

HEADQUARTERS
UNITED STATES EUROPEAN COMMAND
UNIT 30400 BOX 1000
APO AE 09128

DIRECTIVE
NUMBER 5-7

26 February 1999

ADMINISTRATIVE MATTERS

Freedom of Information Act, Privacy Act and Mandatory Declassification Review Programs

1. **Summary.** This Directive:

a. Prescribes responsibilities, administrative policies, and procedures for the HQ USEUCOM Freedom of Information Act (FOIA), Privacy Act (PA), and Mandatory Declassification Review (MDR) Programs.

b. Describes and assigns reporting requirements.

c. Identifies Initial Denial Authorities (IDA) for FOIA requests, Access and Amendment Review Authorities (AARA) for PA requests, and downgrading/declassification authorities for MDRs.

2. **Applicability.** This directive applies to all HQ USEUCOM directorates/staff offices, Security Assistance organizations (SAOs), joint task force headquarters, and other assigned activities and associated units under the support or control of HQ USEUCOM.

3. **Suggested Improvements.** The proponent of this directive is the Freedom of Information Act Office, Administrative Management and Services Branch, Adjutant General Division, Manpower, Personnel and Administration Directorate. Suggested improvements should be forwarded to HQ USEUCOM, ATTN: ECJ1-AXR (FOIA), Unit 30400, Box 1000, APO AE 09128.

4. **Internal Control Systems.** This Directive contains no internal control provisions and is not subject to the requirements of the internal management control program. For HQ USEUCOM and subordinate joint activities, the applicable internal control directive is ED 50-8, Internal Management Control Program.

5. **References:** See Appendix A.

6. **Explanation of Terms.** See Appendix G.

7. **Forms Prescribed.** HQ USEUCOM Form 5-7a, 5-7b and 5-7c for internal FOIA Office use (see Appendix H,I & J) and HQ USEUCOM Form 5-7d (see Appendix K).

8. **Responsibilities.**

a. The USCINCEUR or his designee appoints officials at HQ USEUCOM who will be authorized to deny initial FOIA and MDR requests for records. He also designates an office on the staff as POC for FOIA and PA requests as well as for the processing of public requests for the release of records under the MDR Program.

(1) The Director, Manpower, Personnel and Administration (ECJ1) has program management responsibility for the FOIA and PA Programs and the processing of requests for records under the MDR Program.

(2) The authority to deny initial FOIA and MDR requests has been further delegated to those directorates and staff agencies identified in Appendix B.

b. The Director, ECJ1 exercises staff supervision over the HQ USEUCOM FOIA and PA Programs. ECJ1 serves only as the filtering agency for public requests to USEUCOM for the release of records under the MDR Program. The Director also serves as the IDA for those HQ USEUCOM supported agencies not granted IDA authority (see Appendix B).

c. The HQ USEUCOM FOIA/PA/MDR Manager is responsible for:

(1) Managing and implementing the FOIA and PA Programs.

(2) Establishing command policy for the FOIA and PA Programs.

(3) Serving as HQ USEUCOM focal point for processing MDR requests under Executive Order 12958.

d. Headquarters directorates, staff agencies, SAOs, Joint Task Force headquarters and field activities are responsible for:

(1) Coordinating on all FOIA, PA and MDR cases.

(2) Designating, in writing, a primary and alternate FOIA/PA/MDR monitor within their respective organization for effective program management and ensuring that designations are updated as personnel changes occur. At a minimum, these designations will be reviewed annually. Provide HQ USEUCOM/ECJ1-AXR with a copy of the designation memo.

(3) Ensuring that an internal suspense control system is established to preclude delays in responding and to validate timeliness of responses.

(4) Ensuring that action officers complete DD Form 2086, FOIA Cost Factor Sheet, DD Form 2086-1, Record of Freedom of Information Processing Cost for Technical Data, or SD Form 472, Request Information Sheet, as applicable, with each case.

(5) Ensuring that IDA or designee coordinates on the final response. Coordination is shown by signature on the reverse side of USEUCOM Form 5-7c.

(6) Ensuring that FOIA/PA/MDR monitors and action officers receive FOIA training either via training packages provided by ECJ1-AXR or in a scheduled class.

