

Interim Guidance 1600-3, Access to Archival Materials in the Context of Concern about Terrorism

January 3, 2002

SUBJECT: Access to Archival Materials in the Context of Concern about Terrorism

TO: Office Heads, Staff Directors, ISOO, NHPRC, OIG

1. What is the purpose of this directive?

As a result of the terrorist events of September 11, we are re-evaluating access to some previously open archival materials and reinforcing established practices on screening materials not yet open for research. By identifying records of concern and measures that must be taken to prevent inappropriate disclosure, this guidance seeks to reduce the risk of providing access to materials that might support terrorist activity. This guidance does not address access to information in NARA's own records (see [NARA 1603](#)).

2. What is the authority for this directive?

The Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, lists exemptions to the release of information that apply to records of concern. In addition, the Department of Justice recently instructed agencies that it is appropriate to protect information that could enable someone to succeed in causing harm to the Federal Government of the United States under exemption (b)(2). Other authorities are restrictions contained in deeds of gift, the Presidential Recordings and Materials Preservation Act, the Presidential Records Act, and Executive orders.

3. What changes have been made in this version of the guidance?

To improve the implementation of the guidance, researchers must provide their full name and researcher identification number on *all* reference service slips. This removes the requirement to include a researcher's address and expands the requirement to include a researcher identification number to all records.

4. How might concern about terrorism change the way we have been providing access to records?

- a. Many archival materials of concern have been restricted in some way continuously since their transfer to NARA and have required screening before releasing for research. Others may have been open in the absence of an awareness that certain records relating to protection against terrorist attack and records providing detailed information about potential targets of terrorism may be used by terrorists or their supporters. To the extent possible, NARA is consulting with representatives of the

agencies of origin and the Federal Emergency Management Agency (FEMA) to determine whether current circumstances warrant a change in access provisions for specific records of concern.

- b. These consultations with Government officials may result in screening records that have previously been open without screening. Additional measures, such as withdrawing a file from public access, may be required in rare cases.

5. What specific concerns are we addressing?

We want to minimize the risk that NARA-held archival materials might aid terrorists or their supporters with:

- a. Stealing a person's identity through access to names with social security numbers;
- b. Targeting or planning a terrorist attack on a public site;
- c. Exploiting information about security, evacuation, and other emergency planning to maximize damage following an attack; and
- d. Obtaining information about potential weapons for purposes of destruction.

6. How can I recognize records of concern?

Generally, records that provide relatively current, accurate, and detailed information on a structure, organization, or facility that is crucial to protecting national defense, the country's infrastructure, symbolic monuments, and personal identity are records of concern.

7. What restrictions apply to these records?

- a. FOIA exemptions applicable to Federal records of concern are provided in Appendix A.
- b. Restrictions on Nixon Presidential historical materials are found in the Presidential Recordings and Materials Preservation Act.
- c. Restrictions on Presidential and Vice-Presidential records from January 20, 1981, and after are found in the Presidential Records Act and the pertinent FOIA exemptions.
- d. Restrictions on donated historical materials are specified in the deed of gift.

8. What precautions must I take in applying restrictions to records of concern?

- a. **All archival reference staff.** You must:
 - (1) Ensure that records of concern are screened or reviewed carefully;
 - (2) Label the containers housing records of concern that have not yet been screened;
 - (3) Annotate relevant review files with applicable screening or review guidelines.
- b. **NW archival staff.** The following additional steps are required:

(1) Review records of concern that have been previously screened by the Special Access/FOIA LICON (NWCTF) to determine if these records require an additional review before delivery to the research room;

(2) Refer boxes that are labeled "To Be Screened" to NWCTF for screening before delivery to the research room. Inform the researcher that the records must be screened before they can be used in the research room; and

(3) Because records screened before the establishment of NWCTF in 1993 may or may not have labels or other markings that indicate if the records have been screened, refer any records of concern to NWCTF whether or not these records have been previously screened.

- c. Once materials have been screened, any releasable information is no longer considered "of concern."

