

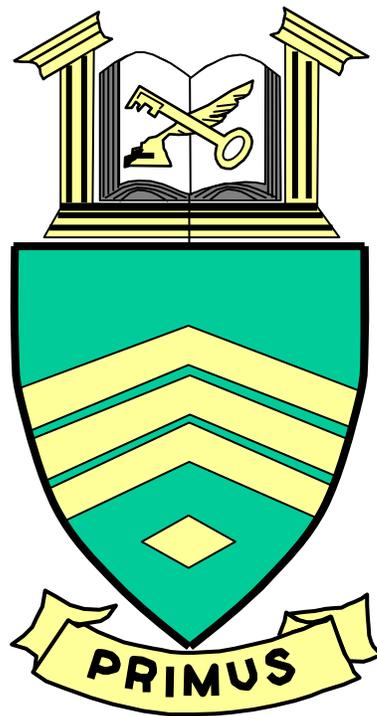
U.S. ARMY SERGEANTS MAJOR ACADEMY (FSC-TATS)

U652

JUN 04

THE ARMY PRIVACY PROGRAM

**PRERESIDENT TRAINING SUPPORT PACKAGE LESSON**



**THIS PAGE LEFT BLANK INTENTIONALLY**

## PRERESIDENT TRAINING SUPPORT PACKAGE (TSP)

---

<b>TSP Number / Title</b>	U652 / THE ARMY PRIVACY PROGRAM
<b>Effective Date</b>	01 Jun 2004
<b>Supersedes TSP(s) / Lesson(s)</b>	U652, The Army Privacy Program, Jun 01.
<b>TSP Users</b>	521-SQIM, First Sergeant Course
<b>Proponent</b>	The proponent for this document is the Sergeants Major Academy.
<b>Improvement Comments</b>	<p>Users are invited to send comments and suggested improvements on DA Form 2028, <i>Recommended Changes to Publications and Blank Forms</i>. Completed forms, or equivalent response, will be mailed or attached to electronic e-mail and transmitted to:</p> <p>COMDT USASMA ATTN ATSS DCF BLDG 11291 BIGGS FIELD FORT BLISS TX 79918-8002</p> <p>Telephone (Comm) (915) 568-8875 Telephone (DSN) 978-8875 e-mail: atss-dcd@bliss.army.mil</p>
<b>Security Clearance / Access</b>	Unclassified
<b>Foreign Disclosure Restrictions</b>	FD5. This product/publication has been reviewed by the product developers in coordination with the (USASMA) foreign disclosure authority. This product is releasable to students from all requesting foreign countries without restrictions.

---

## PREFACE

---

**Purpose**

This Training Support Package provides the student with a standardized lesson plan of instruction for:

**Task Number**

**Task Title**

**Individual**

121-010-8020

Supervise Unit Personnel and Administration Functions

---

This TSP  
Contains

## TABLE OF CONTENTS

	<u>PAGE</u>
Preface.....	2
Lesson Section I Administrative Data .....	4
Section II Introduction.....	6
Terminal Learning Objective - Determine unit level responsibilities under the Army Privacy Program. ....	6
Section III Presentation .....	7
Enabling Learning Objective A - Identify Army policies and responsibilities under the Army Privacy Program. ....	7
Enabling Learning Objective B - Identify individual rights of access and amendment under the Privacy Act. ....	7
Enabling Learning Objective C - Identify proper disclosure of personnel information to other agencies and third parties.....	8
Enabling Learning Objective D - Identify record keeping requirements under the Privacy Act. ....	9
Section IV Summary.....	10
Section V Student Evaluation.....	11
Appendix A - Viewgraph Masters (N/A) A - .....	1
Appendix B - Test(s) and Test Solution(s) (N/A) B -.....	1
Appendix C - Practical Exercises and Solutions C - .....	1
Appendix D - Student Handouts D -.....	1

---

**THIS PAGE LEFT BLANK INTENTIONALLY**

**THE ARMY PRIVACY PROGRAM  
U652 / Version 1  
01 Jun 2004**

**SECTION I. ADMINISTRATIVE DATA**

<b>All Courses Including This Lesson</b>	<u>Course Number</u> 521-SQIM	<u>Version</u> 1	<u>Course Title</u> First Sergeant Course								
<b>Task(s) Taught(*) or Supported</b>	<u>Task Number</u> <b>INDIVIDUAL</b> 121-010-8020 (*)	<u>Task Title</u> Supervise Unit Personnel and Administration Functions									
<b>Reinforced Task(s)</b>	<u>Task Number</u>	<u>Task Title</u>									
<b>Academic Hours</b>	The academic hours required to teach this lesson are as follows:										
	<b>Distance Learning</b>										
	<b>Hours/Methods</b>										
	1 hr / Study Assignment										
Test	0 hrs										
Test Review	0 hrs										
	Total Hours:	1 hr									
<b>Test Lesson Number</b>	<u>Hours</u> Testing (to include test review)	<u>Lesson No.</u> 3	<u>Lesson No.</u> On-Line Exam								
<b>Prerequisite Lesson(s)</b>	<u>Lesson Number</u> None	<u>Lesson Title</u>									
<b>Clearance Access</b>	Security Level: Unclassified Requirements: There are no clearance or access requirements for the lesson.										
<b>Foreign Disclosure Restrictions</b>	FD5. This product/publication has been reviewed by the product developers in coordination with the USASMA foreign disclosure authority. This product is releasable to students from all requesting foreign countries without restrictions.										
<b>References</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 25%;"><u>Number</u></th> <th style="width: 30%;"><u>Title</u></th> <th style="width: 20%;"><u>Date</u></th> <th style="width: 25%;"><u>Additional Information</u></th> </tr> </thead> <tbody> <tr> <td>AR 340-21</td> <td>THE ARMY PRIVACY PROGRAM</td> <td>05 Jul 1985</td> <td></td> </tr> </tbody> </table>			<u>Number</u>	<u>Title</u>	<u>Date</u>	<u>Additional Information</u>	AR 340-21	THE ARMY PRIVACY PROGRAM	05 Jul 1985	
<u>Number</u>	<u>Title</u>	<u>Date</u>	<u>Additional Information</u>								
AR 340-21	THE ARMY PRIVACY PROGRAM	05 Jul 1985									
<b>Student Study Assignments</b>	All material included in this Training Support Package (TSP).										
<b>Instructor Requirements</b>	None										

**Additional Support Personnel Requirements**

---

<u>Name</u>	<u>Stu Ratio</u>	<u>Qty</u>	<u>Man Hours</u>
None			

---

**Equipment Required for Instruction**

---

<u>Id Name</u>	<u>Stu Ratio</u>	<u>Instr Ratio</u>	<u>Spt</u>	<u>Qty</u>	<u>Exp</u>
None					

\* Before Id indicates a TADSS

---

**Materials Required**

**Instructor Materials:**  
None

**Student Materials:**  
U652.

---

**Classroom, Training Area, and Range Requirements**

None

---

**Ammunition Requirements**

---

<u>Id</u>	<u>Name</u>	<u>Exp</u>	<u>Stu Ratio</u>	<u>Instr Ratio</u>	<u>Spt Qty</u>
None					

