

Central Intelligence Agency

§ 1904.5

(b) *Process* means a summons, complaint, subpoena, or other official paper (except garnishment orders) issued in conjunction with a proceeding or hearing being conducted by a federal, state, or local governmental entity of competent jurisdiction.

(c) *Employee* means any CIA officer, any staff, contract, or other employee of CIA, any person including independent contractors associated with or acting for or on behalf of CIA, and any person formerly having such a relationship with CIA.

(d) *General Counsel* includes the Deputy General Counsel or Acting General Counsel.

§ 1904.3 Procedures governing acceptance of service of process.

(a) *Service of Process Upon the CIA or a CIA Employee in An Official Capacity—*

(1) *Personal service.* Unless otherwise expressly authorized by the General Counsel, or designee, personal service of process may be accepted only by attorneys of the Office of General Counsel at CIA Headquarters in Langley, Virginia.

(2) *Mail service.* Where service of process by registered or certified mail is authorized by law, unless expressly directed otherwise by the General Counsel or designee, such process may only be accepted by attorneys of the Office of General Counsel. Process by mail should be addressed as follows: Litigation Division, Office of General Counsel, Central Intelligence Agency, Washington, DC 20505.

(b) *Service of Process Upon a CIA Employee Solely in An Individual Capacity—*

(1) *General.* Consistent with section 6 of the CIA Act of 1949, as amended, 50 U.S.C. 403g, CIA will not provide the name or address of any current or former employee of CIA to individuals or entities seeking to serve process upon such employee solely in his or her individual capacity, even where the matter is related to CIA activities.

(2) *Personal Service.* Subject to the sole discretion of appropriate officials of the CIA, process servers generally will not be allowed to enter CIA facilities or premises for the purpose of serving process upon any CIA employee solely in his or her individual capacity. The Office of General Counsel is not

authorized to accept service of process on behalf of a CIA employee—except the Director and Deputy Director of Central Intelligence—in his or her individual capacity.

(3) *Mail Service.* Unless otherwise expressly authorized by the General Counsel, or designee, CIA personnel are not authorized to accept or forward mailed service of process directed to any CIA employee in his or her individual capacity. Any such process will be returned to the sender via appropriate postal channels.

(c) *Service of Process Upon a CIA Employee in A Combined Official and Individual Capacity.* Unless expressly directed otherwise by the General Counsel, or designee, any process to be served upon a CIA employee in his or her combined official and individual capacity, in person or by mail, can be accepted only by attorneys of the Office of General Counsel at CIA Headquarters in Langley, Virginia.

(d) The documents for which service is accepted in official capacity only shall be stamped “Service Accepted in Official Capacity Only.” Acceptance of service of process shall not constitute an admission or waiver with respect to jurisdiction, propriety of service, improper venue, or any other defense in law or equity available under the laws or rules applicable to the service of process.

§ 1904.4 Notification to CIA Office of General Counsel.

A CIA employee who receives or has reason to expect service of process in an individual, official, or combined individual and official capacity, in a matter that may involve testimony or the furnishing of documents and that could reasonably be expected to involve Agency interests, shall promptly notify the Litigation Division, Office of General Counsel (703-874-3118). Such notification should be given prior to providing the requestor, counsel or other representative any Agency information, and prior to accepting service of process.

§ 1904.5 Authority of General Counsel.

Any questions concerning interpretation of this regulation shall be referred

to the Office of General Counsel for resolution.

PART 1905—PRODUCTION OF OFFICIAL RECORDS OR DISCLOSURE OF OFFICIAL INFORMATION IN PROCEEDINGS BEFORE FEDERAL, STATE OR LOCAL GOVERNMENTAL ENTITIES OF COMPETENT JURISDICTION

Sec.

1905.1 Scope and purpose.

1905.2 Definitions.

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1905.4 Procedure for production.

AUTHORITY: 5 U.S.C. 403(d)(3); 50 U.S.C. 403g; United States ex rel. *Touhy* v. *Ragen*, 340 U.S. 462 (1951); E.O. 12333 §§1.8(i), 1.5(h), 3.2; E.O. 12356; U.S. v. *Snepp*, 444 U.S. 507 (1980).

SOURCE: 56 FR 41459, Aug. 21, 1991, unless otherwise noted.

§ 1905.1 Scope and purpose.

This part sets forth the policy and procedures with respect to the production or disclosure of (a) material contained in the files of CIA, (b) information relating to or based upon material contained in the files of CIA, and (c) information acquired by any person while such person was an employee of CIA as part of the performance of that person's official duties or because of that person's association with CIA.

§ 1905.2 Definitions.

For the purpose of this part:

(a) *CIA* or *Agency* means the Central Intelligence Agency and includes all staff elements of the Director of Central Intelligence.

(b) *Demand* means any subpoena, order, or other legal summons (except garnishment orders) that is issued by a federal, state, or local governmental entity of competent jurisdiction with the authority to require a response on a particular matter, or a request for appearance of an individual where a demand could issue.

(c) *Employee* means any officer, any staff, contract, or other employee of CIA; any person including independent contractors associated with or acting on behalf of CIA; and any person for-

merly having such a relationship with CIA.

(d) *Production* or *produce* means the disclosure of:

(1) Any material contained in the files of CIA; or

(2) Any information relating to material contained in the files of CIA, including but not limited to summaries of such information or material, or opinions based on such information or material; or

(3) Any information acquired by persons while such persons were employees of CIA as a part of the performance of their official duties or because of their official status or association with CIA;

in response to a demand upon an employee of CIA.

(e) *General Counsel* includes the Deputy General Counsel or Acting General Counsel.

§ 1905.3 General.

(a) No employee shall produce any materials or information in response to a demand without prior authorization as set forth in this part. This part applies to former employees to the extent consistent with applicable nondisclosure agreements.

(b) This part is intended only to provide procedures for responding to demands for production of documents or information, and is not intended to, does not, and may not be relied upon to, create any right or benefit, substantive or procedural, enforceable by any party against the United States.

§ 1905.4 Procedure for production.

(a) Whenever a demand for production is made upon an employee, the employee shall immediately notify the Litigation Division, Office of General Counsel, Central Intelligence Agency, Washington, DC 20505 (703/874-3118), which shall follow the procedures set forth in this section.

(b) The General Counsel of CIA and Deputy Directors or Heads of Independent Offices with responsibility for the information sought in the demand, or their designees, shall determine whether any information or materials may properly be produced in response to the demand, except that the Office of General Counsel may assert any and