DEPARTMENT OF THE NAVY

NAVAL SEA SYSTEMS COMMAND
WASHINGTON, D.C. 20362-5101

IN REPLY REFER TO

NAVSEAINST 5211.2
OPR 09T5
15 July 1992

NAVSEA INSTRUCTION 5211.2

From: Commander, Naval Sea Systems Command

Subj: PRIVACY ACT

Ref: (a) 5 U.S.C. §552a
(b) SECNAVINST 5211.5C

Encl: (1) Definitions
(2) Systems of Records and System Managers at Headquarters
(3) Privacy Act Notice Labels and a sample Record of Disclosure
(4) Annual Privacy Act Report Format and Guidance

1. Purpose. To update procedures and responsibilities for maintaining personal information and records per the Privacy Act, reference (a). This revision:

a. Assigns a new standard subject identification number to the instruction.

b. Revises the list of officials who may grant and deny Privacy Act requests.

c. Updates the list of Systems of Records and Managers, enclosure (2).

d. Revises the format of the Annual Privacy Act Report.

e. Adds responsibilities (salient requirements prescribed by reference (b)) of System Managers and employees who are responsible for the collection, use, or maintenance of personal information of other persons.

2. Cancellation. NAVSEAINST 5263.1 of 27 June 1982.

3. Scope. This instruction issues procedures and responsibilities as a supplement to reference (a) to manage privacy matters at Command headquarters and its shore activities. Procedures and requirements concerning a contractor using, having access to, operating, or maintaining a system of records to accomplish a Command mission are prescribed by DoD 5400.11-R and references (a) and (b).

4. Background. The Privacy Act of 1974, reference (a), establishes both individual rights involving personal data maintained by the Federal Government and employee responsibilities relating to the collection, maintenance, and use of personal information kept in a systems of records. The Act is implemented within the U.S. Navy by reference (b). Enclosure (1) provides a definition of basic program elements. Enclosure (2) is a partial listing of Systems of Records previously published in the Federal Register and the Systems Managers maintaining the files at headquarters. Sample labels to improve file maintenance and protection of privacy files are illustrated at enclosure (3). Annual reporting format is provided at enclosure (4).

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5. Criminal Penalties. An official, employee, or person may be found guilty of a misdemeanor and fined up to $5,000 for knowing and willful unauthorized disclosure of information, for maintaining an unauthorized system of records, or for obtaining access to any record concerning another individual under false pretenses. Individuals who have access to personal data in consonance with their official duties have a moral and legal obligation to protect the privileged status of such information. Whenever feasible, a notice should be posted on record containers and files or be given to a requesting official or employee at the time they are provided access to information protected by the Privacy Act. Enclosure (3) provides a sample statement and a sample pressure sensitive label that may be used to advise restricted use of the records.

6. Collection of Personal Information. Personal information should be collected directly from the subject individual whenever possible when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal Programs. Collection of personal information must be limited to that information which is necessary and lawful. A Privacy Act statement (paragraph 11g(4) below) is required for every solicitation of personal information that is placed in a system of records. Review applicable portions of reference (b) before requesting Social Security Numbers for any purpose.

7. Release to Third Parties and Disclosure Accounting. Information protected by the Privacy Act can be released to third parties only with the written request or consent of the individual to whom the information pertains unless disclosure is authorized under one of the exceptions noted in reference (b), paragraph 7b. One of the most commonly used exceptions is disclosure to Department of Defense personnel having a need to know in the performance of their official duties.

a. A record of all disclosures of Privacy Act information to third parties, including disclosures requested by, or with the approval of, the subject of the record, must be kept **except when a disclosure is made: (a)** to DoD components or their agents, **(b)** to non-DoD agencies in connection with the Personnel Exchange Program, **(c)** pursuant to the Freedom of Information Act, **(d)** releasing gross statistics concerning a population in a systems of records for statistical research or reporting purposes, and **(e)** to a consumer reporting agency.

b. The record of disclosures must be attached prominently to each record to which it pertains and be retained for either 5 years after the date of the most recent disclosure thereon or the life of the record, whichever is longer. A sample Record of Disclosure is included at enclosure (3).

c. If a request is made for information under the Privacy Act and the Privacy Act does not apply, the request may be treated as a request under the Freedom of Information Act (FOIA) (5 U.S.C. §552). However, it must be noted that the FOIA (exemption b6) exempts disclosure of information which, if disclosed, would result in an unwarranted invasion of privacy of an individual.