---

**Instructional Guidance**

None

---

**Proponent Lesson Plan Approvals**

---

<u>Name</u>	<u>Rank</u>	<u>Position</u>	<u>Date</u>
Santa Barbara, Robert A.	GS-09	Training Specialist	
Adams, Chris L.	SGM	Chief Instructor, FSC	
Graham, Kevin L.	MSG	Chief, FSC	
Gratton, Steven M.	SGM	Chief, Functional Courses	
Bucher, George	GS-11	Chief, CMD	
Lemon, Marion	SGM	Chief, CDDD	

---

**SECTION II. INTRODUCTION**

Method of Instruction: Study Assignment  
 Technique of Delivery: Individualized, self-paced instruction  
 Instructor to Student Ratio is: 1:14  
 Time of Instruction: 5 mins  
 Media: None

**Motivator** As a first sergeant, you can expect inquiries and/or requests for information on personnel assigned to your unit. Requests may come from other Army elements, other government agencies, the civilian business sector, or from private individuals. The handling and release of personal information is a sensitive issue and governed by law. This lesson will help you understand your administrative responsibilities and duties when you collect/maintain personal information on your soldiers and respond to inquiries concerning them. You must protect your soldier's rights from unwarranted invasion of privacy.

**Terminal Learning Objective** At the completion of this lesson, you [the student] will:

<b>Action:</b>	Determine unit level responsibilities under the Army Privacy Program.
<b>Conditions:</b>	As a first sergeant, in a self-study environment, given AR 340-21.
<b>Standards:</b>	Determined unit level responsibilities under the Army Privacy Program IAW AR 340-21.

**Safety Requirements** None

**Risk Assessment Level** Low

**Environmental Considerations** **NOTE:** It is the responsibility of all soldiers and DA civilians to protect the environment from damage.

None

**Evaluation** Before entering phase II FSC-TATS, you will receive the end of Phase I Multiple Choice Examination that will include questions based on material in this lesson. On that examination, you must answer at least 70 percent of the questions correctly to achieve a GO.

**Instructional Lead-In** None

**SECTION III. PRESENTATION**

---

**A. ENABLING LEARNING OBJECTIVE**

<b>ACTION:</b>	Identify Army policies and responsibilities under the Army Privacy Program.
<b>CONDITIONS:</b>	As a first sergeant, in a self-study environment, given AR 340-21.
<b>STANDARDS:</b>	Identified Army policies and responsibilities under the Army Privacy Program IAW AR 340-21, Chapter 1.

1. Learning Step / Activity 1. Identify Army policies and responsibilities under the Army privacy program

Method of Instruction: Study Assignment  
Technique of Delivery: Individualized, self-paced instruction  
Instructor to Student Ratio: 1:14  
Time of Instruction: 10 mins  
Media: SH-1

To complete the learning activity, you must--

- Read Chapter 1, AR 340-21, SH-1 at Appendix D.
- Complete questions 1 through 4 in practical exercise 1 (Appendix C).
- Compare your responses with the solution found in the SPE-1 (Appendix C).
- If your responses do not agree with the answer in the solution discussion, review the Student Handout.

**CHECK ON LEARNING:** PE-1 is the check on learning for this lesson.

**B. ENABLING LEARNING OBJECTIVE**

<b>ACTION:</b>	Identify individual rights of access and amendment under the Privacy Act.
<b>CONDITIONS:</b>	As a first sergeant, in a self-study environment, given AR 340-21.
<b>STANDARDS:</b>	Identified individual rights of access and amendment under the Privacy Act IAW AR 340-21, Chapter 2.

1. Learning Step / Activity 1. Identify individual rights of access and amendment under the privacy act

Method of Instruction: Study Assignment  
Technique of Delivery: Individualized, self-paced instruction  
Instructor to Student Ratio: 1:14  
Time of Instruction: 10 mins  
Media: SH-1

To complete the learning activity, you must--

- Read Chapter 2, AR 340-21, SH-1 at Appendix D.
- Complete questions 5 through 8 in practical exercise 1 (Appendix C).
- Compare your responses with the solution found in the SLE-1 (Appendix C).
- If your responses do not agree with the answer in the solution discussion, review the Student Handout.

**CHECK ON LEARNING:** PE-1 is the check on learning for this lesson..

**C. ENABLING LEARNING OBJECTIVE**

<b>ACTION:</b>	Identify proper disclosure of personnel information to other agencies and third parties.
<b>CONDITIONS:</b>	As a first sergeant, in a self-study environment, given AR 340-21.
<b>STANDARDS:</b>	Identified proper disclosure of personnel information to other agencies and third parties IAW AR 340-21, Chapter 3.

1. Learning Step / Activity 1. Identify proper disclosure of personnel information to other agencies and third parties

Method of Instruction: Study Assignment  
Technique of Delivery: Individualized, self-paced instruction  
Instructor to Student Ratio: 1:14  
Time of Instruction: 10 mins  
Media: SH-1

To complete the learning activity, you must--

- Read Chapter 3, AR 340-21, SH-1 at Appendix D.
- Complete questions 9 through 11 in practical exercise 1 (Appendix C).
- Compare your responses with the solution found in the SLE-1 (Appendix C).
- If your responses do not agree with the answer in the solution discussion, review the Student Handout.

**CHECK ON LEARNING:** PE-1 is the check on learning for this lesson.

**D. ENABLING LEARNING OBJECTIVE**

<b>ACTION:</b>	Identify record keeping requirements under the Privacy Act.
<b>CONDITIONS:</b>	As a first sergeant, in a self-study environment, given AR 340-21.
<b>STANDARDS:</b>	Identified record keeping requirements under the Privacy Act IAW AR 340-21, Chapter 4.

1. Learning Step / Activity 1. Identify record keeping requirements under the privacy act

Method of Instruction: Study Assignment

Technique of Delivery: Individualized, self-paced instruction

Instructor to Student Ratio: 1:14

Time of Instruction: 10 mins

Media: SH-1

To complete the learning activity, you must--

- Read Chapter 4, AR 340-21, SH-1 at Appendix D.
- Complete questions 12 through 15 in practical exercise 1 (Appendix C).
- Compare your responses with the solution found in the SLE-1 (Appendix C).
- If your responses do not agree with the answer in the solution discussion, review the Student Handout.

**CHECK ON LEARNING:** PE-1 is the check on learning for this lesson.

**SECTION IV. SUMMARY**

Method of Instruction: <u>Study Assignment</u>
Technique of Delivery: <u>Individualized, self-paced Instruction</u>
Instructor to Student Ratio is: <u>1:14</u>
Time of Instruction: <u>5 mins</u>
Media: <u>None</u>

**Check on Learning**

---

PE-1 is the check on learning for this lesson.

**Review / Summarize Lesson**

---

As a First Sergeant, one of your responsibilities is protecting the privacy of your soldiers. You must guard against the unlawful collection, maintenance, and release of personal information concerning your soldiers. You must understand the Army Privacy Program and follow its guidance in performing your duties as First Sergeant. The Army Privacy Program relates to all areas of unit administration. It may be necessary to refer to AR 340-21 often as you perform your duties as First Sergeant. When you encounter questionable situations on the job, remember to check the regulation or call your Privacy Act Official for assistance.

