



2016 ASAP FOIA/PRIVACY ACT TRAINING WORKSHOP

September 7-9, 2016 - Sofitel Chicago Water Tower - Chicago, Illinois

Revised 8/17/16

Approved for 13 ICRM Certification Maintenance Credit

Approved for 15 Credits Illinois MCLE

ASAP is on the IAPP List of Preferred Providers

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

Tuesday, September 6 – Ballroom Foyer

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

Wednesday, September 7 – **Grand Ballroom**

7:30-8:00 am Registration & Morning Coffee – Visit with the ASAP Sponsors!

8:00-8:15 am Welcoming Remarks & Announcements – Scott Hodes, ASAP Immediate Past President

8:15-9:45 am Session 1.1 Freedom of Information Act Procedural Overview

This session is 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 statutory amendments and the 2009 memorandum from President Obama and Attorney General Eric Holder.

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

- *Brent Evitt, Defense Intelligence Agency*

9:45-10:00 am Coffee Break - Foyer - Visit with ASAP Sponsors!

10:00-11:30 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*

11:30-12:30 pm Lunch –Enjoy Lunch with Colleagues and Visit with Sponsors!

12:30-1:45 pm Session 1.3 Privacy Act Overview

This session will review the basic concepts of the Act, administrative considerations, and responsibilities under the Privacy Act.

- *Cindy Allard, Department of Defense*

- *Ramona Oliver, Department of Labor*

1:45-2:00 pm Coffee Break - Foyer - Visit with ASAP Sponsors!

2:00-3:00 pm Session 1.4 Privacy Act: Processing and Conditions of Disclosure

Now that you have a request, what can you release? This session will help you understand the twelve exceptions to the presumption of no disclosure without consent.

- *Fred Sadler, Consultant*

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

3:15-4:30 pm Session 1.5 Fee Categories 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*

- *Brent Evitt, Defense Intelligence Agency*

4:30 pm Daily Evaluations and Program Recesses

Thursday, September 8

7:30-7:55 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 –Grand Ballroom

Exemption 5: Privileged Information

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

- *Scott Hodes, Attorney at Law*

- *Brent Evitt, Defense Intelligence Agency*

Session 2.2 –Cannes Room

Systems of Records Notices (SORNs) and Privacy Impact Assessments (PIAs)

Now that you have a broad overview of the Privacy Act, it's time to delve into the two key elements of the Act. This session provides practical explanations how a SORN is constructed, how it should be read and interpreted, and how all of the pieces fit together. It also delves into what is a PIA and how it fits into the government's responsibilities and activities. How exactly does it complement a SORN? What does a PIA deliver that a SORN fails to capture? This session is sure to provide you comprehensive knowledge and implementation know-how for the two key Privacy Act requirements.

- *Fred Sadler, Consultant*

- *Cindy Allard, Department of Defense*

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

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

Session 2.3 –Grand Ballroom

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.

- *Scott Hodes, Attorney-at-Law*

- *Brent Evitt, Defense Intelligence Agency*

Session 2.4 –Cannes Room

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*

10:45-11:00 am Coffee Break - Foyer - Visit with ASAP Sponsors!

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

Session 2.5 –Cannes Room

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.

- *Brent Evitt, Defense Intelligence Agency*

- *Cindy Allard, Department of Defense*

Session 2.6 –Grand Ballroom

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*

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

1:30-2:45 pm BREAK OUT SESSIONS (Choose One)

Session 2.7 –Grand Ballroom

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

Session 2.8 –Cannes Room

PRIVACY – Where the Rubber Hits the Road

This session explains how you can help your privacy program work including considerations in balancing competing needs, dealing with scarce resources, and educating others about the importance of Privacy.

- Cindy Allard, Department of Defense

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

3:00-4:30 pm Session 2.9 –Grand Ballroom

Interface: Privacy & FOIA

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

- Ramona Oliver, Department of Labor

4:30 pm Daily Evaluations and Program Recesses

Friday, September 9 – Grand Ballroom

7:30-7:55 am Morning Coffee – Foyer - Visit with Sponsors!

