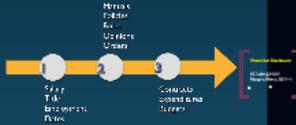


Annual FOIA Officer Training

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(202) 481-3406
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Thank You!

**Mandatory Disclosure
DC Code §2-536**



Waiver
From 2013 to 2014

- Agency or Public Interest
- Reasonably Direct Costs
- Not Bound by Prior Waiver

FOIA Applies To

- Federal Government
- Office of the Inspector General
- Any Agency
- Congressional Committees
- Independent Councils

Typical Allocation



General Fund
Must Be Disclosed
Agency May Waive

**Other Statutes
DC Code §2-534(a)(6)(A-B)**

Information specifically exempted from disclosure by statute (other than this section), provided that such statute:

(A) Requires that the matters be withheld from the public in such a manner to leave no discretion on the issue or

(B) Establishes particular criteria for withholding or refers to particular types of matters to be withheld.

14 Categories

- Trade Secrets
- Personal Privacy
- Law Enforcement
- Common Law
- Discovery Privileges
- Future Examinations

**Deliberative Process Privilege
DC Code §2-534b(4)**

The method through which an agency reaches policies, opinions, rules and regulations.

Law Enforcement Cont.

(D) Disclose the identity of a confidential source and, in the case of a record compiled by law-enforcement in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished by only the confidential source;

(E) Disclose investigative techniques and procedures not generally known outside government or;

(F) Endanger the life or physical safety of law enforcement personnel;

**Attorney Client Privilege
DC Code §2-534(a)(4)**

Protects confidential communications between an attorney and a client when the agency is the client, and when privilege is necessary to obtain legal advice.

Attorney Work Product Privilege DC Code §2-534(a)(4)

Applies to documents prepared by or for an attorney in anticipation of litigation, no matter the status or stage of the litigation.

- Commonly Applied Exemptions**
- Trade Secrets
 - Personal Privacy
 - Law Enforcement
 - Deliberative Process
 - A/C Privilege / Work Product
 - Other Statutes

Law Enforcement Cont.

(A) Interfere with:
(i) Enforcement proceedings;
(ii) Council investigations; or
(iii) Office of Police Complaints ongoing investigations;
(B) Deprive a person of a right to a fair trial or an impartial adjudication;
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DC Code §§2-532, 2-533, 2-537

- Business Days
- Reasonable
- Adequate
- Mayor
- DC Superior Court - 2nd

- Not Required to:**
- Create Records
 - Answer Questions in Request
 - Obtain Records from Another Agency



Requesters

Types of Requesters

Fees Which May Be Charged			
	Search	Review	Duplication
Commercial	Y	Y	Y
Educational Noncommercial Scientific News Media			Y
All Others	Y		Y

Annual FOIA Officer Training
Office of Open Government / Board of
Ethics and Government
Accountability

FOIAXpress

- **Karen Andre, EOM**
- **Robby Silk, FOIAXpress**
- **Caroline Ige, FOIAXpress**

BEGA

Office of Open Government

- Training
- Compliance
 - FOIA
 - Open Meetings Act
- Formal and Informal Advice

Office of Government Ethics

- Training
- Advice
- Investigations
- Financial Disclosure Filings
- Lobbyist Registration Activity

Independent Oversight

Freedom of Information Act (DC Official Code § 2-531 - 2-538)