8. Schedule for Disposal of Privacy Act Files. Disposal schedules for closed cases are prescribed in General Records Schedule 14 issued by the National Archives as:

a. Retain denial case files (Privacy Act Coordinators) for 5 years.

b. Retain disclosure accounting records per paragraphs 7(a) and 7(b) above.

c. Retain request files granting access to all requested records, general administrative files, and report files for 2 years.

d. Review General Records Schedule 14 for various retention schedules applied to amendment case files. (The Schedule is maintained by local records management officials.)

9. Officials Having Authority to Deny and Release Privacy Act Information

a. Initial Denial Authority. When information sought relates to matters within their respective areas of responsibility or chain of command, the following officials are authorized to grant and deny requests for copies of records, to review records, or to amend records, either in whole or in part. Initial denial authority cannot be delegated except per reference (b).

(1) Commander, Naval Sea Systems Command

(2) Vice Commander and Executive Assistant to the Vice Commander

(3) Acting Commander (in the absence of the Commander or Vice Commander)

(4) Director, Human Resources Office, Crystal City (see paragraph 10)

(5) Deputy Commander and Deputy Director, Naval Nuclear Propulsion Directorate (OP-00N/SEA 08)

b. Release Authority. The following officials are authorized to furnish copies of clearly releasable records, to make such records available for examination, or to amend inaccurate records upon receipt of a perfected Privacy Act request.

(1) Commanding officers and heads of Shore Activities of the Command (these officials may delegate releasing authority)

(2) Head, Freedom of Information and Privacy Program Division (SEA 09T5)

(3) Systems Managers

10. Special Procedure for Human Resources Records. The Director, Human Resources Office, Crystal City (HRO-CC) is authorized to release, deny, or partially deny requests for records in the custody of HRO-CC that are contained in a *system of records* upon receiving appropriate written concurrence from the Privacy Act Coordinator of the Command having primary interest in the requested records. Further delegation of *initial denial authority* is not authorized. In the absence of

concurrence, the Director or the Director's designee shall forward a proposed response to the appropriate Privacy Act Coordinator per paragraph 11h(7) below.

11. Action

a. Privacy Act Coordinator (SEA 09T5). The Head, Freedom of Information and Privacy Program Division (SEA 09T5) is designated as the Privacy Act Coordinator and is responsible for implementing, administering and supervising the program per reference (b).

(1) Point of Contact. Serve as the principal point of contact on all Privacy Act matters.

(2) Reviews. Review proposed documentation, internal directives, forms, records, practices, and procedures to ensure conformity with Privacy Act requirements.

(3) Systems Notices. Coordinate to ensure that proposed System Notices are published in the Federal Register.

(4) Liaison. Maintain liaison with Department of Defense Privacy Act Coordinators and records management officials.

(5) Training. Provide or ensure training of personnel that manage or maintain personal information of employees.

(6) Reporting Coordination. Compile the Annual Privacy Act Report, DD-A(A&AR)1379(5211) prepared by Headquarters components and shore activities.

(7) Denial Action and Case Files. Coordinate or prepare proposed denial actions and maintain case files of Privacy Act requests denied by the Commander, Vice Commander, or Executive Assistant to the Vice Commander.

b. Office of Counsel (SEA OOL). Provide legal advice, as required, and review proposed denials of Privacy Act requests.

c. Security Office (SEA 09T). Provide guidance for safeguarding records and perform a risk analysis of proposed automated Systems of Records.

d. Financial Management Policy and Procedures Office (SEA 01P). Receive checks or money orders collected at Headquarters in payment of duplication fees required per reference (b). Forward payments to the Navy Regional Finance Center.

e. Contracts Directorate Divisions. Ensure that the provisions of paragraph 13d of reference (b) are incorporated into any solicitation involving design, development, or operation of a System of Records on individuals on behalf of the Command at Headquarters. Submit an Annual Privacy Act report to SEA 09T5 for each system.

f. Systems Managers

(1) Supervision. Ensure that all personnel having access to the system of records understand their responsibilities under the Privacy Act and understand any unique safeguarding or maintenance procedures peculiar to that system.