9. **Policies and Procedures.**

a. **Administrative Policy.**

(1) **Freedom of Information Act Program.**

(a) Since the public has a right to information concerning the activities of its government, the FOIA Program ensures that such access is provided. The FOIA requires that activities be conducted in an open manner consistent with the need for security and other requirements of law and DOD guidance. This involves releasing the maximum amount of information concerning the government's activities, consistent with the legitimate public and private interest of the American people as long as no legitimate, legal purpose for withholding exists.

(b) In 1996, passage of the Electronic Freedom of Information Act changed the way FOIA requests are processed and made, namely in the areas of electronic files and electronic mail. The Act requires DOD agencies to make reasonable efforts to search for records electronically in response to a request and provide releasable records in any form or format requested, including electronic, if the record is readily reproducible in that format. It also requires that all records created on or after 1 November 1996 be made available electronically. This portion of the Act went into effect on 1 November 1997.

(c) HQ USEUCOM, as a Unified Command, is under the jurisdiction of the Office of the Secretary of Defense for the purpose of administering the DOD FOIA Program. When information is denied under the FOIA, HQ USEUCOM must ensure that a legitimate, legal purpose exists and the reason for denial is covered by one of the nine FOIA exemptions listed in Appendix C.

(2) **Privacy Act Program.**

(a) The Privacy Act of 1974 protects the privacy of individuals from unwarranted invasion by ensuring that collected information is necessary, accurate, relevant, timely and complete; the records are used only for an authorized purpose, are part of an approved system of records and not part of a prohibited "secret" system; are made available for access by the individual, subject to amendment, and safeguarded from authorized disclosure.

(b) HQ USEUCOM is under the jurisdiction and guidance of HQ DA for program administration and management. There are judicial remedies, civil and criminal, for violations of the Act. When responding to PA requests, POCs must ensure that all disclosures and restrictions are complied with as well as the rules for collecting, using, and maintaining PA information.

(3) **MDR Program.** This program governs the protection and release of requested national security information as stipulated by EO 12958.

b. **Processing Procedures.**

(1) **FOIA Program.**

(a) A FOIA request is a written request (letter, electronic mail or FAX) for DOD records made by any person, including a member of the public (U.S. or foreign citizen), an organization, or a business, but not including a Federal Agency or a fugitive from the law, that explicitly or implicitly invokes the FOIA. The requester does not have to specifically state the FOIA in the request.

(b) A FOIA request made by an agent (person or organization) on behalf of another person requires some form of proof that the acting agent has been appointed to act on the person's behalf. Submission of FOIA requests by military legal advisors on behalf of a requester constitutes a conflict of interest.

(c) All requests for records belonging to a HQ USEUCOM Directorate, staff agency or supported activity will be processed through the HQ USEUCOM FOIA Office prior to any response to a requester. When a FOIA request is received by a HQ USEUCOM staff agency, it must be forwarded immediately to the FOIA Office for entrance into the command's multi-tracking system. Once the request is received, the FOIA Office will log it in and suspense the responsible directorate/agency/field activity using HQ USEUCOM Form 5-7c.

(d) All requests are suspended to the OPR for 12 working days. Extensions of up to five additional working days may be granted for one or more of the following reasons:

- (1) All or part of the requested records are not at the location processing the request.
- (2) Fulfilling the request means collecting and reviewing a large volume of records.

(3) Other activities or agencies need to be involved in deciding whether to release the record. If coordination with other activities or agencies can be completed within the suspended time period (including extension), the OPR will be granted the additional time; otherwise, the OPR will return the request back to the HQ USEUCOM FOIA Office stating to whom the request should be transferred before final release determination.

(e) Administrative FOIA Appeals.

(1) When a request is denied, in whole or part, or there's a "no record" finding, the requester has the right to appeal. OPRs must carefully perform their subsequent review of denied information since the requester's next step can be judicial review.

(2) For "no record" appeals, OPR must search files again or verify the original search. In response to the appeal, OPR will state the systematic process used to find the records (i.e., what areas or offices were searched, how the search was conducted—manual, computer or telephone, by subject or key word).

(f) FOIA Requests for Special Access Records. For FOIA requests seeking information from Special Access Records, the OPR of the special access program will maintain the unreleasable documentation and its retention and disposition will be in accordance with the Army filing system table and rule for FOIA/MDR cases. This is critical for future responses should the requester appeal any denials. All other documentation (releasable portions) will be maintained under the Army filing system with the case file in the FOIA/PA/MDR Office.

