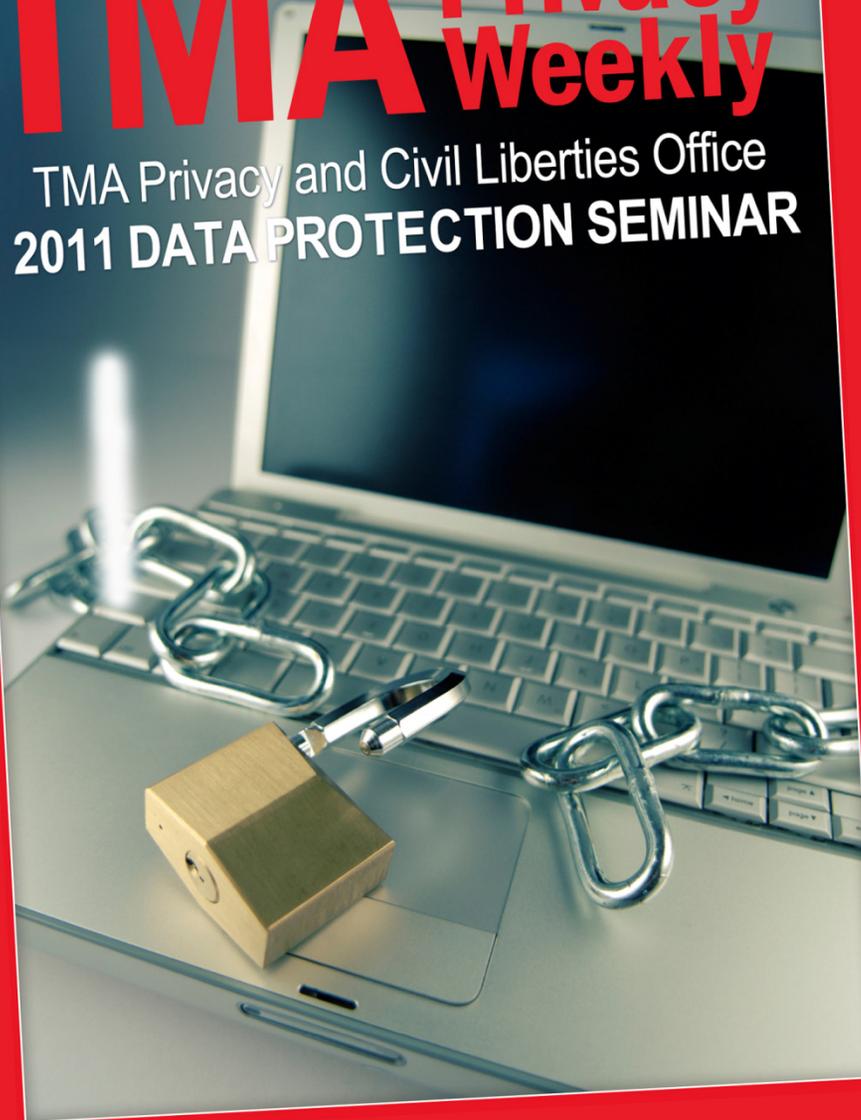


JUNE 7-8, 2011

TMA Privacy Weekly

TMA Privacy and Civil Liberties Office
2011 DATA PROTECTION SEMINAR



Privacy Act: Protecting Personal Data in Systems of Records



Privacy Act: Protecting Personal Data in Systems of Records

Purpose

The purpose of this presentation is to identify and describe key provisions of the Privacy Act of 1974 and apply the Privacy Act protections to collections of personally identifiable information (PII) by TRICARE Management Activity (TMA), Military Health System (MHS) components, and their contractors.



