§ 701.112 “Blanket routine uses.”

In the interest of simplicity, economy, and to avoid redundancy, DOD has established “DOD Blanket Routine Uses.” These “blanket routine uses” are applicable to every PA system of records notice maintained within DOD, unless specifically stated within a particular systems notice. “DOD Blanket Routine Uses” are downloadable from http://www.privacy.navy.mil (Notices) and are published at the beginning of the Department of the Navy’s FEDERAL REGISTER compilation of record systems notices.

§ 701.113 PA exemptions.

(a) Exempt systems of records. 5 U.S.C. 552a authorizes SECNAV to adopt rules designating eligible systems of records as exempt from certain requirements of the Act. This authorization has been delegated to CNO (DNS–36), who will be responsible for proposing an exemption rule. Exempt systems of records are identified at http://www.privacy.navy.mil.

(b) Exemption rule. No PA exemption may be established for a system of records until the system itself has established by publishing a notice in the FEDERAL REGISTER. This allows interested persons an opportunity to comment.

(c) Access. A PA exemption may not be used to deny an individual access to information that he/she can obtain under 5 U.S.C. 552.

(d) Exemption status. An exempt system of records that is filed in a non-exempt system of records retains its exempt status.

(e) Types of exemptions. There are two types of exemptions permitted by 5 U.S.C. 552a, general and specific exemptions.

(1) General exemptions allow a system of records to be exempt from all but specifically identified provisions of 5 U.S.C. 552a. They are:

(i) “(j)(1)”—this exemption is only available for use by CIA to protect access to their records.

(ii) “(j)(2)”—this exemption protects criminal law enforcement records maintained by the DON. To be eligible, the system of records must be maintained by a DON activity that performs, as one of its principal functions, the enforcement of criminal laws. For example, the Naval Criminal Investigative Service and military police activities qualify for this exemption. Criminal law enforcement includes police efforts to detect, prevent, control, or reduce crime, or to apprehend criminals and the activities of prosecution, court, correctional, probation, pardon, or parole authorities.

(A) This exemption applies to information compiled for the purpose of identifying criminal offenders and alleged criminal offenders and identifying data and notations of arrests; the nature and disposition of criminal charges; and sentencing, confinement, release, parole and probation status; information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with the identifiable individual; and reports identifiable to an individual, compiled at any stage of the enforcement process, from arrest, apprehension, indictment, or preferral of charges through final release from the supervision that resulted from the commission of a crime.
(B) The exemption does not apply to investigative records maintained by a DON activity having no criminal law enforcement duties as one of its principle functions; or investigative records compiled by any element concerning an individual’s suitability, eligibility; or, qualification for duty, employment, or access to classified information, regardless of the principle functions of the DON activity that compiled them.

(2) Specific exemptions permit certain categories of records to be exempted from specific provisions of 5 U.S.C. 552a. They are:

(i) “(k)(1)”: Information which is properly classified under E.O. in the interest of national defense or foreign policy.

NOTE: All DOD systems of records that contain classified information automatically qualify for (k)(1) exemption, without establishing an exemption rule.

(ii) “(k)(2)”: Investigatory material compiled for law enforcement purposes, other than material within the scope of exemption (j)(2). If an individual is denied any right, privilege, or benefit that he would otherwise be eligible, as a result of such material, such material shall be provided to such individual, except to the extent that the disclosure 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 September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(vi) “(k)(6)”: Testing and evaluation material used solely to determine individual qualifications for appointment or promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of the 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 September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(f) Detailed analysis of PA exemptions. A detailed analysis of each exemption can be found in the Department of Justice’s (DOJ’s) “Freedom of Information Act Guide & Privacy Act Overview” that appears on http://www.privacy.navy.mil.

§ 701.114 PA enforcement actions.

(a) Administrative remedies. Any individual who alleges that he/she has been affected adversely by a DON activity’s violation of 5 U.S.C. 552a and this subpart may seek relief from SECNAV through administrative channels. It is recommended that the individual first address the issue through the PA coordinator having cognizance over the relevant records or supervisor (if a Government employee). If the complaint is not adequately addressed, the individual may contact CNO (DNS–36) or CMC (ARSF), for assistance.

(b) Civil court actions. After exhausting administrative remedies, an individual may file a civil suit in Federal court against a DON activity for the following acts:

(1) Denial of an amendment request. The activity head, or his/her designee wrongfully refuses the individual’s request for review of the initial denial of an amendment or, after review, wrongfully refuses to amend the record.