

(b) *E-Government Act of 2002.* The E-Government Act of 2002 (Pub. L. 107–347) directs agencies to conduct reviews of how privacy issues are considered when purchasing or creating new IT systems or when initiating new electronic collections of IIF. See DOD Memo of 28 Oct 05, subject “DOD PIA Guidance” regarding DOD PIA Guidance.

(c) *Purpose.* To ensure IIF is only acquired and maintained when necessary and the supporting IT that is being developed and used protects and preserves the privacy of the American public and to provide a means to assure compliance with applicable laws and regulations governing employee privacy. A PIA should be prepared before developing or procuring a general support system or major application that collects, maintains, or disseminates IIF from or about DON civilian or military personnel.

(d) *Scope.* The PIA incorporates privacy into the development life cycle so that all system development initiatives can appropriately consider privacy issues from the earliest stages of design. During the early stages of the development of a system, both the system owner and system developer shall work together to identify, evaluate, and resolve any privacy risks. Accordingly,

(1) System owners must address what data is to be used, how the data is to be used, and who will use the data.

(2) System developers must address whether the implementation of the owner’s requirements presents any threats to privacy.

(e) *Requirements.* Before developing, modifying or establishing an automated system of records that collects, maintains, and/or disseminates IIF, DON activities shall conduct a PIA to effectively address privacy factors. Guidance is provided at <http://www.doncio.navy.mil>.

(f) *Coverage.* E-Government Act of 2002 (Pub. L. 107–347) mandates the preparation of a PIA either before developing or procuring IT systems that collect, maintain, or disseminate IIF from or about members of the public or initiating a new electronic collection of IIF for 10 or more persons of the public. (NOTE: The public DOES NOT in-

clude DON civilian or military personnel, but DOES cover family members of such personnel, retirees and their family members, and DON contractors.) A PIA should be prepared before developing, modifying, or procuring IT systems that collect, maintain, or disseminate IIF from or about members of the public or initiating a new electronic collection of IIF for 10 or more members of the public. A PIA shall also be prepared before developing, modifying or procuring a general support system or major application that collects, maintains, or disseminates IIF from or about DON civilian and military personnel.

(g) *PIA not required.* (1) Legacy systems do not require completion of a PIA. However, DON CIO may request a PIA if the automation or upgrading of these systems puts the data at risk.

(2) Current operational systems do not require completion of a PIA. However, if privacy is a concern for a system the DON CIO can request that a PIA be completed. If a potential problem is identified concerning a currently operational system, the DON will use all reasonable efforts to remedy the problem.

§ 701.119 Privacy and the web.

DON activities shall consult SECNAVINST 5720.47B for guidance on what may be posted on a Navy Web site.

§ 701.120 Processing requests that cite or imply PA, Freedom of Information (FOIA), or PA/FOIA.

Individuals do not always know what Act(s) to cite when requesting information. Nonetheless, it is DON policy to ensure that they receive the maximum access to information they are requesting. Accordingly, processing guidance is as follows:

(a) *Cite/imply PA.* (1) Individuals who cite to the PA and/or seek access to records about themselves that are contained in a PA system of records that is retrieved by their name and personal identifier, will have their request processed under the provisions of the PA.

(2) If there is no “Exemption Claimed for this System,” then the record will be released to the requester unless: it contains classified information ((k)(1)

applies); was compiled in anticipation of litigation ((d)(5) applies); or contains information about another person. Although there is no "privacy" exemption under the PA, delete any information about other persons and explain in the response letter that "information not about you" was deleted from the response. There is no PA exemption to claim and no appeal rights to be given.

(b) *Cite/imply FOIA.* (1) Individuals who cite/imply FOIA when seeking access to records about themselves will have their request processed under PA, if the records they seek are contained in a PA system of records that is retrieved by their name and personal identifier. However, if the system of records notice contains an exemption rule, the release of information will be adjudicated using both PA and FOIA, ensuring that the individual receives the maximum amount of information allowable under the Acts.

(2) Individuals who cite/imply FOIA and seek access to records about themselves that are not contained in a PA system of records that is retrieved by their name and personal identifier will have their request processed under FOIA.

(3) Individuals who cite to the FOIA, but do not seek access to records about themselves, will have their request processed under FOIA.

(c) *Cite to PA and FOIA.* Individuals who cite to both PA and FOIA and seek access to records contained in a PA system of record retrieved by their name and personal identifier, will have their request as follows:

(1) If the system of records does not cite to an exemption rule, does not contain classified information, or was not compiled in anticipation of litigation, the entire file is considered releasable under the PA. However, if the file contains information about another person, that information shall be withheld and the requester apprised that information about another individual has been deleted, since the information is not about them. Since no PA exemption exists for protecting privacy, no exemption rule can be cited and appeal rights do not have to be given.

(2) If the system of records does cite to a PA exemption rule, claim the ex-

emption and process the request under the provisions of the FOIA, ensuring the requester receives the maximum release of information allowed under the Acts.

(d) *Processing time limits.* DON activities shall normally acknowledge receipt of PA requests within 10 working days and respond within 30 working days.

§ 701.121 Processing "routine use" disclosures.

(a) *"Routine use" disclosure.* Individuals or organizations may seek a "routine use" disclosure of information from a DON PA system of records if the system provides for such a disclosure.

(1) The request must be in writing and state that it is being made under a "routine use" established by a specific PA system of records notice. For example: "Under the "routine use" provisions of PA systems notice N05880-1, Security Incident System, that allows release of information to individuals involved in base incidents, their insurance companies, and/or attorneys for the purpose of adjudicating a claim, I am seeking access to a copy of my vehicle accident report to submit a claim to my insurance company. Information needed to locate this record is as follows * * *."

(2) The individual is provided information needed to adjudicate the claim. A release authority may sign the response letter since a release of responsive information is being disclosed under a "routine use," there is no "denial" of information (*i.e.*, PA/FOIA exemptions do not apply), and no appeal rights cited.

(3) DON activities shall retain a copy of the request and maintain a disclosure accounting of the information released. (See § 701.111.)

(b) *Failure to cite to a "routine use."* Individuals or organizations that seek access to information contained in a DON PA system of records under PA/FOIA, but who have access under a "routine use" cited in the systems notice, shall be apprised of the "routine use" access and offered the opportunity to resubmit a "routine use" request, rather than having information denied under PA/FOIA. DON activities shall not make a "routine use" disclosure