

# ASAP FOIA-PRIVACY ACT TRAINING WORKSHOP - WEST

June 17-18, 2015

Magnolia Hotel – Denver, Colorado

(revised 04/17/15)

**SPECIAL FEATURE! A table of experts will be available throughout the Workshop for one-on-one questions and answers for the registrants**

## Tuesday, June 16

7:30 pm – 9:00 pm Registration – Avoid the morning rush: check-in with ASAP registrars and pick up your meeting materials

## Wednesday, June 17

7:15-8:00 am Registration & Morning Coffee – Visit with the ASAP Sponsors!

8:00-8:15 am Welcoming Remarks & Announcements

8:15-9:30 am Session 1.1 Freedom of Information Procedural Overview

A thorough introduction to the requirements of the FOIA statute, to include the definition of an agency record, public reading rooms, and basic procedures, and how the administration of the Act has been affected by recent statutory amendments. There is a new focus on FOIA from the highest levels in our government with President Obama issuing a memorandum on FOIA on his first full day as president and Attorney General Eric Holder also issuing a memorandum on March 19, 2009. Learn what the significance of these memoranda has on your daily operations.

- Scott Hodes, Scott A. Hodes, Attorney at Law

- Dick Huff, Consultant

9:30-9:45 am Coffee Break - Foyer - Visit with ASAP Sponsors!

9:45-11:00 am Session 1.2 FOIA Exemptions Overview

This session will provide an overview of the FOIA's nine exemptions, which is intended to provide you with the basic elements of each exemption.

- Fred Sadler, Consultant

11:00-11:15 am Stretch Break

11:15-12:30 pm Session 1.3 Privacy Act Overview

This session will review the basic concepts of the Act, administrative considerations and responsibilities under the Act. There is talk of legislative action regarding the Privacy Act, so this session will briefly address the possible changes.

- Mike Reheuser, Dept. of the Army

12:30-1:45 pm Lunch –Enjoy Lunch with Colleagues and Visit with Sponsors!

1:45-3:00 pm Session 1.4 Fees, Fee Waivers and Other Administrative Matters

You will learn the criteria for determining fee categories, i.e., where do bloggers fit, and the factors to consider in deciding fee waiver requests. You will also learn administrative tips on how you can keep the process moving and what to do as you wait for other agencies' offices to respond.

- Scott Hodes, Scott A. Hodes, Attorney at Law

- Dick Huff, Consultant

3:00-3:15 pm Coffee Break - Foyer - Visit with ASAP Sponsors!

3:15-4:30 pm Session 1.5 Interface: FOIA & Privacy Act

Learn about the complex relationship between the statutes and the issues affected by both Acts.

- Ramona Oliver, Dept. of Labor

- Mike Reheuser, Dept. of the Army

4:30 pm Daily Evaluations and Program Recesses

## Thursday, June 18

**7:15-7:55 am Morning Coffee – Foyer - Visit with Sponsors!**

**7:55-8:00 am Announcements in Respective Meeting Rooms**

**8:00-9:15 am BREAK OUT SESSIONS (Choose One)**

**Session 2.1 –**

**Exemption 5: Privileged Information**

This session will discuss the elements and privileges incorporated in Exemption 5, to include the Ex. 5 threshold requirements, and the elements of the deliberative process, the attorney-client, and the attorney work product privileges.

- *Scott Hodes, Scott A. Hodes, Attorney at Law*

- *Mike Reheuser, Dept. of the Army*

**Session 2.2 –**

**Exemption 4: A Very Comprehensive Look**

The agency considerations and obligations in handling data submitted by business and government contractors are examined. Learn how to recognize trade secret and confidential, commercial information. This session also will focus on Submitter Notice under E.O. 12,600 and processing contracts.

- *Fred Sadler, Consultant*

**9:15-9:30 am Coffee Break– Foyer - Visit with Sponsors!**

**9:30-10:45 am BREAK OUT SESSIONS (Choose One)**

**Session 2.3 –**

**FOIA – Defense, Foreign Relations & Classified Information: Exemption 1**

You will cover everything you ever wanted to know about handling FOIA requests for documents containing classified national security information and the application of Ex. 1. Speakers will also discuss the interplay of FOIA's emphasis on disclosure with protecting classified national security information.

- *Mike Reheuser, Dept. of the Army*

- *Dick Huff, Consultant*

**Session 2.4 –**

**Privacy Act: Processing and Conditions of Disclosure**

Now that you have a request, what can you release? This session will help you understand systems of records notice and exemption rules; and the 12 reasons a record may be released without an individual's authorization.

- *Ramona Oliver, Dept. of Labor*

**10:45-11:00 am Stretch Break – Foyer - Visit with Sponsors!**

**11:00-12:15 pm BREAK OUT SESSIONS (Choose One)**

**Session 2.5 –**

**FOIA – The Personal Privacy Exemptions: 6 & 7 (C)**

This session includes an in-depth examination of the issues surrounding the balancing of personal privacy interests and the public interest as well as Exemption 7's threshold requirements.