(2) Operation Rules. Determine the content of and set rules for operating the system. Enclosures (4) and (5) of reference (b) provide sample rules.

(3) Systems Notice. Ensure that a system notice has been published in the Federal Register prior to establishment of a system of records. Before implementing any additions or significant changes to an existing system of records, ensure that the systems notice has been amended in the Federal Register.

(4) Acknowledgement of Requests. Provide a written acknowledgement of a request for notification, access, or amendment of a record within 10-working days from date received if the request cannot be completed within that time period. Clearly identify the request and advise the individual when they may expect action. If proposed action will involve a partial or total denial of the request, notify SEA 09T5 (or the appropriate shore activity Privacy Act Coordinator).

(5) Granting Requests. When appropriate, grant requests for notification, access, or amendment of the requesting individual's record maintained in your system of records. Responses should normally be issued within 30-workdays after the initial receipt of the request.

(6) Denying Requests. Coordinate partial or total denial responses with SEA 09T5 (or the appropriate shore activity Privacy Act Coordinator). Coordinating action with SEA 09T5 is not required when an individual expressly agrees to accept *clearly releasable portions* of the data requested (the action taken is not a *partial denial)*. Determinations and required action should be completed within 30-working days after the initial receipt of the request.

(7) Accountability Records. Maintain disclosure accounting records when required by paragraphs 7(a) and 7(b) above.

(8) Purging Records. Evaluate information proposed for each system for relevance and necessity during the developmental phase of a new system or when an amendment to an existing system is proposed. Destroy unnecessary personal information and correct inaccurate data in existing files.

(9) Financial Control and Fees. Collect fees for copies of records per reference (b) and provide appropriate financial control of receipts. Forward payments to the local Navy Regional Finance Center.

(10) Reporting. Forward Annual Privacy Act Reports to SEA 09T5. Privacy Act Coordinators will collect data from Systems Managers at shore activities and submit a consolidated report to SEA 09T5.

g. Individual Employees, Managers, and Supervisors

(1) Safeguarding Records. Prevent disclosure of personal information about other individuals unless disclosure is authorized per reference (b).

(2) Unauthorized Records. Do not maintain unofficial records of personal information about other individuals.

(3) Rules of Conduct. Review and comply with rules in enclosure (2) to reference (b).

(4) Privacy Act Statement. Always provide a Privacy Act statement when requesting individuals to furnish personal information about themselves to be included in a system of records. A statement is required, regardless of the medium used to collect the information (e.g., forms, personal interviews, stylized formats, telephone interviews, or other methods). Specific requirements and procedures relating to Privacy Act statements are on page 21 of reference (b) under the heading, "Collection of Personal Information from Individuals."

h. Command Shore Activities

(1) Program Implementation. Issue or update the local Privacy Act Program instruction per references (a) and (b), including procedures in by this instruction.

(2) Privacy Act Coordinator. Designate a Privacy Act Coordinator. Forward the current organizational title, name, mailing address, and commercial and DSN telephone numbers of the designee to the Command (SEA 09T5). Notify SEA 09T5 when changes occur, or at least annually with the Annual Privacy Act Report.

(3) Financial Control and Fees. Collect fees for copies of records per reference (b) and provide appropriate financial control of receipts. Forward payments to the local Navy Regional Finance Center.

(4) Annual Privacy Act Report. Submit an Annual Privacy Act Report, enclosure (4), to SEA 09T5 no later than 31 January each year.

(5) Systems Notices. When appropriate, forward proposed or revised Systems Notices to Chief of Naval Operations (OP-09B30) via the Command (SEA 09T5).

