

Department of the Navy, DoD

§ 701.111

(j) *Government Accountability Office (GAO)*. Records may be disclosed to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the GAO.

NOTE: Disclosure accounting is required.

(k) *Court orders*. Records may be disclosed without the consent of the person to whom they pertain under a court order signed by a judge of a court of competent jurisdiction. Releases may also be made under the compulsory legal process of Federal and state bodies having authority to issue such process.

NOTE: Disclosure accounting is required.

(1) The court order must bear the signature of a Federal, state, or local judge. Orders signed by court clerks or attorneys are not deemed to be orders of a court of competent jurisdiction. A photocopy of the order will be sufficient evidence of the court's exercise of its authority of the minimal requirements of SECNAVINST 5820.8A, "Release of Official Information for Litigation Purposes and Testimony by DON Personnel."

(2) When a record is disclosed under this provision and the compulsory legal process becomes a matter of public record, make reasonable efforts to notify the individual to whom the record pertains. Notification sent to the last known address of the individual is sufficient. If the order has not yet become a matter of public record, seek to be advised as to when it will become public. Neither the identity nor the party to whom the disclosure was made nor the purpose of the disclosure shall be made available to the record subject unless the court order has become a matter of public record.

(1) *Disclosures to consumer reporting agencies*. Certain information may be disclosed to a consumer reporting agency in accordance with section 3711(f) of Title 31.

NOTE: Certain information (e.g., name, address, SSN, other information necessary to establish the identity of the individual; amount, status, and history of the claim; and the agency or program under which the claim arose, may be disclosed to consumer reporting agencies (*i.e.*, credit reference companies as defined by the Federal Claims Collection Act of 1966, 31 U.S.C. 952d).

NOTE: Disclosure accounting is required.

§ 701.111 Disclosure accounting.

Disclosure accounting allows the individual to determine what agencies or persons have been provided information from the record, enable DON activities to advise prior recipients of the record of any subsequent amendments or statements of dispute concerning the record, and provide an audit trail of DON's compliance with 5 U.S.C. 552a. Since the characteristics of various records maintained within the DON vary widely, no uniform method for keeping disclosure accountings is prescribed. The primary criteria are that the selected method be one which will enable an individual to ascertain what persons or agencies have received disclosures pertaining to him/her; provide a basis for informing recipients of subsequent amendments or statements or dispute concerning the record; and, provide a means to prove, if necessary, that the activity has complied with the requirements of 5 U.S.C. 552a, this subpart and subpart G of this part.

(a) *Record of disclosures made*. DON activities must keep an accurate record of all disclosures made from a record (including those made with the consent of the individual) except those made to DOD personnel for use in performing their official duties and those disclosures made under FOIA. Accordingly, each DON activity with respect to each system of records under its control must keep a record of the date of the disclosure, a description of the information disclosed, the purpose of the disclosure, and the name and address of the person or agency to whom the disclosure was made. OPNAV Form 5211/9, Disclosure Accounting Form, is downloadable from <http://www.privacy.navy.mil> and should be used whenever possible to account for disclosures.

NOTE: DON activities do not have to maintain a disclosure accounting for disclosures made under (b)(1), to those officers and employees of an agency which maintains the record who have a need for the record in the performance of their duties or under (b)(2)—which is required under FOIA.

(b) *Retention*. Disclosure accountings must be kept for five years after the

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disclosure is made or for the life of the record, whichever is longer.

(c) *Right of access.* The record subject has the right of access to the disclosure accounting except when the disclosure was made at the request of a civil or criminal law enforcement agency or when the system of records has been exempted from the requirement to provide access to the disclosure accounting.

(d) *Correction.* A DON activity must inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of 5 U.S.C. 552a of any record that has been disclosed to the person or agency if an accounting of the disclosure was made. The exception is for intra-agency “need to know” and FOIA disclosures.

(e) *Accurate accounting.* A DON activity that does not keep a running tabulation of every disclosure at the time it is made, must be able to reconstruct an accurate and complete accounting of disclosures to be able to respond to requests in a timely fashion.

§ 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 been

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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.