

Central Intelligence Agency

FREEDOM OF INFORMATION ACT ANNUAL REPORT

FISCAL YEAR 2006

[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, 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 2006, 80% were closed in 156 days; median response time was 43 days; average response time was 201 days.

For those Privacy Act cases closed in FY 2006, 80% were closed in 45 days; median response time was 20 days; average response time was 53 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 entireties, 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 (9th 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: 975
2. Requests received during current fiscal year: 2500
3. Requests processed during current fiscal year: 2579
4. Requests pending as of end of current fiscal year: 896

B. Disposition of initial requests.

1. Number of total grants: 267
2. Number of partial grants: 939
3. Number of denials: 495

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

- (1) Exemption 1: 703
- (2) Exemption 2: 93
- (3) Exemption 3: 942
- (4) Exemption 4: 17
- (5) Exemption 5: 83
- (6) Exemption 6: 172
- (7) Exemption 7(a): 3
- (8) Exemption 7(b): 1
- (9) Exemption 7(c): 48
- (10) Exemption 7(d): 30
- (11) Exemption 7(e): 43

(12) Exemption 7(f): 2

(13) Exemption 8: 0

(14) Exemption 9: 0

4. Other reasons for nondisclosure (total): 878

a. no records: 370

b. referrals: 80

c. request withdrawn: 121

d. fee-related reason: 85

e. records not reasonably described: 18

f. not a proper FOIA request for some other reason: 79

g. not an agency record: 8

h. duplicate request: 25

i. other: *includes cancellations due to lack of requester response to SPR, death of requester, response material returned undeliverable, administrative error, early appeal/litigation, etc.* 92

VI. Appeals of Initial Denials of FOIA/PA Requests

A. Numbers of appeals.

1. Number of appeals received during fiscal year: 166

2. Number of appeals processed during fiscal year: 203

B. Disposition of appeals.

1. Number completely upheld: 115

2. Number partially reversed: 31

3. Number completely reversed: 7

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

- (1) Exemption 1: 124
- (2) Exemption 2: 5
- (3) Exemption 3: 136
- (4) Exemption 4: 1
- (5) Exemption 5: 5
- (6) Exemption 6: 14
- (7) Exemption 7(a): 0
- (8) Exemption 7(b): 0
- (9) Exemption 7(c): 1
- (10) Exemption 7(d): 2
- (11) Exemption 7(e): 2
- (12) Exemption 7(f): 0
- (13) Exemption 8: 0
- (14) Exemption 9: 0

4. Other reasons for nondisclosure (total): 50

- a. no records: 38
- b. referrals: 2
- c. request withdrawn: 2
- d. fee-related reason: 1
- e. records not reasonably described: 0
- f. not a proper FOIA request for some other reason: 1
- g. not an agency record: 0
- h. duplicate request: 1

i. other: *includes cancellations due to administrative error and early litigation* 5

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: 395

b. median number of days to process: 7

2. Complex request.

a. number of requests processed: 2,184

b. median number of days to process: 59

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: 896

2. Median number of days that such requests were pending as of that date:
FOIA - 234; PA -74

VIII. Comparisons With Previous Year(s)

A. Comparison of number of requests received:

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:

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 – 234 in FY 06 vs. 324 in FY05 vs. 349 in FY04 vs. 480 in FY03
PA – 74 in FY 06 vs. 99 in FY05 vs. 127 in FY04 vs. 221 in FY03*

D. Other statistics significant to agency:

*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: 38
2. Personnel with part-time or occasional FOIA duties (FTE): 36.5
3. Total estimated number of personnel (FTE): 74.5

B. Total estimated costs (including staff and all resources).

1. FOIA processing (including appeals): *\$8.87 million*
2. Litigation-related activities: *\$1.19 million*
3. Total estimated costs: *\$10.06 million*

C. Statement of additional resources needed for FOIA compliance (optional)

X. Fees

A. Total amount of fees collected by agency for processing requests: \$4732.80

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 improvement plan.

