

COMSCINST 5211.1A	COG CODE N9	DATE 9 AUG 1994
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DEPARTMENT OF THE NAVY
COMMANDER MILITARY SEALIFT COMMAND
WASHINGTON NAVY YARD BLDG 210
901 M STREET SE
WASHINGTON DC 20398-5540

COMSCINST 5211.1A
N00P
9 August 1994

COMSC INSTRUCTION 5211.1A

Subj: PERSONAL PRIVACY RIGHTS OF INDIVIDUALS AND THEIR PERSONAL RECORDS

Ref: (a) SECNAVINST 5720.42E
(b) SECNAVINST 5211.5D

1. Purpose. To assign responsibilities and provide procedures for compliance with the Privacy Act of 1974 as specifically delineated by this instruction and references (a) and (b). This instruction is a complete revision and should be read in its entirety.

2. Cancellation. COMSCINST 5211.1.

3. Policy

a. The policy of Department of Navy (DON) is to ensure that all personnel at all echelons of authority comply with the purpose and requirements of the Privacy Act of 1974 and preserve the privacy of the individuals from unwarranted invasions. The requirements are:

(1) To permit individuals to know what records have reference to them that are collected, maintained or disseminated within the purview of the Privacy Act. Individuals will have access to and have copies made of all or any portions of such records and to obtain amendment of such records when a discrepancy is noted;

(2) To keep only the personal information that is timely, accurate, complete and relevant to the purpose for which it was collected;

(3) To maintain only systems of records which have been published in the Federal Register;

(4) To permit individuals to request an administrative review of decisions that deny them access to or refuse to amend their records;

(5) To assure that adequate safeguarding is provided to prevent misuse of personal information in records and

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(6) To assure that requests by individuals for notification, access or amendment to their records are acted on promptly even though such requests may be minor in nature.

b. The maintenance of records will be such that the command maintains in its records only such information about an individual as is reasonably necessary to accomplish a Navy function or program as authorized by law or executive order. Systems or records maintained by MSC are listed in the Privacy Act Issuances Compilation of the Federal Register. Records will be maintained with accuracy, relevance, timeliness and completeness as is reasonably necessary to ensure fairness in any determination concerning that person. Deletion of personal information records is encouraged wherever possible and is to be accomplished when records no longer serve their intended purpose and where specifically not required to be maintained by regulation. Records created in administering the Privacy Act Program will be disposed of under dictates of references (a) and (b).

c. The Record Systems Manager for all COMSC headquarters record systems is Commander, Military Sealift Command. Heads of field activities are designated record systems managers for their activities.

4. Applicability. This instruction applies to all COMSC headquarters and field activity personnel. Its provisions govern collection, maintenance, use and dissemination of personal information on, access to, copies of or amendment or deletion of records pertaining to themselves under the provisions of the Privacy Act of 1974.

5. Definitions. For the purpose of this instruction, the following meanings apply.

a. Privacy Act is the Privacy Act of 1974, as amended, 5 U.S.C. §552a.

b. Record is any item, collection or grouping of information about an individual that includes an individual identifier and that is maintained by or for the DON, or by an element of DON, operating forces or shore establishment. This includes, but is not limited to, the individual's name, or symbol. It could be another form of identification particular to the individual, such as a finger or voice print, a photograph, education, financial transactions, medical history and criminal or employment history. It does not distinguish between data and information.

c. System of Records is a group of records under the control of a manager 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. Control determines possession and established accountability; and separates agency records from records which are maintained personally by employees, but which are not agency records.

d. Matching Program is any computerized comparison of either two or more automated systems of records, or a government system of records with non-Federal records. It is the automated comparison of data bases of personal records in individuals. Examples of purpose include a method used to uncover waste, fraud or abuse in Federal Programs, to locate specific individuals, to verify the accuracy of data or to determine eligibility for Federal or State benefits.

e. Disclosure is the conveyance of information about an individual, by any means of communication or to an individual who is not the subject of the record. In the context of the Privacy Act and this instruction, this term only applies to personal information as part of a system of records.

(1) Generally, prohibition to disclosure applies to persons and other agencies and can be oral, written, electronic or mechanical transfers of the contents of a record.