- **Training**
 - **Public Bodies**
 - **Officials**
 - **Employees**



Mission

Transparent
Open to the Public
Promote Civic Engagement

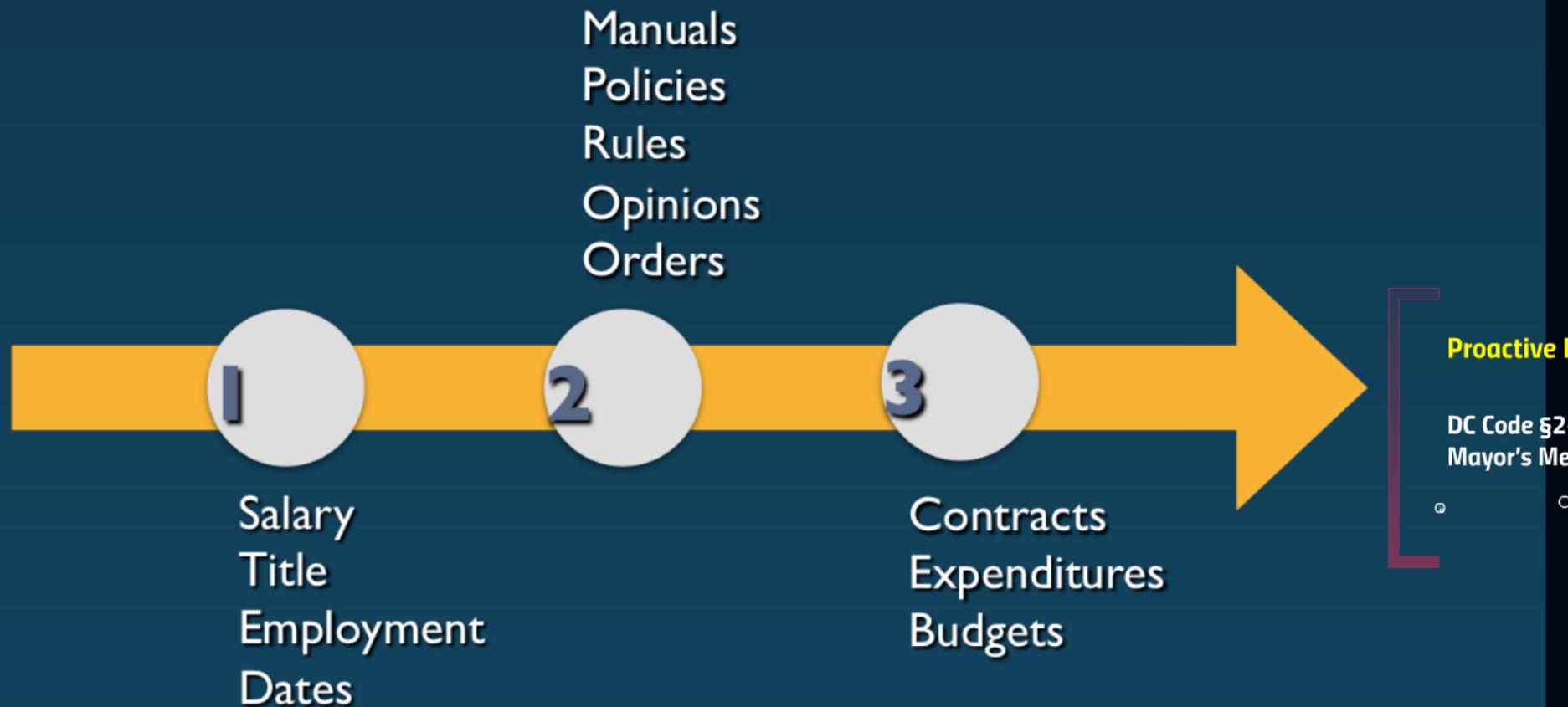
FOIA Applies To:

Public Body

- **Office of the Mayor**
- **Any agency**
 - **Subordinate**
 - **Independent**
- **Council**

Mandatory Disclosure

DC Code §2-536



Proactive Disclosure

DC Code §2-531

Mayor's Memo 2011-1



Presumption of Disclosure

**Barry v. Washington Post Co., 529 A.2d
319, 321 (D.C. 1987)**

***Dunhill v. Director,
District of Columbia
Dept. of
Transportation, 416
A.2d 244, 247 n. 5
(D.C. 1980)***

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BEGA

Office of Government Ethics

- Training
- Advice
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Government

Gifts Act

Formal Advice

Redaction Rule

Reasonably segregable portions of documents may be released.

14 Categories



- Trade Secrets
- Personal Privacy
- Law Enforcement
- Common Law
- Discovery Privileges
- Future Examinations

Categories Cont...

- Arbitration
- Antitrust Investigation
- Emergency Business Plans
- Social Security/Federal Employee ID #
- Unemployment Claims

Other Requirements

- Detailed Requirements

14 Categories



- Trade Secrets
- Personal Privacy
- Law Enforcement
- Common Law
- Discovery Privileges
- Future Examinations

Categories Cont...

- Antitrust
- Arson Investigation
- Emergency Response Plan
- Social Security/Federal Employer ID #
- Whistleblower's ID

Categories Cont...

- **Antitrust**
- **Arson Investigation**
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- **Whistleblower's ID**

Commonly Applied Exemptions

- Trade Secrets
- Personal Privacy
- Law Enforcement
- Deliberative Process
- A/C Privilege / Work Product
- Other Statutes

Personal Privacy §2-534(a)(2)

Information of a personal nature where public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

Exemptions §2-534



Redact: Social Security numbers, home addresses, home phone numbers, account numbers, dates of birth, personnel records

Trade Secrets §2-534(a)(1)

Trade secrets and commercial or financial information obtained from outside the government, to the extent **that disclosure would result in substantial harm to the competitive position of the person from whom the information was obtained.**

Exemptions §2-534



Attorney Work Product Privilege DC Code §2-534(a)(4)

Applies to documents prepared by or for an attorney in anticipation of litigation, no matter the status or stage of the litigation.

Investigatory records compiled for law enforcement purposes, including records of Council investigations and investigations conducted by the Office of Police complaints, but only to the extent that the productions of such records would:

(A) Interfere with:

(i) Enforcement proceedings;

(ii) Council investigations; or

***(iii) Office of Police Complaints
ongoing investigations;***

***(B) Deprive a person of a right to
a fair trial or an impartial
adjudication;***

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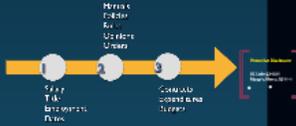
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Law Enforcement Cont...

Deliberative Process Privilege
DC Code §2-534(a)(4)

The method through which an agency creates policies, opinions, rules and regulations.