9. How should I maintain accurate records about requests for access to records?

- a. You must ensure that all reference service slips (NA Form 14001 or local NL form) covering any request for records include the researcher's full name and identification number from the researcher identification card and accurately describe the requested records.
- b. If you provide releasable records of concern to a researcher, you must ensure that the name on the reference service slip matches the name of the person identified on the researcher identification card at the time materials are delivered to a researcher.
- c. You must maintain accurate, organized, and complete files of reference service slips, correspondence files, and reproduction service files in accordance with NARA's records schedule (FILES 203, appendix 14).

10. What should I do about records of concern that are being considered for a change in access provisions?

Pending the results of NARA's consultation with the appropriate agency, you should make records of concern available unless the records clearly fall within the categories of records in Appendix A. If you have any doubt about the provision of access to series of concern, consult with your supervisor. Follow the provisions of subpars. 8 a and b.

11. What directive is cancelled by this interim guidance?

This interim guidance cancels Interim Guidance 1600-1.

12. Whom can I contact for more information?

- a. If you are uncertain whether specific materials in your custody are covered by this interim guidance or what restrictions to apply, consult your records of concern liaison:

NL	Nancy Smith	202-501-5700 x269	fax 202-501-5709
NR	Diane Vogt-O'Connor	301-713-7210 x242	fax 301-713-7205

- b. For general guidance on the applicability of restrictions, contact your records of concern liaison or Ramona Oliver in NGC in room 3110, All; on 301-713-6025 x252; by fax on 301-713-6040; or by email.

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Appendix A: Restrictions Applicable to Records of Concern

1. Records containing personal identifiers, such as social security numbers.

The risk of identity theft exists chiefly in the form of names and associated social security numbers contained within records.

Social security numbers in Federal records are exempt from disclosure to third parties under exemption (b)(6) of FOIA. All records that are name retrievable must be screened for social security numbers before providing access. Other information of a personal nature, such as home addresses, home phone numbers, information concerning an individual's family, or similar information may also be withheld under exemption (b)(6) of the FOIA if it is current. For the majority of records in the custody of NW, this information will not be current.

Detailed information (for example, home addresses, telephone numbers, and similar information about individuals and their family members) about people in current high visibility positions must be redacted or withdrawn from the open file if not publicly available.

2. Records containing information about protection against terrorist attack and potential targets.

The Department of Justice has advised that agencies should endeavor to protect vital records that have the potential to aid in further terrorist activities against the United States. Protection for these records is available under FOIA exemption (b)(2), which, among other things, prohibits the release of substantially internal records the disclosure of which would risk the circumvention of a statute or agency regulation. Consistent with DOJ's guidance, we can use exemption (b)(2) to protect records that assess an agency's vulnerability to some form of outside interference or harm by identifying those programs, systems, or facilities deemed most sensitive and describing specific measures that can be used to counteract such vulnerabilities. Exemption (b)(2) allows for the protection of information relating to critical systems, facilities, stockpiles, security plans, training and investigative manuals, and other assets from security breeches and, in some instances from their potential use as weapons of mass destruction in and of themselves.

3. Records containing information about potential weapons.

Records that contain information about development or deployment of conventional, biological, or nuclear weapons are exempt from disclosure under (b)(1) of the FOIA (providing they are properly classified pursuant to the provisions of the current executive order on declassification)

or under (b)(3) pursuant to 42 USC 2162. Most of the documents in NW's custody relating to (a) military plans and weapons systems; (b) vulnerabilities or capabilities of systems, installations, projects, and plans; (c) programs for safeguarding nuclear materials or facilities; (d) scientific, technological, or economic matters relating to national security; and (e) other information that may be classified under the executive orders on national security information are properly marked with classification markings placed on the documents at the time of creation. Care must be taken to ensure that documents containing similar information that were not properly marked are reviewed before releasing them to researchers.

4. Records concerning confidential sources.

Investigative records that identify confidential sources or the information provided by confidential sources that may be of interest to terrorist groups may be exempt from disclosure under exemptions (b)(1), (b)(3), or (b)(7)(D) of the FOIA depending on their classification.

5. Records containing information concerning investigative techniques.

Investigative records that disclose investigative techniques and procedures used in law enforcement investigations or prosecutions may be exempt from disclosure under exemption (b)(7)(E) of the FOIA.

6. Records that could endanger the life of an individual.

Investigative records containing information that could endanger the life or physical safety of an individual may be exempt from disclosure under exemptions (b)(1), (b)(3), or (b)(7)(F) of the FOIA.