

1976

Chapter I—Department of Justice

§ 16.3

other Offices, Divisions, and Bureaus of the Department of Justice—at Room 6620, Department of Justice, 10th Street and Pennsylvania Avenue NW., Washington, DC 20530.

Each of these public reference facilities will maintain, make available for public inspection and copying, and publish quarterly (unless the applicable division determines by order published in the FEDERAL REGISTER that the publication would be unnecessary or impracticable), a current index of the materials available at that facility which are required to be indexed by 5 U.S.C. 552(a) (2). [Order No. 502-73, 38 FR 4391, Feb. 14, 1973, as amended by Order No. 568-74, 39 FR 18646, May 29, 1974; Order No. 596-75, 40 FR 6496, Feb. 12, 1975]

§ 16.3 Requests for identifiable records and copies.

(a) *How made and addressed.* A request for a record of the Department which is not customarily made available and which is not available in a public reference facility as described in § 16.2, shall be made in writing, with the envelope and the letter clearly marked "FREEDOM OF INFORMATION REQUEST" or "INFORMATION REQUEST." All such requests shall be addressed to the Deputy Attorney General, Department of Justice, Washington, D.C. 20530, except that requests for records of the following divisions shall be addressed as follows:

- Bureau of Prisons (Including Federal Prison Industries)—Director, Bureau of Prisons, 320 First Street NW., Washington, D.C. 20534.
- Board of Immigration Appeals—Chairman, Board of Immigration Appeals, Department of Justice, Washington, D.C. 20530.
- Law Enforcement Assistance Administration—Administrator, Law Enforcement Assistance Administration, 633 Indiana Ave. NW., Washington, D.C. 20531.
- Immigration and Naturalization Service—As set forth in 8 CFR Part 103.

Any request for information not marked and addressed as specified in this paragraph will be so marked by Department personnel as soon as it is properly identified, and forwarded immediately to the appropriate office as specified above. A request improperly addressed will not be deemed to have been received for purposes of the time period set forth in 5 U.S.C. 552(a) (6) (A) (i) until forwarding to the appropriate office has been effected, or until such forwarding would

have been effected with the exercise of due diligence by Department personnel. On receipt of an improperly addressed request forwarded as set forth above to the appropriate office, such office shall notify the requester of the date on which the time period commenced to run.

(b) *Request should reasonably describe the records sought.* A request for access to records should sufficiently identify the records requested to enable Department personnel to locate them with a reasonable amount of effort. Where possible, specific information regarding dates, titles, file designations, and other information which may help identify the records should be supplied by the requester. If the request relates to a matter in pending litigation, the court and its location should be identified.

(c) *Form may be requested.* Where the information supplied by the requester is not sufficient to permit location of the records by Department personnel with a reasonable amount of effort, the requester may be sent and asked to fill out and return a Form D.J. 118, which is designed to elicit the necessary information.

(d) *Categorical Requests—*(1) *Records must be reasonably described.* A request for all records falling within a reasonably specific category shall be regarded as conforming to the requirement that records be reasonably described if it enables the records requested to be identified by any process that is not unreasonably burdensome or disruptive of Department operations.

(2) *Assistance in reformulating non-conforming requests.* If it is determined that a request does not reasonably describe the records sought, as specified in paragraph (d) (1) of this section, the response denying the request on that ground shall specify the reasons why the request failed to meet the requirements of paragraph (d) (1) of this section and shall extend to the requester an opportunity to confer with Department personnel in order to attempt to reformulate the request in a manner which will meet the needs of the requester and the requirements of paragraph (d) (1) of this section.

[Order No. 502-73, 38 FR 4391, Feb. 14, 1973, as amended by Order No. 596-75, 40 FR 6496, Feb. 12, 1975]

1976

Chapter I—Department of Justice

§ 50.9

ing that dis-
effect upon
or relation-
customers,
suppliers of
titors. The
retion, will
to whether
has been

paragraphs
ion's right,
release de-
is request-
s of action
quest.
loy deter-
nt and is
to disclos-
ons, Exec-

ithdraw a
Division
uch com-
it deems
after re-
whether
edure or
; or estop-
tion at
ropriate.
ain doc-
cedure
purposes

R. 2442,
ust Div.

ions to
.

le pol-
o con-
an ac-
utants
or on
rded
to are
on to
ment

i pro-
scope
shall
feas-
'udg-
or to
rifer
stice
with
iews
osed
erve
d its
the
on-

turning the judgment disclose facts or considerations which indicate that the proposed judgment is inappropriate, improper or inadequate and (2) to oppose an attempt by any person to intervene in the action.

(c) The Assistant Attorney General in charge of the Land and Natural Resources Division may establish procedures for implementing this policy. Where it is clear that the public interest in the policy hereby established is not compromised, the Assistant Attorney General may permit an exception to this policy in a specific case where extraordinary circumstances require a period shorter than 30 days or a procedure other than stated herein.