(g) FOIA requests received from media agencies and representatives will be coordinated with HQ USEUCOM Public Affairs (ECPA). Provide a copy of those requests that are determined to be of public interest in matters of potential media interest to ECPA.

(h) Prior to release/non-release of records to requester, FOIA cases will be routed through HQ USEUCOM/ECJA for legal review.

(2) **Privacy Program.**

(a) Under the PA, an individual has access to records within a system of records where those records are retrievable by the person's name or other identifier. The overall policy on requesting the release of information under the PA is that such requests may be oral or written. Within HQ USEUCOM, however, requests will be in writing to afford the requester a more effective method of accountability and control.

(b) The PA applies only to U.S. citizens and aliens admitted for permanent residence.

(c) The requester does not have to specifically state the Privacy Act in the request.

(d) PA requests received by any HQ USEUCOM agency must be sent immediately to the FOIA/PA/MDR Office for entrance into the command's multi-tracking system.

(e) To prevent unauthorized disclosures and to protect the requester's fundamental rights of privacy, third party requesters must have written consent, from the person to whom the records pertain, authorizing disclosure of the record with the third party. Refer to AR 340-21, the Army Privacy Program, for specifics on third party disclosures and disclosures without consent.

(f) Forms, surveys, questionnaires, and rosters soliciting personal data from an individual must be annotated with an approved PA statement and safeguarded to preclude unauthorized disclosure. Establishment of a form with a PA statement requires coordination of the draft form with the HQ USEUCOM FOIA/PA/MDR Office.

(g) Electronic databases and locators established to track personal data on individuals must also carry an approved PA statement. In order for this information to be released to third parties, the individual must provide written consent prior to release unless the exceptions cited in AR 340-21, Chapter 3, exist. Violations subject DOD personnel (military and civilian) to civil suit, adverse administrative action, and criminal prosecution.

(h) Only the Access and Amendment Refusal Authorities (AARA) identified in AR 340-21 (see Appendix E) or the Secretary of the Army and the Army General Counsel are authorized to deny a request for records in a system of records pertaining to an individual. All PA cases will be routed through HQ USEUCOM/ECJA for review prior to release.

(i) The only personal files authorized to be established are those covered by a system notice in DA Pamphlet 25-51 and DOD System of Records Notices. File systems will be annotated with the system notice number in addition to other required MARKS information (see AR 25-400-2).

(j) In accordance with DOD 5400.11-R and AR 25-400-2, no new system of records may be established or existing systems altered without first being published in the Federal Register. Requests for such establishment will be made to the HQ USEUCOM Records Manager with prior coordination with the HQ USEUCOM FOIA/PA/MDR Office.

(3) **MDR Program.**

(a) Upon request by a U.S. citizen, a permanent resident alien, or a state or local government to declassify and release classified information, the information is subject to review under the MDR Program. All MDR requests will be processed IAW EO 12958 and DOD 5200.1-R. Administratively, MDRs are handled in the same manner as FOIAs with the same suspense time period. An MDR multi-tracking system is utilized to maintain control and accountability of each request.

(b) The OPR or responsible component of the classified information being requested will review the information for declassification and release. The information shall be declassified if it no longer meets the standards for classification established by DOD 5200.1-R and EO 12958. Declassified information shall be released unless withholding is appropriate under the FOIA or one of the seven classification categories under EO 12958 listed in Appendix F. Only those designated personnel identified in Appendix Q, USEUCOM Supplement 1 to DOD 5200.1-R, are authorized to downgrade and/or declassify HQ USEUCOM documents.

(c) Documents originated in the office of the USCINCEUR will be reviewed for declassification and release by the HQ USEUCOM office with functional responsibility for that information.

(d) When information being requested for review and declassification applies jointly to a HQ USEUCOM or non-HQ USEUCOM agency, the reviewing office will identify the name of the agency to whom the request should be transferred prior to making a final review determination. The OPR will include any pertinent comments to assist the referred agency in making a final decision. Any information denied for release is subject to appeal by the requester.

(e) NATO-generated documents are referred to HQ USEUCOM for action. When the document has HQ USEUCOM applicability, it will be reviewed by the office with functional responsibility for the information prior to referral to NATO for a final release response.

(f) Documents that are marked Restricted Data or Formerly Restricted Data must be coordinated with the Department of Energy.

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(g) For information reviewed for declassification and release in the last two years, there's no requirement for the OPR to review this information again. The requester will be so notified and no further action by the OPR will be required.

