

## National Counterintelligence Center

## § 1801.52

### § 1801.45 Notification of decision and right of judicial review.

(a) *In general.* The Coordinator shall promptly prepare and communicate the decision of the Director, NACIC to the requester. With respect to any decision to deny information or deny amendment, that correspondence shall state the reasons for the decision, identify the officer responsible, and include a notice of the right to judicial review.

(b) *For amendment requests.* With further respect to any decision to deny an amendment, that correspondence shall also inform the requester of the right to submit within forty-five (45) days a statement of his or her choice which shall be included in the official records of NACIC. In such cases, the applicable record system manager shall clearly note any portion of the official record which is disputed, append the requester's statement, and provide copies of the statement to previous recipients (if any are known) and to any future recipients when and if the disputed information is disseminated in accordance with a routine use.

### Subpart F—Prohibitions

#### § 1801.51 Limitations on disclosure.

No record which is within a system of records shall be disclosed by any means of communication to any individual or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be:

(a) To those officers and employees of NACIC which maintains the record who have a need for the record in the performance of their duties;

(b) Required under the Freedom of Information Act, 5 U.S.C. 552;

(c) For a routine use as defined in § 1801.02(m), as contained in the Privacy Act Issuances Compilation which is published biennially in the FEDERAL REGISTER, and as described in sections (a)(7) and (e)(4)(D) of the Act;

(d) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of U.S.C. Title 13;

(e) To a recipient who has provided NACIC with advance adequate written

assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(f) To the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or designee to determine whether the record has such value;

(g) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of that agency or instrumentality has made a written request to NACIC specifying the particular information desired and the law enforcement activity for which the record is sought;

(h) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(i) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(j) To the Comptroller General or any of his authorized representatives in the course of the performance of the duties of the General Accounting Office; or

(k) To any agency, government instrumentality, or other person or entity pursuant to the order of a court of competent jurisdiction of the United States or constituent states.

#### § 1801.52 Criminal penalties.

(a) *Unauthorized disclosure.* Criminal penalties may be imposed against any officer or employee of NACIC who, by virtue of employment, has possession of or access to NACIC records which contain information identifiable with an individual, the disclosure of which is prohibited by the Privacy Act or by these rules, and who, knowing that disclosure of the specific material is so

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prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive same.

(b) *Unauthorized maintenance.* Criminal penalties may be imposed against any officer or employee of NACIC who willfully maintains a system of records without meeting the requirements of section (e)(4) of the Privacy Act, 5 U.S.C. 552a. The Coordinator and the Director of NACIC are authorized independently to conduct such surveys and inspect such records as necessary from time to time to ensure that these requirements are met.

(c) *Unauthorized requests.* Criminal penalties may be imposed upon any person who knowingly and willfully requests or obtains any record concerning an individual from NACIC under false pretenses.

**Subpart G—Exemptions**

**§ 1801.63 Specific exemptions.**

Pursuant to authority granted in section (k) of the Privacy Act, the Director, NACIC has determined to exempt from section (d) of the Privacy Act those portions and only those portions of all systems of records maintained by NACIC that would consist of, pertain to, or otherwise reveal information that is:

(a) Classified pursuant to Executive Order 12958 (or successor or prior Order) and thus subject to the provisions of 5 U.S.C. 552(b)(1) and 5 U.S.C. 552a(k)(1);

(b) Investigatory in nature and compiled for law enforcement purposes, other than material within the scope of section (j)(2) of the Act; provided however, that if an individual is denied any right, privilege, or benefit to which they are otherwise eligible, as a result of the maintenance of such material, then such material shall be provided to that individual except to the extent that the disclosure would reveal the identity of a source who furnished the information to the United States Government under an express promise of confidentiality, or, prior to the effective date of this section, under an implied promise of confidentiality;

(c) Maintained in connection with providing protective services to the

President of the United States or other individuals pursuant to 18 U.S.C. 3056;

(d) Required by statute to be maintained and used solely as statistical records;

(e) Investigatory in nature and 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 the disclosure of such material would reveal the identity of a source who furnished information to the United States Government under an express promise of confidentiality, or, prior to the effective date of this section, under an implied promise of confidentiality;

(f) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(g) Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the United States Government under an express promise of confidentiality, or, prior to the effective date of this section, under an implied promise of confidentiality.

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