[Order No. 529-73, 38 FR 19029, July 17, 1973]

§ 50.8 Policy with regard to criteria for discretionary access to investigatory records of historical interest.

(a) In response to the increased demand for access to investigatory files of historical interest that were compiled by the Department of Justice for law enforcement purposes and are thus exempted from compulsory disclosure under the Freedom of Information Act, the Department has decided to modify to the extent hereinafter indicated its general practice regarding their discretionary release. Issuance of this section and actions considered or taken pursuant hereto are not to be deemed a waiver of the Government's position that the materials in question are exempted under the Act. By providing for exemptions in the Act, Congress conferred upon agencies the option, at the discretion of the agency, to grant or deny access to exempt materials unless prohibited by other law. Possible releases that may be considered under this section are at the sole discretion of the Attorney General and of those persons to whom authority hereunder may be delegated.

(b) Persons outside the Executive Branch engaged in historical research projects will be accorded access to information or material of historical interest contained within this Department's investigatory files compiled for law enforcement purposes that are more than fifteen years old and are no longer substantially related to current investigative or law enforcement activities, subject to deletions to the minimum extent deemed necessary to protect law enforcement efficiency and the privacy, confidences, or other legitimate interests of any person

named or identified in such files. Access may be requested pursuant to the Department's regulations in 28 CFR Part 16A, as revised February 14, 1973, which set forth procedures and fees for processing such requests.

(c) The deletions referred to above will generally be as follows:

(1) Names or other identifying information as to informants;

(2) Names or other identifying information as to law enforcement personnel, where the disclosure of such information would jeopardize the safety of the employee or his family, or would disclose information about an employee's assignments that would impair his ability to work effectively;

(3) Unsubstantiated charges, defamatory material, matter involving an unwarranted invasion of privacy, or other matter which may be used adversely to affect private persons;

(4) Investigatory techniques and procedures; and

(5) Information the release of which would deprive an individual of a right to a fair trial or impartial adjudication, or would interfere with law enforcement functions designed directly to protect individuals against violations of law.

(d) This policy for the exercise of administrative discretion is designed to further the public's knowledge of matters of historical interest and, at the same time, to preserve this Department's law enforcement efficiency and protect the legitimate interests of private persons.

[Order No. 528-73, 38 FR 19029, July 17, 1973]

§ 50.9 The Freedom of Information Committee.

(a) A Freedom of Information Committee is established within the Department of Justice to encourage compliance with the Freedom of Information Act, 5 U.S.C. 552, throughout the Executive Branch. The Committee consists of attorneys designated by the Assistant Attorney General, Office of Legal Counsel, one of whom shall be designated chairman, and attorneys designated by the Assistant Attorney General, Civil Division. The Committee shall coordinate the annual report of the Attorney General required by 5 U.S.C. 552(d) and shall provide assistance and encouragement to Federal agencies in complying with the letter and spirit of the Freedom of Information Act through training of Federal personnel and consultation with

1977

§ 16.3

Chapter I—Department of Justice

listed in the U.S. Government Organization Manual; All other Offices, Divisions, and Bureaus of the Department of Justice—at Room 6820, Department of Justice, 10th Street and Pennsylvania Avenue NW., Washington, DC 20530.

Each of these public reference facilities will maintain, make available for public inspection and copying, and publish quarterly (unless the applicable division determines by order published in the FEDERAL REGISTER that the publication would be unnecessary or impracticable), a current index of the materials available at that facility which are required to be indexed by 5 U.S.C. 552(a)(2).

[Order No. 502-73, 38 FR 4391, Feb. 14, 1973, as amended by Order No. 568-74, 39 FR 18646, May 29, 1974; Order No. 596-75, 40 FR 6496, Feb. 12, 1975]

§ 16.3 Requests for identifiable records and copies.

(a) *How made and addressed.* A request for a record of the Department which is not customarily made available and which is not available in a public reference facility as described in § 16.2, shall be made in writing, with the envelope and the letter clearly marked "FREEDOM OF INFORMATION REQUEST" or "INFORMATION REQUEST." All such requests shall be addressed to the Deputy Attorney General, Department of Justice, Washington, D.C. 20530, except that requests for records of the following divisions shall be addressed as follows:

- Bureau of Prisons (including Federal Prison Industries)—Director, Bureau of Prisons, 320 First Street NW., Washington, D.C. 20534.
- Board of Immigration Appeals—Chairman, Board of Immigration Appeals, Department of Justice, Washington, D.C. 20530.
- Law Enforcement Assistance Administration—Administrator, Law Enforcement Assistance Administration, 833 Indiana Ave. NW., Washington, D.C. 20531.
- Immigration and Naturalization Service—As set forth in 8 CFR Part 103.