(h) As with FOIA and PA cases, MDR cases will be routed through HQ USEUCOM/ECJA for review and legal comments prior to providing the requester with a final response.

FOR THE COMMANDER IN CHIEF:

OFFICIAL:

MICHAEL A. CANAVAN
Lieutenant General, USA
Chief of Staff

SUSAN M. MEYER
LTC, USA
Adjutant General

APPENDICES

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DISTRIBUTION:

P

APPENDIX A

REFERENCES

DOD 5200.1-R, DOD information Security Program

DOD 5400.7, DOD Freedom of Information Act

DOD 5400.10, OASD Implementation of DOD Freedom of Information Act Program

DOD 5400.11-R, DOD Privacy Program

DOD System of Records Notices

Executive Order 12958, Classified National Security Information

DA PAM 25-51, The Army Privacy Program-System Notices and Exemption Rules

AR 25-400-2, The Modern Army Record Keeping System (MARKS)

AR 340-21, The Army Privacy Program

AR 380-5, Department of the Army Information Security Program

USEUCOM Staff Memorandum 5-14, Records Management

USEUCOM Supplement 1 to DOD 5200.1-R

APPENDIX B

INITIAL DENIAL AUTHORITIES

1. Director, Manpower, Personnel and Administration (ECJ1). Director also serves as IDA for the following HQ USEUCOM agencies and support units:

- a. Deputy Commander in Chief (ECDC)
- b. Chief of Staff (ECCS)
- c. Secretary of the Joint Staff (ECJS)
- d. Protocol (ECCS-P)
- e. Office of Analysis and Simulation (ECCS-AS)
- f. Command Chaplain (ECCH)
- g. Comptroller (ECCM)
- h. Legal Advisor (ECJA)
- i. Special Assistant for Security Matters (ECSM)
- j. Liaison Office
- k. Command Sergeant Major (ECSE)
- l. Political Advisor (ECPLAD)
- m. Command Historian (ECCS-H)
- n. Joint Contingency Headquarters reporting to HQ USEUCOM
- o. NATO School

2. Director, Intelligence (ECJ2). Director also serves as IDA for the Joint Analysis Center, RAF Molesworth, UK.

3. Director, Operations (ECJ3)

4. Director, Logistics and Security Assistance (ECJ4). Also serves as IDA for SAOs.

5. Director, Plans and Policy (ECJ5)

6. Director, Command, Control and Communications Systems (ECJ6)

7. Director, Special Operations (ECSO)

8. Director, Command Surgeon (ECMD).

9. Director, Public Affairs (ECPA).

10. Director, Mobilization and Reserve Component Affairs (ECRA)

11. Inspector General (ECIG)

12. Director, George C. Marshall Center for Security Studies (ECMC)

NOTE: IDA authority for U.S. classified USCINCEUR originated documents has been delegated to those directorates with subject matter proponentcy.

APPENDIX C

FREEDOM OF INFORMATION ACT EXEMPTIONS (5 U.S.C. 552)

(B)(1). Those records properly and currently classified in the interest of national defense or foreign policy, as specifically authorized under the criteria established by Executive order and implemented by regulations, such as DOD 5200.1-R.

(B)(2). Those records related solely to the internal personnel rules and practices of the Department of Defense or any of its components. There are two profiles, high (b)(2) and low (b)(2).

- High (b)(2) qualifying records are those containing or constituting statutes, rules, regulations, orders, manuals, directives, instructions, and security classification guides, the release of which would allow circumvention of these records thereby substantially hindering the effective performance of a significant function of the Department of Defense.

- Low (b)(2) qualifying records are those that are trivial and housekeeping in nature for which there is no legitimate public interest or benefit to be gained by release, and it would constitute an administrative burden to process the request in order to

disclose the records. DOD components shall not invoke the low (b)(2) profile.

(B)(3). Those records concerning matters that a statute specifically exempts from disclosure by terms that permit no discretion on the issue, or in accordance with criteria established by that statute for withholding or referring to particular types of matters to be withheld.

(B)(4). Those records containing trade secrets or commercial or financial information that a DOD component receives from a person or organization outside the government with the understanding that the information or record will be retained on a privileged or confidential basis in accordance with the customary handling of such records.