(2) Permitted exceptions are a need-to-know basis within the agency, disclosure is required by the Freedom of Information Act (FOIA) or by routine use (e.g., use which is compatible with the purpose for which it was collected).

f. Maintain when used in the context of records on individuals, includes collect, file or store, preserve, retrieve update or change, use or disseminate.

g. Safeguard is administrative, technical and physical precaution which must be established to assure security and confidentiality of records and prevent threats or hazards to security or integrity which could result in substantial harm, embarrassment, inconvenience or unfairness to any individual on whom information is maintained. Each system of records and each document containing personal information must be stored in either a locked cabinet or room, or a limited access area when not used by an employee when performing his official duties as related to that document. Correspondence files with personal information must be maintained in official office containers or the official activity correspondence filing system. The Records Management Division maintains the official correspondence files. At Headquarters, all other records in formally approved record systems such as organizational Locators/Rosters and Social Rosters must be stored as appropriate.

h. Individual, under the Privacy Act only, is a living citizen of the United States, or an alien lawfully admitted to permanent residence; or a member of the U.S. military service, including a minor. The legal guardian of an individual or a parent of a minor has the same rights as the individual, and may act on behalf of the individual concerned under this instruction. Members of the military service, once properly accepted, are not minors for purposes of this instruction.

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i. System Manager is the official who has overall responsibility for records within a particular system. He/she may serve at any level in DON. Systems managers are indicated in the published record system notices.

j. Custodian is the official who has direct responsibility to the Record System Manager and who maintains and controls all personal information in his/her cognizance under Privacy Act provisions. The Flag Secretary, Freedom of Information and Privacy Act (FOI/PA) Coordinator, Safety Officer, Deputy Inspector General, Command Master Chief, Plans Programs Division, Deputy Equal Employment Officer, Special Assistant for Reserve Affairs are examples of custodian for record system maintained in MSC.

k. Routine Use is the disclosure of a record outside the Department of Defense (DOD) for a use compatible with the purpose for which the information was collected and maintained by the DOD. Routine use must be included in the Published System Notice for the system of records involved.

l. Privacy Act Warning Labels are labels used to indicate particular records are subject to the Privacy Act and require protection from unauthorized disclosure. Under subsection (e) (10) of the Privacy Act, agencies are required to establish appropriate safeguards for records. Brightly colored warning labels should be adopted for internal use on applicable files.

m. Privacy Act Advisory Statements (PAS) inform an employee what requested individual information will be used for, the circumstances where there can or will be mandatory disclosure, the statutory or other authority number under which it is being solicited. A PAS must be used for all forms when updating information, questionnaires, survey sheets or reports which solicit personal information from individuals.

6. Responsibilities

a. Individuals. All MSC personnel, as individuals, either through working with personal records or requesting information from those records are subject to the Privacy Act of 1974. Therefore, all MSC personnel are required to become familiar with this instruction and the rules of conduct established by reference (b).

b. Commandeer, Military Sealift Command, is the denial authority for all personal information requests made under references (a) and (b).

c. The Director, Congressional and Public Affairs directs the Privacy Act Program and assures that it is implemented under established regulations.

d. The FOI/PA Officer is designated the COMSC Privacy Act coordinator and as such will:

(1) Assist MSC personnel in implementing and executing the purpose and requirements of the Privacy Act of 1974 and serve as the principal point of contact on all Privacy Act matters.

(2) Issue guidance to field activities.

(3) Determine which records are systems of records within the scope of the Privacy Act.

(4) Monitor record systems for accuracy and proper maintenance, under the Privacy Act.

(5) Assure that MSC personnel are properly educated and trained in the provisions of the Privacy Act.

(6) Initiate action to correct potential Privacy Act violations.

(7) Assist custodians in reviewing written responses and proposed denials.

(8) Assist MSC personnel in their requests to establish or alter records systems.

(9) Maintain liaison with Director, Records Management Division as appropriate (e.g., maintenance and disposal procedures and standards, forms and reports).

(10) Prepare the annual report for submission to CNO (N09B30) no later than 1 March, unless otherwise specified by CNO.

e. Field Activity Heads will:

(1) Implement and administer a Privacy Act Program.

(2) Appoint a FOI/PA Coordinator whose duties are listed under paragraph 6f and the applicable FOIA instruction and notify COMSC FOI/PA Coordinator of the incumbent. COMSC FOI/PA Coordinator will be notified promptly of any changes of those personnel, their locations and telephone and facsimile numbers.

(3) Operate and maintain record systems in accordance with requirements and restrictions of the Privacy Act.