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Objectives

- Upon completion of this presentation, you should be able to:
 - Describe the Privacy Act's impact on DoD components' collection of PII
 - Determine the Privacy Act's applicability to PII collections undertaken by DoD components and their contractors
 - Identify a system of records and when a System of Records Notice (SORN) may be required
 - Describe a Privacy Act Statement and its use
 - Locate resources for assisting your component with SORN and Privacy Act Statement issues



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Privacy Act: Protecting Personal Data in Systems of Records

The Privacy Act of 1974, as amended

- One of the key statutes governing the protection of PII, found at 5 U.S.C. § 552a
- Regulates the collection, maintenance, use, and dissemination of PII maintained by Executive Branch agencies and departments
- Agencies and departments subject to Privacy Act include:
 - DoD and its components, such as TMA
 - Contractors involved in the collection, maintenance, use, and dissemination of PII by DoD and its components



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What the Privacy Act Does

- Defines the requirements for DoD in collecting and handling PII
- Shapes the collection, maintenance, use, and dissemination of information about individuals that is stored in a system and retrieved by a personal identifier
- Grants individuals certain rights under specific circumstances to access and correct records about themselves
- Establishes requirements for identifying a system of records and the elements of a SORN
- Determines when Privacy Act Statements must be provided to individuals prior to the collection of their PII



Privacy Act: Protecting Personal Data in Systems of Records

Critical Terms and Definitions

- PII: Information which can be used to distinguish or trace an individual's identity
- Record: Any item, collection, or grouping of information, whatever the storage media, about an individual and maintained by or on behalf of a DoD component that contains:
 - His or her name; or
 - Identifying number, symbol, or other identifying particular assigned to the individual
- System of records: A group of records under control of a DoD component from which personal information about an individual is retrieved by an identifier that is unique to the individual



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TMA Privacy and Civil Liberties Office Role

- Provides support to assist MHS compliance with the Privacy Act
- Implements Privacy Act requirements throughout the MHS, including the oversight of the development and use of Privacy Act Statements and Privacy Advisories for forms and surveys
- Reviews TMA systems of records and coordinates the review and publication of required SORNs and updates in the Federal Register



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What a SORN Is

- A document, published in the Federal Register, which identifies:
 - The purpose for the system of records
 - Individuals which are covered by information in the system of records
 - Categories of records maintained about the individual
 - How the information is shared by the agency or component
- Provides notice to the public on Privacy Act rights and procedures for accessing and correcting PII maintained by the agency on that individual



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When a SORN Is Required

- A SORN is required prior to:
 - The lawful operation of a new system of records by a federal agency or component (including contractor systems which are systems of records)
 - An existing or current system of records being altered or amended
- A SORN with respect to the new or altered/amended system must be published for public comment in the Federal Register



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When a SORN Is Required (continued)

- The system contains records, as defined by the Privacy Act
- The records in the system are under control of DoD or a DoD component
 - Control establishes accountability for the Privacy Act provisions
 - Records are under control of DoD if they are maintained by or on behalf of DoD or a DoD component
 - Privacy Act records stored by a contractor on behalf of DoD are regarded as controlled by DoD or the contracting component
- The records in the system are retrieved by name or other identifying information (a personal identifier)



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Responsibility for the SORN

- Drafting responsibility:
 - System owner
 - System developer
- Reviewing responsibility:
 - TMA Privacy and Civil Liberties Office (Privacy Office)
 - Washington Headquarters Service (WHS)
 - DoD Privacy and Civil Liberties Office
 - DoD Congressional Liaison Office
 - US Congress
 - Office of Management and Budget (OMB)



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Privacy Act Statements

- Required: When PII is requested directly from an individual for inclusion in a system of records, regardless of method used to collect the PII
- Purpose: To permit individual to make an informed decision about providing the requested information
- Content:
 - Authority for the collection
 - Principal purpose(s) for which information is to be used
 - Whether providing the information is voluntary or mandatory
 - Effect on the individual if he/she chooses not to provide the requested information



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Privacy Act Statements (continued)

- Sample Privacy Act Statement

PRIVACY ACT STATEMENT SAMPLE

This statement serves to inform you of the purpose for collecting personal information required by the Active Duty Dental Program (ADDP) and how it will be used.

