

§ 299.4

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the public of the type generally covered by the indexing requirement of 5 U.S.C. 552. Therefore, it has been determined, pursuant to the pertinent statutory and executive order requirements, that it is unnecessary and impracticable to publish an index of the type required by 5 U.S.C. 552. However, should such material be identified, it will be indexed and placed in the library at the National Cryptologic Museum (NCM), which serves as the NSA/CSS FOIA reading room, and made available through the Internet. Copies of records which have been released under the FOIA and which NSA/CSS has determined are likely to become the subject of subsequent requests will be placed in the library of the NCM. In addition, these records are made available to the public through the Internet. An index of this material is available in hard copy in the museum library and on the Internet.

§ 299.4 Responsibilities.

(a) The Director's Chief of Staff (DC) is responsible for overseeing the administration of the FOIA, which includes responding to FOIA requests and for collecting fees from FOIA requesters.

(b) The Director of Policy (DC3), or the Deputy Director of Policy (D/DC3), if so designated, is the initial denial authority (IDA) and is responsible for:

(1) Receiving and staffing all initial, written requests for the release of information;

(2) Conducting the necessary reviews to determine the releasability of information pursuant to DoD 5200.1-R;

(3) Providing the requester with releasable material;

(4) Notifying the requester of any adverse determination, including informing the requester of his/her right to appeal an adverse determination to the appeal authority (*see* § 299.5(n));

(5) Assuring the timeliness of responses;

(6) Negotiating with the requester regarding satisfying his request (e.g., time extensions, modifications to the request);

(7) Authorizing extensions of time within Agency components (e.g., time needed to locate and/or review material);

(8) Assisting the Office of General Counsel (OGC) in judicial actions filed under 5 U.S.C. 552;

(9) Maintaining the FOIA reading room and the Internet home page; and

(10) Compiling the annual FOIA report.

(c) The Chief, Accounting and Financial Services (DF22) is responsible for:

(1) Sending initial and follow-up bills to FOIA requesters as instructed by the FOIA office, with a copy of all bills going to the FOIA office. In cases where an estimate of fees is provided to the requester prior to the processing of his/her request, no bill shall be sent. Although the FOIA office asks FOIA requesters to send payment to the FOIA office, for subsequent forwarding to Accounting and Financial Services, payment may be received directly in Accounting and Financial Services. Such payment may be identified by the payee as payment for a Freedom of Information Act request, by the letters "FOIA," or as payment for XXXXX. (FOIA requesters are provided a case number to refer to in correspondence with NSA);

(2) Receiving and handling all checks or money orders remitted in payment for FOIA requests, crediting them to the proper account and notifying the FOIA office promptly of all payments received;

(3) Notifying the FOIA office promptly of any payments received directly from requesters even if no bill was initiated by Accounting and Financial Services; and

(4) Issuing a prompt reimbursement of overpaid fees to the requester upon being notified of such overpayment by the FOIA office.

(d) The Deputy Director, NSA/CSS, is the FOIA Appeal Authority required by 5 U.S.C. 552 for considering appeals of adverse determinations by the Director of Policy. In the absence of the Deputy Director, the Director's Chief of Staff serves as the Appeal Authority.

(e) The General Counsel (GC) or his designee is responsible for:

(1) Reviewing responses to FOIA requests to determine the legal sufficiency of actions taken by the Director of Policy, as required on a case-by-case basis;

(2) Reviewing the appeals of adverse determinations made by the Director of Policy. The GC will prepare an appropriate reply to such appeals and submit that reply to the NSA/CSS FOIA Appeal Authority for final decision; and

(3) Representing the Agency in all judicial actions relating to 5 U.S.C. 552 and providing support to the Department of Justice.

(f) The Chief of Installation and Logistics (I&L) shall establish procedures to ensure that:

(1) All inquiries for information pursuant to 5 U.S.C. 552 are delivered promptly to the Director of Policy; and

(2) Any appeal of an adverse determination is delivered promptly and directly to the NSA/CSS Appeal Authority staff.

(g) The Directorates, Associate Directorates, and Field Elements shall:

(1) Establish procedures to ensure that any inquiries for information pursuant to 5 U.S.C. 552 are referred immediately and directly to the Director of Policy. Field Elements should forward, electronically, any requests received to the DIRNSA/CHCSS, ATTN: DC3; and

(2) Designate a senior official and an alternate to act as a focal point to assist the Director of Policy in determining estimated and actual cost data, in conducting searches reasonably calculated to retrieve responsive records and assessing whether information can be released or should be withheld.

(h) Military and civilian personnel assigned or attached to or employed by the NSA/CSS who receive a Freedom of Information Act request shall deliver it immediately to the Director of Policy. Individuals who are contacted by personnel at other government agencies and asked to assist in reviewing material for release under the FOIA must direct the other agency employee to the NSA/CSS FOIA office promptly.

§ 299.5 Procedures.

(a) Requests for copies of records of the NSA/CSS shall be delivered to the Director of Policy immediately upon receipt once the request is identified as a Freedom of Information Act or Privacy Act requestor appears to be intended as such a request.

(b) The Director of Policy, or Deputy Director of Policy, if so designated, shall endeavor to respond to a direct request to NSA/CSS within 20 working days of receipt. If the request fails to meet the minimum requirements of a perfected FOIA request, the FOIA office shall advise the requester of how to perfect the request. The 20 working day time limit applies upon receipt of the perfected request. In the event the Director of Policy cannot respond within 20 working days due to unusual circumstances, the chief of the FOIA office shall advise the requester of the reason for the delay and negotiate a completion date with the requester.

(c) Direct requests to NSA/CSS shall be processed in the order in which they are received. Requests referred to NSA/CSS by other government agencies shall be placed in the processing queue according to the date the requester's letter was received by the referring agency if that date is known, in accordance with Department of Justice Guidelines. If it is not known when the referring agency received the request, it shall be placed in the queue according to the date of the requester's letter.

(d) The FOIA office shall maintain six queues ("super easy," "sensitive/personal easy," "non-personal easy," "sensitive/personal voluminous," "non-personal complex," and "expedite") for the processing of records in chronological order. The processing queues are defined as follows:

(1) *Super easy queue.* The super easy queue is for requests for which no responsive records are located or for material that requires minimal specialized review.

(2) *Sensitive/personal easy queue.* The sensitive/personal easy queue contains FOIA and PA records that contain sensitive personal information, typically relating to the requester or requester's relatives, and that do not require a lengthy review. These requests are processed by DC321 staff members who specialize in handling sensitive personal information.

(3) *Non-personal easy queue.* The non-personal easy queue contains all other types of NSA records not relating to