possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear. In other cases, what may appear to be a relevant and necessary piece of information may become irrelevant in light of further investigation. In addition, during the course of an investigation, the investigator may obtain information that related primarily to matters under the investigative jurisdiction of another agency, and that information may not be reasonably segregated. In the interest of effective law enforcement, DSS investigators should retain this information, since it can aid in establishing patterns of criminal activity and can provide valuable leads for Federal and other law enforcement agencies.

(iv) From subsections (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) because this system is exempt from subsection (d) of the Act, concerning access to records. These requirements are inapplicable to the extent that these records will be exempt from these subsections. However, DSS has published information concerning its notification and access procedures, and the records source categories because under certain circumstances, DSS could decide it is appropriate for an individual to have access to all or a portion of his/her records in this system of records.

(b) System identifier: V5-05.

(1) System name: Joint Personnel Adjudication System (JPAS).

(2) Exemption: (i) 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 may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(ii) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), and (e)(1).

(3) Authority: 5 U.S.C. 552a(k)(5).

(4) Reasons: (i) From subsections (c)(3) and (d) when access to accounting disclosures and access to or amendment of records would cause the identity of a confidential source to be revealed. Disclosure of the source’s identity not only will result in the Department breaching the promise of confidentiality made to the source but it will impair the Department’s future ability to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources can be assured that a promise of confidentiality will be honored, they will be less likely to provide information considered essential to the Department in making the required determinations.

(ii) From subsection (e)(1) because in the collection of information for investigatory purpose, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. It is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision-making by the Department when making required suitability, eligibility, and qualification determinations.

[64 FR 49660, Sept. 14, 1999, as amended at 70 FR 38009, July 1, 2005]

EFFECTIVE DATE NOTE: At 76 FR 22808, April 25, 2011, §321.13 was amended by removing and reserving paragraph (b), effective July 5, 2011.

§321.14 DSS implementation policies.

(a) General. The implementation of the Privacy Act of 1974 within DSS is as prescribed by DoD Directive 5400.11. This section provides special rules and information that extend or amplify DoD policies with respect to matters of particular concern to the Defense Security Service.

(b) Privacy Act rules application. Any request which cites neither Act, concerning personal record information in a system or records, by the individual to whom such information pertains, for access, amendment, correction, accounting of disclosures, etc., will be governed by the Privacy Act of 1974, DoD Directive 5400.11 and these rules.
Office of the Secretary of Defense § 321.14

Exclusively. Requests for like information which cite only the Freedom of Information Act will be governed by the Freedom of Information Act, DoD Regulation 5400.7R. Any denial or exemption of all or part of a record from notification, access, disclosure, amendment or other provision, will also be processed under these rules, unless court order or other competent authority directs otherwise.

(c) First Amendment rights. No DSS official or element may maintain any information pertaining to the exercise by an individual of his rights under the First Amendment without the permission of that individual unless such collection is specifically authorized by statute or necessary to and within the scope of an authorized law enforcement activity.

(d) Standards of accuracy and validation of records. (1) All individuals or elements within DSS which create or maintain records pertaining to individuals will insure that they are reasonably accurate, relevant, timely and complete to serve the purpose for which they are maintained and to assure fairness to the individual to whom they pertain. Information that is not pertinent to a stated purpose of a system of records will not be maintained within those records. Officials compiling investigatory records will make every reasonable effort to assure that only reports that are impartial, clear, accurate, complete, fair and relevant with respect to the authorized purpose of such records are included, and that reports not meeting these standards or serving such purposes are not included in such records.

(2) Prior to dissemination to an individual or agency outside DoD of any record about an individual (except for a Freedom of Information Act action or access by a subject individual under these rules) the disclosing DSS official will by review, make a reasonable effort to assure that such record is accurate, complete, timely, fair and relevant to the purpose for which they are maintained.