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(4) Appoint custodians in writing, to maintain their record systems in accordance with paragraph 6I.

f. Field Coordinators will:

(1) Serve as the principal point of contact on all FOI/PA matters.

(2) Provide training for activity personnel in the provisions of the Privacy Act.

(3) Assist record systems managers and custodians to accomplish their responsibilities as necessary.

(4) Initiate action to correct potential Privacy Act violations.

(5) Prepare the annual report, using OPNAV 5211/10, for submission to the COMSC FOI/PA Coordinator no later than 1 February of each year, unless otherwise specified by the COMSC FOI/PA Coordinator.

g. Privacy Act Forms Manager. The COMSC FOI/PA Coordinator and Director, Records Management Division, will review internal directives and forms for conformity with references (a) and (b).

h. Record System Manager. The Director, Records Management Division, will operate and maintain record systems according to the requirements and restrictions of the Privacy Act as implemented by reference (b).

i. Custodian will:

(1) Assure that all personnel whose duties involve responsibilities for the design, development, maintenance, custody or use of systems of records are familiar with the provisions of this instruction and reference (b).

(2) Assure that the system has been published in the Federal Register and that any additions or significant changes are published in the Federal Register.

(3) Coordinate with the Privacy Act forms manager to assure the preparation of appropriate directives, forms, Privacy Act statements and procedures, etc., needed in the record systems operation.

(4) Assure records are safeguarded under this instruction.

(5) Review record systems under his/her responsibility to assure that each personal record is in fact required. This will be done at least one time each year. If information is not required, recommend to the appropriate authority that its use be terminated.

(6) Assure that individuals are provided access to their nonexempt records according to paragraph 7a(1) and that all other requests are handled within the dictates of paragraphs 7a(2) and 7a(3) of this instruction.

(7) Maintain the required disclosure accounting of records for which he/she is responsible under paragraph 7b.

7. Disclosure Procedures

a. General

(1) All written requests from individuals for access to records pertaining to themselves which are contained in a system of records maintained by the command will be granted by the system custodian within 10 working days from the date the FOI/PA Coordinator receives the request.

(2) Requests for access to their records which are not contained in a system of records will be processed under FOIA.

(3) If the requested information is part of a system of records maintained by MSC, it may be released to a third party only with a written request and the consent of the individual to whom the information pertains, unless disclosure is not authorized under exceptions to reference (b).

(4) If the requested information is not part of a system of records maintained by MSC, it will be processed under reference (a).

b. Disclosure Accounting. Reference (b) requires an accurate account of names and addresses of persons or agencies to whom disclosures are made. FOI/PA Coordinator, COMSC, is tasked with this responsibility at Headquarters. A records disclosure accounting will be maintained for each system of records released at each field activity.

c. Disclosure Procedures. Requests from nonroutine users and requests to amend or delete records must be in writing. Determinations and required action or requests shall be completed within 30 days of receipt of the request by the FOI/PA coordinator. All determinations to provide requests to nonroutine users, for any amendments to or deletions of records, will be prepared and submitted through the FOI/PA Coordinator to COMSC for signature. Recommendations for partial denial and whole denial will follow the same course of action.

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8. Alterations and New Systems Procedures. A Federal Register Notice is required for any new system or changes to present systems. A request to make a notice must follow the format in reference (b). The request and accompanying report and notice must be approved 90 days prior to planned implementation. Request packages from field activities will be forwarded to COMSC FOI/PA Coordinator.

9. Action

a. This instruction is effective immediately. Heads of field activities will implement the provisions of this instruction within 60 days.

b. Heads of field activities will assure that procedures similar to paragraph 7c are adopted locally. They have authority to grant access to information, amend or delete specific records; however, any recommendation to withhold information must follow procedures in paragraph 7c above.

10. Form. OPNAV 5211/10 is available from Chief of Naval Operations (N09B30), Pentagon, Washington DC 20350-2000.

11. Report. The reporting requirement prescribed in this instruction is assigned Report Control Symbol DD-DA&M(A)1379 and is approved for 3 years from the date of this instruction.

Distribution:

COMSCINST 5000.19

List I (Case A, B)

SNDL 41B (MSC Area Commanders)
41C (MSC Subarea Commanders)
41D3 (MSC Offices)
41F (MSCCENTACT)
41G (COMFSRON)
41K (MSC Units)
41L (COMPSRONs)
41M (MSC TAGOS Units)