- *Fred Sadler, Consultant*

**Session 2.6 –**

**Breaches and Remediation**

OMB Memo (M) 07-16, Safeguarding Against and Responding to the Breach of Personally Identifiable Information (PII) established core policy definitions and privacy incident reporting requirements for federal agencies. Learn how to identify incidents, initiate appropriate response efforts, and implement corrective actions, when there has been a breach and privacy data have been lost or otherwise made public.

- *Ramona Oliver, Department of Labor*

**12:15-1:30 pm Group Lunch – Foyer - Enjoy Lunch with Colleagues and Visit with Sponsors!**

**1:30-2:45 pm PLENARY SESSION 2.7 FOIA Exemption Redaction Workshop**

This session will provide you with hands-on practice in applying the FOIA exemptions to different types of documents.

- *Fred Sadler, Consultant*

- *Scott Hodes, Scott A. Hodes, Attorney At Law*

**2:45-3:00 pm Coffee Break - Foyer - Visit with ASAP Sponsors!**

**3:00-4:15 pm BREAK OUT SESSIONS (Choose One)**

**Session 2.8 –**

**Records Management Overview**

This session will provide a broad overview of records management: what you need to be doing. What is the definition of a federal record? Is your agency in compliance with NARA records management standards? Are there new ways of approaching records management? What is E-Discovery and will it impact how your agency maintains records? Learn the answers to these questions and more!

- *Ramona Oliver, Department of Labor*

**Session 2.9 –**

**Systems of Records Notices (SORNs)**

Now that you have a broad overview of the Privacy Act, it's time to delve into the how's and why's of a SORN. This session provides a practical explanation and exercise of how a System of Records Notice (OPM/GOV'T-1) is constructed, how to read and interpret it, and how all of the pieces must fit together.

- *Dick Huff, Consultant*

**4:15-4:30 pm Questions & Answers, Closing Remarks in Respective Meeting Rooms**

– Your last chance to get the answers to your burning questions!

**4:30 pm Daily Evaluations, Program Ends, Certificates of Attendance are Available**

**Disclaimers & Copyright**

1) Programs are subject to change. While ASAP endeavors to ensure that all its program materials are in accordance with the law and established U.S. Government policies, none of the procedures or policies presented in any ASAP training session or set forth in any ASAP publication should be considered official U.S. Government or U.S. Government Agency policy. Official policy is set forth in the appropriate directives and regulations governing each agency's activities. ASAP, its Board of Directors, Officers, employees or volunteers are not liable for any and all claims or actions that may be brought against them arising out of or relating to speaker presentations.

2) Speakers/Instructors appear in their individual capacities.

3) ASAP strongly encourages all federal government speakers who have prepared presentations under the auspices of their respective agencies, to comply with their agency guidelines in terms of making materials publically available. Participants should NOT assume that all of these presentations are available for sharing and posting on agency sites. Some presenters are not federal government employees and may retain rights to their materials. Some presenters who are federal employees may have prepared materials on their own time. All have generously given of their time to bring the best in education. If you are interested in sharing any of the presentations, please contact the ASAP office, and we are happy to work with you.

4) ASAP and any/or its suppliers shall be held harmless and will not be held liable for any consequential or incidental damages to any user hardware or other software resulting from the installation and/or use of the program CD, should there be one..

5) ASAP does not endorse any products or services.



1980-2015

**Celebrating 35 Years!**



## **ASAP FOIA-Privacy Act Training Workshop**

**(Includes Records Management)**

**June 17-18, 2015**

**The Magnolia Hotel – Denver, Colorado**

### **Instructor Bios**

**Ramona Branch Oliver** serves as the director of the Office of Information Services (OIS), within Management and Administrative Legal Services Division of the Office of Solicitor at the US Department of Labor (DOL) in 2010. In this capacity, Ms. Oliver supports the work of the Chief FOIA Officer by providing agency-wide leadership, guidance and training on compliance with the provisions of the FOIA and Privacy. Prior to joining DOL, Ms. Oliver spent 17 years with the National Archives and Records Administration (NARA), where served as a technical expert responsible for ensuring agency-wide compliance with the provisions of FOIA, Privacy Act and relevant laws governing access to NARA's operational records and archival holdings. Ms. Oliver is frequent lecturer on FOIA and Privacy Act and serves on the newly created FOIA Advisory Committee. She served on the ASAP Board as director, 2005-2009.

**Scott A. Hodes** serves as the immediate past president of ASAP. In his professional life, he entered private practice in 2003. Prior to that, he spent over a decade working as an attorney for the federal government. Mr. Hodes worked for the Department of Labor, Department of Justice (Office of Information and Privacy) and the FBI. From 1998 to 2002 at the FBI, Mr. Hodes was the Acting Unit Chief of the Freedom of Information/Privacy Act Section's Litigation Unit and was a Top Secret Classification Authority. Mr. Hodes has been involved in thousands of FOIA and Privacy Act matters. Mr. Hodes is admitted to the bars of the District of Columbia and the State of Maryland, the United States District Court for the District of Columbia and the United States Court of Appeals for the District of Columbia. He has also been admitted pro hac vice to practice before other federal district courts. Mr. Hodes is a member of the American Society of Access Professionals and a contributor to a number of publications on matters dealing with government information policies and practices. Mr. Hodes currently practices civil matters, focusing primarily on the FOI and Privacy Acts. Mr. Hodes received his J.D. from Arizona State University in 1989 and his B.S. in Accounting from Indiana University in 1986.

