

## **Central Intelligence Agency**

### **FREEDOM OF INFORMATION ACT ANNUAL REPORT FISCAL YEAR 2007**

[This report contains information in the format specified in Department of Justice guidance to the EFOIA. Text in *italics* is the information provided in response to specified headings.]

#### **I. Basic Information Regarding Report**

A. Name, title, address, and telephone number of person to be contacted with questions about the report.

*Scott A. Koch, J.D., Ph.D.  
Information and Privacy Coordinator  
Central Intelligence Agency  
Washington D.C. 20505  
(703) 613-1287*

B. Electronic address for report on the World Wide Web.

*<http://www.foia.cia.gov>*

C. How to obtain a copy of the report in paper form.

*Write to the above address.*

#### **II. How to Make a FOIA Request**

*An individual may request for records under the Freedom of Information Act by sending a request through the U.S. mail to:*

*Information and Privacy Coordinator  
Central Intelligence Agency  
Washington, D.C. 20505.*

*Alternatively, one may send a request via facsimile to 703-613-3007. We regret that we cannot accept FOIA requests via electronic mail.*

A. Names, addresses, and telephone numbers of all individual agency components and offices that receive FOIA requests.

*The mailing address in section I.A. above is the proper office within CIA to receive FOIA requests. Any CIA component receiving what purports to be a request for information under the FOIA will forward that request to the address listed in section I.A., above.*

B. Brief description of the agency's response-time ranges.

*For those FOIA cases closed in FY 2007, 80% were closed in 175 days; median response time was 40 days; average response time was 223 days.*

*For those Privacy Act cases closed in FY 2007, 80% were closed in 58 days; median response time was 18 days; average response time was 69 days.*

C. Brief description of why some requests are not granted.

*CIA consistently protects, among other things, classified national security information, information relating to intelligence sources and methods, and organizational information from release under the FOIA and takes full advantage of all of the FOIA's exemptions.*

### **III. Definitions of Terms and Acronyms Used in the Report**

A. Agency-specific acronyms or other terms.

*None.*

B. Basic terms, expressed in common terminology.

1. FOIA/PA Request – Freedom of Information Act/Privacy Act request. A FOIA request generally is a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)

2. Initial Request – a request to a federal agency for access to records under the Freedom of Information Act.

3. Appeal – a request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.

4. Processed Request or Appeal – a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.

5. Multi-track Processing – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests

are placed in one or more other tracks. Requests in each track are processed on a first-in/first-out basis. A requester who has an urgent need for records may request expedited processing (see below).

6. Expedited Processing – an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.

7. Simple Request – a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the volume and/or simplicity of records requested.

8. Complex Request – a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.

9. Grant – an agency decision to disclose all records in full in response to a FOIA request.

10. Partial Grant – an agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA exemptions; or a decision to disclose some records in their entirety, but to withhold others in whole or in part.

11. Denial – an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA's exemptions, or for some procedural reason (such as because no record is located in response to an FOIA request).

12. Time Limits – the time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily, 20 working days from proper receipt of a “perfected” FOIA request).

13. “Perfected” Request – a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.

14. Exemption 3 Statute – a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).

15. Median Number – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

16. Average Number – the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

#### **IV. Exemption 3 Statutes**

List of Exemption 3 Statutes relied on by agency during current fiscal year.

(1) *The Central Intelligence Agency Act of 1949, as amended, codified at 50 U.S.C. § 403g.*

(2) *Statute: 26 U.S.C. § 6103*

1. Brief description of type(s) of information withheld under each statute.

*Among other things, the Central Intelligence Agency Act of 1949 authorizes the Agency to protect CIA budget information from disclosure and information relating to the organization, functions, names, official titles, salaries, or numbers of personnel employed by the CIA, including information relating to intelligence sources and methods.*

*26 U.S.C. 6103 prohibits the disclosure of tax returns and return information.*

2. Statement of whether a court has upheld the use of each statute. If so, cite example.

Yes, See, e.g.,

*Halperin v. CIA, 629 F.2d 144 (D.C. Cir. 1980) (section 6, CIA Act of 1949).*

*Minier v. CIA, 88 F.3d 796 (9<sup>th</sup> Cir. 1996) - section 6, CIA Act of 1949.*

*Church of Scientology v. IRS, 484 U.S. 9 (1987)*

*See “U.S. Department of Justice Freedom of Information Act Guide and Privacy Act Overview” for additional examples of (b)(3) statutes available to the CIA and applicable case law.*

## **V. Initial FOIA/PA Access Requests**

A. Numbers of initial requests.

1. Requests pending as of end of preceding year: 896

2. Requests received during current fiscal year: 2,911

3. Requests processed during current fiscal year: 3,031

4. Requests pending as of end of current fiscal year: 776

B. Disposition of initial requests.

1. Number of total grants: *344*
2. Number of partial grants: *1,100*
3. Number of denials: *586*

Number of times each FOIA exemption used (counting each exemption once per request):

