



United States Department of State

Washington, D.C. 20520

MAR 13 1985

Case Control No. 8500029

Mr. Harold Weisberg
Rt 12
Frederick, Md. 21701

Dear Mr. Weisberg:

Reference is made to your request under the Freedom of Information Act seeking copies of all documents and records relating to Yuri Nosenko. Although your request was directed to The FBI, that agency has located in its files three documents which originated in the Department of State. Since these documents relate to visa matters, they have, been referred to this office for consideration.

Although the Freedom of Information Act generally provides for public access to government records, by its own terms (5 USC 552(b)(3)) it specifically exempts from disclosure such records which are otherwise protected from release by statute. As visa documents are separately protected from disclosure by Section 222(f) of the Immigration and Nationality Act (8 USC 1202(f)), they fall within the cited exemption of the Freedom of Information Act. It is, therefore, regretted that the document(s) relating to visa application(s) cannot be released under the Freedom of Information Act.

This decision may be appealed to the Chairman of the Appeals Panel of the Department of State pursuant to Section 171.60 Title 22 of the Code of Federal Regulations. For your information a copy of this regulation is enclosed.

Sincerely,

Allan W. Otto

Allan W. Otto, Acting
Deputy Assistant Secretary
for Visa Services

Enclosure(s)
As stated

Subpart G—Appeals Procedures

§ 171.60 Appeal of denial of access to records.

(a) Review of an initial denial of access to a record under the Freedom of Information Act (5 USC 552), the Privacy Act of 1974 (5 USC 552a), or Executive Order 12065 may be requested by the individual who submitted the initial request for access. The request for review (hereinafter referred to as the appeal) must be in writing and should be sent by certified mail to the Assistant Secretary for Public Affairs, Chairman, Appeals Review Panels, Department of State, 2201 C Street, N.W., Washington, D.C. 20520. The appeal should be received within 60 days of the date of receipt by the appellant of the Department's refusal to grant access to a record in whole or in part.

(b) The time for decision on the appeal begins on the date the appeal is received by the Chairman, Appeals Review Panels. The appeal of a denial of access to records shall include any documentation, information and statements to support the individual's request for access and to refute the use of the exemption(s) cited in the Department's justification concerning the denial of access.

(c) The Chairman of the Appeals Panels or her/his designee and at least two other members chosen by her/him from a list of senior officers designated for this purpose by the various bureaus of the Department shall constitute a panel to consider and decide the appeal. There shall be a written record of the reasons for the final determination. The final determination will be made within 30 working days for Executive Order and Privacy Act appeals, and within 20 working days (excluding Saturdays, Sundays, and holidays) for FOIA appeals. For good cause shown, the Chairman of the Appeals Review Panels may extend such determination beyond the 30-day period in Privacy Act cases.

(d) The Chairman shall then notify the requester in writing of the panel's decision to grant access and of the Department's regulations concerning access.

(e) When the final decision of the Panel is to refuse to grant an individual access to a record, the Chairman of the Panel shall advise the individual in writing:

(1) of the refusal to grant the appeal and the reasons therefor including the exemptions of the Freedom of Information Act, the Privacy Act of 1974, and/or Executive Order 12065 under which access is denied;

(2) of her/his right to seek judicial review of the Department's decision, where applicable.