Any request for information not marked and addressed as specified in this paragraph will be so marked by Department personnel as soon as it is properly identified, and forwarded immediately to the appropriate office as

specified above. A request improperly addressed will not be deemed to have been received for purposes of the time period set forth in 5 U.S.C. 552(a)(6)(A)(i) until forwarding to the appropriate office has been effected, or until such forwarding would have been effected with the exercise of due diligence by Department personnel. On receipt of an improperly addressed request forwarded as set forth above to the appropriate office, such office shall notify the requester of the date on which the time period commenced to run.

(b) *Request should reasonably describe the records sought.* A request for access to records should sufficiently identify the records requested to enable Department personnel to locate them with a reasonable amount of effort. Where possible, specific information regarding dates, titles, file designations, and other information which may help identify the records should be supplied by the requester. If the request relates to a matter in pending litigation, the court and its location should be identified.

(c) *Form may be requested.* Where the information supplied by the requester is not sufficient to permit location of the records by Department personnel with a reasonable amount of effort, the requester may be sent and asked to fill out and return a Form D.J. 118, which is designed to elicit the necessary information.

(d) *Categorical Requests—(1) Records must be reasonably described.* A request for all records falling within a reasonably specific category shall be regarded as conforming to the requirement that records be reasonably described if it enables the records requested to be identified by any process that is not unreasonably burdensome or disruptive of Department operations.

(2) *Assistance in reformulating non-conforming requests.* If it is determined that a request does not reasonably describe the records sought, as specified in paragraph (d)(1) of this section, the response denying the request on that ground shall specify the reasons why the request failed to meet the requirements of paragraph (d)(1) of this section and shall extend to the

1977

§ 16.4

Title 28—Judicial Administration

requester an opportunity to confer with Department personnel in order to attempt to reformulate the request in a manner which will meet the needs of the requester and the requirements of paragraph (d)(1) of this section.

[Order No. 502-73, 38 FR 4391, Feb. 14, 1973, as amended by Order No. 596-75, 40 FR 6496, Feb. 12, 1975]

§ 16.4 Requests referred to division primarily concerned.

(a) *Referral to responsible division.* The Deputy Attorney General shall, promptly upon receipt of a request for Department records, forward the request to the division of the Department which has primary concern with the records requested. As used in this subpart, the term "division" includes all divisions, bureaus, offices, services, administrations, and boards of the Department, the Pardon Attorney and Federal Prison Industries, except as otherwise expressly provided. As used in this subpart, the term "responsible division" means, with respect to a particular request, the division to which the Deputy Attorney General forwards the request pursuant to this paragraph or, if the request is not one which is to be addressed to the Deputy Attorney General under § 16.3(a), the division to which the request is properly addressed thereunder.

(b) *Deputy Attorney General shall assure timely response.* The Deputy Attorney General shall periodically review the practices of the divisions in meeting the time requirements set out in § 16.5, including the granting of extensions of time, and shall take such action to promote timely responses as he deems appropriate. Such action may include, but is not limited to, removal from a division of a request or class of requests or removal of the authority of a division to grant extensions, as specified in § 16.5(f).

(c) *Records to be kept by Deputy Attorney General.* The Deputy Attorney General shall retain or be furnished with a file copy of each request which is required to be addressed to him pursuant to § 16.3(a). With respect to such requests he shall maintain records to show the date of receipt by the Department (and, in the case of improperly addressed requests, the date of re-

ceipt by the appropriate office after forwarding pursuant to § 16.3(a)), the responsible division to which it was forwarded under this section, and the date of such forwarding. The Board of Immigration Appeals, the Bureau of Prisons, the Immigration and Naturalization Service and the Law Enforcement Assistance Administration, respectively, shall retain or be furnished with file copies of requests required to be addressed to them pursuant to § 16.3(a), and shall maintain records to show the date of receipt by the Department (and, in the case of improperly addressed requests, the date of receipt by the appropriate office after forwarding pursuant to § 16.3(a)).

[Order No. 596-75, 40 FR 6496, Feb. 12, 1975]

§ 16.5 Prompt response by responsible division.

(a) *Response within ten days.* Within ten days (excluding Saturdays, Sundays and legal public holidays) of the receipt of a request by the Department (or, in the case of an improperly addressed request, of its receipt by the appropriate office after forwarding pursuant to § 16.3(a)) the responsible division shall determine whether to comply with or to deny such request and dispatch such determination to the requester unless an extension is made under paragraph (c) of this section.

(b) *Authority to deny request.* Unless otherwise specified by division regulation, only the head of a division may deny a request, and is the "person responsible for the denial" within the meaning of 5 U.S.C. 552(a). When a denial is made at the request of another agency or division, and out of regard for its primary interest or expertise, the person in that agency or division responsible for the request to deny may also be a "person responsible for the denial" if, before his final recommendation is accepted, he is advised that he will be so designated under § 16.6(b)(2).

(c) *Extension of time.* In unusual circumstances as specified in this paragraph, the head of a division may extend the time for initial determination on requests up to a total of ten days (excluding Saturdays, Sundays,