(B)(5). Those records containing information considered privileged in litigation, primarily under the deliberative process privilege. In order to meet the test of this exemption, the record must be both deliberative in nature, as well as part of a decision making process. Merely being an internal record is insufficient basis for withholding under this exemption.

APPENDIX C

FREEDOM OF INFORMATION ACT EXEMPTIONS (5 U.S.C. 552) (Cont)

(B)(6). Information in personnel and medical files, as well as similar personal information in other files, that, if disclosed to a requester, other than the person about whom the information is about, would result in a clearly unwarranted invasion of personal privacy.

(B)(7). Records or information compiled for law enforcement purposes; i.e., civil, criminal, or military law, including the implementation of Executive Orders or regulations issued pursuant to law. This exemption may be invoked to prevent

disclosure of documents not originally created for, but later gathered for law enforcement purposes.

(B)(8). Those records contained in or related to examination, operation or condition reports prepared by, on behalf or, or for the use of any agency responsible for the regulation or supervision of financial institutions.

(B)(9). Those records containing geological and geophysical information and data (including maps) concerning wells.

APPENDIX D

PRIVACY ACT EXEMPTIONS

1. General Exemptions. These are “j” exemptions, based on the type of agency and are applicable to law enforcement agency records. Information that may be protected under the (j)(2) exemption include:

a. Records compiled for the purpose of identifying criminal offenders and alleged offenders consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, parole, and probation status (so-called criminal history records).

b. Reports and other records compiled during criminal investigations, to include supporting documentation.

c. Other records compiled at any stage of the criminal law enforcement process from arrest or indictment through the final release from parole supervision, such as pre-sentence and parole reports.

d. “J” exemption does not apply to:

(1) Investigative records prepared or maintained by activities without primary law enforcement missions. It may not be claimed by any activity that does not have law enforcement as its principal function.

(2) Investigative records compiled by any activity concerning employee suitability,

eligibility, qualifications, or for individual access to classified material regardless of the principal mission of the compiling DOD component.

2. Specific Exemptions. These exemptions permit certain categories of records to be exempted from certain specific provisions of the Privacy Act. To establish a specific exemption, the records must meet the following criteria.

a. (k)(1). Information specifically authorized to be classified under DOD 5200.1-R.

b. (k)(2). Investigatory information compiled for law enforcement purposes by non-law enforcement activities and which is not within the scope of the general exemptions. If an individual is denied any right, privilege or benefit that he or she is otherwise entitled by federal law or for which he or she would otherwise be eligible as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source. This subsection when claimed allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

APPENDIX D

PRIVACY ACT EXEMPTIONS (Cont)

c. (k)(3). Records maintained in connection with providing protective services to the president and other individuals under 18 U.S.C., Section 3506.

d. (k)(4). Records maintained solely for statistical research or program evaluation purposes and which are not used to make decisions on the rights, benefits, or entitlement of an individual except for census records which may be disclosed under 13 U.S.C., Section 8.

e. (k)(5). Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal employment, military service, federal contracts, or access to classified information, but only to the extent such material would

reveal the identity of a confidential source. This provision allows protection of confidential sources used in background investigations, employment inquiries, and similar inquiries that are for personnel screening to determine suitability, eligibility, or qualifications.

f. (k)(6). Testing or examination material used solely to determine individual qualifications for appointment or promotion in the federal or military service, if the disclosure would compromise the objectivity or fairness of the test or examination process.

g. (k)(7). Evaluation material used to determine potential for promotion in the military service, but only to the extent that the disclosure of such material would reveal the identify of a confidential source.

APPENDIX E

PRIVACY ACT ACCESS AND AMENDMENT REFUSAL AUTHORITIES (AARA)

1. Adjutant General of the Army
2. Administrative Assistant to the Secretary of the Army
3. President or Executive Secretary of boards, councils, and similar bodies established by DA to consider personnel matters, excluding Army Board for Correction of Military Records
4. Chief of Chaplains
5. Chief of Engineers
6. Comptroller of the Army
7. Deputy Chief of Staff for Personnel
8. Inspector General
9. Judge Advocate General
10. Surgeon General
11. Commander, AAFES
12. Commanding General, U.S. Army Criminal Investigation Command
13. Commanding General, U.S. Army Intelligence and Security Command
14. Commanding General, U.S. Army Materiel Command
15. Commanding General, U.S. Army Military Personnel Center
16. Commander, Military Traffic Management Command
17. Chief, National Guard Bureau