(6) Acknowledgement of Requests. Provide a written acknowledgement of a request for notification, access, or amendment of a record within 10-working days from date received. Clearly identify the request and advise the individual when they may expect action on the request. If proposed action will involve a partial or total denial of the request, process the request per the following paragraphs.

(7) Preparing Partial or Total Denial Recommendations. Send proposed partial or total denial recommendations to the Command (SEA 09T5). Forwarding recommendations to SEA 09T5 is not required when an individual expressly agrees to

accept *clearly releasable portions* of the data requested (the action taken is not a *partial denial)*. Forward recommendations within 30 calendar-days after an acknowledgement date. Bulky shipments that otherwise qualify under postal regulations may be sent fourth-class mail when timeliness is not a factor. Include, as a minimum, the following data in proposed partial or total denial recommendations:

(a) Brief Sheet. Explain the issues. Include the governmental purpose jeopardized by releasing or amending the requested data. Identify the applicable Systems Notice and the relevant disclosure exemption published in the notice that pertain to the requested records.

(b) Original Request. Attach the incoming request and any other relevant correspondence.

(c) Copies of Records. Attach two copies of the subject records. Use a yellow highlighter to mark portions of the proposed information to be denied on one copy only and indicate the applicable exemption in the margin.

(d) Other. Include any other relevant reference or background data.

12. Reports. Consolidation of Annual Privacy Reports at Command Headquarters is assigned Reports Control Symbol DD-A(A&AR)1379(5211) by reference (b).

13. Forms. Pressure sensitive labels, Optional Form 86 and 86A (Personal Data, NSN 7540-01-019-9455 (5 x 3") and NSN 7540-01-019-9453 (3 1/2 x 1")) may be obtained from GSA Supply Depots. OPNAV 5211/9 (Disclosure Accounting Form, SN 0107-LF-013-8400) may be requisitioned per NPFC P-2002D. The labels are available from the Forms and Directives Supply Room (Room 1W33, NC-2) for use by headquarters offices.

KENNETH C. MALLEY

Distribution:
SNDL FKP COMNAVSEASYSCOM Shore Activities (less FKP6B)

NAVSEA Special List Y4

Copy to:
SNDL C21 NAVMATDATASYSGRU
C84 COMNAVSEASYSCOM Shore Based Detachments (less C84J)
FT88 EDOSCOL

Naval Publications and Printing Service Office, NDW

SEA 09D31 (5)
09P22 (50)

STOCKED: COMNAVSEASYSCOM (SEA 09P22)

DEFINITIONS

Access. To be allowed to look at or obtain copies of those parts of a System of Records relating to oneself that are not withholdable pursuant to the Privacy Act and exemptions published in the Federal Register for that particular System of Records.

Amendment. To have information within a System of Records relating to oneself corrected whenever sufficient evidence of an error is provided.

Initial Denial Authority (IDA). Officials who have authority to deny requests for notification, access, and amendment of records. Within the Command, IDA is limited to officials listed in paragraph 9 of this instruction.

Notification. To be told if there is a record or records containing information pertaining to oneself within a System of Records.

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.

Release Authority. Systems managers charged with custody of records at all levels may approve access to or an amendment of a record per reference (b).

System of Records. A group of records under government control from which information *"is" (as opposed to "can be")* retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The capability to retrieve information by personal identifiers alone does not subject a system of records to the Privacy Act and this instruction. Personal information cannot be placed in a System of Records unless it is relevant and necessary to accomplish a purpose required by a federal statute or an Executive Order.

System Manager. The official who has overall responsibility for records within a particular system. The official may serve at any level in the Department of the Navy. A list of managers for frequently used systems of records maintained by the Command are at enclosure (2).

System Notice. A notice published in the Federal Register as an *official public notice* concerning the existence of a system of records. System Notices for Navy records (including a list of Navy's exempt systems) and Office of Personnel Management's (OPM) notices affecting the Navy are listed in OPNAVNOTE 5211 serial 09B30/1U512531 of 28 January 1991 (updated periodically, Subj: Current Privacy Act Issuances). DoD 5400.11-R and reference (b) contain procedures for submitting a System Notice. Note that several types of Privacy Act records are covered by notices published by other Federal agencies in their government-wide Systems Notices. In addition to OPM notices covering Official Personnel Folder records, DOL has control authority over FECA files and EEOC has control authority over EEO files.