Mandatory Disclosure
DC Code §2-536



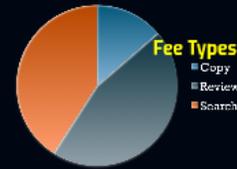
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- Federal Government
- Office of the Inspector General
- Any other independent establishment
- Commission
- Council

Typical Allocation



General Fund
Must Be Disclosed
Agency May Waive

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Requesters

Types of Requesters

Fees Which May Be Charged			
	Search	Review	Duplication
Commercial	Y	Y	Y
Educational Noncommercial Scientific News Media			Y
All Others	Y		Y

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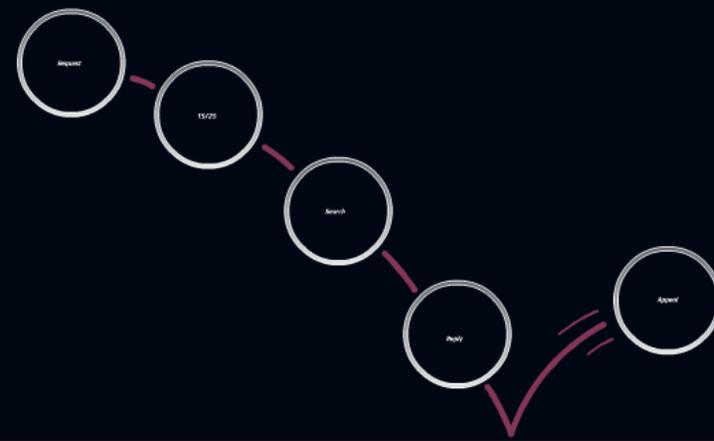
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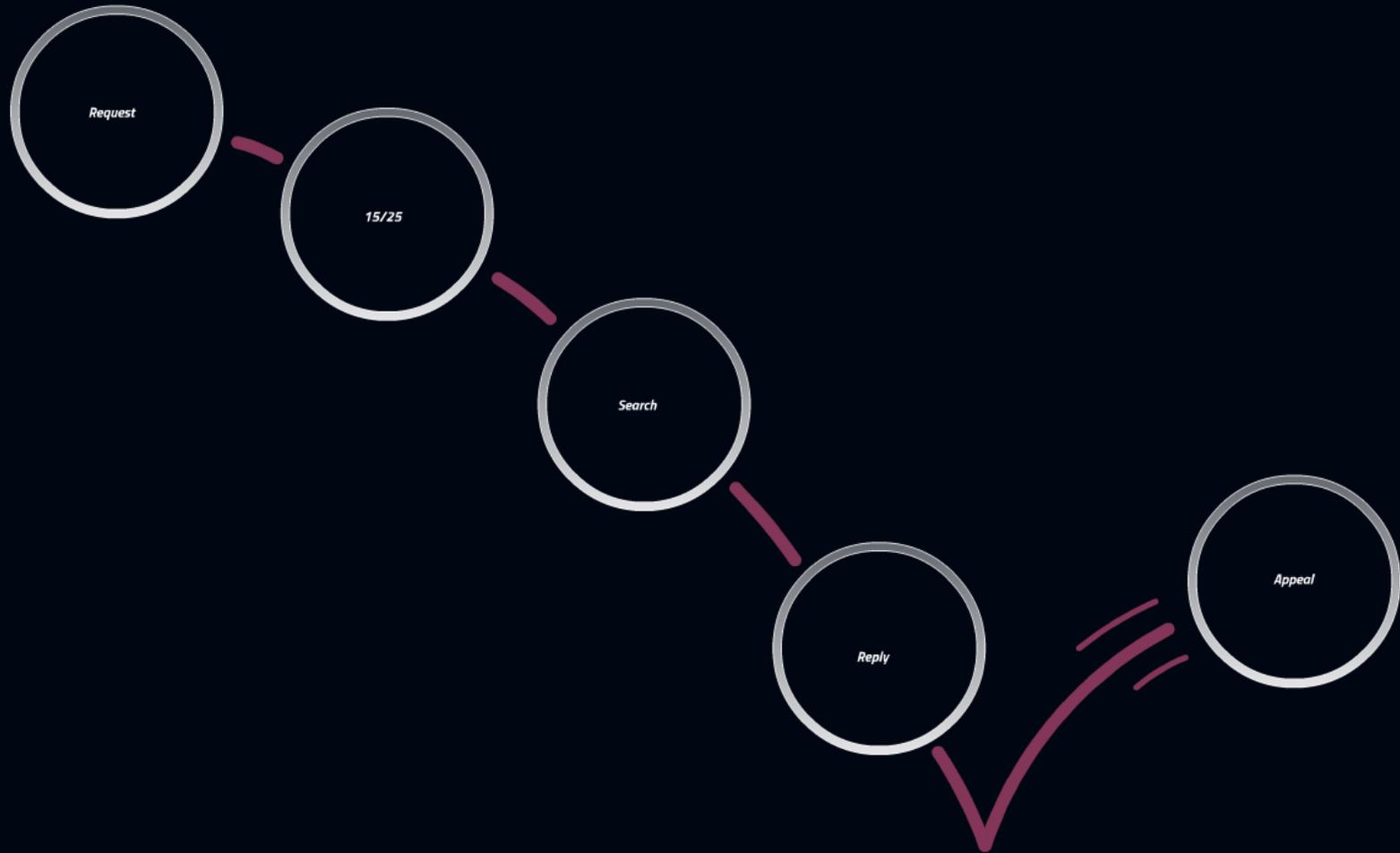
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*Business Days
Reasonable
Adequate
Mayor
DC Superior Court - 2nd*

