

Central Intelligence Agency

§ 1901.41

(2) That the personal need is exceptional; and

(3) That there are no alternative forums for the records sought; and

(4) That it is reasonably believed that substantive records relevant to the stated needs may exist and be deemed releasable.

(b) In sum, requests shall be considered for expedited processing only when health, humanitarian, or due process considerations involving possible deprivation of life or liberty create circumstances of exceptional urgency and extraordinary need. In accordance with established judicial precedent, requests more properly the scope of requests under the Federal Rules of Civil or Criminal Procedure (or equivalent state rules) will not be granted expedited processing under this or related (e.g., Freedom of Information Act) provisions unless expressly ordered by a federal court of competent jurisdiction.

§ 1901.33 Allocation of resources; agreed extensions of time.

(a) *In general.* Agency components shall devote such personnel and other resources to the responsibilities imposed by the Privacy Act as may be appropriate and reasonable considering:

(1) The totality of resources available to the component,

(2) The business demands imposed on the component by the Director of Central Intelligence or otherwise by law,

(3) The information review and release demands imposed by the Congress or other governmental authority, and

(4) The rights of all members of the public under the various information review and disclosure laws.

(b) *Discharge of Privacy Act responsibilities.* Components shall exercise due diligence in their responsibilities under the Privacy Act and must allocate a reasonable level of resources to requests under the Act in a strictly "first-in, first-out" basis and utilizing two or more processing queues to ensure that smaller as well as larger (i.e., project) cases receive equitable attention. The Information and Privacy Coordinator is responsible for management of the Agency-wide program defined by this Part and for establishing priorities for cases consistent with es-

tablished law. The Director, Information Management through the Agency Release Panel shall provide policy and resource direction as necessary and shall make determinations on administrative appeals.

(c) *Requests for extension of time.* While the Privacy Act does not specify time requirements, our joint treatment of requests under the FOIA means that when the Agency is unable to meet the statutory time requirements of the FOIA, the Agency may request additional time from a requester. In such instances the Agency will inform a requester of his or her right to decline our request and proceed with an administrative appeal or judicial review as appropriate.

ACTION ON PRIVACY ACT ADMINISTRATIVE APPEALS

§ 1901.41 Establishment of appeals structure.

(a) *In general.* Two administrative entities have been established by the Director of Central Intelligence to facilitate the processing of administrative appeals under the Freedom of Information Act. Their membership, authority, and rules of procedure are as follows.

(b) *Historical Records Policy Board ("HRPB" or "Board").* This Board, the successor to the CIA Information Review Committee, acts as the senior corporate board in the CIA on all matters of information review and release.

(1) *Membership.* The HRPB is composed of the Executive Director, who serves as its Chair, the Deputy Director for Administration, the Deputy Director for Intelligence, the Deputy Director for Operations, the Deputy Director for Science and Technology, the General Counsel, the Director of Congressional Affairs, the Director of the Public Affairs Staff, the Director, Center for the Study of Intelligence, and the Associate Deputy Director for Administration/Information Services, or their designees.

(2) *Authorities and activities.* The HRPB, by majority vote, may delegate to one or more of its members the authority to act on any appeal or other matter or authorize the Chair to delegate such authority, as long as such

delegation is not to the same individual or body who made the initial denial. The Executive Secretary of the HRPB is the Director, Information Management. The Chair may request interested parties to participate when special equities or expertise are involved.

(c) *Agency Release Panel* (“ARP” or “Panel”). The HRPB, pursuant to its delegation of authority, has established a subordinate Agency Release Panel.

(1) *Membership*. The ARP is composed of the Director, Information Management, who serves as its Chair; the Information Review Officers from the Directorates of Administration, Intelligence, Operations, Science and Technology, and the Director of Central Intelligence Area; the CIA Information and Privacy Coordinator; the Chief, Historical Review Group; the Chair, Publications Review Board; the Chief, Records Declassification Program; and representatives from the Office of General Counsel, the Office of Congressional Affairs, and the Public Affairs Staff.

(2) *Authorities and activities*. The Panel shall meet on a regular schedule and may take action when a simple majority of the total membership is present. The Panel shall advise and assist the HRPB on all information release issues, monitor the adequacy and timeliness of Agency releases, set component search and review priorities, review adequacy of resources available to and planning for all Agency release programs, and perform such other functions as deemed necessary by the Board. The Information and Privacy Coordinator also serves as Executive Secretary of the Panel. The Chair may request interested parties to participate when special equities or expertise are involved. The Panel, functioning as a committee of the whole or through individual members, will make final Agency decisions from appeals of initial adverse decisions under the Freedom of Information Act and such other information release decisions made under 32 CFR parts 1901, 1907, and 1908. Issues shall be decided by a majority of members present; in all cases of a divided vote, any member of the ARP then present may refer such matter to

the HRPB by written memorandum to the Executive Secretary of the HRPB. Matters decided by the Panel or Board will be deemed a final decision by the Agency.

§ 1901.42 Right of appeal and appeal procedures.

(a) *Right of Appeal*. A right of administrative appeal exists whenever access to any requested record or any portion thereof is denied, no records are located in response to a request, or a request for amendment is denied. The Agency will apprise all requesters in writing of their right to appeal such decisions to the CIA Agency Release Panel through the Coordinator.

(b) *Requirements as to time and form*. Appeals of decisions must be received by the Coordinator within forty-five (45) days of the date of the Agency’s initial decision. The Agency may, for good cause and as a matter of administrative discretion, permit an additional thirty (30) days for the submission of an appeal. All appeals to the Panel shall be in writing and addressed as specified in 32 CFR 1901.03. All appeals must identify the documents or portions of documents at issue with specificity, provide the desired amending language (if applicable), and may present such information, data, and argument in support as the requester may desire.

(c) *Exceptions*. No appeal shall be accepted if the requester has outstanding fees for information services at this or another federal agency. In addition, no appeal shall be accepted if the information in question has been the subject of an administrative review within the previous two (2) years or is the subject of pending litigation in the federal courts.

(d) *Receipt, recording, and tasking*. The Agency shall promptly record each administrative appeal, acknowledge receipt to the requester in writing, and thereafter effect the necessary taskings to the Deputy Director(s) in charge of the directorate(s) which originated or has an interest in the record(s) subject to the appeal. As used herein, the term Deputy Director includes an equivalent senior official