

requester shall be advised of the statutory basis for the denial of the information and the procedure for filing an appeal. In the instance where no responsive records are located, the requester shall be advised of the negative results and his/her right to appeal what could be considered an adverse determination. NSA does not have the authority to release another agency's information; therefore, information originated by another government agency shall be referred to the originating agency for its direct response to the requester or for review and return to NSA for response to the requester. The requester shall be advised that a referral has been made, except when notification would reveal exempt information.

(8) The requester shall not be charged a fee for the making of a comprehensible copy to satisfy the request for a copy of the documents. The requester may be charged for duplicate copies of the documents. However, if the direct cost of the duplicate copy is less than \$25.00, the fee shall be waived. Duplicating fees shall be assessed according to the following schedule: Office Copy \$.15 per page, Microfiche \$.25 per page, and Printed Material \$.02 per page. All payments shall be made by certified check or money order made payable to the Treasurer of the United States.

(9) A medical/psychological record shall normally be disclosed to the individual to whom it pertains. However, and consistent with 5 U.S.C. 552a(f)(3) of the Privacy Act, if in the judgment of an authorized Agency physician, the release of such information could have an adverse effect on the individual, the individual shall be advised that it is in his best interest to receive the records through a physician of the requester's choice or, in the case of psychological records, through a licensed Psychiatrist or licensed Clinical Psychologist of the requester's choice. NSA/CSS may require certification that the individual is licensed to practice the appropriate specialty. Although the requester shall pay any fees charged by the physician or psychologist, NSA/CSS encourages individuals to take advantage of receiving their records through this means. If, however, the individual wishes to waive receiving the records through this means, the records shall be sent directly to the individual.

(10) Recipients of requests from NSA/CSS employees and affiliates for access to records within the confines of the NSA/CSS campus shall acknowledge the request within 10 working days of receipt, and access should be provided

within 20 working days. If, for good cause, access cannot be provided within that time, the requester shall be advised in writing as to the reason and shall be given a date by which it is expected that access can be provided. If an office denies a request for access to a record, or any portion thereof, it shall notify the requester of its refusal and the reasons for it and shall advise the individual of the procedures for requesting a review of the circumstances by the Director of Policy. If the Director of Policy denies a request for access to a record or any portion thereof, the requester shall be notified of the refusal and the reasons the information was denied. The Director of Policy shall also advise the requester of the procedure for appealing to the NSA/CSS Privacy Act Appeal Authority. (See paragraph (e) of this section).

(11) Although classified portions of NSA/CSS records are exempt from disclosure pursuant to exemption (k)(1) of the Privacy Act and exemption (b)(1) of the FOIA, NSA, in its sole discretion, may choose to provide an NSA affiliate access to the classified portions of records about the affiliate if the affiliate possesses the requisite security clearance, special access approvals, and appropriate need-to-know for the classified information at issue. Classified records may only be accessed by fully cleared personnel in NSA/CSS spaces. Disclosure of classified records under this provision shall not operate as a waiver of PA exemption (k)(1), FOIA exemption (b)(1), or of any other exemption or privilege that would otherwise authorize the Agency to withhold the classified records from disclosure. NSA's determination regarding an affiliate's need-to-know is not subject to appeal under this or any other authority. All copies of classified records made available to an NSA affiliate under the procedures of this Part shall carry the following statement: "This classified material is provided to you under the provisions of the Privacy Act of 1974. Furnishing you this material does not relieve you of your obligations under the laws of the United States (See, e.g., section 798 of Title 18, U.S. Code) to protect classified information. You may retain this material under proper protection as specified in the NSA/CSS Classification Manual; you may not remove it from NSA/CSS facilities."

(12) The procedures described in this part do not entitle an individual to have access to any information compiled in reasonable anticipation of a civil action or proceeding, nor do they require that a record be created.

(13) Requesting or obtaining access to records under false pretenses is a violation of the Privacy Act and is subject to criminal penalties.

(e) Appeal of Denial of an Adverse Determination:

(1) Any individual advised of an adverse determination shall be notified of the right to appeal the initial decision within 60 calendar days of the date of the response letter and that the appeal must be addressed to the NSA/CSS FOIA/PA Appeal Authority, National Security Agency, 9800 Savage Road, Suite 6248, Fort George G. Meade, MD 20755-6248. The following actions are considered adverse determinations:

(i) Denial of records or portions of records.

(ii) Inability of NSA/CSS to locate responsive records.

(iii) Denial of a request for expeditious treatment.

(iv) Non-agreement regarding completion date of request.

(v) The appeal shall reference the initial denial of access and shall contain, in sufficient detail and particularity, the grounds upon which the requester believes the appeal should be granted.

(2) The GC or his/her designee shall process appeals and make a recommendation to the Appeal Authority:

(i) Upon receipt of an appeal regarding the denial of information or the inability of the Agency to locate records on an individual, the GC or his/her designee shall provide a legal review of the denial and/or the adequacy of the search for responsive material, and make other recommendations as appropriate.

(ii) If the Appeal Authority determines that additional information may be released, the information shall be made available to the requester within 20 working days from receipt of the appeal. The conditions for responding to an appeal for which expedited treatment is sought by the requester are the same as those for expedited treatment on the initial processing of a request.

(iii) If the Appeal Authority determines that the denial was proper, the requester must be advised 20 days after receipt of the appeal that the appeal is denied. The requester likewise shall be advised of the basis for the denial and the provisions for judicial review of the Agency's appellate determination.

(iv) If a new search for records is conducted and produces additional records, the additional material shall be forwarded to the Director of Policy, as the initial denial authority (IDA), for