

## §317.112

fact, makes an adverse determination based on the record.

(d) *Failure to comply with the Privacy Act.* The agency fails to comply with any other provision of the Privacy Act or any rule or regulation promulgated under the Privacy Act and thereby causes the individual to be adversely affected.

### §317.112 Criminal penalties.

The Privacy Act (5 U.S.C. 552a(i)) authorizes three criminal penalties against individuals. All three are misdemeanors punishable by fines of \$5,000.

(a) *Wrongful disclosure.* Any member or employee of the agency who, by virtue of his or her employment or position, has possession of or access to records and willfully makes a disclosure to anyone not entitled to receive the information.

(b) *Maintaining unauthorized records.* Any member or employee of the agency who willfully maintains a system of records for which a notice has not been published.

(c) *Wrongful requesting or obtaining records.* Any person who knowingly and willfully requests or obtains a record concerning an individual from the agency under false pretenses.

### §317.113 Litigation status report.

Whenever a civil complaint citing the Privacy Act is filed against the agency in Federal court or whenever criminal charges are brought against an individual in Federal court (including referral to a court-martial) for any offense, the agency shall notify the Defense Privacy Office, DA&M. The litigation status report included in appendix C to this part provides a format for this notification. An initial litigation status report shall be forwarded providing, as a minimum, the information specified. An updated litigation status report shall be sent at each stage of litigation. When the court renders a formal disposition of the case, copies of the court's action, along with the litigation status report reporting the action, shall be sent to the Defense Privacy Office, DA&M.

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### §317.114 Annual review of enforcement actions.

(a) *Annual review.* The agency shall review annually the actions of its personnel that have resulted in either the agency being found civilly liable or an agency member being found criminally liable under the Privacy Act.

(b) *Reporting results.* The agency shall be prepared to report the results of the annual review to the Defense Privacy Office, DA&M.

## Subpart K—Reports

### §317.120 Report requirements.

(a) *Statutory requirements.* Subsection (p) of the Privacy Act requires a report and assigns to the Office of Management and Budget the responsibility for compiling the report.

(b) *OMB requirements.* (1) In addition to the report, the Office of Management and Budget requires that all agencies be prepared to report the results of the reviews.

(2) All reports of the agency concerning implementation of the Privacy Act shall be submitted to the Defense Privacy Office, DA&M, which shall prescribe the contents and suspense for such reports.

### §317.121 Reports.

(a) *Submission to the Defense Privacy Office.* The agency shall prepare statistics and other documentation for the preceding calendar year concerning those items prescribed for the annual report and any reports of the reviews required, and when directed, send them to the Defense Privacy Office, DA&M.

(b) *Report Control Symbol.* Unless otherwise directed, any report concerning implementation of the Privacy Program shall be assigned Report Control Symbol DD-DA&M(A)1379.

(c) *Content of annual report.* The Defense Privacy Office, DA&M, shall prescribe the content of the annual report but, at a minimum, the annual report shall contain the following:

(1) Name and address of reporting agency.

(2) Name and telephone number of agency official who can best answer questions about this report.

- (3) Agency Privacy Act Officials.
  - (i) Senior Agency Official.
  - (ii) Privacy Act Officer.
- (4) If your agency was involved in any litigation involving the Privacy Act.
  - (i) Provide a citation to the case and a brief description of the background, issues and results.
  - (ii) If the cases required your agency to change its practices, describe how.
  - (5) Systems of Records Inventory:
    - (i) Total number of systems of records as of December 31, 19XX.
    - (ii) Number of exempt systems.
    - (iii) Number of automated systems (either in whole or part).
    - (iv) Number of systems deleted.
    - (v) Number of systems added.
    - (vi) Number of routine uses added.
    - (vii) Number of routine uses deleted.
    - (viii) Number of existing systems to which an exemption(s) was added, and
    - (ix) Number of new systems to which an exemption(s) was added.
  - (6) If your agency received any public comments on any of its systems of other Privacy Act implementing activities, briefly describe:
  - (7) Access requests (first party requests which cited the Privacy Act):
    - (i) Number of requests.
    - (ii) Number granted in whole or in part.
    - (iii) Number denied in whole.
    - (iv) Number for which no record was found.
  - (8) Amendment requests (first party requests which cited the Privacy Act):
    - (i) Number of requests.
    - (ii) Number granted in whole or part.
    - (iii) Number denied in whole.
  - (9) Appeals of denial:
    - (i) Number of access denials appealed.
    - (ii) Number in which denial was upheld.
    - (iii) Number of amendment denials appealed.
    - (iv) Number in which denial was upheld.
  - (10) Suggestions:

### Subpart L—Agency Exemption Rules

#### § 317.130 Establishing and using exemptions.

(a) *Types of exemptions.* (1) There are two types of exemptions permitted by the Privacy Act:

(i) General exemptions that authorize the exemption of a system of records from all but specifically identified provisions of the Privacy Act, and

(ii) Specific exemptions that allow a system of records to be exempted from only a few designated provisions of the Privacy Act.

(2) Neither the Privacy Act nor this part permits exemption of a system of records from all provisions of the Privacy Act.

(b) *Establishing exemptions.* (1) Neither general nor specific exemptions are established automatically for a system of records. Only the Director of DCAA or his/her designee shall make a determination that the system is one for which an exemption may be established and then propose and establish an exemption rule for the system. No system of records within the agency shall be considered exempted until the Assistant Director, Resources, DCAA has approved the exemption and an exemption rule has been published as a final rule in the FEDERAL REGISTER for this part.

(2) Only the Assistant Director, Resources, or his or her designee, may establish an exemption for a system of records.

(3) No exemption may be established for a system of records until the system itself has been established by publishing a notice in the FEDERAL REGISTER describing the system.

(4) A system of records is exempt from only those provisions of the Privacy Act that are identified specifically in the agency exemption rule for the system.

(c) *Provisions to which exemptions may be applied.* After, or along with, establishing the system of records, the Assistant Director, Resources, may establish an exemption rule that shall exempt the system of records from any