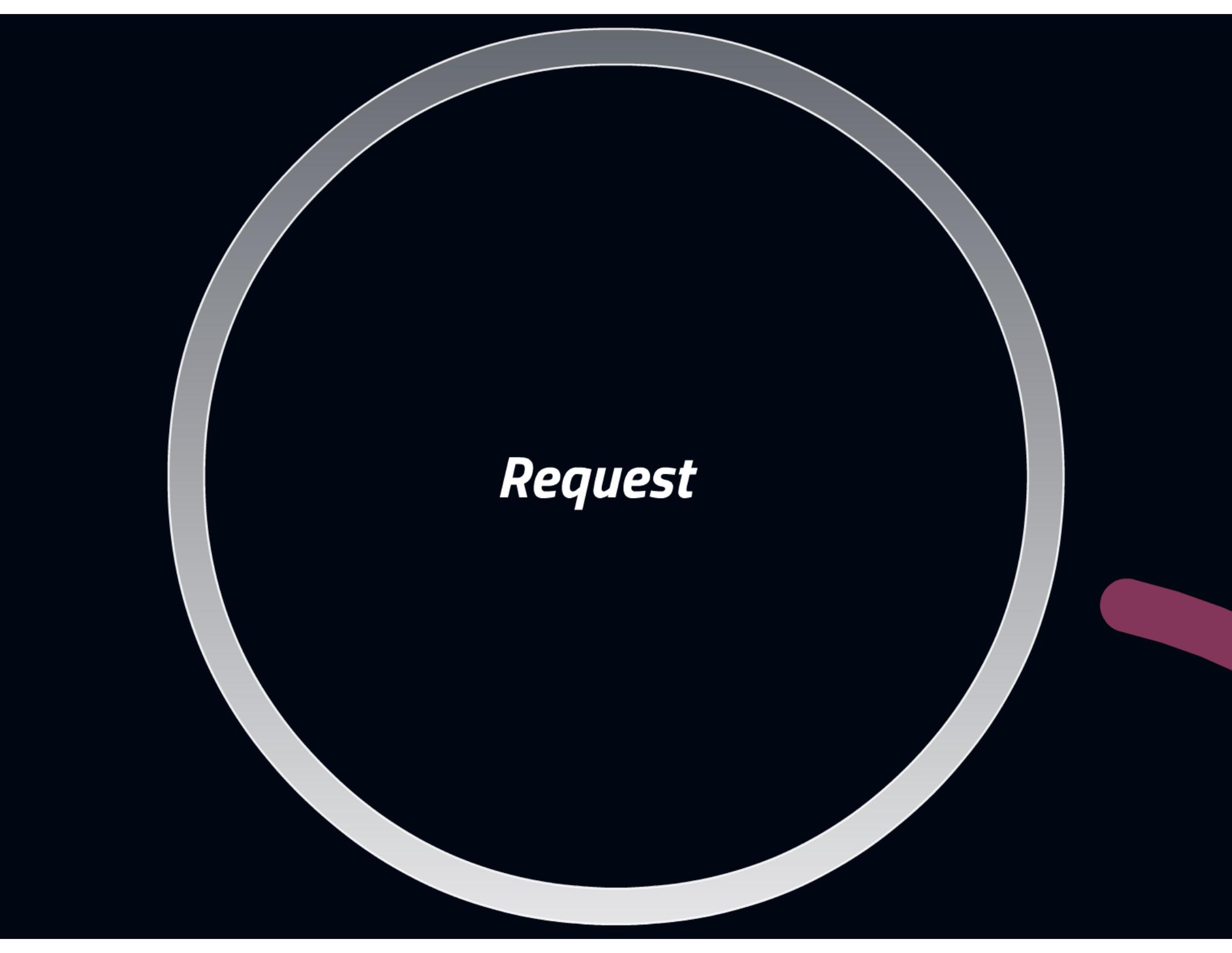


Not Required to:

