of communications shall be the central Agency Decision Maker who will evaluate, grant and deny any FOI request assigned thereto especially those involving multiple office sources.

E. Central and Regional FOI Committees

The Central FOI Committee shall be in charge of providing policy/management guidance for FOI implementation in the Department, review appeals with respect to denied information requests and recommend appropriate action by the Secretary thereon, and liaises/reports to oversight and agencies concerned. This shall be headed by the Undersecretaries and Assistant Secretaries in charge of communications/public information, personnel administration and records management. The Communications Division shall serve as Committee secretariat.

The Regional FOI Committee shall have the same functions but within the regional coverage. This shall be composed of the Deputy Regional Prosecutor and Senior Assistant Regional Prosecutors. Decisions/denials on appeals by the Regional Committee can be further appealed to the Secretary of Justice who will refer this to the Central Committee for appropriate review and recommendation.

F. Definition of Terms

1. “*Information*” means any record, document, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recordings, magnetic or other tapes, electronic data, computer-stored data, or any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received, or kept in or under the control and custody of any government office pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by any government office.
2. “*Official record/s*” refer to information produced or received by a public officer or employee, or by a government office in an official capacity or pursuant to a public function or duty.
3. “*Public record/s*” include information required by laws, executive orders, rules or regulations to be entered, kept and made publicly available by a government office.
4. “*Access to information*” herein relates to acquiring or obtaining information, official records, public records, and documents and papers pertaining to official acts, transactions or decisions, as well as government research data used as basis for policy development, either through purposely released/published information or by request.

5. “*Freedom of information*” herein relates to access to information without undue restriction that curtails the right of the people to information on matters of public concern as guaranteed by the Constitution.
6. “*Information for disclosure*” herein refers to information promoting the awareness and understanding of policies, programs, activities, rules or revisions affecting the public, government agencies, and the community and economy. It also includes information encouraging familiarity with the general operations, thrusts and programs of the government. In line with the concept of proactive disclosure and open data, these types of information can already be posted in the agency and other applicable government websites without need for requests from the public.
7. “*Open data*” refers to publicly available data structured in a way that enables the data to be fully discoverable and useable by end users.
8. “*Public service contractor*” shall be defined as a private entity that has dealing, contract, or a transaction of whatever form of kind with the government or a government agency/office that utilizes public funds.
9. “*Personal information*” refer to any information, whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.
10. “*Sensitive personal information*” is defined by the Data Privacy Act of 2012 as personal information:
 - a. About an individual race, ethnic origin, marital status, age, color, and religious philosophical or political affiliations;
 - b. About an individual health, education, genetic or sexual life of a person, or to any proceedings for any offense committed by such person, the disposal of such proceedings or the sentence of any court in such proceedings;
 - c. Issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and
 - d. Specifically established by an executive order or an act of Congress to be kept classified.

G. General Principles

1. *Transparency*– Full disclosure of information involving public interest (e.g. government policies, programs, activities, projects, funds and expenditures) shall be deliberate and supported by institutional processes, systems and procedures.
2. *Accountability*– The respective responsibilities of offices, public officers and employees thereon, as well as corresponding sanctions and procedures for violations, shall be clearly defined to facilitate compliance and accountability.

3. *Accessibility* – Relates to the ease of access to information through readily or publicly available information, and widely or inclusive means of requesting information responsive to various situations and constraints.
4. *Predictability*– Processes on access to information shall be defined, documented and implemented consistently with minimal arbitrariness, but with a reasonable degree of flexibility in case of unforeseen circumstances.
5. *Efficiency* – The said processes shall be designed and implemented in a manner that will minimize the time and cost involved or required on the part of both government and the public. construction
6. *Quality*– Frontline and internal processes relating access to information aim to meet overall public satisfaction through responsive information in terms of form and substance, as well as continual review and improvement of the said processes.

H. Exception to Freedom of Information

Access to information shall be denied when the information falls under any of the exceptions enshrined in the Constitution, existing laws and jurisprudence, per inventory prepared by the Department of Justice and Office of the Solicitor General as circularized by the Office of the President, as follows (details in Annex “B”):

1. Information covered by Executive Privilege;
2. Privileged information relating to national security, defense or international relations;
3. Information concerning law enforcement and protection of public and personal safety;
4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused;
5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers;
6. Prejudicial premature disclosure;
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged;
8. Matters considered confidential under banking and finance laws, and their amendatory laws; and
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations.

