



DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION AND SECURITY REVIEW
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

21 JUN 2004
Ref: 04-F-1704

Ms. Jennifer Ching
Gibbons, Del Deo, Dolan,
Griffinger & Vecchione
One Riverfront Plaza
Newark, NJ 07102

Dear Ms. Ching:

This is in response to your May 25, 2004 Freedom of Information Act (FOIA) request on behalf of the American Civil Liberties Union, Center for Constitutional Rights, Physicians for Human Rights, Veterans for Common Sense and Veterans for Peace.

Your requests to the various components of the Department of Defense (DoD) will be centrally processed through this Directorate. Therefore, this response covers your requests submitted to those components as well as this Directorate.

You asked for expedited processing of your request. According to the FOIA and DoD Regulation 5400.7-R, in order for you to qualify for expedited processing, you must demonstrate a **"compelling need"** for the information. "Compelling need" means that the failure to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual, or that the information is urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal Government activity.

To qualify for expedited processing a requester must be primarily engaged in disseminating information. DoD 5400.7-R further defines an individual primarily engaged in disseminating information as "a person whose primary activity involves publishing or otherwise disseminating information to the public." Although you state in your request that the organizations you represent have the capability to disseminate information, their primary activity is not disseminating information. Accordingly, your request for expedited processing does not meet the requirements for compelling need under the FOIA, and therefore placing your request ahead of all the other pending requests currently being processed within this Department is not appropriate.

Department of Defense Regulation 5400.7-R, "DoD Freedom of Information Act Program," establishes two additional reasons that merit expedited processing; imminent loss of substantial due processing rights and humanitarian need. You also ask us to consider expediting the processing of your request due to "imminent loss of substantial due process rights and humanitarian need." However, you do not state how failing to disclose the requested records on an expedited basis will cause loss of due process rights, or how a humanitarian need will be fulfilled by providing the records to you on an expedited basis.



You may appeal the above denial by offering specific information as justification to support expedited processing. Any such appeal should be postmarked within 60 days of this letter and sent to this office.

Sincerely,

A handwritten signature in black ink, appearing to read "C. D. Talbott", with a stylized flourish at the end.

C. D. Talbott
Chief