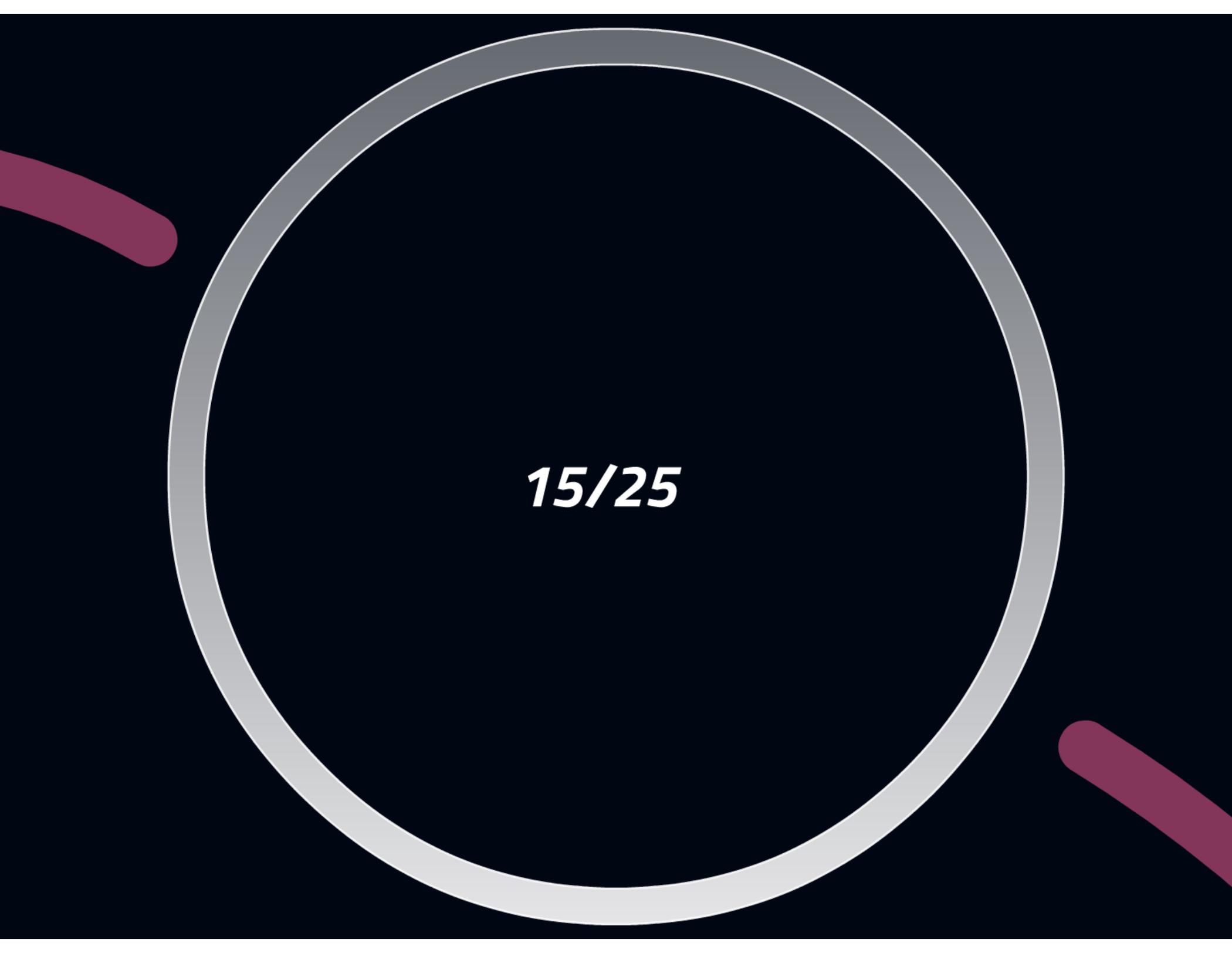
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- **Answer Questions in Request**
- **Obtain Records from Another Agency**