**Transition to Next Lesson**

---

None

---

**SECTION V. STUDENT EVALUATION**

---

**Testing  
Requirements**

Before entering phase II FSC-TATS, you will receive the end of Phase I Multiple Choice Examination that will include questions based on material in this lesson. On that examination, you must answer at least 70 percent of the questions correctly to achieve a GO.

---

**Feedback  
Requirements**

**NOTE:** Feedback is essential to effective learning.

---

## STUDENT QUESTIONNAIRE

### Directions

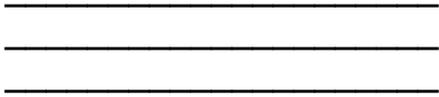
- Enter your name, your rank, and the date you complete this questionnaire.

Rank: \_\_\_\_\_ Name: \_\_\_\_\_ Date: \_\_\_\_\_

- Answer items 1 through 6 below in the space provided.
- Fold the questionnaire so the address for USASMA is visible.
- Print your return address, add postage, and mail.

**Note:** Your response to this questionnaire will assist USASMA in refining and improving this course. While completing the questionnaire, answer each question frankly. Your assistance helps build and maintain the best curriculum possible.

<b>Item 1</b>	Do you believe you have met the learning objectives of this lesson?
<b>Item 2</b>	Was the material covered in this lesson new to you?
<b>Item 3</b>	Which parts of the lesson were most helpful to you in learning the objectives?
<b>Item 4</b>	How could we improve the format of this lesson?
<b>Item 5</b>	How could we improve the content of this lesson?
<b>Item 6</b>	Do you have additional questions or comments? If you do, please list them here. You may add additional pages if necessary.



ATTN ATSS DCF  
COMDT USASMA  
BLDG 11291 BIGGS FLD  
FORT BLISS TX 79918-8002

----- (Fold Here) -----

**Appendix A - Viewgraph Masters (N/A)**

**Appendix B - Test(s) and Test Solution(s) (N/A)**

## PRACTICAL EXERCISE 1

<b>Title</b>	THE ARMY PRIVACY PROGRAM						
<b>Lesson Number / Title</b>	U652 version 1 / THE ARMY PRIVACY PROGRAM						
<b>Introduction</b>	None						
<b>Motivator</b>	<p>As a first sergeant, you can expect inquiries and/or requests for information on personnel assigned to your unit. Requests may come from other Army elements, other government agencies, the civilian business sector, or from private individuals. The handling and release of personal information is a sensitive issue and governed by law. This lesson will help you understand your administrative responsibilities and duties when you collect/maintain personal information on your soldiers and respond to inquiries concerning them. You must protect your soldier's rights from unwarranted invasion of privacy.</p>						
<b>Terminal Learning Objective</b>	<p>At the completion of this lesson, you [the student] will:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;"><b>Action:</b></td> <td>Determine unit level responsibilities under the Army Privacy Program.</td> </tr> <tr> <td><b>Conditions:</b></td> <td>As a first sergeant, in a self-study environment, given AR 340-21.</td> </tr> <tr> <td><b>Standards:</b></td> <td>Determined unit level responsibilities under the Army Privacy Program IAW AR 340-21.</td> </tr> </table>	<b>Action:</b>	Determine unit level responsibilities under the Army Privacy Program.	<b>Conditions:</b>	As a first sergeant, in a self-study environment, given AR 340-21.	<b>Standards:</b>	Determined unit level responsibilities under the Army Privacy Program IAW AR 340-21.
<b>Action:</b>	Determine unit level responsibilities under the Army Privacy Program.						
<b>Conditions:</b>	As a first sergeant, in a self-study environment, given AR 340-21.						
<b>Standards:</b>	Determined unit level responsibilities under the Army Privacy Program IAW AR 340-21.						
<b>Safety Requirements</b>	None						
<b>Risk Assessment</b>	Low						
<b>Environmental Considerations</b>	None						
<b>Evaluation</b>	<p>Before entering phase II FSC-TATS, you will receive the end of Phase I Multiple Choice Examination that will include questions based on material in this lesson. On that examination, you must answer at least 70 percent of the questions correctly to achieve a GO.</p>						
<b>Instructional Lead-In</b>	None						
<b>Resource Requirements</b>	<p><b>Instructor Materials:</b></p> <p>None</p> <p><b>Student Materials</b></p> <p>U652.</p>						

**Special  
Instructions**

---

None

---

**Procedures**

**Question 1** As required by the Privacy Act of 1974 (and its amendments), the Army will protect the privacy of individuals from what?

---

**Question 2** How does AR 340-21 define individuals protected under the Privacy Act?

---

**Question 3** Under the Privacy Act, the Army permits you to only collect what kind of personal information about an individual?

---

**Question 4** What requirements does the Army place on you under the Privacy Act regarding the personal information you may keep on an individual?

---

**Question 5** What are two main exceptions that cause an individual to NOT receive access to their records?

---

---

**Question 6** If you work with medical records, you may need to make special considerations before releasing them. Carefully consider if the information could have an adverse effect on the mental or physical health of the individual. If this is a possibility, what does AR 340-21 advise you to do?

---

**Question 7** Who are the only officials authorized to deny a request from an individual (data subject) for records pertaining to that individual?

---

**Question 8** If individuals believe their records need amendments, to whom should they address their requests to amend the records?

---

**Question 9** AR 340-21 indicates blanket routine uses, or situations when you may release information. Under what conditions may you refer Army records to Federal, State, local or foreign law enforcement agencies?

---

**Question 10** You may disclose a record with what kind of information to OPM?

---

---

**Question 11** What information on military personnel may you release under the Freedom of Information Act?

---

**Question 12** Whenever you request personal information from members of your unit for a system of records, you must furnish the individual with a Privacy Act Statement. What is the purpose of furnishing the Privacy Act Statement?

---

**Question 13** The Army is authorized to use the SSN as a system to identify Army members and employees. What must an Army activity do if individuals refuse to disclose their SSN?

---

**Question 14** The Privacy Act requires establishment of proper administrative, technical, and physical safeguards to ensure the security and confidentiality of records. These measures are to protect against what?

---

**Question 15** If you violate provisions of the Privacy Act, you are subject to both civil and criminal penalties. An individual may file a civil suit against the Army if Army personnel fail to comply with the Privacy Act. What three willful actions by you would make you guilty of a misdemeanor and subject to fines under criminal penalties?

---

**Feedback Requirements**      None

---

**SOLUTION FOR  
PRACTICAL EXERCISE SHEET U652**

---

**Question 1** The correct response is:

Unwarranted intrusion.

Ref: AR 340-21, para 1-5a

---

**Question 2** The correct response is:

Living citizens of the United States and aliens lawfully admitted for permanent residence.

Ref: AR 340-21, para 1-5a

---

**Question 3** The correct response is:

You may collect only that information that is legally authorized and necessary to support Army operations.

Ref: AR 340-21, para 1-5b

---

**Question 4** The correct response is:

Information you may keep on an individual must be timely, accurate, complete, and relevant to the purpose for which you collected it.

Ref: AR 340-21, para 1-5c

---

**Question 5** The correct response is:

- The record is subject to an exemption and the system manager has invoked the exemption.
- The record is information compiled in reasonable anticipation of a civil action or proceeding.