SYSTEMS NOTICE	SYSTEMS NAME	CUSTODIAN'S CODE	TELEPHONE NUMBER	SYSTEM MANAGER
N01070-13	NUCLEAR PROGRAM INTERVIEW AND SCREENING	08	602-1695	J. KIELL
N04385-1	IG INVESTIGATORY SYSTEM	OON1	602-2318	JEROME ERVIN DARRELL W. STANLEY
N04385-2	HOTLINE PROGRAM CASE FILES	OON1	602-2318	JEROME ERVIN DARRELL W. STANLEY
N05210-1	CORRESPONDENCE FILES	035 09T5	602-1556 703-602-3841	WILLIAM SCOTT JUDY P. WISE
N05300-1	ORGANIZATION LOCATOR AND SOCIAL ROSTER	OOP2 O1M Directorate AAs	602-3374 602-1992 Directory	NORA A. SIBERT ROBERT CHADDUCK Cognizant
N05300-2	ADMINISTRATIVE PERSONNEL MANAGEMENT SYSTEM	ADMINISTRATIVE OFFICERS DIVISIONS, BRANCHES, etc. Supervisors	Directory	Cognizant
N05340-1	COMBINED FEDERAL CAMPAIGN AND NAVY RELIEF SOCIETY	09D Directorates	602-1082 Directory	ANDRIA D. POST As Assigned Annually
N05370-2	STATEMENTS OF EMPLOYMENT AND FINANCIAL INTEREST	OOLD	602-1235	KENNETH J. WERNICK
N05512-1	VEHICLE CONTROL SYSTEM	09D2	602-3316	MARY LOU FINDISH
N05521-1	ACCESS CONTROL SYSTEM	OOG 09T	602-1576 602-3207	PAT BROWN E. R. HAINES
N05527-2	SECURITY INSPECTION AND VIOLATION SYSTEM	09T2	602-3211	WAYNE T. ROSE
N05800-1	LEGAL OFFICE LITIGATION AND CORRESPONDENCE FILES	OOE1 OOLD	602-4370 602-1235	LCDR T. G. BAKER KENNETH J. WERNICK
N05890-8	RADIATION INJURY CLAIM RECORDS	08	602-1695	J. KIELL
N07320-1	PROPERTY ACCOUNTABILITY RECORDS	09D2 09P2	602-1367 602-0430	JAMIE L. SMITH PRESTON C. MONROE

PRIVACY ACT NOTICE

1. Whenever feasible, the following notice should be posted on record containers and files or given to a requesting official or employee at the time they are provided access to information protected by the Privacy Act.

PRIVACY ACT NOTICE

THE INFORMATION BEING PROVIDED TO YOU IN THE NORMAL COURSE OF THE PERFORMANCE OF YOUR DUTIES IS SUBJECT TO THE PROVISIONS OF THE PRIVACY ACT OF 1974. UNDER NO CIRCUMSTANCE MAY YOU DISCLOSE ANY PERSONAL OR PRIVILEGED INFORMATION CONTAINED THEREIN, EXCEPT AS AUTHORIZED BY THE PRIVACY ACT OR SECNAVINST 5211.5C.

SECTION 3(i) OF THE PRIVACY ACT OF 1974 (PUBLIC LAW 93-579, 5 U.S.C. 552a(i)), PROVIDES THAT ANY PUBLIC EMPLOYEE WHO WILLFULLY DISCLOSES INFORMATION IN VIOLATION OF THE ACT, OR ANY PERSON WHO USES FALSE PRETENSES TO OBTAIN INFORMATION COVERED BY THE ACT, SHALL BE GUILTY OF A MISDEMEANOR AND FINED NOT MORE THAN $5,000.

2. The following sample is available as a pressure sensitive label with an adhesive backing. The label is available in two sizes, (5 x 3" and 3 1/2 x 1"), for use on file folders, floppy disks, or portable records storage containers.