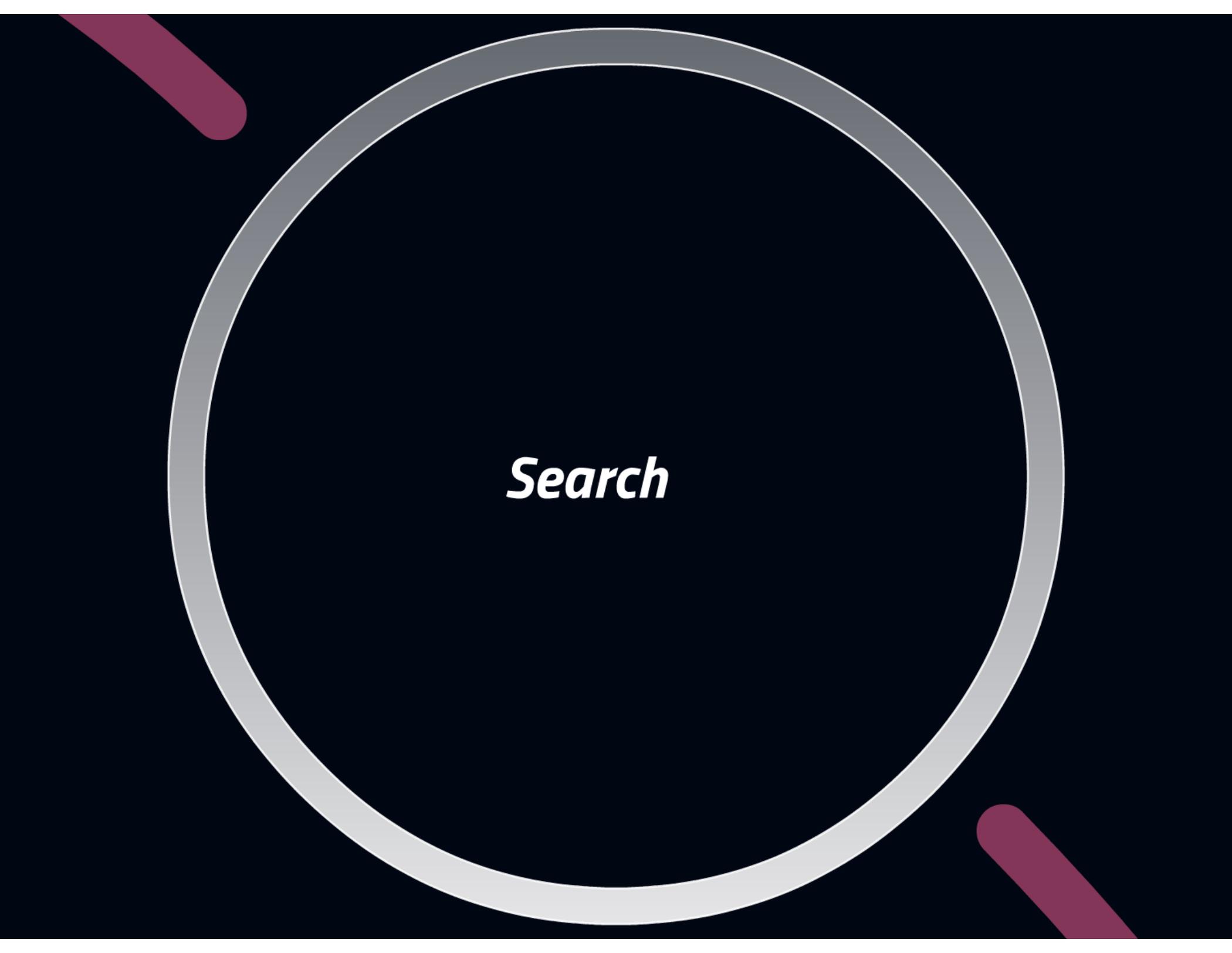
FOIA Process



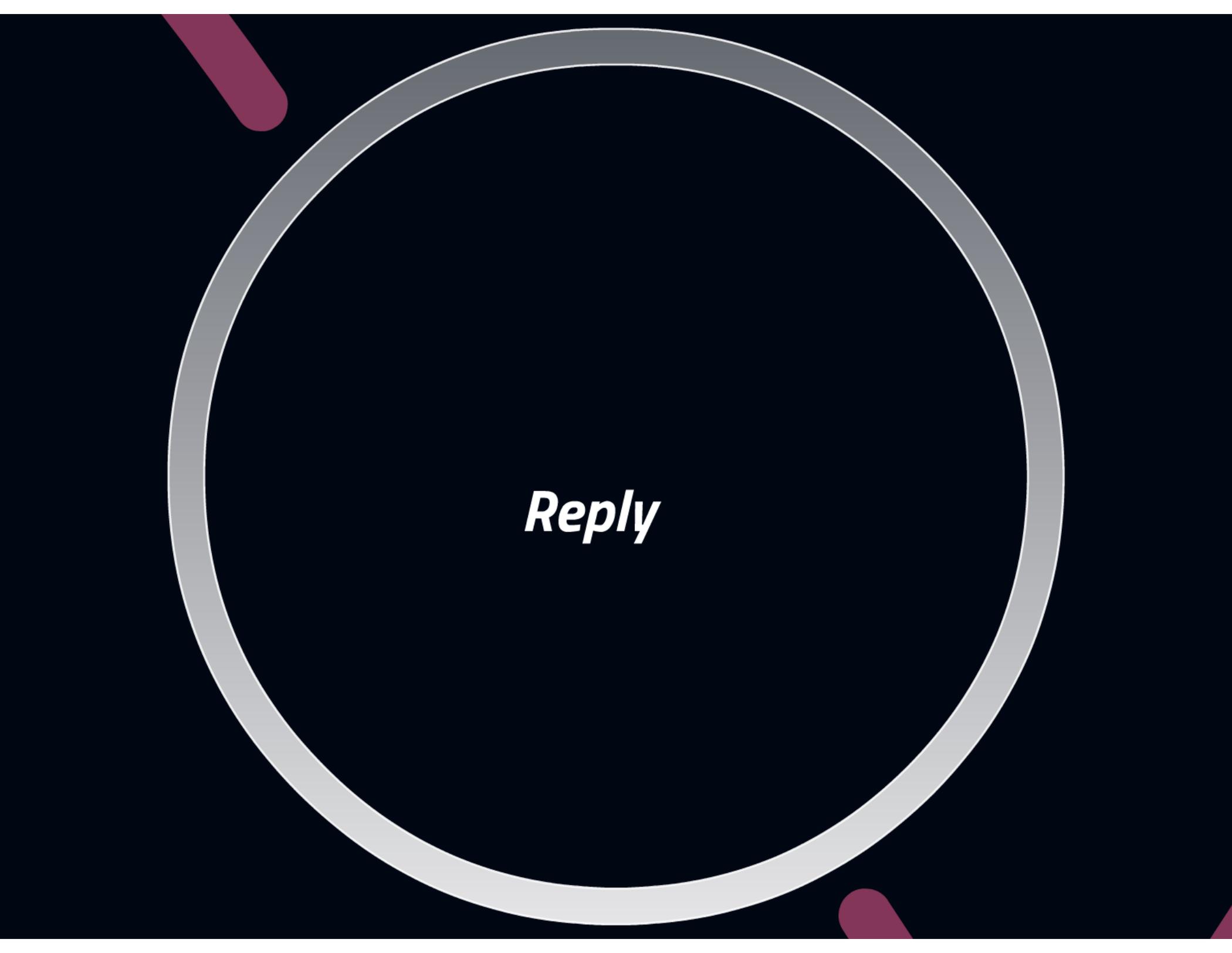
Request