Ref: AR 340-21, para 2-1a

---

**Question 6** The correct response is:

Ask the individual to name a physician to receive the record.

Ref: AR 340-21, para 2-5

---

---

**Question 7** The correct response is:

The appropriate access and amendment refusal authority (AARA), or the Secretary of the Army, acting through the General Counsel.

Ref: AR 340-21, para 2-9a

---

**Question 8** The correct response is:

The custodian or system manager of the records.

Ref: AR 340-21, para 2-11a

---

**Question 9** The correct response is:

If the record indicates a violation or potential violation of law and the requesting agency has the responsibility to investigate or prosecute the violation.

Ref: AR 340-21, para 3-2a

---

**Question 10** The correct response is:

Information on pay and leave, benefits, retirement deduction, and any other information necessary for OPM to carry out its legally authorized Government-wide personnel management functions and studies.

Ref: AR 340-21, para 3-2h

---

**Question 11** The correct response is:

Name, rank, date of rank, gross salary, present and past duty assignments, future assignments that are officially established, office or duty telephone number, source of commission, promotion sequence number, awards and decorations, military and civilian educational level, and duty status at any given time.

Ref: AR 340-21, para 3-3a(1)

---

**Question 12** The correct response is:

To ensure that individuals know why you are collecting the information so they can make an informed decision of whether or not to furnish it.

Ref: AR 340-21, para 4-2a

---

---

**Question 13** The correct response is:

Identify the individuals by alternate means.

Ref: AR 340-21, para 4-3

---

**Question 14** The correct response is:

Any threats of hazards to the subject's security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness.

Ref: AR 340-21, para 4-4a(2)

---

**Question 15** The correct response is:

- Maintaining a system of records without first meeting the public notice requirements of publishing in the Federal Register.
- Disclosing individually identifiable personal information to one not entitled to it.
- Asking for or getting another's record under false pretenses.

Ref: AR 340-21, para 4-9b(1-3)

---

**HANDOUTS FOR LESSON: U652 version 1**

---

**This Appendix  
Contains**

This appendix contains the items listed in this table---

<b>Title/Synopsis</b>	<b>Pages</b>
SH-1, Extract from AR 340-21	SH-1-1

## Student Handout 1

### Extracted Material from AR 340-21

---

This student handout contains six pages of extracted material from the following publication:

AR 340-21, The Army Privacy Program, 5 Jul 1985

Chapter 1	pages 1 and 2
Chapter 2	pages 2 and 3
Chapter 3	pages 3 thru 5
Chapter 4	pages 5 and 6

**Disclaimer:** The training developer downloaded the extracted material from the United States Army Publishing Agency Home Page. The text may contain passive voice, misspellings, grammatical errors, etc., and may not be in compliance with the Army Writing Style Program.

---

## Chapter 1 General Information

### 1-1. Purpose

This regulation sets forth policies and procedures that govern personal information kept by the Department of the Army (DA) in systems of records.

### 1-2. References

#### *a. Required publications.*

(1) AR 195-2, Criminal Investigation Activities. (Cited in para 2-10e.)

(2) AR 340-17, Release of Information and Records from Army Files. (Cited in paras 2-8 and 4-4c.)

(3) AR 340-21-8, The Army Privacy Program; System Notices and Exemption Rules for Civilian Personnel Functions. (Cited in para 2-9c.)

(4) AR 380-380, Automated Systems Security. (Cited in paras 4-4band 4-6c(8).)

*b. Related publications.* (A related publication is merely a source of additional information. The user does not have to read it to understand this regulation.)

(1) DODD 5400.11, DOD Privacy Program.

(2) DOD 5400.11-R, DOD Privacy Program.

(3) Treasury Fiscal Requirements Manual. This publication can be obtained from The Treasury Department, 15th and Pennsylvania Ave, NW, Washington, DC 20220.

### 1-3. Explanation of abbreviations and terms

Abbreviations and special terms used in this regulation are explained in the glossary.

### 1-4. Responsibilities

*a.* The Assistant Chief of Staff for Information Management (ACSIM) is responsible for issuing policy and guidance for the Army Privacy Program in consultation with the Army General Counsel.

*b.* The Adjutant General (TAG) is responsible for developing and recommending policy to ACSIM concerning the Army Privacy Program and for overall execution of the program under the policy and guidance of ACSIM.

*c.* Heads of Army Staff agencies, field operating agencies, major Army commands(MACOMs), and subordinate commands are responsible for supervision and execution of the privacy program in functional areas and activities under their command.

*d.* Heads of Joint Service agencies or commands for which the Army is the Executive Agent, or otherwise has responsibility for providing fiscal, logistical, or administrative support, will adhere to the policies and procedures in this regulation.

*e.* Commander, Army and Air Force Exchange Service (AAFES), is responsible for the supervision and execution of the privacy program within that command pursuant to this regulation.

### 1-5. Policy

Army policy concerning the privacy rights of individuals and the Army's responsibilities for compliance with operational requirements established by the Privacy Act are as follows:

*a.* Protect, as required by the Privacy Act of 1974 (5 USC 552a), as amended, the privacy of individuals from unwarranted intrusion. Individuals covered by this protection are living citizens of the United States and aliens lawfully admitted for permanent residence.

*b.* Collect only the personal information about an individual that is legally authorized and necessary to support Army operations. Disclose this information only as authorized by the Privacy Act and this regulation.

*c.* Keep only personal information that is timely, accurate, complete, and relevant to the purpose for which it was collected.

*d.* Safeguard personal information to prevent unauthorized use, access, disclosure, alteration, or destruction.

*e.* Let individuals know what records the Army keeps on them and let them review or get copies of these records, subject to

exemptions authorized by law and approved by the Secretary of the Army. (See chap 5.)

*f.* Permit individuals to amend records about themselves contained in Army systems of records, which they can prove are factually in error, not up-to-date, not complete, or not relevant.

*g.* Allow individuals to ask for an administrative review of decisions that deny them access to or the right to amend their records.

*h.* Maintain only information about an individual that is relevant and necessary for Army purposes required to be accomplished by statute or Executive Order.

*i.* Act on all requests promptly, accurately, and fairly.

### 1-6. Authority

The Privacy Act of 1974 (5 USC 552a), as amended, is the statutory basis for the Army Privacy Program. Within the Department of Defense (DOD), the Act is implemented by DODD 5400.11 and DOD 5400-11-R. The Act assigns—

*a.* Overall Government-wide responsibilities for implementation to the Office of Management and Budget (OMB).

*b.* Specific responsibilities to the Office of Personnel Management (OPM) and the General Services Administration (GSA).

### 1-7. Access and amendment refusal authority

Each access and amendment refusal authority (AARA) is responsible for action on requests for access to, or amendment of, records referred to them under this regulation. The officials listed below are the sole AARAs for records in their functional areas:

*a.* The Adjutant General—for personnel records of Army retired, separated, and reserve military members; DOD dependent school student transcripts; and records not within the jurisdiction of another AARA.

*b.* The Administrative Assistant to the Secretary of the Army—for records of the Secretariat and its serviced activities, as well as those records requiring the personal attention of the Secretary of the Army.

*c.* The president or executive secretary of boards, councils, and similar bodies established by DA to consider personnel matters, excluding the Army Board for Correction of Military Records.