- (1) Exemption 1: *741*
  - (2) Exemption 2: *160*
  - (3) Exemption 3: *1,008*
  - (4) Exemption 4: *12*
  - (5) Exemption 5: *127*
  - (6) Exemption 6: *257*
  - (7) Exemption 7(a): *13*
  - (8) Exemption 7(b): *3*
  - (9) Exemption 7(c): *29*
  - (10) Exemption 7(d): *21*
  - (11) Exemption 7(e): *51*
  - (12) Exemption 7(f): *0*
  - (13) Exemption 8: *0*
  - (14) Exemption 9: *0*
4. Other reasons for nondisclosure (total): *1,001*
    - a. no records: *421*
    - b. referrals: *87*
    - c. request withdrawn: *2*

- d. fee-related reason: 0
- e. records not reasonably described: 0
- f. not a proper FOIA request for some other reason: 0
- g. not an agency record: 0
- h. duplicate request: 0

i. other: *includes cancellations due to lack of requester response to SPR (suspense pending response), death of requester, response material returned undeliverable, administrative error, early appeal/litigation, etc.* 491

**VI. Appeals of Initial Denials of FOIA/PA Requests**

A. Numbers of appeals.

- 1. Number of appeals received during fiscal year: 205
- 2. Number of appeals processed during fiscal year: 216

B. Disposition of appeals.

- 1. Number completely upheld: 128
- 2. Number partially reversed: 27
- 3. Number completely reversed: 4

Number of times each FOIA exemption used (counting each exemption once per appeal):

- (1) Exemption 1: 135
- (2) Exemption 2: 10
- (3) Exemption 3: 153
- (4) Exemption 4: 2
- (5) Exemption 5: 8
- (6) Exemption 6: 18
- (7) Exemption 7(a): 0

(8) Exemption 7(b): 0

(9) Exemption 7(c): 1

(10) Exemption 7(d): 0

(11) Exemption 7(e): 2

(12) Exemption 7(f): 0

(13) Exemption 8: 0

(14) Exemption 9: 0

4. Other reasons for nondisclosure (total): 57

a. no records: 47

b. referrals: 0

c. request withdrawn: 3

d. fee-related reason: 1

e. records not reasonably described: 0

f. not a proper FOIA request for some other reason: 3

g. not an agency record: 0

h. duplicate request: 0

i. other: *Reopened at initial level: 2*

*Early Litigation: 1*

## **VII. Compliance With Time Limits/Status of Pending Requests**

A. Median processing time for requests processed during the year.

1. Simple requests.

a. number of requests processed: 784

b. median number of days to process: 8

2. Complex request.
  - a. number of requests processed: 2,247
  - b. median number of days to process: 56
3. Requests accorded expedited processing.
  - a. number of requests processed: 0
  - b. median number of days to process: *Not applicable*

B. Status of pending requests.

1. Requests pending as of end of current fiscal year: 776
2. Median number of days that such requests were pending as of that date: *FOIA - 257; PA -80*

**VIII. Comparisons With Previous Year(s)**

- A. Comparison of number of requests received:  
*2,911 in FY07 vs. 2,500 in FY06 vs. 2,935 in FY05 vs. 3,055 in FY04 vs. 3,136 in FY03*
- B. Comparison of number of requests processed:  
*3,031 in FY07 vs. 2,579 in FY06 vs. 3,110 in FY05 vs. 3,336 in FY04 vs. 3,252 in FY03*
- C. Comparison of median numbers of days requests were pending as of end of fiscal year:  
*FOIA – 257 in FY07 vs. 234 in FY 06 vs. 324 in FY05 vs. 349 in FY04 vs. 480 in FY03*  
*PA – 80 in FY07 vs. 74 in FY 06 vs. 99 in FY05 vs. 127 in FY04 vs. 221 in FY03*
- D. Other statistics significant to agency:  
*16 requests for expedited processing received in FY07, 0 requests granted*  
*40 requests for expedited processing received in FY06, 0 requests granted*  
*53 requests for expedited processing received in FY05, 0 requests granted*  
*18 requests for expedited processing received in FY04, 1 request granted*  
*No statistics available for FY03*

**IX. Costs/FOIA Staffing**

- A. Staffing levels.