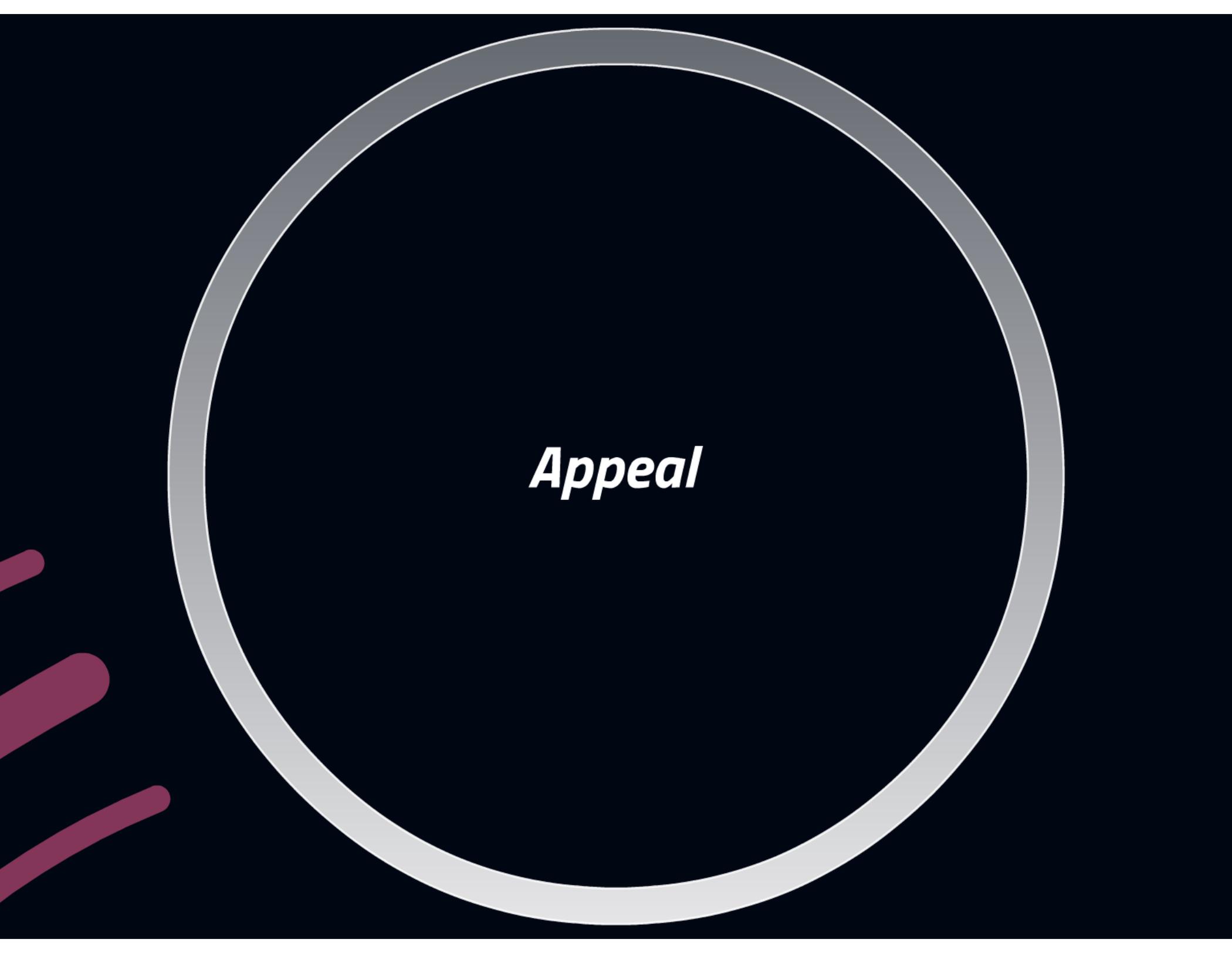
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Search