*d.* Chief of Chaplains—for ecclesiastical records.

*e.* Chief of Engineers—for records pertaining to civil works, including litigation; military construction; engineer procurement; other engineering matters not under the purview of another AARA; ecology; and contractor qualifications.

*f.* Comptroller of the Army—for financial records.

*g.* Deputy Chief of Staff for Personnel—for the records listed below.

(1) Personnel records of current Federal civilian employees and active and former nonappropriated fund employees (except those in the AAFES).

(2) Military police records.

(3) Prisoner confinement and correctional records.

(4) Safety records.

(5) Alcohol and drug abuse treatment records.

*Note.* (Requests from former civilian employees to amend a record in an OPM system of records such as the Official Personnel Folder should be sent to the Office of Personnel Management, Assistant Director for Workforce Information, Compliance and Investigations Group, 1900 E Street, NW, WASH DC 20415-0001.)

*h.* The Inspector General (TIG)—for TIG investigative records.

*i.* The Judge Advocate General (TJAG)—for legal records under TJAG responsibility.

*j.* The Surgeon General—for medical records, except those properly part of the Official Personnel Folder (OPM/GOVT-1 system of records).

*k.* Commander, AAFES—for records pertaining to employees, patrons, and other matters that are the responsibility of the Exchange Service.

*l.* Commanding General, U.S. Army Criminal Investigation Command(USACIDC)—for criminal investigation reports and military police reports included therein.

*m.* Commanding General, U.S. Army Intelligence and Security Command—for intelligence and security investigative records.

*n.* Commanding General, U.S. Army Materiel Command—for records of Army contractor personnel, exclusive of those in above.

*o.* Commanding General, U.S. Army Military Personnel Center—for personnel and personnel-related records of Active duty Army members.

*p.* Commander, Military Traffic Management Command—for transportation records.

*q.* Chief, National Guard Bureau—for personnel records of the Army National Guard.

### **1–8. DA Privacy Review Board**

The DA Privacy Review Board acts on behalf of the Secretary of the Army to decide appeals from refusal of the appropriate AARAs to amend records. Board membership is comprised of the Administrative Assistant to the Secretary of the Army, The Adjutant General, and The Judge Advocate General, or their representatives. The AARA may serve as a nonvoting member when the Board considers matters in the AARA's area of functional specialization. The Adjutant General chairs the Board and provides the Recording Secretary.

### **1–9. Privacy official**

*a.* Heads of Army Staff agencies and commanders of MACOMs and subordinate commands and activities will designate a privacy official who will serve as a staff adviser on privacy matters. This function will not be assigned below battalion level.

*b.* The privacy official will insure that—

- (1) Requests are processed promptly and responsively.
- (2) Records subject to the Privacy Act in his or her command or agency are described properly by a published system notice.
- (3) Privacy statements are included on forms and questionnaires that seek personal information from an individual.
- (4) Procedures are in place to meet reporting requirements.

## **Chapter 2 Individual Rights of Access and Amendment**

### **2–1. Access under the Privacy Act**

*a.* Upon a written or oral request, an individual, or his or her designated agent or legal guardian, will be granted access to a record pertaining to that individual, maintained in a system of records, unless—

- (1) The record is subject to an exemption and the system manager has invoked the exemption (see chap 5), or
- (2) The record is information compiled in reasonable anticipation of a civil action or proceeding.

*b.* The requester does not have to state a reason or justify the need to gain access. An individual cannot be denied access solely for refusal to provide his or her Social Security Number(SSN) unless the SSN was required for access by statute or regulation adopted prior to January 1,1975. The request should be submitted to the custodian of the record.

### **2–2. Notifying the individual**

The custodian of the record will acknowledge requests for access within 10 work days of receipt. Releasable records will be provided within 30 days, excluding Saturdays, Sundays, and legal public holidays.

### **2–3. Relationship between the Privacy Act and the Freedom of Information Act**

A Privacy Act request for access to records will be processed also as a Freedom of Information Act request. If all or any portion of the requested material is to be denied, it must be considered under the substantive provisions of both the Privacy Act and the Freedom of Information Act. Any withholding of information must be justified by asserting a legally applicable exemption in each Act.

### **2–4. Functional requests**

If an individual asks for his or her record and does not cite or reasonably imply either the Privacy Act or the Freedom of Information Act, and another prescribing directive authorizes release, the records should be released under that directive. Examples of functional requests are military members asking to see their Military Personnel Records Jacket, or civilian employees asking to see their Official Personnel Folder.

### **2–5. Medical records**

If it is determined that releasing medical information to the data subject could have an adverse effect on the mental or physical health of that individual, the requester will be asked to name a physician to receive the record. The data subject's failure to designate a physician is not a denial under the Privacy Act and cannot be appealed.

### **2–6. Third party information**

Third party information pertaining to the data subject may not be deleted from a record when the data subject requests access to the record unless there is an established exemption. (See para 5–5.) However, personal data such as SSN and home address of a third party in the data subject's record normally do not pertain to the data subject and therefore may be withheld. Information about the relationship between the data subject and the third party would normally be disclosed as pertaining to the data subject.

### **2–7. Referral of records**

Requests for access to Army systems of records containing records that originated with other DOD components or Federal agencies that claimed exemptions for them will be coordinated with or referred to the originator for release determination. The requester will be notified of the referral.

### **2–8. Fees**

Requesters will be charged only for reproduction of requested documents. Normally, there will be no charge for the first copy of a record provided to an individual to whom the record pertains. Thereafter, fees will be computed as set forth in AR 340–17.

### **2–9. Denial of access**

*a.* The only officials authorized to deny a request from a data subject for records in a system of records pertaining to that individual are the appropriate AARAs, or the Secretary of the Army, acting through the General Counsel. (See para 1–7.) Denial is appropriate only if the record—

- (1) Was compiled in reasonable anticipation of a civil action or proceeding, or
- (2) Is properly exempted by the Secretary of the Army from the disclosure provisions of the Privacy Act (see chap 5), there is a legitimate governmental purpose for invoking the exemption, and it is not required to be disclosed under the Freedom of Information Act.

*b.* Requests for records recommended to be denied will be forwarded to the appropriate AARA within 5 workdays of receipt, together with the request, disputed records, and justification for withholding. The requester will be notified of the referral.

*c.* Within the 30 workday period, the AARA will give the following information to the requester in writing if the decision is to deny the request for access: (See para 2–2.)

- (1) Official's name, position title, and business address.
- (2) Date of the denial.
- (3) Reasons for the denial, including citation of appropriate sections of the Privacy Act and this regulation.

(4) The opportunity for further review of the denial by the General Counsel, Office of the Secretary of the Army, The Pentagon, WASH DC 20310–0104, through the AARA within 60 calendar days. (For denials made by the Army when the record is maintained in one of OPM's Government-wide systems of records, notices for which are described in AR340–21–8, appendix A, an individual's

request for further review must be addressed to the Assistant Director for Agency Compliance and Evaluation, Office of Personnel Management, 1900 E Street, NW, WASH DC 20415-0001.)

## **2-10. Amendment of records**

*a.* Individuals may request the amendment of their records, in writing, when such records are believed to be inaccurate as a matter of fact rather than judgment, irrelevant, untimely, or incomplete.

