

PRIVACY ACT AND SYSTEMS OF RECORDS


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PRIVACY ACT AND SYSTEMS OF RECORDS

WHAT WOULD YOU DO?

WHAT WOULD YOU DO?

- **OFFICE OF INSPECTOR GENERAL**

- INVESTIGATING SPECIFIC ALLEGATION OF FRAUD
- EXPLORING POSSIBLE FRAUD
- AUDITING PROGRAM MANAGEMENT

- **ATTORNEY IN A THIRD PARTY ACTION**

- **BUDGET OFFICE**

WHAT WOULD YOU DO?

- EEO INVESTIGATOR
- UNION REPRESENTATIVE
- SECURITY OFFICE
- AGENCY SAFETY AND HEALTH MANAGER

PRIVACY ACT/ SYSTEMS OF RECORDS

- WHAT IS THE PRIVACY ACT?**
- WHAT INFORMATION CAN BE RELEASED ABOUT A WORKERS' COMPENSATION CASE? TO WHOM?**
- WHAT IS A SYSTEM OF RECORDS AND HOW DOES IT FIT IN THE PICTURE?**



PRIVACY ACT

BASIC POLICY OBJECTIVES

PRIVACY ACT

PURPOSE:

**BALANCE GOVERNMENT'S NEED TO
MAINTAIN INFORMATION**

**WITH THE RIGHTS OF INDIVIDUALS
TO BE PROTECTED AGAINST THE
UNWARRANTED INVASION OF THEIR
PRIVACY**

PRIVACY ACT

FOUR BASIC POLICY OBJECTIVES

1. RESTRICT DISCLOSURE

**2. GRANT INDIVIDUALS
INCREASED RIGHTS OF ACCESS**

PRIVACY ACT

**3. GRANT INDIVIDUALS RIGHT TO
SEEK AMENDMENT OF AGENCY
RECORDS**

**4. ESTABLISH A CODE OF
“FAIR INFORMATION PRACTICES”**

PRIVACY ACT

REMEMBER--A DISCLOSURE MAY BE WRITTEN (MOST DISCLOSURES ARE)

BUT

THERE ARE ORAL DISCLOSURES AS WELL

AND ALL DISCLOSURES ARE COVERED BY PRIVACY ACT PRINCIPLES

PRIVACY ACT

CIVIL REMEDIES-- SUIT AGAINST AGENCY

1. AMENDMENT LAWSUIT

2. ACCESS LAWSUIT

**3. ACCURACY LAWSUIT FOR
DAMAGES**

4. OTHER DAMAGES LAWSUIT

PRIVACY ACT

THESE CIVIL CAUSES OF ACTION ARE APPLICABLE TO THE FEDERAL AGENCY, NOT THE INDIVIDUAL EMPLOYEE

PRIVACY ACT

CRIMINAL PENALTIES--APPLY TO INDIVIDUALS

**1. FEDERAL EMPLOYEE DISCLOSURE
OF INFORMATION PROHIBITED FROM
DISCLOSURE**

--MISDEMEANOR, FINE NOT > \$5,000

PRIVACY ACT

**2. FEDERAL EMPLOYEE WILLFULLY
MAINTAINS A SYSTEM OF RECORDS
WITHOUT MEETING NOTICE REQUIREMENTS**

--MISDEMEANOR, FINE NOT > \$5,000

**3. ANYONE, INCLUDING A FEDERAL
EMPLOYEE, REQUESTS OR OBTAINS ANY
RECORD UNDER FALSE PRETENSES**

--MISDEMEANOR, FINE NOT > \$5,000

PRIVACY ACT

**THESE PROVISIONS ARE
SOLELY CRIMINAL**

**THEY CREATE NO PRIVATE
RIGHT OF ACTION AGAINST A
FEDERAL EMPLOYEE
INDIVIDUALLY**

PRIVACY ACT

**IN OTHER WORDS, IF YOU
VIOLATE AN INDIVIDUAL'S
PRIVACY, THE INDIVIDUAL CAN
ONLY SUE THE GOVERNMENT**

**BUT THE GOVERNMENT CAN
PROSECUTE YOU**

SYSTEMS OF RECORDS

DEFINED IN THE PRIVACY ACT:

- **“a group of any records under the control of any agency from which information is retrieved by ... name... identifying number, symbol, or other identifying particular to the individual”**

PUBLISHED IN FEDERAL REGISTER

SYSTEMS OF RECORDS

- Authority**
- Purpose**
- Types of records**
- ROUTINE USES**

SYSTEMS OF RECORDS

ROUTINE USE:

“means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected”

SYSTEMS OF RECORDS

**WORKERS' COMPENSATION
RECORDS BELONG TO DOL,
AND DOL ONLY**

**ANY RECORDS THE AGENCY
HAS, INCLUDING COPIES,
BELONG TO DOL**

SYSTEMS OF RECORDS

WHAT DOES THAT MEAN?

ANY RECORDS THE AGENCY HAS BELONG TO DOL, AND CAN ONLY BE RELEASED IN ACCORDANCE WITH DOL'S PUBLISHED ROUTINE USES, AND WITH DOL'S INTERPRETATION

SYSTEMS OF RECORDS

**WHAT ARE THEY AND WHERE
ARE THEY?**

**WHAT:
DOL/GOVT-1**

**SYSTEM NAME: OWCP,
Federal Employees'
Compensation Act File**

SYSTEMS OF RECORDS

**WHERE:
REFERENCED IN THE FECA
REGULATIONS AT**

20 CFR 10.10-10.13

SYSTEMS OF RECORDS

WHAT ARE DOL'S PUBLISHED ROUTINE USES?

There are 16 of them...

- third party in a third party action**
- employing agency at time of injury to verify billing, check status of claim, consider rehire, etc.**
- potential employers for return to work consideration**

SYSTEMS OF RECORDS

- Rehab agencies for evaluation**
- Physicians for use in treatment**
- Labor union acting on behalf of the employee**
- IRS concerning earnings**
- OSHA**
- Credit bureaus determining ability to pay debts**

SYSTEMS OF RECORDS

- Health insurance or medical/welfare plans for clarification of billing responsibility**
- Contractors evaluating the agency's implementation of FECA**
- Contractors providing ADP or other services in connection with program administration**
- DoD and USPS computer matching programs**

SYSTEMS OF RECORDS

- To an agency for obtaining information concerning eligibility for benefits; whether dual benefits are being paid; and for salary offset and debt collection**
- To a Member of Congress or Congressional Staff Person**
- To individuals and attorneys seeking alimony and child support**

SYSTEMS OF RECORDS

**Plus, THERE ARE 12 ROUTINE
USES IN THE GENERAL
PREFATORY STATEMENT OF
DOL/GOVT-1**

SYSTEMS OF RECORDS

SO...WHAT DOES THIS MEAN?

**WORKERS' COMP DATA CAN
BE RELEASED ONLY FOR THE
ROUTINE USES ESTABLISHED
BY DOL**

SYSTEMS OF RECORDS

**WHEN YOU RELEASE DATA,
YOU CAN RELEASE ONLY
THAT PART OF THE RECORD
THAT IS NECESSARY TO MEET
THE ROUTINE USE**

SYSTEMS OF RECORDS

**IT IS A VIOLATION OF THE
PRIVACY ACT IF YOU GIVE
ANY INFORMATION NOT
COVERED BY THE ROUTINE
USES TO ANYONE**

WHEN IN DOUBT, CALL OWCP

WHAT WOULD YOU DO?

- SECURITY OFFICE
- UNION REPRESENTATIVE
- EEO INVESTIGATOR
- BUDGET OFFICE
- ATTORNEY IN A THIRD PARTY ACTION

WHAT WOULD YOU DO?

- **AGENCY SAFETY AND HEALTH MANAGER**
- **OFFICE OF INSPECTOR GENERAL**