(e) The Defense Clearance and Investigations Index (DCII). It is the policy of DSS, as custodian, that each DoD component or element that has direct access to or contributes records to the DCII (V5-02), is individually responsible for compliance with the Privacy Act of 1974 and DoD Directive 5400.11 with respect to requests for notification, requests for access by subject individuals, granting of such access, request for amendment and corrections by subjects, making amendments or corrections, other disclosures, accounting for disclosures and the exercise of exemptions, insofar as they pertain to any record placed in the DCII by that component or element. Any component or element of the DoD that makes a disclosure of any record whatsoever to an individual or agency outside the DoD, from the DCII, is individually responsible to maintain an accounting of that disclosure as prescribed by the Privacy Act of 1974 and DoD Directive 5400.11 and to notify the element placing the record in the DCII of the disclosure. Use of and compliance with the procedures of the DCII Disclosure Accounting System will meet these requirements. Any component or element of DoD with access to the DCII that, in response to a request concerning an individual, discovers a record pertaining to that individual placed in the DCII by another component or element, may refer the requester to the DoD component that placed the record into the DCII without making an accounting of such referral, although it involves the divulging of the existence of that record. Generally, consultation with, and referral to, the component or element placing a record in the DCII should be effected by any component receiving a request pertaining to that record to insure appropriate exercise of amendment or exemption procedures.

(f) Investigative operations. (1) DSS agents must be thoroughly familiar with and understand these rules and the authorities, purposes and routine uses of DSS investigative records, and be prepared to explain them and the effect of refusing information to all sources of investigative information, including subjects, during interview, in response to questions that go beyond the required printed and oral notices. Agents shall be guided by DSS Handbook for Personnel Security Investigations in this respect.

2 See footnote 1 to 321.1.
(2) All sources may be advised that the subject of an investigative record may be given access to it, but that the identities of sources may be withheld under certain conditions. Such advise-ment will be made as prescribed in DSS Handbook for Personnel Security In-vestigations, and the interviewing agent may not urge a source to request a grant of confidentiality. Such pledges of confidence will be given sparingly and then only when required to obtain information relevant and necessary to the stated purpose of the investigative information being collected.

(g) Non-system information on individuals. The following information is not considered part of personal records systems reportable under the Privacy Act of 1974 and may be maintained by DSS members for ready identification, contact, and property control purposes only. If at any time the information described in this paragraph is to be used for other than these purposes, that information must become part of a reported, authorized record system. No other information concerning individuals except that described in the records systems notice and this paragraph may be maintained within DSS.

(1) Identification information at doorways, building directories, desks, lockers, name tags, etc.

(2) Identification in telephone directories, locator cards and rosters.

(3) Geographical or agency contact cards.

(4) Property receipts and control logs for building passes, credentials, vehicles, weapons, etc.

(5) Temporary personal working notes kept solely by and at the initiative of individual members of DSS to facilitate their duties.

(h) Notification of prior recipients. Whenever a decision is made to amend a record, or a statement contesting a DSS decision not to amend a record is received from the subject individual, prior recipients of the record identified in disclosure accountings will be notified to the extent possible. In some cases, prior recipients cannot be located due to reorganization or deactivations. In these cases, the personnel security element of the receiving Defense Component will be sent the notification or statement for appropriate action.

(i) Ownership of DSS Investigative Records. Personnel security investigative reports shall not be retained by DoD recipient organizations. Such reports are considered to be the property of the investigating organization and are on loan to the recipient organization for the purpose for which requested. All copies of such reports shall be destroyed within 120 days after the completion of the final personnel security determination and the completion of all personnel action necessary to implement the determination. Reports that are required for longer periods may be retained only with the specific written approval of the investigative organization.

PART 322—NATIONAL SECURITY AGENCY/CENTRAL SECURITY SERVICES PRIVACY ACT PROGRAM

Sec. 322.1 Purpose and applicability. 322.2 Definitions. 322.3 Policy. 322.4 Responsibilities. 322.5 Procedures. 322.6 Establishing exemptions. 322.7 Exempt systems of records.


SOURCE: 68 FR 15757, May 27, 2003, unless otherwise noted.

§ 322.1 Purpose and applicability.

(a) This part implements the Privacy Act of 1974 (5 U.S.C. 552a), as amended and the Department of Defense Privacy Program (32 CFR part 310) within the National Security Agency/Central Security Service (NSA/CSS); establishes