*b.* The amendment procedures are not intended to permit challenges of an event in a record that actually occurred, or to permit collateral attack upon an event that has been the subject of a judicial or quasi-judicial action.

*c.* Consideration of a request for amendment would be appropriate if it can be shown that—

(1) Circumstances leading up to the event recorded on the document were challenged through administrative procedures and found to be inaccurately described.

(2) The document is not identical to the individual's copy, or

(3) The document was not constructed in accordance with the applicable record-keeping requirements prescribed.

*d.* For an example of above, the amendment provisions do not allow an individual to challenge the merits of an adverse action. However, if the form that documents the adverse action contains an error on the fact of the record (for example, the individual's name is misspelled, or an improper date of birth or SSN was recorded), the amendment procedures may be used to request correction of the record.

*e.* USACIDC reports of investigation (records in system notices A0501.08e Informant Register, A0508.11b Criminal Information Reports and Cross Index Card Files, and A0508.25a Index to Criminal Investigative Case Files) have been exempted from the amendment provisions of the Privacy Act. Requests to amend these reports will be considered under AR 195-2 by the Commander, U.S. Army Criminal Investigation Command. Action by the Commander, U.S.-Army Criminal Investigation Command, will constitute final action on behalf of the Secretary of the Army under that regulation.

*f.* Records placed in the National Archives are exempted from the Privacy Act provision allowing individuals to request amendment of records. Most provisions of the Privacy Act apply only to those systems of records that are under the legal control of the originating agency; for example, an agency's current operating files or records stored at a Federal Records Center.

## **2-11. Procedures**

*a.* Requests to amend a record should be addressed to the custodian or system manager of that record. The request must reasonably describe the record to be amended and the changes sought (that is, deletion, addition, or amendment). The burden of proof rests with the requester; therefore, the alteration of evidence presented to courts, boards, and other official proceedings is not permitted. (An individual acting for the requester must supply a written consent signed by the requester.)

*b.* The custodian or system manager will acknowledge the request within 10 workdays and make final responses within 30 workdays.

*c.* The record for which amendment is sought must be reviewed by the proper system manager or custodian for accuracy, relevance, timeliness, and completeness to assure fairness to the individual in any determination made about that individual on the basis of that record.

*d.* If the amendment is proper, the custodian or system manager will physically amend the record by adding or deleting information, or destroying the record or a portion of it. He or she will notify the requester of such action.

*e.* If the amendment is not justified, the request and all relevant documents, including reasons for not amending, will be forwarded to the proper AARA within 5 workdays; the requester will be notified.

*f.* The AARA, on the basis of the evidence, either will amend the

record and notify the requester and the custodian or deny the request and inform the requester of—

(1) Reasons for not amending.

(2) His or her right to seek further review by the DA Privacy Review Board (through the AARA).

*g.* On receipt of an appeal from a denial to amend, the AARA will append any additional records or background information that substantiates the refusal or renders the case complete and, within 5 workdays of receipt, forward the appeal to the DA Privacy Review Board.

*h.* The DA Privacy Review Board, on behalf of the Secretary of the Army, will complete action on a request for further review within 30 workdays of its receipt by the AARA. The General Counsel may authorize an additional 30 days when unusual circumstances and good cause so warrant. The Board may seek additional information, including the appellant's official personnel file, if relevant and necessary to decide the appeal.

(1) If the Board determines that amendment is justified, it will amend the record and notify the requester, the AARA, the custodian of the record, and any prior recipients of the record.

(2) If the Board denies the request, it will obtain the General Counsel's concurrence. Response to the appellant will include reasons for denial and the appellant's right to file a statement of disagreement with the Board's action and to seek judicial review of the Army's refusal to amend.

*i.* Statements of disagreement will be an integral part of the record to which they pertain so the fact that the record is disputed is apparent to anyone who may have access to, use of, or need to disclose from it. The disclosing authority may include a brief summary of the Board's reasons for not amending the disputed record. The summary will be limited to the reasons stated to the individual by the Board.

## **2-12. Privacy case files**

Whenever an individual submits a Privacy Act request, a case file will be established. (See system notice A0240.01DAAG.) In no instance will the individual's request and Army actions thereon be included in the individual's personnel file. The case file will comprise the request for access/amendment, grants, refusals, coordination action, and related papers. This file will not be used to make any determinations about the individual.

## **Chapter 3 Disclosure of Personnel Information to Other Agencies and Third Parties**

### **3-1. Disclosure without consent**

The Army is prohibited from disclosing a record from a system of records without obtaining the prior written consent of the data subject, except when disclosure is—

*a.* Made to officers and employees of DOD who have a need for the record in the performance of their duties.

*b.* Required under the Freedom of Information Act. (See para 3-3 for information normally releasable.)

*c.* Permitted by a routine use that has been published in the *Federal Register*.

*d.* Made to the Bureau of the Census for planning or carrying out a census or survey, or to a related activity pursuant to title 13 of the United States Code.

*e.* Made to a recipient who has provided the Army with advance written assurance that the record will be—

(1) Used solely as a statistical research or reporting record.

(2) Transferred in a form that is not individually identifiable.

*f.* Made to the National Archives of the United States as a record that has sufficient historical or other value to warrant its continued preservation by the U.S. Government, or for determination of such value by the Administrator of the General Services Administration (GSA), or designee. (Records sent to Federal Records Centers for

storage remain under Army control. These transfers are not disclosures and do not therefore need an accounting.)

g. Made to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if—

(1) The activity is authorized by law.

(2) The head of the agency or instrumentality has made a written request to the Army element that maintains the record. The request must specify the particular portion desired and the law enforcement activity for which the record is sought.

h. Made to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual. Upon such disclosure notification will be transmitted to the last known address of such individual.

i. Made to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress, or subcommittee of any such joint committee.

j. Made to the Comptroller General, or authorized representatives, in the course of the performance of the duties of the General Accounting Office(GAO).

k. Pursuant to the order signed by a judge of a court of competent jurisdiction.(Reasonable efforts must be made to notify the subject individual if the legal process is a matter of public record.)

l. Made to a consumer reporting agency under section 3(d) of the Federal Claims Collection Act of 1966 (originally codified at 31 USC 952(d); recodified at 31 USC 3711(f)). The name, address, SSN, and other information identifying the individual; amount, status, and history of the claim; and the agency or program under which the case arose may be disclosed in this instance.

### 3-2. Blanket routine use disclosures

In addition to routine uses in each system notice, the following blanket routine uses apply to all records from systems of records maintained by the Army except those which state otherwise.

a. *Law enforcement.* Relevant records maintained to carry out Army functions may be referred to Federal, State, local, or foreign law enforcement agencies if the record indicates a violation or potential violation of law. The agency to which the records are referred must be the appropriate agency charged with the responsibility of investigating or prosecuting the violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

b. *Disclosure when requesting information.* A record may be disclosed to a Federal, State, or local agency that maintains civil, criminal, or other relevant enforcement information, or other pertinent information, such as licensing, to obtain data relevant to an Army decision concerning—

(1) Hiring or retention of an employee.

(2) Issuance of a security clearance.

