

Department of Justice

§ 17.1

Federal Bureau of Investigation, U.S. Department of Justice, 935 Pennsylvania Avenue, NW., Washington, DC 20535-0001 (for field offices, consult your telephone book)

Foreign Claims Settlement Commission, U.S. Department of Justice, BICN Bldg., Room 6002, 600 E Street, NW., Washington, DC 20579-0001

Immigration and Naturalization Service, U.S. Department of Justice, CAB Bldg., 425 Eye Street, NW., Washington, DC 20536-0001 (for field offices, consult your telephone book)

INTERPOL-U.S. National Central Bureau, U.S. Department of Justice, Washington, DC 20530-0001

National Drug Intelligence Center, U.S. Department of Justice, Fifth Floor, 319 Washington Street, Johnstown, PA 15901-1622

Office of Community Oriented Policing Services, U.S. Department of Justice, VT1 Bldg., Twelfth Floor, Washington, DC 20530-0001

Office of Justice Programs, U.S. Department of Justice, Room 5337, 810 Seventh Street, NW., Washington, DC 20531-0001

Pardon Attorney, U.S. Department of Justice, FRST Bldg., Fourth Floor, Washington, DC 20530-0001

United States Marshals Service, U.S. Department of Justice, Lincoln Place, Room 1250, CSQ3, 600 Army Navy Drive, Arlington, VA 22202-4210

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PART 17—CLASSIFIED NATIONAL SECURITY INFORMATION AND ACCESS TO CLASSIFIED INFORMATION

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AUTHORITY: 28 U.S.C. 501, 509, 510, 515-519; 5 U.S.C. 301; E.O. 12958, 60 FR 7977; 3 CFR, 1995 Comp., p. 333 19825; E.O. 12968, 60 FR 40245, 3 CFR, 1995 Comp., p. 391; 32 CFR part 2001.

SOURCE: Order No. 2091-97, 62 FR 36984, July 10, 1997, unless otherwise noted.

§ 17.1 Purpose.

The purpose of this part is to ensure that information within the Department of Justice (the "Department") relating to the national security is classified, protected, and declassified pursuant to the provisions of Executive Orders 12958 (3 CFR, 1995 Comp., p. 333) and 12968 (3 CFR, 1995 Comp., p. 391) and implementing directives from the Information Security Oversight Office of the National Archives and Records Administration ("ISOO"). Executive Orders 12958 and 12968 made numerous substantive changes in the system of classification, declassification, and downgrading of classified National Security Information and the criteria for access to this information. Accordingly, this part is a revision of the Department's classified information security rules.

§ 17.2

28 CFR Ch. I (7–1–05 Edition)

(a) Subpart A of this part prescribes the implementation of Executive Orders 12958 and 12968 within the Department through the Assistant Attorney General for Administration, as the senior responsible agency official. Subpart A of this part also provides for certain relationships within the Department between the Assistant Attorney General for Administration, other component heads, and the Office of Intelligence Policy and Review.

(b) Subpart B of this part prescribes an orderly and progressive system for ensuring that every necessary safeguard and procedure is in place to assure that information is properly classified and that classified information is protected from unauthorized disclosure. Subpart B of this part requires original classification authorities to make classification decisions based on specific criteria; provides that most newly created classified information be considered for declassification after 10 years; provides that historically valuable information that is more than 25 years old (including information classified under prior Executive Orders) be automatically declassified, with appropriate exceptions; and establishes procedures for authorized holders of classified information to challenge the classification of information.

(c) Subpart C of this part establishes substantive standards and procedures for granting, denying, and revoking, and for appealing decisions to deny access to classified information with an emphasis on ensuring the consistent, cost-effective, and efficient protection of classified information. Subpart C of this part provides a process that is fair and equitable to those with whom classified information is entrusted and, at the same time, assures the security of the classified information.

§ 17.2 Scope.

(a) All employees, contractors, grantees, and others granted access to classified information by the Department are governed by this part, and by the standards in Executive Order 12958, Executive Order 12968, and directives promulgated under those Executive Orders. If any portion of this part conflicts with any portion of Executive Order 12958, Executive Order 12968, or

any successor Executive Order, the Executive Order shall apply. This part supersedes the former rule and any Department internal operating policy or directive that conflicts with any portion of this part.

(b) This part applies to non-contractor personnel outside of the Executive Branch and to contractor personnel or employees who are entrusted with classified national security information originated within or in the custody of the Department. This part does not affect the operation of the Department's participation in the National Industrial Security Program under Executive Order 12829 (3 CFR, 1993 Comp., p. 570).

(c) This part is independent of and does not affect any classification procedures or requirements of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*).

(d) This part does not, and is not intended to, create any right to judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person. This part creates limited rights to administrative review of decisions pursuant to §§ 17.30, 17.31, and 17.47. This part does not, and is not intended to, create any right to judicial review of administrative action under §§ 17.14, 17.15, 17.18, 17.27, 17.30, 17.31 and 17.50.

§ 17.3 Definitions.

The terms defined or used in Executive Order 12958 and Executive Order 12968, and the implementing directives in 32 CFR 2001, are applicable to this part.

Subpart A—Administration

§ 17.11 Authority of the Assistant Attorney General for Administration.

(a) The Assistant Attorney General for Administration is designated as the senior agency official as required by § 5.6(c) of Executive Order 12958, and § 6.1(a) of Executive Order 12968 and, except as specifically provided elsewhere in this part, is authorized to administer the Department's national security information program pursuant to