

INFORMATION PAPER

Subject: THE PRIVACY ACT

1. Purpose. To provide an overview of The Privacy Act and the support provided by the Office of Counsel concerning the Act.

2. Key Points.

▶ The Privacy Act of 1974, 5 U.S.C. § 552a (2000) regulates the collection, maintenance, use, and dissemination of personal information by federal executive branch agencies.

▶ SECNAV INSTRUCTION 5211.5D provides the DON policies and procedures for The Privacy Act. It is the policy of DON to ensure that all its personnel comply with The Privacy Act and protect individuals from unwarranted invasions of privacy. MCO P5211.2B provides the policies and procedures governing the personal information contained in the systems of records kept by the Marine Corps. In addition, the website to request Privacy Act information for employees of the Navy or U.S. Marine Corps is <http://privacy.navy.mil>.

▶ DON collects, maintains, and uses only that personal information needed to support a Navy function or program as authorized by law or Executive Order and discloses this information only as authorized by The Privacy Act. Each Command has a principal point of contact on Privacy Act matters, designated as the Privacy Act Coordinator. The Privacy Act Coordinator (Coordinator) for Marine Corps Base, Quantico, is assigned to the Office of the Adjutant. The Office of Counsel provides legal guidance and interpretation to the Privacy Act Coordinator.

▶ The Privacy Act states that a federal agency "shall not disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains (subject to 12 exceptions)."

▶The Office of Counsel gives guidance on the interpretation of the 12 exceptions. The 12 exceptions are: (1) Disclosures within DoD, (2) Disclosures required by the Freedom of Information Act, (3) Disclosures for Established Routine Uses (there is a required Federal Register publication of each federal agency routine use of the records contained in the system, including the categories of users and purposes of such use), (4) Disclosures to the Bureau of Census, (5) Disclosures for Statistical Research or Reporting, (6) Disclosures to the National Archives and Records Administration, (7) Disclosures When Requested for Law Enforcement Purposes, (8) Disclosures to Protect the Health or Safety of an Individual, (9) Disclosures to Congress, (10) Disclosures to the Comptroller General for the GAO, (11) Disclosures under Court Order, and (12) Disclosures to Consumer Reporting Agencies.

▶When a request for information under The Privacy Act is received by the Privacy Act Coordinator, he/she processes it according to SECNAV INSTRUCTION 5211.5D and MCO P5211.2B, ascertaining that the individual to whom the information is being released to has the proper authorization or identification to receive the information.

▶A request for information shall be acknowledged in writing within 10 working days. Initial requests for information shall be completed, if reasonably possible, within 30 working days. If needed, the coordinator may authorize an extension of time by giving written notice to the requester.

▶If it is determined that the requested record shall be denied in part or whole, the coordinator shall coordinate with the FOIA/PA Coordinator at HQMC ARAD, and forward the denial to the denial authority. The Commandant of the Marine Corps has delegated the denial authority to commanding officers, Marine Corps districts.

▶If the denial authority agrees, the denial authority shall inform the individual by letter of the denial and the reasons. The denial letter should also inform the individual of the right to request administrative review by letter within 60 calendar days to the designated review authority. SECNAVI 5211.5D establishes procedures for individuals seeking administrative review. The denial authority will advise the requester in writing that they

may petition either Office of Personnel Management, General Counsel of the Navy, or Judge Advocate General of the Navy.

▶If the Coordinator needs guidance processing the request or interpreting the above statute or regulations, he/she should contact the Office of Counsel for assistance.

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