APPENDIX F

EXECUTIVE ORDER 12958, SECTION 1.5
CLASSIFICATION CATEGORIES

A. Military plans, weapons systems, or operations.

B. Foreign government information.

C. Intelligence activities (including special activities), intelligence sources or methods, or cryptology.

D. Foreign relations or foreign activities of the United States, including confidential sources.

E. Scientific, technological, or economic matters relating to the national security.

F. United States government programs for safeguarding nuclear materials or facilities.

G. Vulnerabilities, or capabilities of systems, installations, projects or plans relating to the national security.

APPENDIX G

EXPLANATION OF TERMS

1. Initial Denial Authority. An official who has been granted authority by the head of a DOD component to withhold records requested under the FOIA for one or more of the nine exemptions. An IDA may review a fee estimate and confirm that no records were located in response to a request.
2. Mandatory Declassification Review. An ordered review of classified documents under EO 12958 in response to a request received from an organization or an individual.
3. Access and Amendment Refusal Authority. Army staff agency head or major Army commander designated sole authority to deny access to, or refuse amendment of, records in his or her assigned area of functional specialization.
4. Privacy Act Request. An oral or written request from an individual for information about the existence of, or for access to or amendment of, a record about him or her that is in a system of records. The request must cite or implicitly refer to the Privacy Act.
5. Freedom of Information Act Request. A written request by an individual or organization for access to DOD records that explicitly or implicitly invokes the FOIA.
6. Records (in relation to FOIAs). Products of data compilation, such as all books, papers, maps, and photographs, machine readable materials, inclusive of those in electronic form or format, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the U.S. government under Federal law in connection with the transaction of public business and in DOD possession and control at the time the FOIA request is made.
7. Records (in relation to PA). Any item, collection, or grouping of information about a person that is kept by the government (i.e., home address, home telephone number, SSN, education, financial transactions, medical history, criminal or employment history). A record may also be any item, collection, or grouping of information that contains an individual's name, identifying number, symbol, or other individual identifier such as a finger print, voice print, or a photograph.
8. Administrative Appeal (FOIA). A request by an individual or organization, made under the FOIA, asking the appellate authority of a DOD component to reverse a decision to withhold all or part of a requested record; deny a request for expedited processing; deny a request for waiver or reduction of fees; deny a request to review an initial fee estimate; and confirm that no records were located during the initial search.

APPENDIX G

EXPLANATION OF TERMS (Cont)

9. Electronic Records. Records (including e-mail) that are created, stored, and retrievable by electronic means..

10. Federal Agency. Any executive department, military department, government corporation, government controlled corporation, or other establishment in the executive branch of the government (including the Executive office of the President), or any independent regulatory agency.

11. System of Records (in relation to PA). A group of records under the control of DA from which information is retrieved by the individual's name or some other identifying number, symbol, or other identification particularly assigned to the individual. Files arranged chronologically or subjectively that is not retrieved by individual identifier is not a system of records, even though individual information could be retrieved by such an

identifier, such as through a paper-by-paper search.

12. Routine Use (in relation to PA). Disclosure of records outside the DOD without consent of the subject individual for a use that is compatible with the purpose for which the information was collected and maintained by DA.

13. Special Access Program. Programs created that require extra security management and safeguarding measures when those procedures normally in place for the effective management and safeguarding of classified information are not sufficient to limit "need-to-know" or access and the number of persons who will need access will be reasonably small and commensurate with the objective of providing extra protection for the information involved.

APPENDIX H

FREEDOM OF INFORMATION ACT (FOIA) GUIDELINES

1. Request a files and/or computer search for the requested records. Review the records and provide a FOIA release determination. If responsive document(s) are enclosed, then review the document(s) for release determination.
2. Indicate, on the Information Sheet, the exemption that applies in the release determination for those documents or portions thereof being withheld. A list of the exemptions are provided.
3. If the document(s) are exempt based on classification, indicate which classification categories from Executive Order 12958 Section 1.5 that apply.
4. Release all segregable portions. Bracket the information to be withheld in **RED** or **BLACK** on the original for redaction prior to release to requester.
5. **If requester has requested information in electronic form, please provide a diskette with the releasable information for the requester.**
5. If FOIA (b)(3) exemption is used, indicate which statute on the enclosed list applies to the record(s) being withheld from release under the FOIA.
6. Mark the appropriate release determination on the reverse side of the Information Sheet.