I. Protection of Privacy

Section 6 of EO No. 2 provides that while providing access to information, public records and official records, responsible officials shall afford full protection to an individual's right to privacy, as follows:

1. Personal information in agency custody or control shall be disclosed or released only if it is material or relevant to the subject matter of a request and its disclosure is permissible under EO No. 2 or existing laws, rules and regulations;
2. Such personal information must be protected by making reasonable security arrangements against leaks or premature disclosure of personal information which unduly exposes the individual (whose personal information is requested) to vilification, harassment, or any other wrongful acts; and
3. Any employee or official who has access, authorized or unauthorized, to personal information in the custody of the agency or office must not disclose that information except when authorized under EO No. 2 or pursuant to existing laws, rules and regulations.

J. Application and Interpretation

Similarly, with EO No 2, the provisions of this Manual shall be liberally construed in favor of access to information, public records and official records. No request for information shall be denied unless it clearly falls under any of the exceptions circularized by the Office of the President.

The determination of the applicability of any of the exceptions shall be the responsibility of the herein designated FOI Decision Makers. In making such determination, reasonable diligence shall be exercised to ensure that no exception shall be used or availed or to deny any request for information or access to public records or official records, if the denial is intended primarily and purposely to cover up a crime, wrongdoing or graft and corruption.

Part II. Standard Procedure on Requests for Access to Information

A. Who May Request

1. Any Filipino citizen outside the agency, including members of the media, academic and research institutions; and
2. Persons within the agency but from offices/units other than those directly authorized/responsible for custody and control of the information requested, seeking access to information not for official purpose such as academic research.

B. How to Request

1. Written request using the accomplished standard request form (Annex “C”)¹, with the following:
 - a. Name, contact information and preferred mode of reply of requesting party;
 - b. Description of the information requested;
 - c. Valid proof of identification and authorization, such as copy of government or institution-issued identification card with photo and signature, and authorization document in case the requesting person is a representative.
2. Submitted personally, by mail, through official agency email/s, or using facsimile (request made during interview or meeting should still be submitted in writing).
3. Submitted and/or addressed to the following:
 - a. The Communications Division, DOJ, Padre Faura Street, Ermita, Manila, with telefax number 523-6826 and email address communications@doj.gov.ph; and
 - b. Receiving desks/counters of DOJ prosecution offices nationwide, locations and contact information of which is in Annex “D”.

C. Receiving, Initial Evaluation and Routing

1. The staff receiving the request submitted personally shall provide reasonable assistance, free of charge, to enable the requesting party particularly those with special needs, to comply with the requirements.
2. The request shall be stamped accordingly, indicating the name and time of receipt as well as the name, title or position/designation of the staff with corresponding signature and a copy thereof furnishing the requesting party.
3. Requests submitted through mail, email (to be printed out) or facsimile shall also be stamped accordingly.
4. The receiving officer shall maintain a separate logbook for requests relating to access to information. The said logbook shall contain the following information:
 - a. Date and time received;
 - b. Form of request (e.g. accomplished request form, letter, email, fax);
 - c. Brief description of information requested;
 - d. What office referred to;
 - e. Form and content of document to be transmitted to requesting party; and
 - f. Date and time released.
5. If the information/record requested is not within the responsibility and custody of the unit where the receiving officer is, the request shall immediately be referred and routed to the office concerned.
6. If the requested information is/are with more than one office, then the request will be referred/routed to all of them with advice to provide the applicable information only.

¹ If request is did not use the standard form and submitted by mail, email or facsimile, the form will be accomplished by the FOI receiving officer and attached to the written/printed request. If the written request lacks the necessary details, the receiving officer shall immediately communicate with the requesting party.

Prior to this, due diligence shall be made to coordinate and verify with the responsible office/s in order to avoid mistaken referral and delay in processing.

7. In case a request is mistakenly referred and/or routed to an office not responsible and/or in custody of the information/record, the said request shall immediately be returned to the records officer, with advice on appropriate office, if known.
8. The requesting party shall be informed of such routing/referrals, as necessary, especially if a significant amount of time has already lapsed since date of receipt.