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

- Overall website improvement.

We have added links to the FOIA programs of other government agencies with which we have close working relationship, including the Department of State, Department of Justice, Department of Defense, National Security Agency, National Reconnaissance Office, and the National Archives and Records Administration. We have also added a section of “frequently asked questions,” so that requester can find answers to common questions in one place rather than have to navigate our website.

- Proactive disclosure of information.

We are current in putting material on our public website. At the beginning of Fiscal Year 2006 we were approximately two years behind in posting documents on our web site; it now takes us only one month and we have adopted that as our standard.

- Tracking the progress of cases.

We have improved our ability to track the progress of cases internally as the documents in them undergo multi-directorate review. Case managers now can better coordinate the cases among the directorate information review offices through regular “tickler” notes or requests for case status, which promises to reduce response time. Case managers now produce regular reports so that management can identify cases that may require intervention to solve unique problems or unexpected delays.

- Reducing the backlog of old cases (five or more years old).

Although we set as a goal reducing the backlog of our oldest and most difficult cases 25 percent by 31 October 2006, we put particular emphasis on dealing with these cases and were able to substantially exceed this goal—reducing the number of cases five or more years old by 40 percent.

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

- The current state of CIA's automated electronic FOIA tracking and documentation system.

CIA has not been able to deploy the CIA Automated Declassification and Release Environment (CADRE) system to the FOIA case managers by 31 December 2006. We have been doing extensive user acceptance testing to ensure the system meets all of the work flow process and quality assurance requirements the FOIA case managers have. We have also thoroughly and exhaustively been checking all the data before migrating it from the old to the new system to make certain that the information CADRE will contain is complete and accurate. Barring unforeseen difficulties, we anticipate that CADRE will be operational and available for FOIA case managers by the third quarter of calendar year 2007.

- Reducing the overall backlog of outstanding cases.

For the ninth consecutive year, CIA has reduced its overall backlog of outstanding FOIA cases. In Fiscal Year 2006, we reduced the overall backlog by 8 percent, which is slightly shy of our goal of 10 percent.

We had become concerned, not just about the overall backlog, but about the number of difficult cases we had that were five or more years old. We were determined to address this issue and make it a priority, and so devoted some of the finite resources we would normally use on overall backlog reduction to target our oldest cases.

Reducing the backlog of our oldest cases by 25 percent is our priority for Fiscal Year 2007. We will reallocate the resources devoted to this goal only if we reach it before 1 October 2007. In that event, we will use these resources to assist in reducing the overall backlog 10 percent by 1 October 2007.

- Forms of communication with requesters.

We have made significant progress in improving, both in terms of clarity and brevity, the thousands of correspondence templates we use while retaining necessary legal language. We have not finished this task due to the sheer volume of templates. We are, however, revising them as we find we need to use them in specific situations and will have completed all of them by February 2008.

We have made a concerted effort to improve our personal interaction with requesters. We encourage case managers to call requesters if they can help narrow the scope of a request or determine what the requester actually wants. We have found that a modest investment in time at the beginning pays big dividends in more focused requests that result in the release of responsive documents.

Our FOIA Requester Service Center is fully operational, and we have appointed two FOIA Public Liaison officers. Our website tells requesters how to reach the Liaison officers, and this information is also available through our FOIA hotline, where requesters can get information about the status of their cases.

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. Time range of requests pending, by date of request (or, where applicable, by date of referral from another agency)

Our pending cases date from February 1992 through 23 January 2007. We have re-reviewed the oldest case internally to determine if the passage of time warranted a more liberal release than the first incomplete review indicated. After re-review, we determined that the case contained the equities of eight other government agencies and in May 2006 sent it to them. We have not yet received all their responses, but anticipate closing this request in the first quarter of 2007 because it is our top priority "old case."

2. Time range of consultations pending with other agencies, by date of initial interagency communication.

Our outstanding coordinations with other government agencies date from June 2001 through 29 January 2007.

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

Attached.