

processed by DC321 staff members who specialize in complex classification issues.

(4) Sensitive/personal voluminous queue. The sensitive/personal voluminous queue contains FOIA and PA records that contain sensitive personal information, typically relating to the request or the requester's relatives, and that require a lengthy review because of the high volume of responsive records. These records may also contain classified information that may require coordinated review in several NSA components. These requests are processed by DC321 staff members who specialize in handling sensitive personal information.

(5) Non-personal complex queue. The non-personal complex queue contains FOIA records not relating to the requester that require a lengthy review because of the high volume and/or complexity of responsive records. These records contain classified, often technical information that requires coordinated review among many specialized NSA components, as well as consultation with other government agencies. These requests are processed by DC321 staff members who specialize in complex classification issues.

(6) Expedite queue. Cases meeting the criteria for expeditious processing as defined in paragraph (f) of this section shall be processed in turn within that queue by the appropriate processing team.

(e) Requesters shall be informed immediately if no responsive records are located. Following a search for and retrieval of responsive material, the initial processing team shall determine which queue in which to place the material, based on the criteria in paragraph (d)(1) through (6) of this section and shall so advise the requester. If the material requires minimal specialized review (super easy), the initial processing team shall review, redact if required, and provide the non-exempt responsive material to the requester immediately. All other material shall be processed by the appropriate specialized processing team on a first-in, first-out basis within its queue. These procedures are followed so that a requester shall not be required to wait a long period of time to learn that the Agency has no records responsive to his request or to obtain records that require minimal review. For statistical reporting purposes for the Annual Report, super easy, sensitive/personal easy, and non-personal easy cases shall be counted as "Easy" cases, and sensitive/personal voluminous and non-personal complex cases shall be counted as "Hard" cases.

(f) Expedited processing shall be granted to a requester if he/she requests such treatment and demonstrates a compelling need for the information. A demonstration of compelling need by a requester shall be made by a statement certified by the requester to be true and correct to the best of his/her knowledge. A compelling need is defined as follows:

(1) The failure to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.

(2) The information is urgently needed by an individual primarily engaged in disseminating information to inform the public about actual or alleged Federal Government activity. Urgently needed means that the information has a particular value that will be lost if not disseminated quickly.

(3) A request may also be expedited, upon receipt of a statement certified by the requester to be true and correct to the best of his/her knowledge, for the following reasons:

(i) There would be an imminent loss of substantial due process rights.

(ii) There is a humanitarian need for the material. Humanitarian need means that disclosing the information will promote the welfare and interests of mankind.

(4) Requests which meet the criteria for expedited treatment as defined in paragraph (f)(3) of this section will be placed in the expedite queue behind requests which are expedited because of a compelling need (see paragraphs (f)(1) and (2) of this section).

(5) A decision on whether to grant expedited treatment shall be made within 10 calendar days of receipt. The requester shall be notified whether his/her request meets the criteria for expedited processing within that time frame. If a request for expedited processing has been granted, a substantive response shall be provided within 20 working days of the date of the decision to expedite. If a substantive response cannot be provided within 20 working days, a response shall be provided as soon as practicable and the chief of the FOIA office shall negotiate a completion date with the requester, taking into account the number of cases preceding it in the expedite queue and the complexity of the responsive material.

(g) If the Director of Policy, in consultation with the GC, determines that the fact of the existence or non-existence of requested material is a matter that is exempt from disclosure, the requester shall be so advised.

(h) If the FOIA office determines that NSA/CSS may have information of the type requested, the office shall contact each Directorate or Associate Directorate reasonably expected to hold responsive records.

(i) The FOIA office shall assign the requester to the appropriate fee category under 5 U.S.C. 552, as amended, and DoD 5400.7-R, and, if a requester seeks a waiver of fees, the FOIA office shall, after determining the applicable fee category, determine whether to waive fees pursuant to DoD 5400.7-R. (See also § 299.6.) If fees are to be assessed in accordance with the provisions of 5 U.S.C. 552 and DoD 5400.7-R, the Directorate or Associate Directorate shall prepare an estimate of the cost required to locate, retrieve and, in the case of commercial requesters, review the records. Cost estimates shall include only direct search, duplication costs and review time (for commercial requesters) as defined in DoD 5400.7-R.

(1) If the cost estimate does not exceed \$25.00, the component shall search for and forward to the FOIA office the documents responsive to the request. Fees \$25.00 and under shall be waived.

(2) If the costs are estimated to exceed \$25.00, the component shall provide an estimate to the FOIA office without conducting the search. The chief of the FOIA office shall advise the requester of the costs to determine a willingness to pay the fees. A requester's willingness to pay fees shall be satisfactory when the estimated fee does not exceed \$250.00 and the requester has a history of prompt payment. A history of prompt payment means payment within 30 calendar days of the date of billing. If fees are expected to exceed \$250.00, the requester shall be required to submit payment before processing is continued if the requester does not have a history of prompt payment. All payments shall be made by certified check or money order made payable to the Treasurer of the United States.

(3) When a requester has previously failed to pay a fee charged within a timely fashion (*i.e.*, within 30 calendar days from the date of billing) payment is required before a search is initiated or before review is begun. When a requester has no payment history, an advance payment may be required of the requester after the case has been completed, but prior to providing the final response.

(4) If a requester has failed to pay fees after three bills have been sent, additional requests from that requester and/or the organization or company he/she represents will not be honored until all costs and interest are paid.