


8 September 1975

MEMORANDUM FOR: Members of the Privacy Act Working Group

SUBJECT : Requirements for System Managers

Herewith is a revised summary of Privacy Act requirements for record system(s) managers as discussed at the last Working Group session held on 4 September 1975. The purpose of the paper is to set forth general guidelines to be used by record system managers in developing and documenting procedures to implement the provisions of the Act. Although these requirements will be included in the Agency Privacy Act regulations now being drafted, I suggest that this paper be issued as a formal working guide to all components that maintain record systems subject to the Act. I would, therefore, appreciate receiving your comments and suggestions, etc., by close of business on 10 September 1975.

  
Chairman,  
Privacy Act Working Group

STATINTL

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PRIVACY ACT REQUIREMENTS  
FOR SYSTEMS MANAGERS

A. NOTICE REQUIREMENTS

1. Annually provide notice to the public with the Federal Register of the existence and character of each system of records maintained by any agency which contains information on citizens of the United States and aliens admitted for permanent residence (hereafter referred to as individuals) that is retrieved by individual name or unique identifier such as a social security number or other agency assigned reference number.
  - a. The purpose of the notice is to provide individuals with sufficient information about records systems to enable the individual to make a determination if system of records may contain information about him. Moreover, the notice must define the purpose for which the records are maintained and the intended uses of the information and who or what agencies have access to the records. The statement of uses (hereafter referred to as routine uses) and the users is to inform individuals what the information is used for and the authorized dissemination of individual records to other agencies.
  - b. Any use or dissemination of information about an individual which is not provided for under the provision of the Act covering Conditions of Disclosure (Section 3, subsection (b)) requires the written consent of the individual prior to the

use or disclosure of the information. Following is a summary of the Conditions of Disclosure which constitute the criteria for use or disclosure of individual information when written consent of the individual is not required:

- (1) For disclosure to employees of the agency which maintains the record who have a need for the record in the performance of their required duties;
- (2) For disclosures which are required under the Freedom of Information Act;
- (3) For disclosures made for a routine use as defined in the notice of records systems published in the Federal Register;
- (4) For disclosures made to the Bureau of Census;
- (5) For disclosures to a person or another agency for statistical research or reporting purposes;
- (6) For disclosures to the National Archives;
- (7) For disclosures for a law enforcement activity provided the head of the agency or instrumentality has made written request to CIA.
- (8) For disclosures upon a showing of "compelling circumstances" affecting the health or safety of an individual;
- (9) For disclosures to the Congress or the Comptroller General;
- (10) For disclosures pursuant to a court order.

Management and Budget, and Congress whenever a new system is established and before changes to existing systems are effective. (See paragraph 3 for definition of changes to existing systems.)

3. Public notice must be given in the Federal Register for a period of not less than 30 days before a new system or changes to existing systems become operative.
  - a. Change to an existing system is defined as any new use or alteration in the system capability which has the effect of expanding the availability of information in the system, e.g.:
    - (1) any change in a routine use;
    - (2) an expansion of:
      - (a) the categories of records maintained,
      - (b) the categories of individuals on whom records are maintained, and
      - (c) the dissemination of the information;
    - (3) Alteration of the way the system operates or its location(s) in a way that the process by which individuals can gain access to, or request changes in, records is changed;
    - (4) Change of the equipment configuration in a way that creates potential for greater access, e.g., if add a telecommunications capability.

B. DISCLOSURE REQUIREMENTS

1. Disclosure of individual information may be made without written consent of the individual concerned only if the information falls within the conditions of disclosure defined under Section 3, subsection (b) of the Act (see Notice Requirements, paragraph A.(1)b.).

a. System Managers must develop and document procedures that:

- (1) control dissemination in accordance with conditions of disclosure;

- (2) ensure that no information is disclosed that falls outside the conditions of disclosure without obtaining prior consent of the individual concerned;
- (3) establish safeguards to protect data from unauthorized alteration; and
- (4) examine records prior to authorized disclosure to ensure that information is accurate and relevant to the request.

C. ACCOUNTING REQUIREMENTS

1. Systems Managers must maintain an accounting of disclosures of an individual record except disclosures made to Agency personnel and those made under the Freedom of Information Act, as amended. The accounting must include the following information:
  - a. The date, purpose and a listing of the record(s) disclosed.
  - b. The name and address of the person or agency to whom the disclosure was disclosed.
2. The purpose of the accounting is threefold:
  - a. To inform the individual who asks: where, to whom and the purpose of the disclosure.
  - b. To ensure that disclosures are compatible with stated uses and users published in the notice of record system published in the Federal Register.
  - c. To inform the recipients of information (other agencies) when a record(s) which has been previously disclosed has been amended or when there is a dispute between the agency of record and the individual concerning the accuracy of the record.

D. INDIVIDUAL ACCESS REQUIREMENTS

1. The Act provides for an individual to have access to records on him which are maintained by the Agency except those records which have been exempted:

- a. Polygraph records.
- b. Portions of records which would reveal intelligence sources and methods.
- c. Records or information provided by foreign, Federal, state or other public agencies or authorities.
- d. Records which meet exemption criteria as established in Section 3, subsection (k). Following is a summary of these exemptions:

- (1) Documents properly classified in accordance with Executive Order 11652;
- (2) Investigatory material compiled for law enforcement purposes;
- (3) Records maintained in connection with providing protective services to the President of the United States;
- (4) Records required by statute to be maintained and used solely as statistical records;
- (5) 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, but only to the extent that disclosure

of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Act, 27 September 1975, under an implied promise that the identity of the source would be held in confidence;

- (6) 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 of fairness of the testing or examination process;
- (7) Evaluation material used to determine potential for promotion in the Armed Services.

E. SEARCH REQUIREMENTS

1. The Information Review Staff will forward individual requests to Systems Managers who shall be responsible for determining if the record system(s) contains information on the individual.
2. The System Manager shall report to the Information Review Staff:
  - a. the fact that a record search has been performed;
  - b. copies of all records found in the search that are releasable; and
  - c. an explanatory statement recommending exemption of records or portions thereof when, in the judgment of the System Manager, the information meets the exemption criteria as defined in paragraph D, above.

1. The Information Review Staff will forward requests to amend an individual record to the appropriate System Manager who shall make a determination to amend or not to amend the individual record.

a. The System Manager shall:

(1) Amend the individual record according to established procedures; and

(2) Notify all recipients of information previously disseminated on the individual of the amendment;

or, if a decision is made not to amend the record:

(3) Prepare a statement for forwarding to the individual the reasons why the amendment should not be effected, and forward it to the Information Review Staff.

(4) Such statement shall be written and processed so that the Information Review Staff can respond to the individual requester within 10 working days of the receipt of amendment request by the Agency.

G. MANAGEMENT STATISTICS/REPORTING REQUIREMENTS

Effective 23 September 1975, each Systems Manager shall be responsible for reporting, on a weekly basis to the Information Review Staff, the following information:

1. Professional/clerical man-hours devoted to:

a. Implementing the Privacy Act

b. Processing Privacy Act requests

2. Cost of additional equipment/hardware to implement the Act.

3. Cost of additional forms or forms modifications.