GRANT IN FULL GRANT IN PART DENY IN TOTAL NO RECORD

TRANSFER TO _____
(indicate to whom)

NO OBJECTION TO DISCLOSURE
(When document is not under your jurisdiction)

7. State rationale for denying a document. Rationale should include foreseeable harm or how release would damage national security. Reclassification of a document requested under the FOIA requires the approval of the Chief of Staff.
8. Initial Denial Authority (IDA) must coordinate and sign for all denials and "no record" responses. Declassification reviews will be IAW to DOD 5200.1-R and the USEUCOM Supplement to 5200.1-R. Declassification authority for U.S. classified USCINCEUR/SACEUR documents is delegated to the USEUCOM subject matter expert.
9. Complete the enclosed FOIA Cost Sheet (DD Form 2086 or 2086-1 (for technical data)) and the SD Form 472 (**Appeal Cases only**) and return them, along with the completed package, by the suspense date.

APPENDIX H

U.S. EUROPEAN COMMAND
MANPOWER, PERSONNEL AND
ADMINISTRATION

CONTROL NUMBER: _____

DATE: _____

ACTION ASSIGNED TO _____

Directorate/POC/AO

FREEDOM OF INFORMATION ACT

INITIAL REQUEST _____ APPEAL _____

Respond Not Later Than _____
(DATE)

Under Provisions of the Freedom of Information Act (5 USC 552), as amended, and DOD 5400.7-R and DOD 5400.10

READ AND FOLLOW SPECIAL INSTRUCTIONS IN DOD 5400.7-R, ED 5-7, AND THE FOIA GUIDELINES ON THE REVERSE OF THIS COVER SHEET.

- 1. Handle this material as a package and do not allow it to become separated from this cover.**
- 2. If there is anything you do not fully understand or need clarified, phone the HQ USEUCOM FOIA/PA/MDR Officer:**

_____ at _____.

- 3. Date and complete the endorsement and return the entire package to ECJ1-AXR, Bldg 2302, Room 121.**

U.S. EUROPEAN COMMAND
MANPOWER, PERSONNEL AND
ADMINISTRATION

CONTROL NUMBER: _____

DATE: _____

ACTION ASSIGNED TO _____
Directorate/POC/AO

MANDATORY DECLASSIFICATION REVIEW REQUEST

INITIAL _____ APPEAL _____

**Respond Not Later Than _____
(DATE)**

**Under Provisions of Executive order 12958 and
DOD Directive 5400.7**

**READ AND FOLLOW SPECIAL INSTRUCTIONS IN ED 5-7 AND THE
MANDATORY DECLASSIFICATION REVIEW GUIDELINES ON THE
REVERSE OF THIS COVER SHEET.**

**1. Handle this material as a package and do not allow it to become separated from
this cover.**

**2. If there is anything you do not fully understand or need clarified, phone the
HQ USEUCOM FOIA/PA/MDR Officer:**

_____ at _____.

**3. Date and complete the endorsement and return the entire package to ECJ1-AXR,
Bldg 2302, Room 121.**

MANDATORY DECLASSIFICATION REVIEW GUIDELINES

1. If the document(s) under review are under your classification jurisdiction, conduct a declassification review in accordance with DOD 5200.1-R and the USEUCOM Supplement. Mark the document(s) and complete the Information Sheet as follows:
 - a. If you declassify USEUCOM documents, strike through all classification markings once and annotate the cover or first page with the declassification authority IAW samples provided in the information package. Mark “**GRANT IN FULL**” on the Information Sheet. If the documents were originated at another agency and you have no objection to declassification, mark “**NO OBJECTION TO DISCLOSURE**” on the reverse of the Information Sheet.
 - b. If parts of a document are releasable, bracket the information which must remain classified in **BLACK** or **RED** and annotate in the margin the classification category from Section 1.5 of Executive Order 12958. Bracket the entire page if it remains classified. Mark “**GRANT IN PART**” on the reverse of the Information Sheet.
 - c. If the documents cannot be declassified, mark “**DENY IN TOTAL**” on the reverse of the Information Sheet and mark the document with the category from Section 1.5, Executive order 12958. Provide rationale for the denial and identify how release of the information could damage national security.
 - d. If you determine that other agencies or offices should review the material prior to release, mark “**TRANSFER TO**” to the reverse of the Information Sheet.
 - e. If you declassify the document(s) but information should be withheld under one or more of the non-security exemptions under the Freedom of Information Act (FOIA), indicate which FOIA exemption applies.
2. Coordinate declassification reviews with other interested DOD or non-DOD agencies prior to responding to ECJ1. If further coordination is required with other USEUCOM Staff agencies, return your portion of the coordination to ECJ1 and ECJ1 will task the other agencies.
3. Mark all USEUCOM documents declassified under mandatory review with the authority for the action, date, and identity of the person taking the action IAW DOD 5200.1-R (EXAMPLE: HQ USEUCOM, DIRECTOR, ECJ5, 1 JAN 97, A/O: MAJ CLASS CENTER).
4. The endorsement must be signed by an authorized declassification authority IAW DOD 5200.1-R, USEUCOM Supplement to 5200.1-R and ED 5-7, or the FOIA IDA, when appropriate. Declassification of U.S. classified documents originated by USCINCEUR/SACEUR is delegated to the HQ USEUCOM subject matter expert.