**Richard L. Huff**, as a member of the Senior Executive Service, served as one of two co-directors of the Office of Information and Privacy since the Office's creation in 1982 until his retirement in 2005. He was the official designated by the Attorney General to act on all administrative appeals from denials under the Freedom of Information Act and Privacy Act of 1974 by Department of Justice components. (The Department averaged over 3000 such administrative appeals each year.) He litigated and supervised FOIA cases at the district and appellate level and has testified before Congress on the implementation of the 1996 Electronic FOIA Amendments and on the interface between the FOIA and the Privacy Act. For twenty-three years he oversaw the development of the "Freedom of Information Act Guide & Privacy Act Overview," the Department of Justice's 1100-page treatise that was updated and distributed every other year to more than 22,000 recipients. Mr. Huff has also published several legal articles, including "A Preliminary Analysis of the Implementation of the Freedom of Information Reform Act." Mr. Huff came to the Department of Justice in 1976 after serving seven years on active duty in the Army; during his last reserve assignment he was assigned to the Army Judge Advocate General's Legal Center and School where he taught FOIA and Privacy Act subjects to military graduate students. He is now a retired colonel in the Army Reserve. Since retiring Mr. Huff has made one-, two-, and three-day training presentations for the Departments of Justice, Army, Commerce, and Homeland Security, as well as for the American Society of Access Professionals and the Graduate School, United States Department of Agriculture. Mr. Huff received a B.A. from Stanford, an M.A. from St. Mary's University, a Juris Doctor from Hastings College of the Law, and a Master of Laws from Georgetown University.

**Michael E. Reheuser** assumed the duties of Executive Director, U.S. Army Headquarters Services in the Office of the Administrative Assistant to the Secretary of the Army on 18 November 2013. As Executive Director, Mr. Reheuser is responsible for a wide range of administrative and support services for Headquarters, Department of the Army and other Department of Defense (DoD) activities. The administrative and support services include logistics; travel and transportation; security and safety; records management and declassification; visual information services; space and building management; printing and publishing; and morale, welfare, and recreation. Mr. Reheuser previously served as Director of the Defense Privacy and Civil Liberties Office (DPCLC) and as DoD's Deputy Senior Official for Privacy and Deputy Civil Liberties Officer. His duties included advising the Office of the Secretary of Defense on all significant privacy and civil liberties matters involving the Department. Before his time with DPCLC, Mr. Reheuser was an Associate Deputy General Counsel in the DoD Office of General Counsel, handling complex civil litigation matters, particularly involving the Freedom of Information Act. In addition to his litigation cases, Mr. Reheuser served as legal advisor to the Defense Privacy Office. Before joining DoD, Mr. Reheuser was a partner in the law firm of Jordan Coyne and Savits, L.L.P., based in Washington, DC, and Fairfax, Virginia. He received the Martindale Hubbell "AV" rating, the highest peer rating the organization awards. For more than 15 years, he represented companies in a variety of civil litigation matters in hundreds of cases. Mr. Reheuser is a Colonel in the U.S. Marine Corps Reserve. He has spent more than 30 years as a Marine officer, including a deployment to Southwest Asia in support of Operations Desert Shield and Desert Storm. He has been selected for two command tours.

**Frederick J. Sadler** recently retired as the Director of the Division of Freedom of Information (DFOI), Office of the Executive Secretariat, in the Office of the Commissioner, where he is responsible for administration of the Agency's FOIA and Privacy Act programs and consults on disclosure related issues in FDA. Prior to assuming this position, Mr. Sadler served as the Agency's Denials and Appeals Officer, in DFOI, where he was responsible for overseeing and preparing responses to all requests which required issuance of either a denial or response to an appeal. Previously, he served as the FOI officer in FDA's Center for Devices & Radiological Health (CDRH) and the Center for Biologics Evaluation & Research (CBER). Mr. Sadler assisted with FOIA-related litigation, and served on various agency working groups dealing with disclosure, to include "Re-engineering" the FOIA process for the agency. In addition to the HHS Secretary's Award for Distinguished Service, Mr. Sadler has received numerous awards and commendations. He provided FOI training for FDA and other federal agencies, and has been a frequent speaker for both the U.S. Department of Justice's FOI training conferences, and the American Society of Access Professionals (ASAP). Mr. Sadler was with the FDA for 39 years. Mr. Sadler served as ASAP's national President in 2005 and in 2006 and is an accredited Certified Information Privacy Professional, for Government (CIPP/G), under the International Association of Privacy Professionals (IAPP).