D. Processing Requests

1. Within one (1) working day from receipt and after initial evaluation, the Receiving Officer shall refer the request to the Decision Maker already with the initial evaluation/recommendation on requested information, and/or response to the requesting party, as appropriate.
2. The Decision Maker shall determine the appropriate action to be taken of the information/record requested, taking into consideration the recommendation of the Receiving Officer, as follows:
 - a. Already available in the agency website, publications or other sources – advise the requesting party how to access the information;
 - b. Readily available and can be provided immediately – proceed with preparing the information requested;
 - c. Record contains information of interest to another office/agency – consult the office/agency concerned on disclosability;
 - d. Not readily available but can later be produced fully or partially – advise the requesting party, including the indicative period within which the available information can be produced, then proceed with preparing the information;
 - e. Unclear information requested – advise the requesting party to clarify the request;
 - f. Information not available but definitively known to be with other agencies/ offices – advise the requesting party and/or refer to agency/office concerned;
 - g. Not available and cannot be produced within the prescribed period or reasonable time and resources, such as those that require research or data gathering from other sources or different offices – deny the request;
 - h. Falls under any of the exceptions enshrined in the Constitution, existing laws and jurisprudence (listed in Annex “B”) – deny the request;
 - i. Requested information contains sensitive personal information protected by the Data Privacy Act – deny the request; and

- j. Unreasonable subsequent identical or substantially similar request from the same requesting party whose request has been previously granted or denied by the same office – deny the request.
3. Once the request has been received by the Decision Maker, any response or referral shall be in writing thru the Receiving Officer—either using formal letter or email communication via means preferred by the requesting party. This response shall be signed by the Secretary, Decision Maker/Head of Office, or other appropriate officer, subject to the nature of information, delegation of authority and special designations.
4. In case of approval, the Receiving Officer shall ensure that all records retrieved and considered are checked for possible exceptions prior to actual release. The said Officer shall prepare the letter or email informing the requesting party within the prescribed period that the request is granted and requiring the payment of applicable fees, if any.
5. In case of denial of the request wholly or partially, the Receiving Officer shall, within the prescribed period, notify the requesting party in writing. The notice shall clearly set forth the ground/s for denial and the circumstances on which the denial is based. Failure to notify the requesting party within the period shall be deemed denial of the request.
6. Requests shall be responded to within 15 working days from date of receipt by the records officer or the office concerned. The said response refers to advice, referral, approval or denial of the requests. This period may be extended whenever the information requested requires extensive search of office records, examination of voluminous records, occurrence of fortuitous events or other analogous cases. In such case, the Decision Maker thru the Receiving Officer shall notify the requesting party, setting forth the reasons for extension. In no case shall the extension go beyond 20 working days counted from the end of the original period unless exceptional circumstances warrant a longer period.

E. Charging and Payment of Fees

The DOJ shall not charge any fee for accepting requests for access to information. However, a reasonable fee may be imposed to reimburse actual cost of printing and/or reproduction of information/records, at two pesos (P2.00) per page.

The records officer may exempt any requesting party from payment of fees, upon request with valid reason for such.

In case the requesting party cannot pay the fee/s and in order to avoid or minimize charging of fees and for purposes of efficiency, access to information shall be made through email or facsimile.

F. Remedies in Case of Denial

Denial issued by the DOJ central and prosecution offices may be appealed by the requesting party, as follows:

1. Administrative FOI appeal to the Central or Regional FOI Committee – provided that the written appeal must be filed by the same requesting party within 15 calendar days from the notice of denial or from lapse of the period to respond to the request.
2. The appeal shall be decided by the Secretary or Regional Prosecutor based on the recommendation of the Central and Regional FOI Committee, respectively, within 30 calendar days from the filing of said appeal. Failure to decide within the 30-day period shall be deemed denial of the appeal.
3. Denial by the Regional Committee can be further appealed to the Secretary of Justice who will refer this to the Central Committee for appropriate review and recommendation.
4. Upon exhaustion of administrative FOI appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

G. Administrative Liability

1. Failure to comply with the provisions of this Manual shall be a ground for the following administrative penalties:
 - a. 1st offense – Reprimand;
 - b. 2nd offence – Suspension of one (1) to thirty (30) days; and
 - c. 3rd offense – Dismissal from the service.
2. The Revised Rules on Administrative Cases in the Civil Service shall be applicable in the disposition of cases under this Manual.
3. Nothing in this Manual shall be construed to derogate from any law, rule or regulation prescribed by any body, which provides for more stringent penalties.

--- End of Manual ---