PERSONAL DATA

TO BE TREATED IN A CONFIDENTIAL MANNER

Use is

RESTRICTED

When not in use, it is to be stored in a locked cabinet or secure area. It must be disposed of properly. Employees who violate the privacy safeguards may be subject to disciplinary actions, a fine of up to $5,000, or both (P.L. 93-579)

5086-101 Option Form 86 (5-76)

DISCLOSURE ACCOUNTING FORM

RECORD OF DISCLOSURE

UNAUTHORIZED DISCLOSURE OF PERSONAL INFORMATION FROM THIS RECORD COULD SUBJECT THE DISCLOSURE TO CRIMINAL PENALTIES

1. This is to remain a permanent part of the record described below.
2. An entry must be made each time the record or any information from the record is viewed by, or furnished to any person or agency, except:
   a. Disclosure to DOD or DON personnel having a need to know in the performance of their official duties.
   b. Disclosure of items listed in paragrapns 13b(2)(e) and (f) of SECNAVINST 5211.5 series.

TITLE & DESCRIPTION OF RECORD

DATE OF DISCLOSURE	METHOD OF DISCLOSURE	PURPOSE OR AUTHORITY	NAME & ADDRESS OF PERSON OR AGENCY TO WHOM DISCLOSED, WITH SIGNATURE IF MADE IN PERSON

SAMPLE

OPNAV 5211/9 (MAR 92) S/N 0107-LF-013-8400

FORMAT AND GUIDANCE FOR THE ANNUAL PRIVACY ACT REPORT

FOR

HEADQUARTERS COMPONENTS

Guidance. Complete the information in the blank format below and return the report to SEA 09T5. Retain a reproduced copy for your records. Paragraph 1 in the format is self-explanatory. Paragraph 2 requests information regarding requests for access or amendment of records that are **filed by an individual's name, Social Security Number, or other personal identifier.** Count only those requests that cite the Privacy Act and relate to requests received from individuals who requested access to records regarding themselves when the records were filed as indicated above.

ANNUAL PRIVACY ACT REPORT

1. General Information

SYSTEM NOTICE NUMBER: N_____

SYSTEM NAME:_____

CUSTODIAN RESPONSIBLE FOR THE RECORD SYSTEM:_____

CODE:_____

TELEPHONE NO:_____

2. Individual Exercise of Rights of Access and Amendment. Indicate in the spaces below the number of times individuals requested access or amendment to records from systems of records about themselves. **Count only those instances where the individual has cited the Privacy Act or an implementing instruction.**

a. Total number of requests for **access** in a system of records: _____

b. Number of access requests wholly or partially granted:_____

c. Total number of requests for **amendment** of records in a systems of records: _____

d. Number of amendment requests wholly or partially granted:_____

FORMAT AND GUIDANCE FOR THE PRIVACY ACT REPORT

FOR

SHORE ACTIVITIES

Guidance. Complete the information in the blank format below and forward to headquarters, ATTN: SEA 09T5, to be received no later than 1 February. Retain a reproduced copy for your records. Paragraph 1 in the format is self-explanatory. Paragraph 2 requests information regarding requests for access or amendment of records that are **filed by an individual's name, Social Security Number, or other personal identifier.** Count only those requests that cite the Privacy Act and relate to requests received from individuals who requested access to records regarding themselves when the records were filed as indicated above.

ANNUAL PRIVACY ACT REPORT

1. Point of Contact. Provide the name, title and telephone number of the individual who is responsible for preparing this report:

NAME:_____

TITLE:_____

TELEPHONE NO.(DSN)_____ COMMERCIAL_____

2. Individual Exercise of Rights of Access and Amendment. Indicate in the spaces below the number of times that individuals requested access or amendment to records from systems of records about themselves. Count only those instances where the individual has **cited the Privacy Act or an implementing instruction.**

a. Total number of requests for **access** in a system of records: _____

b. Number of access requests wholly or partially granted:_____

c. Total number of requests for **amendment** of records in a systems of records: _____

d. Number of amendment requests wholly or partially granted:_____