



NSA/CSS
POLICY INSTRUCTION 12-0001
PROCESSING PRIVACY ACT REQUESTS



DATE: 25 February 2022 (See [Document History](#).)

OFFICE OF PRIMARY INTEREST: Freedom of Information Act/Privacy Act Division (P132), 720-2726 (secure), (301) 688-6527 (non-secure)

RELEASABILITY: This policy is approved for public release. The official document is available on the Office of Policy website (“go policy”).

AUTHORITY: Natalie N. Laing, Director, Engagement and Policy

ISSUED: 25 February 2022

PURPOSE AND SCOPE

1. This policy instruction implements the requirements under title 5, United States Code section 552a, “The Privacy Act of 1974” (hereafter, “the Privacy Act”), and Department of Defense (DoD) policy ([References a–c](#)), and establishes procedures and assigns responsibilities for processing requests from an individual for notification as to the existence of, [access](#) to, or amendment to [records](#) pertaining to that individual that are maintained by NSA/CSS in a system of records ([Privacy Act requests](#)).

2. This policy instruction applies to all [individuals](#), including NSA/CSS [affiliates](#).

POLICY

3. NSA/CSS shall, upon written request, permit affiliates and other individuals to gain access to their personal records, request correction or amendment to factual information contained therein, and/or appeal an initial decision made by NSA/CSS to deny access and/or amendment to such records, subject to the need to protect government interests pursuant to the Privacy Act ([Reference a](#)), DoD 5400.11-R, “The Department of Defense Privacy Program” ([Reference c](#)), and NSA/CSS Policy 12-1, “Civil Liberties and Privacy” ([Reference d](#)), and provided that such request is compliant with the provisions of this policy. Affiliates and other individuals may request access to their records by submitting a Privacy Act Request Form O1869 (PA Form O1869).

4. In general, records pertaining to an affiliate that are located within NSA/CSS systems of record may not be removed from NSA/CSS premises without permission from Freedom of Information Act/Privacy Act (FOIA/PA, P132).

RESPONSIBILITIES

Director, Civil Liberties, Privacy, and Transparency (D5)

5. The Director, Civil Liberties, Privacy, and Transparency (D5), as the Senior Component Official for Privacy, shall serve as the NSA/CSS [Privacy Act Appeal Authority](#) if a request made by an affiliate or other individual for access to or amendment to their record has been denied by the Chief, FOIA/PA (P132).

Chief, Freedom of Information Act/Privacy Act (FOIA/PA, P132)

6. The Chief, FOIA/PA (P132) shall:

a. Serve as NSA/CSS [Initial Denial Authority](#) for requests for access to personal records and/or for requests to amend personal records;

b. Direct all activities governing the processing of Privacy Act requests, including:

1) Overseeing searches and reviews of records and ensuring that individuals are given copies of all releasable material in an appropriate and timely manner;

2) Ensuring that requests are reviewed in a timely manner and that the NSA/CSS organization(s) that originated the record provides accurate supporting documentation to respond to the requests;

3) Directing NSA/CSS organizations—that are acting as custodians of the individual's record, as well as other record holders—to amend an individual's record if a request to amend that record has been accepted; and

4) Ensuring that individuals are notified in a timely manner of any adverse determinations regarding access to and/or amendments of records, including the right to appeal such adverse determinations to the NSA/CSS Privacy Act Appeal Authority in accordance with DoD 5400.11-R ([Reference c](#)) and [Annex A](#);

c. Ensure that fees collected as a result of charges levied for duplication of the same records are submitted to NSA/CSS Accounts Receivable and Reimbursable for deposit to the U.S. Department of the Treasury; and

d. Provide a single NSA/CSS point of contact as part of the acknowledgement letter responding to affiliates and other individuals regarding their Privacy Act requests.

Directors, NSA/CSS Chief of Staff, and Extended Enterprise Commanders/Chiefs

7. Directors, the NSA/CSS Chief of Staff, and extended Enterprise commanders/chiefs shall:

- a. Respond to Privacy Act requests directed to their respective organizations/groups as appropriate;
- b. Establish procedures to ensure that requests for copies of Privacy Act records are immediately delivered to the Chief, FOIA/PA (P132) upon their identification as a Privacy Act request; and
- c. Respond promptly to NSA/CSS Initial Denial Authority and/or NSA/CSS Privacy Act Appeal Authority decisions regarding access to an individual's records, amendments to an individual's records, or filing statements of disagreements regarding an individual's records.

Office of General Counsel (OGC, D2)

8. OGC (D2) shall:

- a. Advise affected NSA/CSS organizations of legal decisions that pertain to Privacy Act requests and or procedures regarding Privacy Act requests; and
- b. Review Privacy Act request and Privacy Act amendment appeals for legal sufficiency.

REFERENCES

- a. Title 5, United States Code section 552a, "Privacy Act of 1974," as amended
- b. DoD Instruction 5400.11, "DoD Privacy Program," dated 29 January 2019
- c. DoD 5400.11-R, "Department of Defense Privacy Program," dated 14 May 2007
- d. NSA/CSS Policy 12-1, "Civil Liberties and Privacy," dated 18 November 2021
- e. Title 28, United States Code section 1746, "Unsworn declarations under penalty of perjury," as amended
- f. Title 5, United States Code section 552, "Freedom of Information Act," as amended
- g. Title 50, United States Code section 3605, "Disclosure of Agency's Organization, Function, Activities, or Personnel," as amended
- h. Title 13, United States Code section 8, "Authenticated transcripts or copies of certain returns; restriction on use; disposition of fees received," as amended

GLOSSARY

access—the review of a record or a copy of a record, or parts thereof, in a system of records by an individual ([Reference c](#))

affiliate—a person employed by, detailed to, or assigned to NSA/CSS, including members of the U.S. Armed Forces; experts, consultants, and contractors, including all subcontractors; personal services contractors; or any other category of person who acts on behalf of NSA/CSS as determined by the Director, NSA/Chief, CSS (Source: [NSA/CSS Policy Glossary](#))

case officers—NSA/CSS personnel assigned to the Freedom of Information/Privacy Act Division, Privacy Information Review and Outreach Team responsible for processing Privacy Act requests

confidential source—a person or organization that has furnished information to the federal government under an express promise (if made on or after September 27, 1975) that the person's or the organization's identity shall be held in confidence or under implied promise of such confidentiality if this implied promise was made on or before September 26, 1975 ([Reference c](#))

disclosure—the transfer of any personal information from a system of record by any means of communication (such as oral, written, electronic, mechanical, or actual review) to any person, private entity, or government agency, other than the subject of the record, the subject's designated agent, or the subject's legal guardian ([Reference c](#))

Freedom of Information Act (FOIA) request—a written request made to NSA/CSS that reasonably describes the record(s) sought, made by any person, including a member of the public, an organization, or a business that either explicitly or implicitly invokes the FOIA ([Reference f](#))

individual—An individual is a living person who is a citizen of the United States or an alien lawfully admitted for permanent residence. The parent of a minor or the legal guardian of any individual may act on behalf of an individual. Members of the U.S. Armed Forces are "individuals." Corporations, partnerships, sole proprietorships, professional groups, businesses—whether incorporated or unincorporated—and other organized entities are not considered "individuals" when acting in an entrepreneurial capacity with the Department of Defense (DoD) but are "individuals" when acting in a personal capacity (e.g., security clearances, entitlement to DoD privileges or benefits). ([Reference c](#))

Initial Denial Authority—the NSA/CSS person(s) authorized to review initial collections of individual records and render an initial decision regarding access to and/or amendments of such records, including any additional materials discovered during the course of conducting a search of records

maintain—to maintain, collect, use, or disseminate records contained in a system of records ([Reference c](#))

medical/psychological records—subject to the exclusions in [Annex A](#), subparagraph 3.j, documents related to the medical/psychological evaluation, assessment, or care of an individual or individuals

Privacy Act Appeal Authority—the NSA/CSS person(s) authorized to render a final decision regarding access to, amendments to, or filing statements of disagreements of an individual’s records if the initial request is denied by the NSA/CSS Initial Denial Authority

Privacy Act request—A Privacy Act request is a request from an individual for notification as to the existence of, access to, or amendment to records pertaining to that individual. These records must be maintained in a system of records. ([Reference c](#))

record—any item, collection, or grouping of information, whatever the storage media (paper, electronic, etc.), about an individual that is maintained by a Department of Defense component, including an individual’s education, financial transactions, medical history, criminal record, or employment history and that contains an individual’s name or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, or a photograph ([Reference c](#))

record holder—the NSA/CSS organization that holds records subject to a Privacy Act request, conducts searches for responsive records, and occasionally reviews responses proposed by Freedom of Information Act/Privacy Act (P132)

system of records—a group of records under the control of a Department of Defense component from which personal information about an individual is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the subject individual ([Reference c](#))

DOCUMENT HISTORY

Date	Approved by	Description
25 February 2022	Natalie N. Laing, Director, Engagement and Policy	Policy issuance; supersedes the sections of NSA/CSS Policy 1-34, “Implementation of the Privacy Act of 1974,” dated 9 June 2003 that pertain to processing Privacy Act requests

ANNEX A: PROCEDURES GOVERNING THE PROCESSING OF PRIVACY ACT REQUESTS

1. **Individuals Having No Access to NSA/CSS Facilities:** Individuals who do not have authorized access to NSA/CSS facilities may 1) submit a written request to obtain a copy of their Privacy Act records to NSA/CSS; ATTN: FOIA/PA Division (P132); 9800 Savage Road, STE 6932; Fort George G. Meade, MD 20755-6932; or 2) submit a written request to obtain a copy of their Privacy Act records via the nsa.gov website (search “Submit a Privacy Act Request,” click on the link, and follow the instructions). A Privacy Act request will not be processed until it is perfected—i.e., it must contain the individual’s full name, signature (see footnote at the bottom of this page), mailing address, phone number, and other identifiers as outlined in the applicable system of records notice, and a description of the records sought. Each request must also include an unsworn declaration or a notarized statement of identity. In accordance with title 28, United States Code (U.S.C.) section 1746, “Unsworn declarations under penalty of perjury” ([Reference e](#)), the language for an unsworn declaration shall be in the following form:

a. If executed outside the United States: “I declare (or certify, verify, or state) under penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct. Executed on (date). (Signature).”

b. If executed within the United States, its territories, possessions, or commonwealths: “I declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).”

2. **Individuals Having Access to NSA/CSS Facilities:** NSA/CSS affiliates who have authorized access to NSA/CSS facilities and who would like access to their Privacy Act records may follow the procedures above or submit a written request to review such records using the Privacy Act Request Form O1869 (PA Form O1869) on the NSA/CSS Electronic Forms Directory. PA Form O1869 requires the affiliate’s full name, signature,¹ mailing address, phone number, and other identifiers as outlined in the applicable system of records notice, and a description of the records sought. The NSA/CSS affiliate may submit Privacy Act requests via digitally signed email to DL Privacy_Act_Request or hand-deliver to NSA/CSS Freedom of Information Act/Privacy Act (FOIA/PA, P132).

3. **General Provisions Governing Access to and Processing of Privacy Act Requests:**

a. Individuals who submit a request for access to their records are not required to state a reason or otherwise provide justification for the request, except as described in paragraph 3.f. If the individual requests that another person obtain records on that individual’s behalf, the individual will provide a written statement appointing that person as that individual’s representative, authorizing access to the individual’s records, and

¹ Acceptable forms of a signature can be a physical signature on Form O1869, a digital signature via email, or a scanned copy of the signature.

affirming that such access will not constitute an invasion of the individual's privacy or a violation of that individual's rights under the Privacy Act. NSA/CSS will accept requests from parents or legal guardians for records pertaining to a minor, so long as the parent or legal guardian is acting on behalf of the minor and sufficient evidence is furnished upon request—at the time of the request or at a later date—to support the minor's parentage (birth certificate showing individual as a parent) or guardianship (a court order establishing guardianship).

b. Relationship between the Privacy Act ([Reference a](#)) and section 552 of 5 U.S.C., the Freedom of Information Act (FOIA) ([Reference f](#)).

1) Requesters seeking records about themselves contained only in a Privacy Act system of records will have their requests processed pursuant to the Privacy Act and implemented within the Department of Defense (DoD) by DoD 5400.11-R, "Department of Defense Privacy Program" ([Reference c](#)).

a) If the Privacy Act system of records is exempt from the access provisions of section (d)(1) of the Privacy Act, and if the records or any portion thereof are exempt pursuant to FOIA, NSA/CSS will advise the requester of the appropriate Privacy Act and FOIA exemption(s) in its response. Appeals must be processed pursuant to both the Privacy Act and the FOIA.

b) If the Privacy Act system of records is not exempt from the access provisions of section (d)(1) of the Privacy Act, NSA/CSS cannot claim a FOIA exemption on the information and must release all information to the requester. However, NSA/CSS may withhold from such requester privacy-related information about another individual within the requester's Privacy Act file. When this is the case, NSA/CSS will advise the requester that information has been withheld because "a portion of the record you requested contains privacy-related information about a party other than yourself."

2) Requesters seeking records about themselves that are not in a Privacy Act system of records and who cite or implicate the Privacy Act will have their requests processed pursuant to the FOIA, because the Privacy Act does not apply to these records. Appeals must be processed pursuant to the FOIA.

3) Requesters seeking records about themselves in a Privacy Act system of records and outside a Privacy Act system of records will have their requests processed pursuant to both the Privacy Act and the FOIA.

4) FOIA/PA (P132) will advise requesters in the final response letter of which Privacy Act and FOIA statutory authorities were used and of their appeal rights.

c. FOIA/PA (P132) will make reasonable efforts to respond to a direct request submitted to NSA/CSS within 20 business days of receipt. If P132 cannot respond within 20 business days, P132 will advise the individual of the reason for the delay and negotiate a completion date. Direct requests submitted to NSA/CSS will be processed in the order in which they are received and in accordance with the procedures set forth in [paragraph 3.d](#). If a request is referred to NSA/CSS by a referring government agency for direct response to or consultation with the individual, NSA/CSS will process that request according to the date on which the individual's letter was received by the referring government agency, if known. If the date of receipt is not known, NSA/CSS will process the request according to the date of the individual's letter.

d. NSA/CSS will process requests for copies of Privacy Act records using a minimum of three processing tracks that employ the "First In First Out" (FIFO) concept. These tracks will be labeled as "Simple/Easy," "Complex/Voluminous," and "Expedited," with requests within each track ranked by date of receipt. Each such Privacy Act request will be placed into the appropriate track based on the volume of material involved, as well as the amount of effort required to process a perfected request. NSA/CSS may establish additional tracks as needed, based on operational and efficient processing requirements, but will decommission these tracks when they are no longer required. All additional tracks, including referrals and consultations, will employ the FIFO concept and will be FIFO-ranked based on the date on which the perfected request was received by the referral agency or date of the individual's letter.

e. FOIA/PA (P132) will inform the individual within 20 business days if no responsive records are located. If records are located, the P132 Privacy Information Review and Outreach initial processing team will determine in which queue to place the material, based on the criteria in [paragraph 3.d](#). If the material requires minimal specialized review ("Simple/Easy"), the initial processing team will review, redact if required, and provide the non-exempt responsive material to the individual as soon as practicable. All other material will be processed according to the FIFO method by the appropriate processing team.

f. Requests for expedited processing must include a justification and a statement that certifies that the information provided is true and correct to the best of the individual's knowledge. Expedited processing will be granted if a compelling need for expediting the information is provided. For purposes of this annex, a compelling need will mean a determination 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 the individual or an imminent loss of substantial due process rights.

g. NSA/CSS will respond to a request for expedited handling no later than 10 calendar days after receipt. The individual will be notified whether the individual's request meets the criteria for expedited processing within that timeframe. If a request for expedited processing is granted, the request will be placed in the "Expedited" queue and processed on a FIFO basis.

h. Upon receipt of a request, FOIA/PA (P132) will review the request and direct the appropriate NSA/CSS organization to search for responsive records. If the requested records are located by the record holder, copies of all retrieved records will be forwarded to P132 to determine whether such records may be released. All releasable records or portions of the records will be provided to the individual. However, if information is exempt from release under the Privacy Act, P132 will inform the individual of the statutory basis for denying access to the records and the procedure for filing an appeal. If no responsive records are located, P132 will advise the individual of the negative results and of the individual's right to appeal adverse determinations as defined in [paragraph 4.a](#). NSA/CSS does not have the authority to release another agency's information; therefore, information originated by another government agency will be referred to the originating agency for direct response to the individual, or for consultation review, and returned to NSA/CSS for response to the individual. P132 will advise the individual that a referral has been made, except when notification would reveal exempt information.

i. Individuals requesting their records will not be charged a fee for the making of a copy of the record that satisfies the initial request but may be charged for duplicate copies of the same records. Duplication fees will be assessed according to the following schedule: office copy, \$0.15 per page; microfiche, \$0.25 per page; and printed material, \$0.15 per page. However, if the direct cost of a duplicate copy is less than \$25.00, the fee will be waived. All payments will be made by check or money order made payable to the Treasurer of the United States.

j. NSA/CSS will evaluate and disclose a [medical/psychological record](#) belonging to the individual to whom it pertains, except for psychological records that qualify as testing or examination material under section 552a(k)(6) of the Privacy Act ([Reference a](#)); disclosure of information that would reveal law enforcement techniques or procedures under title 5, U.S.C. section 552(b)(7)(E) ([Reference f](#)); information related solely to the internal personnel rules and practices of an agency under title 5, U.S.C. section 552(b)(2) ([Reference f](#)); or other lawful exemption.

k. Procedures described in this policy do not entitle an individual to have access to information compiled in reasonable anticipation of a civil action or proceeding or require that a record be created.

l. Requesting or obtaining access to records under false pretenses is a violation of the Privacy Act and is subject to criminal penalties or other disciplinary proceedings.

4. Appeal of an Adverse Determination (a Denial):

a. FOIA/PA (P132) will notify an individual of an adverse determination and the right to appeal the initial decision within 90 calendar days of the date of the NSA/CSS response letter and inform the individual that the written appeal must be addressed to NSA/CSS FOIA/PA Appeal Authority; NSA/CSS; 9800 Savage Road, STE 6932; Ft. George G. Meade, MD 20755-6932. The request to appeal will cite the initial date and substance of the denial of access and will contain, in sufficient detail and particularity,

the grounds upon which the individual believes the appeal should be granted. The following actions are considered adverse determinations:

- 1) Denial, in whole or in part, of access to records;
- 2) Failure to locate responsive records;
- 3) Denial of a request for expeditious treatment; and
- 4) Disagreement between the individual and NSA/CSS regarding completion date of request.

b. The FOIA/PA (P132) Appeals Staff will process appeals and make a recommendation to the NSA/CSS Privacy Act Appeal Authority.

1) Upon receipt of an appeal regarding the denial of information or the failure to locate records regarding an individual, the FOIA/PA Appeals Staff will provide a new review of the denial and/or the adequacy of the search for responsive material and make recommendations to NSA/CSS Privacy Act Appeal Authority, as appropriate.

2) If the NSA/CSS Privacy Act Appeal Authority determines that additional information may be released, the information will be made available to the individual following that determination. The conditions for responding to an appeal for which expedited treatment is sought by the individual are the same as those for expedited treatment in the initial processing of a request, no later than 10 calendar days.

3) If a new search for records produces additional records, P132 will review the additional information contained in the records. Upon denial or release of additional information, NSA/CSS will advise the individual that more material has been located. However, if the release of the additional record is denied, P132 will advise the individual of the basis for the denial and provide the requester with a new opportunity to appeal the decision regarding the additional records.

4) If the NSA/CSS Privacy Act Appeal Authority determines that the denial was proper, the individual will be advised within 20 business days after receipt of the appeal that the appeal has been denied. The individual will also be advised of the basis for the denial and the provisions for judicial review of NSA/CSS's appellate determination.

5) If an individual appeals the absence of a NSA/CSS response within the statutory time limits, the FOIA/PA (P132) Appeals Staff will process the absence of a response as a denial of access. P132 will advise the individual of the individual's right to seek judicial review.

6) Appeals will be processed using the same multitrack system as initial requests. If an appeal cannot receive a response within 20 business days, the requirement to obtain an extension from the individual is the same as that of the initial requests.

5. Amendment to Records:

a. Minor factual errors may be corrected without resorting to the Privacy Act or the provisions of this policy, so long as the individual and record holder agree to the amendment request. Whenever possible, a copy of the corrected record should be provided to the individual.

b. Individuals requesting substantive changes for inaccuracies or incompleteness, including deletions and/or amendments to or removal of records, will be processed under the Privacy Act and the provisions of this policy. The Privacy Act amendment process is limited to correcting records that are not accurate, relevant, timely, or complete.

c. The amendment process is not intended to replace other existing NSA/CSS procedures, including those for registering grievances or appealing performance appraisal ratings. Because the amendment process is limited to correcting factual information, it may not be used to challenge official judgments, including performance ratings, promotion potential, performance appraisals, and subjective judgments made by supervisors that reflect the supervisor's observations and evaluations.

d. Requests for amendments must be in writing and include the individual's name, social security number (when necessary and applicable) or employee identification number, current address, phone number, signature, a copy of the record under dispute or sufficient identifying particulars to permit timely retrieval of the affected record, a description of the information under dispute, and evidence to support the amendment request. The mailing address for the NSA/CSS FOIA/PA Division is NSA/CSS, ATTN: FOIA/PA Division (P132); 9800 Savage Road STE 6932; Ft. George G. Meade, MD 20755-6932. Individuals who have access to NSA/CSS facilities may send requests through the internal mail system to P132, Suite 6932.

e. FOIA/PA (P132) will acknowledge the amendment request within 10 business days of receipt and respond within 30 business days. The organization that or individual who originated the information under dispute will be given 10 business days to comment. Upon receipt of a response, P132 will review all documentation and determine whether the amendment request will be granted. If P132 agrees with the request, it will notify the individual and the governmental office holding the record. The latter will promptly amend the record and notify all other holders and recipients of the correction. If the amendment request is denied, P132 will advise the individual of the reason for the denial and the procedures for filing an appeal.