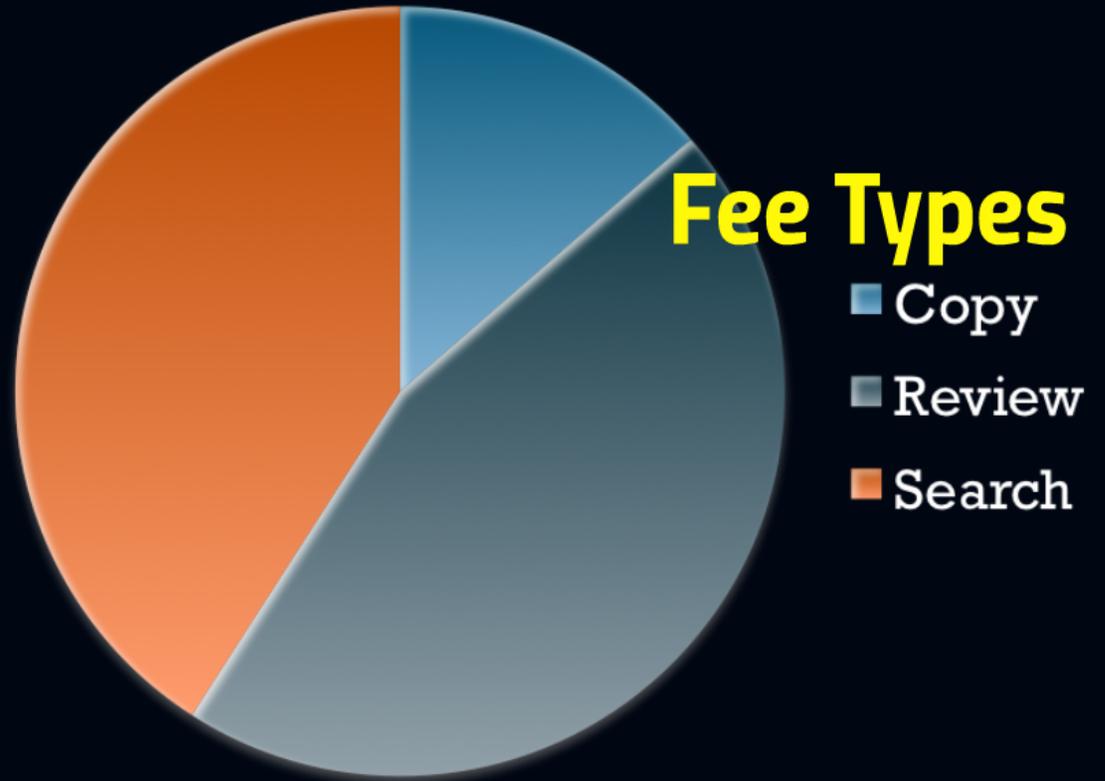
Reply



Appeal

Typical Allocation

General Fund
Must Be Disclosed
Agency May Waive



Waiver Fees DCMR 1-408

- *Agency or Public Interest*
- *Reasonable Direct Costs*
- *Not Bound by Prior Waiver*

WAIVER	
Agency interest	Not required
Prior waiver	Prior waiver does not set precedent
Waiver	DCMR 1-408
	Agency fee schedule

WAIVER

Public/Agency interest

Not required

Full waiver

Prior waiver does not set precedent

Partial waiver

DCMR 1-408

Agency fee schedule

Requesters

Fees Which May Be Charged				
		Search	Review	Duplication
Types of Requesters	Commercial	Y	Y	Y
	Educational Noncommercial Scientific News Media			Y
	All Others	Y		Y

Other Requirements

- **Detailed Records**
- **Annual Reporting**

Traci L. Hughes, Esq.
Director, Office of
Open Government

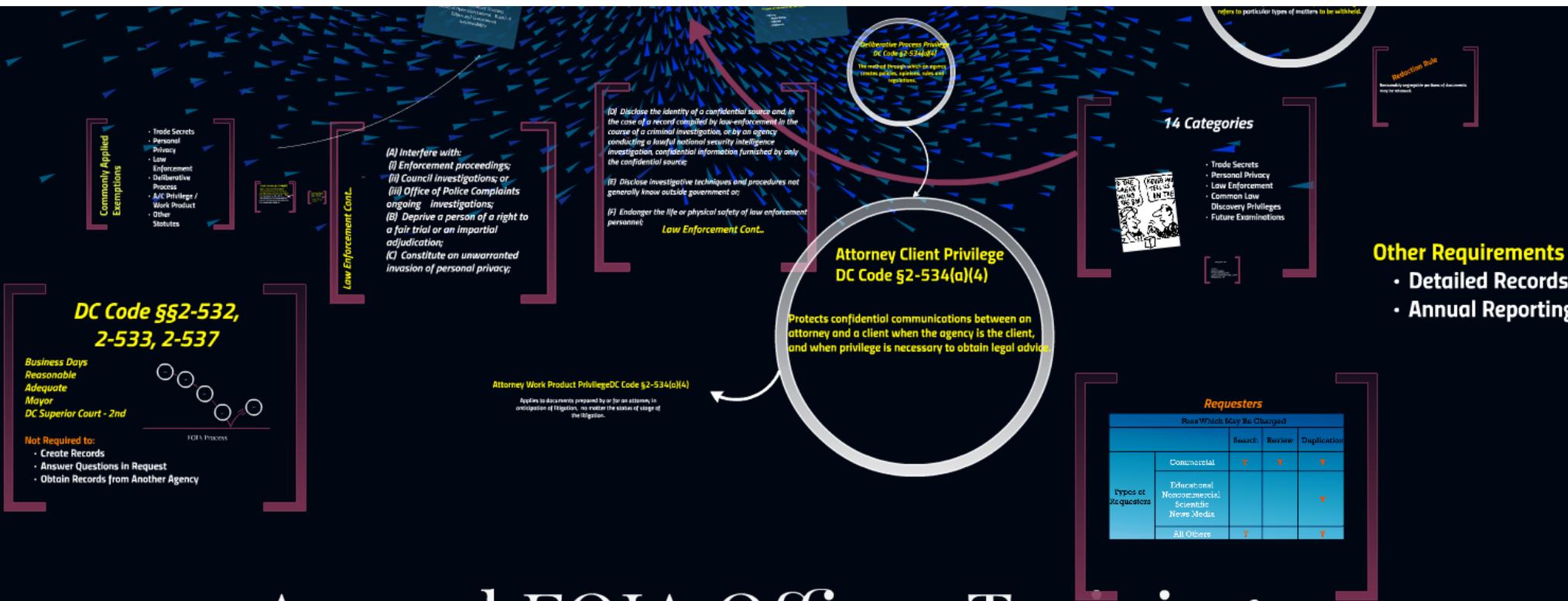
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