1. Number of full-time FOIA personnel: 43
  2. Personnel with part-time or occasional FOIA duties (FTE): 39.2
  3. Total estimated number of personnel (FTE): 82.2
- B. Total estimated costs (including staff and all resources).
1. FOIA processing (including appeals): \$9 million
  2. Litigation-related activities: \$1.4 million
  3. Total estimated costs: \$10.4 million
- C. Statement of additional resources needed for FOIA compliance (optional)

## **X. Fees**

- A. Total amount of fees collected by agency for processing requests: \$7,392.30
- B. Percentage of total costs: less than 1%

## **XI. FOIA Regulations (Including Fee Schedule)**

*CIA FOIA and Privacy Act regulations are codified at 32 CFR Parts 1900 and 1901, respectively, and can be obtained by contacting the Information and Privacy Coordinator (see Sec. I of this report); by referencing the Federal Register / Vol. 62, No. 115 / Monday, June 16, 1997 (available at public libraries); or by accessing the Internet at <http://www.foia.cia.gov> - - click on "Your Rights/Freedom of Information Act/Your Rights FOIA /Code of Federal Regulations...."*

## **XII. Report on FOIA Executive Order Implementation**

- A. Description of supplementation/modification of agency improvement plan (if applicable)

CIA has not modified its original improvement plan.

- B. Report on agency implementation of its plan, including its performance in meeting milestones, with respect to each improvement area.

CIA has met the goals it established for itself in its FOIA improvement plan.

- The CIA Automated Declassification and Release Environment (CADRE) is operational, and case managers are undergoing training in its use. The new system is more stable and powerful than its predecessor;

- CIA's FOIA website is more user-friendly;
- CIA has many more documents on its FOIA website and adds more every month;
- For FY 2007, the Agency reduced its overall FOIA/PA backlog by 13.39 percent, exceeding its goal of ten per cent.
- In FY 2007, the Agency reduced its FOIA/PA backlog of cases five or more years old by *74 per cent*, exceeding its goal of 25 per cent;
- CIA has simplified its correspondence templates whenever possible, consistent with some of the legal language the Agency must use.
- CADRE permits CIA to track closely the progress of cases—both internally and as coordinations with or referrals to other government agencies.

Besides the deployment of CADRE, one of the Agency's most notable achievements this fiscal year was the release, in June 2007, of the historically significant "Family Jewels," which was CIA's oldest case and dated from 1992. The release attracted significant press attention, and the documents are now on CIA's public FOIA website available free to the public.

C. Identification and discussion of any deficiency in meeting plan milestones (if applicable).

Not applicable.

D. Additional narrative statement regarding other executive order-related activities (optional).

Nothing to report.

E. Concise descriptions of FOIA exemptions.

- (b)(1) exempts from disclosure information properly classified, pursuant to an Executive Order;
- (b)(2) exempts from disclosure information, which pertains solely to the internal personnel rules and practices of the Agency;
- (b)(3) exempts from disclosure information that another federal statute protects, provided that the other federal statute either requires that the matters be withheld, or establishes particular criteria for withholding or refers to particular types of matters to be withheld. The (b)(3) statutes upon which the CIA relies include, but are not limited to, the CIA Act of 1949;
- (b)(4) exempts from disclosure information such as trade secrets and commercial or financial information that is obtained from a person and that is privileged or confidential;
- (b)(5) exempts from disclosure inter-and intra-agency memoranda or letters that would not be available by law to a party other than an agency in litigation with the agency (i.e., information to which any privilege recognized by the federal courts applies, including information protected by the deliberative process privilege, the attorney-client privilege, and the attorney work-product privilege) ;
- (b)(6) exempts from disclosure information from personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy;

- (b)(7) exempts from disclosure information compiled for law enforcement purposes to the extent that the production of the information (A) could reasonably be expected to interfere with enforcement proceedings; (B) would deprive a person of a right to a fair trial or an impartial adjudication; (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy; (D) could reasonably be expected to disclose the identity of a confidential source or, in the case of information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source; (E) would disclose techniques and procedures for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or (F) could reasonably be expected to endanger any individual's life or physical safety;
- (b)(8) exempts from disclosure information contained in reports or related to examination, operating, or condition reports prepared by, or on behalf of, or for use of an agency responsible for regulating or supervising financial institutions; and
- (b)(9) exempts from disclosure geological and geophysical information and data, including maps, concerning wells.

F. Additional statistics:

1. Ten Oldest Pending FOIA Requests

Calendar Year	1992	1993	1994	1995	1996	1997	1998	1999	2000
Requests	May 1				May 21			Jan 26 Sep 23 Dec 8 Dec 14	Jan 4 Apr 19 May 22 May 31

2. Consultations

a) Number of Consultations Received, Processed, and Pending

Consultations Received From Other Agencies During FY07	Consultations Received From Other Agencies That Were Processed by the CIA During FY07 (includes those received prior to FY07)	Consultations Received From Other Agencies That Were Pending at the CIA as of October 1, 2007 (includes those received prior to FY07)
870	946	225

b) Ten Oldest Pending Consultations Received From Other Agencies

Calendar Year	1999	2000	2001	2002	2003	2004	2005	2006	2007
Consults Received	Dec 5	May 31 Oct 11	Feb 26	Sep 25	Oct 2 Nov 24	Jun 3 Aug 3 Oct 5			

G. Attachment: Agency improvement plan (in current form).  
Attached.