



DEPARTMENT OF THE NAVY

HUMAN RESOURCES OFFICE

368 SOUTH AVENUE

PENSACOLA FLORIDA 32508-5124

IN REPLY REFER TO:

HROPNCLAINST 5211.1

CODE 09A1

18 JUN 1996

HRO PENSACOLA INSTRUCTION 5211.1

From: Director, Human Resources Office (HRO), Pensacola

Subj: RELEASE OF INFORMATION TO INDIVIDUALS UNDER THE PRIVACY ACT (PA)

Ref: (a) SECNAVINST ~~5211.5C~~ 5211.5D
(b) SECNAVINST ~~5720.42D~~ 5720.42E 42F
(c) SECNAVINST 5820.8A
(d) OPNAVNOTE 5211

CH-1
20 Oct 98

Encl: (1) System Manager Responsibilities
(2) PA Exemptions
(3) Record of Disclosure, OPNAV 5211/9

1. Purpose. To set forth policy and responsibility concerning collecting, safeguarding, maintaining, using, accessing, and releasing personal information to individuals.

2. Discussion. The Privacy Act of 1974, implemented within the Department of the Navy (DON) by reference (a), preserves the privacy of personal information contained in official records. Reference (a) defines the DON policy for the protection of individuals from unwarranted invasions of privacy and outlines the detailed procedures for granting an individual access to personal information pertaining to themselves. No record contained in a system of records shall be disclosed to a third party 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 falls within one of the areas delineated in paragraph 14 of reference (a). Some conditions where nonconsensual disclosures may be appropriate are:

a. Disclosures within Department of Defense (DOD): To DOD and DON personnel with a need to know in the performance of their official duties, when this use is compatible with the purpose for which the record is maintained.

b. Disclosures required by Freedom of Information Act (FOIA): Those records required to be released to members of the public under the provisions of the FOIA which is governed by reference (b).

c. Disclosures for Established Routine Uses: Established routine uses are published in the Federal Register and are published periodically by reference (d). Records covered under an established routine use may be disclosed outside DON if the disclosure is for an established routine use.

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d. Disclosures to protect the health or safety of an individual: This provides specific guidance for the release of information under certain emergency conditions.

e. Disclosures to Congress: A record may be disclosed to either House of Congress at the request of either the Senate or House of Representatives as a whole; to any committee, subcommittee, or joint committee of Congress if the disclosure pertains to a matter within the legislative or investigative jurisdiction of the committee, subcommittee, or joint committee. Disclosures may not be made to a member of Congress requesting in his/her individual capacity. However, for Members of Congress making inquiries on behalf of individuals who are subjects of records, a "Blanket Routine Use" has been established to permit disclosure. Blanket Routine Uses are published in reference (d).

f. Disclosures under Court Order: Requests involving litigation will be coordinated through Chief of Naval Education and Training (CNET) General Counsel and should be handled in accordance with references (a) through (c). Records may normally be disclosed under the order of a court of competent jurisdiction. Court orders must bear the signature of a federal, state, or local judge. Orders signed by court clerks or attorneys are not deemed to be orders of a court of competent jurisdiction. Any such request for information should be forwarded to HRO Resources Management and Administrative Support Department for coordination with CNET.

3. Definitions

a. Access: The review or copying of a record or parts thereof contained in a system of records by any individual.

b. Agency: For the purpose of disclosing records subject to the PA between or among DOD components, DOD is considered a single agency. For all other purposes, DON is considered an agency within the meaning of the PA.

c. Disclosure: The transfer of any personal information from a system of records 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.

d. Individual: A living citizen of the United States (U.S.) or alien lawfully admitted to the U.S. for permanent residence. The legal guardian of an individual has the same rights as the individual and may act on his or her behalf. No rights are vested in the representative of a deceased person under

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reference (a) and the term "individual" does not embrace an individual acting in a nonpersonal capacity, i.e., sole proprietorship or partnership.

e. Individual Access: Access to information pertaining to the individual by the individual or his/her designated agent or legal guardian.

f. Member of the Public: Any individual or party acting in a private capacity.

g. Official Use: Within the context of this instruction, this term is used when DON officials and employees have a demonstrated need for use of any record or the information contained therein in the performance of their official duties.

