

the Agency, and that is required or authorized to be maintained by statute or Executive Order. Information about an individual shall, to the greatest extent practicable, be collected directly from the individual if the information may result in adverse determinations about the individual's rights, benefits, and privileges under any Federal program. Records used by this Agency in making adverse determinations about an individual shall be maintained with such accuracy, relevance, timeliness and completeness as is reasonably necessary to assure fairness to the individual. The Agency shall protect the privacy of individuals identified in its records, and shall permit an individual to request access to personal information in records on himself/herself and to request correction or amendment of factual information contained in such records. These policies are consistent with the spirit and intent of the PA, and are subject to exemptions under the Act, as defined in § 322.7, and legal requirements to protect sensitive NSA information such as the intelligence sources and methods the Agency employs to fulfill its mission.

(b) Pursuant to written requests submitted in accordance with the PA, the NSA/CSS shall make records available consistent with the Act and the need to protect government interests pursuant to subsections (d) and (k) of the Privacy Act. Oral requests for information shall not be accepted. Before the Agency responds to a request, the request must comply with the provisions of this part.

(c) In order that members of the public have timely access to unclassified information regarding NSA activities, requests for information that would not be withheld if requested under the FOIA or the PA may be honored through appropriate means without requiring the requester to invoke the FOIA or the PA. Although a record may require minimal redaction before its release, this fact alone shall not require the Agency to direct the requester to submit a formal FOIA or PA request for the record.

§ 322.4 Responsibilities.

(a) The Director's Chief of Staff (DC) is responsible for overseeing the administration of the PA. The Director of Policy (DC3), or the Deputy Director of Policy, if so designated, shall carry out this responsibility on behalf of the Chief of Staff and shall:

(1) Provide policy guidance to NSA/CSS on PA issues.

(2) Provide policy guidance to PA coordinators for processing PA requests

from NSA/CSS employees who will be using the records within NSA/CSS spaces.

(3) Provide training of NSA/CSS employees and contractors in the requirements of the PA. Specialized training is provided to special investigators and employees who deal with the news media or the public.

(4) Receive, process, and respond to PA requests from individuals and employees who require the information for use outside of NSA/CSS spaces.

(i) Conduct the appropriate search for and review of records.

(ii) Provide the requester with copies of all releasable material.

(iii) Notify the requester of any adverse determination, including his/her right to appeal an adverse determination to the NSA/CSS Appeal Authority.

(iv) Assure the timeliness of responses.

(5) Receive, process and respond to PA amendment requests to include:

(i) Obtain comments and supporting documentation from the organization originating the record.

(ii) Conduct a review of all documentation relevant to the request.

(iii) Advise the requester of the Agency's decision.

(iv) Notify the requester of any adverse determination, including his/her right to appeal the adverse determination to the NSA/CSS Appeal Authority.

(v) Direct the appropriate Agency organization to amend a record and advise other record holders to amend the record when a decision is made in favor of a requester.

(vi) Assure the timeliness of responses.

(6) Ensure that Agency employees (internal requesters) that have access to NSA/CSS spaces are given access to all or part of a PA record to which the employee was denied by the record holder when, after a review of the circumstances by the Director of Policy, it is determined that access should be granted. For those individuals who do not have access to NSA/CSS spaces see § 322.6 of this part.

(7) Conduct Agency reviews in accordance with OMB Circular A-130¹ and 32 CFR part 310.

(8) Deposit in the U.S. Treasury all fees collected as a result of charges levied for the duplication of records provided under the PA and maintain the necessary accounting records for such fees.

(b) The NSA/CSS Privacy Act Appeal Authority is designated as the reviewing

authority for requests for review of denials by the Director of Policy to provide access to a record and/or to amend a record. The PA Appeal Authority is the Deputy Director, NSA. In the absence of the Deputy Director, the Director's Chief of Staff serves as the Appeal Authority.

(c) The General Counsel (GC) or his designee shall:

(1) Advise on all legal matters concerning the PA.

(2) Advise the Director of Policy and other NSA/CSS organizations, as appropriate, of legal decisions including rulings by the Justice Department and actions by the DoD Privacy Board involving the PA.

(3) Review proposed responses to PA requests to ensure legal sufficiency, as appropriate.

(4) Provide a legal review of proposed Privacy Act notices and amendments for submission to the Defense Privacy Office.

(5) Assist, as required, in the preparation of PA reports for the Department of Defense and other authorities.

(6) Review proposals to collect PA information for legal sufficiency, assist in the development of PA statements and warning statements when required and approve prior to use.

(7) Represent the Agency in all judicial actions related to the PA by providing support to the Department of Justice and by keeping the DoD Office of General Counsel apprised of pending PA litigation. A litigation status sheet will be provided to the Defense Privacy Office.

(8) Assist in the education of new and current employees, including contractors, to the requirements of the PA.

(9) Review PA and PA Amendment appeals, prepare responses, and submit them to the NSA/CSS Appeal Authority for final decision.

(10) Notify the Director of Policy of the outcome of all appeals.

(d) The Associate Director for Human Resources Services or designee shall:

(1) Establish the physical security requirements for the protection of personal information and ensure that such requirements are maintained.

(2) Establish and ensure compliance with procedures governing the pledging of confidentiality to sources of information interviewed in connection with inquiries to determine suitability, eligibility or qualifications for Federal employment, Federal contracts, or access to classified information.

(3) Retain copies of records processed pursuant to the PA. The retention schedule is six years from the date

¹ Available from <http://www.whitehouse.gov/omb/circulars/index.html>.