AUTHORITY:	10 U.S.C. Chapter 55, Medical and Dental Care; 32 CFR Part 199.17, TRICARE Program; 45 CFR Parts 160 and 164, Health Insurance Portability and Accountability Act Privacy and Security Rules; and E.O. 9397 (SSN), as amended.
PURPOSE:	To provide for enrollment, processing of claims, and customer service to individuals eligible for TRICARE Retiree Dental Program benefits.
ROUTINE USES:	In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, the DoD "Blanket Routine uses" under 5 U.S.C. 552a(b)(3) apply to this collection. Information from this system may be shared with federal, state, local, or foreign government agencies, and with private business entities, including individual providers of care, on matters relating to eligibility, claims pricing and payment, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil or criminal litigation.
DISCLOSURE:	Voluntary. If you choose not to provide your information, no penalty may be imposed, but absence of the requested information may result in administrative delays.



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Privacy Act Statement Placement

- When paper or electronic forms are used to collect PII:
 - In the body of the form, preferably just below the title
 - On the form's reverse side, with an appropriate note under the title giving its location
 - On a tear-off sheet attached to the form
 - As a separate supplement to the form
- Non-form placement:
 - Public notice, such as a sign or poster, where PII is collected
 - Telephone scripts



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Privacy Advisories

- Situation:
 - DoD component or contractor solicits and collects PII
 - PII is not maintained in a system of records
- Because PII is not stored in a system of records, a Privacy Act Statement is not required
- Privacy Office may require a Privacy Advisory to be used in connection with the solicitation and collection
 - Privacy Advisories often required in connection with surveys



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Privacy Advisory Example

The information collected by this survey will be used to measure staff satisfaction with clinic practices and procedures specific to teamwork among staff, the overall clinic environment, and what available resources are assisting them in the provision of quality patient-centered care. All identifiable information will be protected and not used to identify you. Data will be analyzed in aggregate form, and there will be no retrieval capability or intent in the collection of your responses.



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Penalties for Privacy Act Non-Compliance

- Non-compliance with the Privacy Act carries misdemeanor criminal penalties and fines of up to \$5,000 for:
 - Soliciting or collecting individual data under false pretenses
 - Unauthorized disclosure without written permission or consent
 - Maintaining or collecting data for a system of records without meeting public notice requirements
- There are also substantial civil penalties, including awards for actual damages, payment of reasonable attorney fees, and removal from employment



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Summary

- You should now be able to:
 - Describe the Privacy Act's impact on DoD components' collection of PII
 - Determine the Privacy Act's applicability to PII collections undertaken by DoD components and their contractors
 - Identify a system of records and when a SORN may be required
 - Describe a Privacy Act Statement and its use
 - Locate resources for assisting your component with SORN and Privacy Act Statement issues



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Resources

- The Privacy Act of 1974, as amended (5 U.S.C. § 552a)
- OSD Administrative Instruction No. 81, “OSD/Joint Staff (JS) Privacy Program”, November 20, 2009
- DoD 5400.11-R, “Department of Defense Privacy Program”, May 14, 2007
- OMB Memorandum 99-05, “Instructions on Complying with President’s Memorandum of May 14, 1998, ‘Privacy and Personal Information in Federal Records’”, January 7, 1999, Attachment B
- OMB Circular A-130, “Management of Federal Information Resources”, November 28, 2000



Privacy Act: Protecting Personal Data in Systems of Records

Resources (continued)

- Privacy Office Web site: <http://www.tricare.mil/tma/privacy/>
- Privacy Office Systems of Records Notice Web site: <http://www.tricare.mil/tma/privacy/SystemsofRecords.aspx>
- E-mail SORmail@tma.osd.mil for subject matter questions related to SORN
- E-mail PrivacyOfficerMail@tma.osd.mil for subject matter questions related to the Privacy Act
- To subscribe to the Privacy Office E-News, go to: <http://www.tricare.mil/tma/privacy/maillinglist.aspx>
- E-mail Privacymail@tma.osd.mil for subject matter questions