**U.S. EUROPEAN COMMAND
MANPOWER, PERSONNEL AND
ADMINISTRATION**

CONTROL NUMBER: _____

DATE: _____

ACTION ASSIGNED TO _____

Directorate/POC/AO

PRIVACY ACT REQUEST

Respond Not Later Than _____
(DATE)

**Under Provisions of the Privacy Act of 1974 (5 USC 552a) and
AR 340-21**

READ AND FOLLOW SPECIAL INSTRUCTIONS IN AR 340-21 and ED 5-7.

1. Handle this material as a package and do not allow it to become separated from this cover.

2. If there is anything you do not fully understand or need clarified, phone the HQ USEUCOM FOIA/PA/MDR Officer:

_____ at _____.

3. Date and complete the endorsement and return the entire package to ECJ1-AXR, Bldg 2302, Room 121.

APPENDIX K

FREEDOM OF INFORMATION ACT REQUEST CASE NUMBER:	SUSPENSE	DATE MAILED
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SECTION I. FOIA MANAGER ACTIONS

1. FOIA INVOKED YES NO REQUESTER OWES NO OUTSTANDING FEES? YES NO

2. PRIVACY ACT CITED? YES NO

3. FEE ISSUE RESOLVED? YES NO

4. TO:	5. FROM:
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6. A SEARCH OF YOUR FILES FOR RESPONSIVE DOCUMENTS IS REQUIRED

7. DOCUMENTS ARE BEING REFERRED FOR REVIEW AND RELEASE DETERMINATION

8. RECORD TIME EXPENDED ON DD FORM 2086 OR DD FORM 2086-1 (ENCL _____)

PRINTED NAME/GRADE OF FOIA MANAGER	SIGNATURE	PHONE NUMBER	DATE
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SECTION II. OPR ACTION: Check appropriate statement below and complete where required. If you recommend complete or partial denial, you must identify the specific exemption used from ED 5-7. Make your recommendation NLT _____.

Once your release determination has been made, return the completed package, under IDA signature, to the FOIA Office by the suspense date.

9. No Records Found 10. Records Are Fully Releasable

11. Records May Be Available at Another Source. Forward Request to: _____.

12. No Authority to Make Release Determination. Recommend Referral to: _____

13. Not Identifiable. More Identifying Information is Required

14. Request should be Fully Denied Under Partially Denied Under

EXEMPTIONS: B1 B2 B3 STATUTE _____ B4 B5 B6

15. EO 12958, Section 1.5 a _____ b _____ c _____ d _____ e _____ f _____ g _____

16. REMARKS (if more space is needed, use reverse or separate memo)

PRINTED NAME/GRADE/TITLE OF ACTION OFFICER	SIGNATURE	PHONE NUMBER	DATE
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SECTION III. LEGAL REVIEW Concur Nonconcur Separate Legal Opinion is Attached

PRINTED NAME/GRADE/TITLE	SIGNATURE	PHONE NUMBER	DATE
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APPENDIX K

SECTION II. OPR ACTION REMARKS (Continuation)

SECTION IV. INITIAL DENIAL AUTHORITY

Concur with Action Officers Determination

Nonconcur with Action Officers Determination. Additional Information on Declassification/Release is annotated in the remarks section

PRINTED NAME/GRADE/TITLE OF IDA

SIGNATURE

DATE

IDA REMARKS: