

PART 2102—RULES AND REGULATIONS TO IMPLEMENT THE PRIVACY ACT OF 1974

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AUTHORITY: 5 U.S.C. 552a (f) and (k).

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§2102.1 Introduction.

(a) Insofar as the Privacy Act of 1974 (5 U.S.C. 552a) applies to the National Security Council (hereafter NSC), it provides the American public with expanded opportunities to gain access to records maintained by the NSC Staff which may pertain to them as individuals. These regulations are the exclusive means by which individuals may request personally identifiable records and information from the National Security Council.

(b) The NSC Staff, in addition to performing the functions prescribed in the National Security Act of 1947, as amended (50 U.S.C. 401), also serves as the supporting staff to the President in the conduct of foreign affairs. In doing so the NSC Staff is acting not as an agency but as an extension of the White House Office. In that the White House Office is not considered an agency for the purposes of this Act, the materials which are used by NSC Staff personnel in their role as supporting staff to the President are not subject to the provisions of the Privacy Act of 1974. A description of these White House Office files is, nevertheless, appended to the NSC notices of systems of files and will be published annually in the FEDERAL REGISTER.

(c) In general, Records in NSC files pertain to individual members of the

public only if these individuals have been (1) employed by the NSC, (2) have corresponded on a foreign policy matter with a member of the NSC or its staff, or (3) have, as a U.S. Government official, participated in an NSC meeting or in the preparation of foreign policy-related documents for the NSC.

§2102.2 Purpose and scope.

(a) The following regulations set forth procedures whereby individuals may seek and gain access to records concerning themselves and will guide the NSC Staff response to requests under the Privacy Act. In addition, they outline the requirements applicable to the personnel maintaining NSC systems of records.

(b) These regulations, published pursuant to the Privacy Act of 1974, Pub. L. 93-579, Section 552a (f) and (k), 5 U.S.C. (hereinafter the Act), advise of procedures whereby an individual can:

(1) Request notification of whether the NSC Staff maintains or has disclosed a record pertaining to him or her in any non-exempt system of records;

(2) Request a copy of such record or an accounting of that disclosure;

(3) Request an amendment to a record; and,

(4) Appeal any initial adverse determination of any request under the Act.

(c) These regulations also specify those systems of records which the NSC has determined to be exempt from certain provisions of the Act and thus not subject to procedures established by this regulation.

§2102.3 Definitions.

As used in these regulations:

(a) *Individual*. A citizen of the United States or an alien lawfully admitted for permanent residence.

(b) *Maintain*. Includes maintain, collect, use or disseminate. Under the Act it is also used to connote control over, and, therefore, responsibility for, systems of records in support of the NSC statutory function (50 U.S.C. 401, *et seq.*).

(c) *Systems of Records*. A grouping of any records maintained by the NSC from which information is retrieved by the name of the individual or by some

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other identifying particular assigned to the individual.

(d) *Determination.* Any decision made by the NSC or designated official thereof which affects the individual's rights, opportunities, benefits, etc. and which is based in whole or in part on information contained in that individual's record.

(e) *Routine Use.* With respect to the disclosure of a record, the use of such a record in a manner which is compatible with the purpose for which it was collected.

(f) *Disclosure.* The granting of access or transfer of a record by any means.

§2102.4 Procedures for determining if an individual is the subject of a record.

(a) Individuals desiring to determine if they are the subject of a record or system of records maintained by the NSC Staff should address their inquiries, marking them plainly as a *PRI-VACY ACT REQUEST*, to:

Staff Secretary, National Security Council,
Room 374, Old Executive Office Building,
Washington, DC 20506.

All requests must be made in writing and should contain:

(1) A specific reference to the system of records maintained by the NSC as listed in the NSC Notices of Systems and Records (copies available upon request); or

(2) A description of the record or systems of records in sufficient detail to allow the NSC to determine whether the record does, in fact, exist in an NSC system of records.

(b) All requests must contain the printed or typewritten name of the individual to whom the record pertains, the signature of the individual making the request, and the address to which the reply should be sent. In instances when the identification is insufficient to insure disclosure to the individual to whom the information pertains in view of the sensitivity of the information, NSC reserves the right to solicit from the requestor additional identifying information.

(c) Responses to all requests under the Act will be made by the Staff Secretary, or by another designated member of the NSC Staff authorized to act

in the name of the Staff Secretary in responding to a request under this Act. Every effort will be made to inform the requestor if he or she is the subject of a specific record or system of records within ten working days (excluding Saturdays, Sundays and legal Federal Holidays) of receipt of the request. Such a response will also contain the procedures to be followed in order to gain access to any record which may exist and a copy of the most recent NSC notice, as published in the FEDERAL REGISTER, on the system of records in which the record is contained.

(d) Whenever it is not possible to respond in the time period specified above, the NSC Staff Secretary or a designated alternate will, within ten working days (excluding Saturdays, Sundays and legal Federal Holidays), inform the requestor of the reasons for the delay (e.g., insufficient requestor information, difficulties in record location, etc.), steps that need to be taken in order to expedite the request, and the date by which a response is anticipated.

§2102.13 Requirements for access to a record.

(a) Individuals requesting access to a record or system of records in which there is information concerning them must address a request in writing to the Staff Secretary of the NSC (see §2102.1). Due to restricted access to NSC offices in the Old Executive Office Building where the files are located, requests cannot be made in person.

(b) All written requests should contain a concise description of the records to which access is requested. In addition, the requestor should include any other information which he or she feels would assist in the timely identification of the record. Verification of the requestor's identity will be determined under the same procedures used in requests for learning of the existence of a record.

(c) To the extent possible, any request for access will be answered by the Staff Secretary or a designated alternate within ten working days (excluding Saturdays, Sundays, and legal Federal holidays) of the receipt of the request. In the event that a response