

## § 17.28

the public interest in disclosure outweighs the damage to national security that might reasonably be expected from disclosure. The Attorney General shall decide whether to declassify the information. The decision of the Attorney General shall be final. This provision does not amplify or modify the substantive criteria or procedures for classification or create any substantive or procedural rights subject to judicial review.

(d) Each component shall develop schedules for declassification of records in the National Archives. The Department shall cooperate with the National Archives and Records Administration and the Presidential Libraries to ensure that declassification is accomplished in a timely manner.

### § 17.28 Automatic declassification.

(a) Subject to paragraph (b) of this section, all classified information contained in records that are more than 25 years old that have been determined to have permanent historical value shall be declassified automatically on April 17, 2000. Subsequently, all classified information in such records shall be automatically declassified not later than 25 years after the date of its original classification with the exception of specific information exempt from automatic declassification pursuant to section 3.4 (b) and (d) of Executive Order 12958.

(b) At least 220 days before information is declassified automatically under this section, the respective component head shall notify the Assistant Attorney General for Administration through the Department Security Officer of any specific information they propose to exempt from automatic declassification. The notification shall include:

(1) A description of the information;

(2) An explanation of why the information is exempt from automatic declassification and must remain classified for a longer period of time; and

(3) A specific date or event for declassification of the information whenever the information exempted does not identify a confidential human source or human intelligence source.

(c) Proposed exemptions under this section shall be forwarded to the DRC,

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which shall recommend a disposition of the exemption request to the Assistant Attorney General for Administration. When the Assistant Attorney General for Administration determines the exemption request is consistent with this section, he or she will submit it to the Executive Secretary of the Interagency Security Classification Appeals Panel.

(d) Declassification guides that narrowly and precisely define exempted information may be used to exempt information from automatic declassification. Declassification guides must include the exemption notification information detailed in paragraph (b) of this section, and be approved pursuant to paragraph (c) of this section.

### § 17.29 Documents of permanent historical value.

The original classification authority, to the greatest extent possible, shall declassify classified information contained in records determined to have permanent historical value under title 44 of the United States Code before they are accessioned into the National Archives. The Department shall cooperate with the National Archives and Records Administration in carrying out an automatic declassification program involving accessioned Department records, presidential papers, and historical materials under the control of the Archivist of the United States.

### § 17.30 Classification challenges.

(a) Authorized holders of information classified by the Department who, in good faith, believe that specific information is improperly classified or unclassified are encouraged and expected to challenge the classification status of that information pursuant to section 1.9 of Executive Order 12958. Authorized holders may submit classification challenges in writing to the DRC, through the Office of Information and Privacy, United States Department of Justice, Washington, DC 20530. The challenge need not be more specific than a question as to why the information is or is not classified, or is classified at a certain level.

(b) The DRC shall redact the identity of an individual challenging a classification under paragraph (a) of this section and forward the classification

challenge to the original classification authority for review and response.

(c) The original classification authority shall promptly, and in no case later than 30 days, provide a written response to the DRC. The original classification authority may classify or declassify the information subject to challenge or state specific reasons why the original classification determination was proper. If the original classification authority is not able to respond within 30 days, the DRC shall inform the individual who filed the challenge in writing of that fact, and the anticipated determination date.

(d) The DRC shall inform the individual challenging the classification of the determination made by the original classification authority and that individual may appeal this determination to the DRC. Upon appeal, the DRC may declassify, or direct the classification of, the information. If the DRC is not able to act on any appeal within 45 days of receipt, the DRC shall inform the individual who filed the challenge in writing of that fact, and the anticipated determination date.

(e) The DRC shall provide the individual who appeals a classification challenge determination with a written explanation of the basis for the DRC decision and a statement of his or her right to appeal that determination to the Interagency Security Classification Appeals Panel (ISCAP) pursuant to section 5.4 of Executive Order 12958 and the rules issued by the ISCAP pursuant to section 5.4 of Executive Order 12958.

(f) Any individual who challenges a classification and believes that any action has been taken against him or her in retribution because of that challenge shall report the facts to the Office of the Inspector General or the Office of Professional Responsibility, as appropriate.

(g) Requests for review of classified material for declassification by persons other than authorized holders are governed by § 17.31.

**§ 17.31 Mandatory review for declassification requests.**

(a) Any person may request classified information be reviewed for declassification pursuant to the mandatory declassification review provisions of

section 3.6 of Executive Order 12958. After such a review, the information or any reasonably segregable portion thereof that no longer requires protection under this part shall be declassified and released to the requester unless withholding is otherwise warranted under applicable law. If the information, although declassified, is withheld, the requester shall be given a brief statement as to the reasons for denial and a notice of the right to appeal the determination to the Director, Office of Information and Privacy (OIP), United States Department of Justice, Washington, DC 20530. If the mandatory review for declassification request relates to the classification of information that has been reviewed for declassification within the past two years or that is the subject of pending litigation, the requester shall be informed of that fact and the administrative appeal rights.

(b) Request for mandatory review for declassification and any subsequent appeal to the DRC shall be submitted to the Director, Office of Information and Privacy, United States Department of Justice, Washington, DC 20530, describing the document or material containing the information with sufficient specificity to enable the Department to locate that information with a reasonable amount of effort. The OIP shall promptly forward the request to the component that originally classified the information, or the DRC in the case of an appeal, and provide the requester with an acknowledgement of receipt of the request.

(c) When the description of the information in a request is deficient, the component shall solicit as much additional identifying information as possible from the requestor. Before denying a request on the basis that the information or material is not obtainable with a reasonable amount of effort, the component shall ask the requestor to limit the request to information or material that is reasonably obtainable. If the information or material requested cannot be described in sufficient particularity, or if it cannot be obtained with a reasonable amount of effort, the component shall provide the requestor with written notification of the reasons why no action will be taken and