h. Personal Information: Information about an individual that is intimate or private to the individual, as distinguished from information related solely to the individual's official functions or public life.

i. PA Request: A request from an individual for notification as to the existence of, access to, or amendment of records pertaining to that individual. These records must be maintained in a system of records. The request must indicate that it is being made under the PA to be considered a PA request.

j. Record: Any item, collection, or grouping of information about an individual that is maintained by a naval activity including, but not limited to, the individual's education, financial transactions, and medical, criminal, or employment history, and that contains the individual's name or other identifying particulars assigned to the individual, such as a finger or voice print or a photograph.

k. System Manager: An official who has overall responsibility for a system of records. He/she may serve at any level in DON. If more than one official is indicated as a system manager, initial responsibility resides with the manager at the appropriate level, i.e., for local records, at the local activity.

l. System of Records: A group of records under the control of a DON activity from which information is retrieved by the individual's name or by some identifying number, symbol, or other identifying particular assigned to the individual.

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4. General Information

a. Collection. To the greatest extent possible, collect information for systems of records directly from the individual to whom the record pertains if the record may be used to make an adverse determination about the individual's rights, benefits, or privileges under the Federal programs. Before requesting an individual to provide the Social Security Number (SSN), the individual must be advised whether providing the SSN is mandatory or voluntary; by what law or other authority the SSN is solicited; and what uses will be made of the SSN. If other information is solicited from the individual, a PA statement also must be provided to him/her.

b. Recordkeeping. A record maintained in a system of records must be accurate, relevant, timely, complete, and necessary.

c. Disclosure. Per reference (a), the following information normally may be disclosed from civilian employee records of CONUS employees: full name, present and past position titles and occupational series, present and past grades, present and past salary rates (including performance awards or bonuses and allowances and differentials), past duty stations, present duty station and future duty station (if finalized), including room numbers, shop designations, or other identifying duty information regarding buildings or places of employment (unless the duty stations have been determined by the DON to be sensitive, routinely deployable, or located in a foreign territory), position descriptions, identification of job elements, and those performance standards (but not actual performance appraisals) which would not interfere with law enforcement programs or severely inhibit DON effectiveness. Exemptions listed herein as enclosure (2) apply.

d. Release Authority. Officials having cognizance over the requested subject matter are authorized to respond to requests for notification, access, and/or amendment of records.

e. Time Limits. PA request for access shall be acknowledged within 10 working days after receipt, and the requester advised within 30 days of the decision to grant/deny access.

f. Denial Authority. Within DON, only those officials specifically designated by the chief official are authorized to deny requests, either in whole or in part, for notification, access and amendment.

g. Disclosure Accounting. Enclosure (3), DON Disclosure Accounting Form, is provided to maintain an accurate record of

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all disclosures of personal information made (including those made with the consent of the individual) except those made to non personnel for use in performing their official duties; and **those** made under **FOIA**. Its use and disclosure is governed by reference (a). An entry should be made each time the record or any information from the record is viewed by, or furnished to any person or agency, other than the subject of the record and those exceptions identified above. This document shall be retained for the life of the record to which it pertains, or five years after the date of disclosure, whichever is longer.

h. Disposal of PA Data. Disposal of records from a PA system of records should be so as to prevent inadvertent disclosure. Disposal methods are considered adequate if the records are rendered unrecognizable or beyond reconstruction (i.e., such as tearing, burning, melting, chemical decomposing, burying, pulping, pulverizing, shredding, or mutilating). Magnetic media may be cleared by completely erasing, overwriting, or degaussing the tape.

5. Responsibility

a. The Head of the Resources Management and Administrative Support Department is the HRO PA Coordinator and will direct requests to the proper systems managers for processing. The PA Coordinator is responsible for monitoring the overall program implementation and operation and for compiling the annual report.

b. Service Center Managers shall:

(1) Appoint a PA Coordinator to locally handle the processing and coordination of requests for information,

(2) Identify to HRO Pensacola the appointed Coordinator and maintain direct liaison, as necessary, with the HRO Pensacola PA Coordinator to ensure the most effective and efficient program possible,

(3) Process PA requests in accordance with reference (a) and supplemental guidance provided by HRO Pensacola,

(4) Ensure that all personnel are fully aware of reference (a) and of the policies, procedures, and responsibilities associated with disclosure of personal information, and

(5) Provide data for annual reporting of PA requests to HRO Pensacola, upon request.