(3) Letting of a contract.

(4) Issuance of a license, grant, or other benefit.

c. *Disclosure of requested information.* If the information is relevant and necessary to the requesting agency's decision, a record may be disclosed to a Federal agency in response to its request in connection with—

(1) Hiring or retention of an employee.

(2) Issuance of a security clearance.

(3) Reporting of an investigation of an employee.

(4) Letting of a contract.

(5) Issuance of a license, grant, or other benefit.

d. *Congressional inquiries.* Disclosure from a system of records maintained by the Army may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

e. *Private relief legislation.* Relevant information in all systems of records of DOD published on or before August 22, 1975, will be disclosed to OMB for review of private relief legislation, as set forth in OMB Circular A-19. Information may be disclosed at any stage of the legislative coordination and clearance process.

f. *Disclosures required by international agreements.* A record may be disclosed to foreign law enforcement, security, investigatory, or administrative authorities. These disclosures are in compliance with requirements imposed by, or to claim rights conferred in, international agreements and arrangements including those regulating the stationing and status in foreign countries of DOD military and civilian personnel.

g. *Disclosure to State and local taxing authorities.* Any information normally contained in Internal Revenue Service Form W-2, which is maintained in a record from a system of records of the Army, may be disclosed to State and local taxing authorities with which the Secretary of the Treasury has entered into agreements under 5 USC 5516, 5517, and 5520; only to those State and local taxing authorities for which an employee or military member is or was subject to tax regardless of whether tax is or was withheld. This routine use complies with Treasury Fiscal Requirements Manual, sec 5060.

h. *Disclosure to OPM.* A record may be disclosed to OPM concerning information on pay and leave, benefits, retirement deduction, and any other information necessary for OPM to carry out its legally authorized Government-wide personnel management functions and studies.

i. *Disclosure to National Archives and Records Service (NARS), GSA.* A record may be disclosed to NARS, GSA, in records management inspections conducted under 44 USC, 2904 and 2906.

j. *Disclosure to the Department of Justice for litigation.* A record may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing DOD, or any officer, employee, or member of DOD in pending or potential litigation to which the record is pertinent.

### 3-3. Disclosure to third parties

Personal information that may be disclosed under the Freedom of Information Act is as follows:

a. *Military personnel.*

(1) Name, rank, date of rank, gross salary, present and past duty assignments, future assignments that are officially established, office or duty telephone number, source of commission, promotion sequence number, awards and decorations, military and civilian educational level, and duty status at any given time.

(2) Lists or compilations of unit or office addresses or telephone numbers of military personnel are not released where the requester's primary purpose in seeking the information is to use it for commercial solicitation.

b. *Civilian employees.*

(1) Name and present and past position titles, grades, salaries, and duty stations that include office or duty telephone numbers.

(2) Disclosure of information in (1) above will not be made when the request is a list of present or past position titles, grades, salaries, and/or duty stations and—

(a) Is selected to constitute a clearly unwarranted invasion of personal privacy. For example, the nature of the request calls for a response that would reveal more about the employee than the items in (1) above.

(b) Would be protected from mandatory disclosure under an exemption of the Freedom of Information Act.

(3) In addition to the information in (1) above, the following information may be made available to a prospective employer of a current or former Army employee:

(a) Tenure of employment.

(b) Civil service status.

(c) Length of service in the Army and the Government.

(d) Date and reason for separation shown on SF 50 (Notification of Personnel Action).

### 3-4. Accounting of disclosure

a. An accounting of disclosure is required whenever a record from an Army system of records is disclosed to someone other than the data subject, except when that record—

(1) Is disclosed to officials within DOD who have a need for it to perform official business.

(2) Is required to be disclosed under the Freedom of Information Act.

b. Since the characteristics of records maintained within the Army vary widely, no uniform method for keeping the disclosure of accounting is prescribed. For most paper records, the accounting may be affixed to the record being disclosed. It must be a written record and consist of—

(1) Description of the record disclosed.

(2) Name, position title, and address of the person to whom disclosure was made.

(3) Date, method, and purpose of the disclosure.

(4) Name and position title of the person making the disclosure.

c. Purpose of the accounting of disclosure is to enable an individual—

(1) To ascertain those persons or agencies that have received information about the individual.

(2) To provide a basis for informing recipients of subsequent amendments or statements of dispute concerning the record.

d. When an individual requests such an accounting, the system manager or designee will respond within 10 workdays and inform the individual of the items in *in* above.

e. The only bases for not furnishing the data subject an accounting of disclosures are if disclosure was made for law enforcement purposes under 5 USC 552a(b)(7), or the disclosure was from a system of records for which an exemption from 5 USC 552a(c)(3) has been claimed. (See table 5–1.)

## Chapter 4 Recordkeeping Requirements Under the Privacy Act

### 4–1. Systems of records

a. Notices of all Army systems of records are required by the Privacy Act to be published in the *Federal Register*. An example is at figure 4–1. When new systems are established, or major changes occur in existing systems, which meet the criteria of OMB guidelines summarized in paragraph 4–6b, advance notice must be furnished OMB and the Congress before the system or proposed changes become operational.

b. Uncirculated personal notes, papers, and records that are retained at the author's discretion and over which the Army exercises no control or dominion are not considered Army records within the meaning of the Privacy Act. Individuals who maintain such notes must restrict their use to that of memory aids. Any disclosure from personal notes, either intentional or through carelessness, removes the information from the category of memory aids and the notes then become subject to provisions of the Act.

c. Only personal information that is necessary to accomplish a purpose or mission of the Army, required by Federal statute or Executive Order of the President, will be maintained in Army systems of records. Statutory authority or regulatory authority to establish and maintain a system of records does not convey unlimited authority to collect and maintain all information that may be useful or convenient. The authority is limited to relevant and necessary information.

d. Except for statistical records, most records could be used to determine an individual's rights, benefits, or privileges. To ensure accuracy, personal information to be included in a system of records will be collected directly from the individual if possible. Collection of information from third parties will be limited to verifying information for security or employment suitability or obtaining performance data or opinion-type evaluations.

### 4–2. Privacy Act Statement

a. Whenever personal information is requested from an individual that will become part of a system of records retrieved by reference to the individual's name or other personal identifier, the individual will be furnished a Privacy Act Statement. This Statement is to ensure that individuals know why this information is

being collected so they can make an informed decision on whether or not to furnish it. As a minimum, the Privacy Act Statement will include the following information in language that is explicit and easily understood and not so lengthy as to deter an individual from reading it:

(1) Cite the specific statute or Executive order, including a brief title or subject, that authorizes the Army to collect the personal information requested. Inform the individual whether or not a response is mandatory or voluntary and any possible consequences of failing to respond.

(2) Cite the principal purposes for which the information will be used.

(3) Cite the probable routine uses for which the information may be used. This may be a summary of information published in the applicable system notice.

b. The above information normally will be printed on the form used to record the information. In certain instances, it may be printed in a public notice in a conspicuous location such as at check-cashing facilities; however, if the individual requests a copy of its contents, it must be provided.