7:55-8:00 am Announcements – Scott Hodes, ASAP Immediate Past President

8:00-8:45 am NEW! Session 3.1 Appeals, Litigation and Working with Your General Counsel

Preparing for an administrative appeal and things to keep in mind when the request becomes the subject of litigation and working with your agency General Counsel in these matters.

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

- Brent Evitt, Defense Intelligence Agency

8:45-11:30 am Session 3.2 FOIA Exemptions Redaction Workshop

Best practices in redaction process: the physical process, and the “do's & don'ts” of the redaction process, including making sure that the redactions cannot be reversed.

- Fred Sadler, Consultant

- Cindy Allard, Department of Defense

- Ramona Oliver, Department of Labor

9:45-10:00 am Coffee Break - Foyer - Visit with ASAP Sponsors! – LAST CHANCE

10:00-11:30 am Session 3.2 FOIA Exemptions Redaction Workshop - CONTINUED

11:30 am Closing Remarks - 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.



**ASAP FOIA-Privacy Act Training Workshop
(Includes Records Management)
September 7-9, 2016
The Sofitel Water Tower Hotel – Chicago, Illinois**

Instructor Bios

Cindy Allard is the Chief of the Defense Privacy, Civil Liberties, and Transparency Division. Her client privacy issues range from human resource matters to personnel security clearances, educational records of minors, benefits for service members and their spouses, to law enforcement and personal property shipments. She has been a Department of Defense employee for 29 years and has worked for the Army, Navy and Air Force in both field activities and higher headquarters. Most recently, Cindy was the chief of the Office of the Secretary of Defense and Joint Staff Privacy Office. She is a frequent ASAP speaker and was an ASAP Board Member from 2009 - 2015.

Ramona Branch Oliver is the Director of the Office of Information Services (OIS), within the Office of the Solicitor at the US Department of Labor (DOL). Under her leadership, OIS is the newly established focal point for the coordination of Freedom of Information Act (FOIA) and Privacy Act program improvement efforts at DOL. Prior to joining DOL, Ms. Oliver provided leadership for the FOIA, Privacy Act, and PII awareness programs at the National Archives and Records Administration (NARA). Ms. Oliver is a recognized expert in the access community and over the course of her career she has lectured on FOIA, Privacy Act and Records Management for many Federal agencies and private organizations. She has participated in ASAP since 1996 and served on the ASAP Board, as a Director, from 2005-2009.

Brentin V. Evitt is the Deputy General Counsel for Mission Services, Science & Technology with the Defense Intelligence Agency Office of the General Counsel. In that role, he provides legal advice in the areas of human resources, facilities management, logistics, training, security, information technology, open government, records management, national security classification, and scientific/technological development. Previously he was the Senior Counsel and Chief of the Administrative Appeals Staff for the Office of Information Policy at the United States Department of Justice. His FOIA responsibilities have included providing guidance on day-to-day FOIA operations, adjudicating administrative appeals, defending agency action in Freedom of Information Act litigation, and teaching. He was responsible for Exemption 1 (national security classification) issues at the Office of Information Policy. He served as the treasurer of the American Society of Access Professionals in 2005-2006. Mr. Evitt is a graduate of law schools in the United States and New Zealand, and came to the Department of Justice from private practice in Christchurch, New Zealand. Prior to law school, he served in the United States Army Military Intelligence Corps as a Russian linguist and tactical electronics warfare and intercept specialist assigned to the Army's 1st Infantry Division. Mr. Evitt also served as a reserve officer and trial defense counsel in the United States Army Judge Advocate General Corps.

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, serving as president in 2013-2014, 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.

Frederick J. Sadler recently retired as the Director of the Division of Freedom of Information (DFOI), in the Office of the Commissioner, of the U.S. Food & Drug Administration (FDA) where he was responsible for administration of the Agency's FOIA and Privacy Act programs and consulted 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 40 years. Mr. Sadler served as ASAP president in 2005- 2006 and is an accredited Certified Information Privacy Professional, for Government (CIPP/G), and as a Certified Information Privacy Manager (CIPM), under the International Association of Privacy Professionals (IAPP). Mr. Sadler is current working with a variety of organizations in, and outside of, government as a FOI and Privacy consultant.