6. Appeal of Refusal to Amend Records:

a. If the NSA/CSS Initial Denial Authority (IDA) refuses to amend any part of a record, the NSA/CSS IDA (or designee) will notify the individual of the refusal, the reasons for the refusal, and the procedures for requesting a review of the decision by NSA/CSS Privacy Act Appeal Authority. NSA/CSS Privacy Act Appeal Authority will render a final decision within 30 business days, except when circumstances require an extension. If an extension is necessary, FOIA/PA (P132) will inform the individual, in writing, of the reason for the delay and the approximate date when the review is expected to be complete. If the NSA/CSS Privacy Act Appeal Authority determines that the record should be amended, the individual, P132, and the office holding the record will be so advised and will amend accordingly and notify all recipients.

b. If the NSA/CSS Privacy Act Appeal Authority denies any part of the request for amendment, P132 will advise the individual of the reason for denial, the individual's right to file a concise statement of reasons for disputing the information contained therein, and their right to seek judicial review of NSA/CSS's refusal to amend the record. Statements of disagreement and related notifications and summaries of NSA/CSS's reasons for refusing to amend the record will be processed in the manner prescribed by chapter 3 of DoD 5400.11-R ([Reference c](#)).

7. Establishing Exemptions:

a. Neither general nor specific exemptions are established automatically for any system of records. The NSA/CSS Senior Component Official for Privacy (SCOP) must determine whether the system of records is one for which an exemption may be properly claimed and then propose and establish an exemption rule for the system of records. No system of records within NSA/CSS will be considered exempt under subsection (j) or (k) of the Privacy Act ([Reference a](#)) until the NSA/CSS SCOP has approved the exemption and an exemption rule has been published as a final rule in the Federal Register.

b. An individual is not entitled to have access to any information compiled in reasonable anticipation of a civil action or proceeding ([Reference b](#), (d)(5)).

c. NSA/CSS will grant access to nonexempt material contained in the records being maintained. Disclosure will be limited to the extent that the identity of [confidential sources](#) will not be compromised; subjects of an investigation of an actual or potential criminal or civil violation will not be alerted to the investigation; the physical safety of witnesses, informants, and law enforcement personnel will not be endangered; the privacy of third parties will not be violated; and the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be redacted from the requested documents and the balance made available. The decision to release information from these systems will be made on a case-by-case basis.

d. NSA/CSS will not prohibit disclosure of records pertaining to personnel or the functions and activities of NSA/CSS to the extent that such disclosure is authorized by

title 50 U.S.C. section 3605, “Disclosure of Agency’s Organization, Function, Activities, or Personnel” ([Reference g](#)).

e. In addition to specific exemptions set out elsewhere under this policy, the Privacy Act ([Reference a](#)), and DoD Instruction 5400.11 ([Reference b](#)), NSA/CSS may claim the following exemptions:

1) General exemption (j)(2): Established by DoD Instruction 5400.11 ([Reference b](#)), NSA/CSS may claim this exemption to protect investigative records created and maintained by law enforcement activities of other or referring agencies.

2) Specific exemptions: These exemptions permit certain categories of records to be exempt from certain provisions of the Privacy Act:

a) Exemption (k)(1)—information that is properly classified under Executive Order 13526 and that is required by Executive Order to be kept secret in the interest of national defense or foreign policy

b) Exemption (k)(2)—investigatory information that is compiled for law enforcement purposes by non-law enforcement activities and that is not within the scope of section 310.51(a). If an individual is denied any right, privilege, or benefit to which that individual is otherwise entitled by federal law or for which the individual 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.

c) Exemption (k)(3)—records maintained in connection with providing protective services to the President and other persons identified under 18 U.S.C. 3506

d) Exemption (k)(4)—records maintained solely for statistical research or program evaluation purposes and that are not used to make decisions on the rights, benefits, or entitlement of an individual, except for census records, which may be disclosed under title 13, U.S.C. section 8 ([Reference h](#))

e) Exemption (k)(5)—investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information but only to the extent that 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) Exemption (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) Exemption (k)(7)—evaluation material used to determine potential for promotion in the Military Services but only to the extent that the disclosure of such material would reveal the identity of a confidential source