### 4–3. Social Security Number

Executive Order 9397 authorizes DA to use the SSN as a system to identify Army members and employees. Once a military member or civilian employee of DA has disclosed his or her SSN for purposes of establishing personnel, financial, or medical records upon entry into Army service or employment, the SSN becomes his or her identification number. No other use of this number is authorized. Therefore, whether the SSN alone is requested from the individual, or the SSN together with other personal information, the Privacy Act Statement must make clear that disclosure of the number is voluntary. If the individual refuses to disclose the SSN, the Army activity must be prepared to identify the individual by alternate means.

### 4–4. Safeguarding personal information

a. The Privacy Act requires establishment of proper administrative, technical, and physical safeguards to—

(1) Ensure the security and confidentiality of records.

(2) Protect against any threats or hazards to the subject's security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness.

b. At each location, and for each system of records, an official will be designated to safeguard the information in that system. Consideration must be given to such items as sensitivity of the data need for accuracy and reliability in operations, general security of the area, and cost of safeguards. (See AR 380–380.)

c. Ordinarily, personal information must be afforded at least the protection required for information designated "For Official Use Only." (See AR340–17, chap IV.) Privacy Act data will be afforded reasonable safeguards to prevent inadvertent or unauthorized disclosure of record content during processing, storage, transmission, and disposal.

### 4–5. First amendment rights

No record describing how an individual exercises rights guaranteed by the first amendment will be kept unless expressly authorized by Federal statute, by the subject individual, or unless pertinent to and within the scope of an authorized law enforcement activity. Exercise of these rights includes, but is not limited to, religious and political beliefs, freedom of speech and the press, and the right of assembly and to petition.

### 4–6. System notice

a. The Army publishes in the *Federal Register* a notice describing each system of records for which it is responsible. A notice contains—

(1) Name and locations of the records.

(2) Categories of individuals on whom records are maintained.

(3) Categories of records in the system.

(4) Authority (statutory or executive order) authorizing the system.

(5) Purpose of the system.

(6) Routine uses of the records, including categories of users and purposes of such uses.

(7) Policies and practices for storing, retrieving, accessing, retaining, and disposing of the records.

(8) Position title and business address of the responsible official.

(9) Procedures an individual must follow to learn if a system of records contains a record about the individual.

(10) Procedures an individual must follow to gain access to a record about that individual in a system of records, to contest contents, and to appeal initial determinations.

(11) Categories of sources of records in the system.

(12) Exemptions from the Privacy Act claimed for the system. (See table 5-1.)

*b.* New, or altered systems that meet the requirements below require a report to the Congress and OMB. A new system is one for which no system notice is published in the *Federal Register*. An altered system is one that—

(1) Increases or changes the number or types of individuals on whom records are kept so that it significantly alters the character and purpose of the system of records.

(2) Expands the types or categories of information maintained.

(3) Alters the manner in which records are organized, indexed, or retrieved to change the nature or scope of those records.

(4) Alters the purposes for which the information is used, or adds a routine use that is not compatible with the purpose for which the system is maintained.

(5) Changes the equipment configuration on which the system is operated, to create potential for either greater or easier access.

*c.* Report of a new or altered system must be sent to HQDA(DAAG-AMR-S) at least 120 days before the system or changes become operational and include a narrative statement and supporting documentation. The narrative statement must contain the following items:

(1) System identification and name.

(2) Responsible official.

(3) Purpose of the system, or nature of changes proposed (if an altered system).

(4) Authority for the system.

(5) Number (or estimate) of individuals on whom records will be kept.

(6) Information on First Amendment activities.

(7) Measures to assure information accuracy.

(8) Other measures to assure system security. (Automated systems require risk assessment under AR 380-380.)

(9) Relations to State/local government activities. (See fig 4-2.)

*d.* Supporting documentation consists of system notice for the proposed new or altered system and proposed exemption rule, if applicable.

#### 4-7. Reporting requirements

*a.* The annual report required by the Privacy Act, as amended by Public Law 97-375, 96 Statute 1821, focuses on two primary areas:

(1) Information describing the exercise of individuals' rights of access to and amendment of records.

(2) Changes or additions to systems of records.

*b.* Specific reporting requirements will be disseminated each year by HQDA(DAAG-AMR-S) in a letter to reporting elements.

#### 4-8. Rules of conduct

Systems managers will ensure that all personnel, including Government contractors or their employees who are involved in the design, development, operation, maintenance, or control of any system of records are informed of all requirements to protect the privacy of individuals who are subjects of the records.

#### 4-9. Judicial sanctions

The Privacy Act has both civil remedies and criminal penalties for violations of its provisions.

*a. Civil remedies* An individual may file a civil suit against the Army if Army personnel fail to comply with the Privacy Act.

*b. Criminal penalties* A member or employee of the Army may be found guilty of a misdemeanor and fined not more than \$5,000 for willfully—

(1) Maintaining a system of records without first meeting the public noticerequirements of publishing in the *Federal Register*.

(2) Disclosing individually identifiable personal information to one not entitled to it.

(3) Asking for or getting another's record under false pretenses.

## Chapter 5 Exemptions

### 5-1. Exempting systems of records

The Secretary of the Army may exempt Army systems of records from certain requirements of the Privacy Act. The two kinds of exemptions are general and specific. The general exemption relieves systems of records from most requirements of the Act; the specific exemptions from only a few. (See table 5-1.)

### 5-2. General exemptions

Only Army activities actually engaged in the enforcement of criminal laws as their primary function may claim the general exemption. To qualify for this exemption, a system must consist of—

*a.* Information compiled to identify individual criminals and alleged criminals, which consists only of identifying data and arrest records; type and disposition of charges; sentencing, confinement, and release records; and parole and probation status.

*b.* Information compiled for the purpose of a criminal investigation, including efforts to prevent, reduce, or control crime, and reports of informants and investigators associated with an identifiable individual.

*c.* Reports identifiable to an individual, compiled at any stage of the process of enforcement of the criminal laws, from arrest or indictment through release from supervision.

### 5-3. Specific exemptions

The Secretary of the Army has exempted from certain parts of the Privacy Act all properly classified information and a few systems of records that have the following kinds of information. The Privacy Act exemption cited appears in parentheses after each category.

*a.* Classified information in every Army system of records. This exemption is not limited to the systems listed in paragraph 5-5. Before denying an individual access to classified information, the Access and Amendment Refusal Authority must make sure that it was properly classified under the standards of Executive Order 11652, 12065, or 12356 and that it must remain so in the interest of national defense or foreign policy. (5 USC 552a(k)(1))

*b.* Investigatory data for law enforcement purposes (other than that claimed under the general exemption). However, if this information has been used to deny someone a right, privilege, or benefit to which the individual is entitled by Federal law, it must be released, unless doing so would reveal the identity of a confidential source. (5 USC 552a(k)(2))

*c.* Records maintained in connection with providing protective services to the President of the United States or other individuals protected pursuant to 18 USC 3056. (5 USC 552a(k)(3))

*d.* Statistical data required by statute and used only for statistical purposes and not to make decisions on the rights, benefits, or entitlements of individuals, except for census records that may be disclosed under 13 USC 8. (5 USC 552a(k)(4))

*e.* Data compiled to determine suitability, eligibility, or qualifications for Federal service, Federal contracts, or access to classified information. This information may be withheld only to the extent

**THIS PAGE LEFT BLANK INTENTIONALLY**