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c. Department Heads will familiarize themselves and subordinate personnel with references (a) through (c) and this instruction prior to disclosing personal information contained in a system of records. In compliance with paragraph 14c of reference (a), an accurate record must be maintained of all disclosures made from a record (including those made with the consent of the individual) except those made to DOD personnel for use in performing their official duties; and those made under FOIA. All written requests for information under the FOIA shall be forwarded to the Resources Management and Administrative Support Department for coordination and reply.

d. Designated Systems Managers shall comply explicitly with the responsibilities defined by enclosure (1) of this instruction.

e. All HRO personnel are responsible for safeguarding the rights of others, as follows:

(1) Not disclosing any information contained in a system of records by any means of communication to any person or agency, except as authorized by reference **(a)**,

(2) Not maintaining unpublished official files which would fall under the provisions of reference (a), and

(3) Safeguarding the privacy of individuals and confidentiality of personal information contained in a system of records.

6. Forms. Enclosure (3) may be obtained by contacting HRO Pensacola, Resources Management and Administrative Support Department.


J. B. FOSTER

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SYSTEM MANAGER RESPONSIBILITIES

1. Ensure that all personnel who in any way have access to (handling, reviewing, or copying of records within the system) or are engaged in the development of procedures for the handling of records are informed of requirements of the PA and any unique safeguarding or maintenance procedures peculiar to the system.
2. Determine the content of the system. Ensure compliance with the purpose for maintaining the system and the rules for operating the system.
3. Make sure the system has been published in the Federal Register.
4. Answer requests for information from individuals.
5. Maintain accountability records of disclosures.
6. Evaluate information requested/maintained for relevance and necessity.
7. Perform an annual review of the system with the records system notice published in the Federal Register and consider the following:
 - a. Relationship of each item of information to the statutory or regulatory purpose for which the system is maintained.
 - b. Specific adverse consequences of not collecting each category of information.
 - c. Possibility of meeting the information requirement through use of information not individually identifiable or through sampling techniques.
 - d. Length of time the information is needed.
 - e. Cost of maintaining the data compared to the risk or adverse consequences of not maintaining it.
 - f. Necessity and relevance of the information to the mission of the command.
8. Inform HRO Pensacola PA Coordinator of nonroutine PA requests.

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PRIVACY ACT EXEMPTIONS

There are no PA Systems of Records which are automatically exempt. No system of records within DON shall be considered exempt until Chief of Naval Operations (CNO) has approved the exemption and an exemption rule has been published as a final rule in the Federal Register. To be eligible for a specific exemption, the record must meet the corresponding criteria.

a. CLASSIFIED RECORDS: All systems of records maintained by the DON and its components shall be exempted from the requirements of 5 U.S.C. 552a (d) pursuant to 5 U.S.C. 552a (k) (1), to the extent that the system contains any information properly classified under Executive Order (E.O.) 12356 and that is required by that E.O. to be kept secret in the interest of national defense or foreign policy. DON PA systems of records which contain classified information automatically qualify for a (k) (1) exemption, without an established exemption rule.

b. GENERAL EXEMPTIONS: Those that authorize the exemption of a system of records from all but specifically identified provisions of 5 U.S.C. 552a. (These exemptions are provided by subsection (j) of 5 U.S.C. 552a.)

- (1) Central Intelligence Agency
- (2) Law Enforcement

c. SPECIFIC EXEMPTIONS: Those that allow a system of records to be exempt from only a few designated provisions of 5 U.S.C. 552a. (These exemptions are provided by subsection (k) of 5 U.S.C. 552a.)

- (1) Classified
- (2) Investigatory Materials for Law Enforcement Purposes
- (3) Protective Services
- (4) Statistical Research
- (5) Investigatory Materials for Determining Suitability, Eligibility of Qualifications for Federal Civilian Employment, Military Service
- (6) Test or Examination Material
- (7) Evaluation Material

Contact your PA Coordinator to review exemption criteria to determine if information requested potentially falls under one of these exemptions.



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