

(a) Records that are retrieved by name or personal identifier are subject to Privacy Act (PA) requirements and are referred to as PA systems of records. The Air Force must publish notices in the **Federal Register**, describing the collection of information for new, changed or deleted systems to inform the public and give them an opportunity to comment before implementing or changing the system. (see Appendix D to this part).

(b) An official system of records is:

(1) Authorized by law or Executive Order.

(2) Needed to carry out an Air Force mission or function.

(3) Published in the **Federal Register**.

(c) The Air Force will not:

(1) Keep records on how a person exercises First Amendment rights. EXCEPTIONS are when: The Air Force has the permission of that individual or is authorized by Federal statute; or the information pertains to an authorized law enforcement activity.

(2) Penalize or harass an individual for exercising rights guaranteed under the PA. We must reasonably help individuals exercise their rights under the PA.

(d) Air Force members will:

(1) Keep paper and electronic records that are retrieved by name or personal identifier only in approved PA systems published in the **Federal Register**.

(2) Collect, maintain, and use information in such systems, for purposes described in the published notice, to support programs authorized by law or Executive Order.

(3) Safeguard the records in the system and keep them the minimum time required.

(4) Ensure records are timely, accurate, complete, and relevant.

(5) Amend and correct records on request.

(6) Allow individuals to review and receive copies of their own records unless the Secretary of the Air Force approved an exemption for the system; or the Air Force created the records in anticipation of a civil action or proceeding.

(7) Provide a review of decisions that deny individuals access to or amendment of their records through appellate procedures.

§ 806b.3 Violation Penalties.

An individual may file a civil law suit against the Air Force for failing to comply with the PA. The courts may find an individual offender guilty of a misdemeanor and fine that individual offender not more than \$5,000 for:

(a) Willfully maintaining a system of records that doesn't meet the public notice requirements.

(b) Disclosing information from a system of records to someone not entitled to the information.

(c) Obtaining someone else's records under false pretenses.

§ 806b.4 Privacy Act Complaints.

Process PA complaints or allegations of PA violations through the appropriate base or MAJCOM PA office, to the local systems manager. The base or MAJCOM PA officer directs the process and provides guidance to the system manager. The local systems manager will investigate complaints, or allegations of PA violations; will establish and review the facts when possible; interview individuals as needed; determine validity of the complaint; take appropriate corrective action; and ensure a response is sent to the complainant through the PA Officer. In cases where no system manager can be identified, the local PA officer will assume these duties. Issues that cannot be resolved at the local level will be elevated to the MAJCOM Privacy Office. When appropriate, local system managers will also: refer cases for more formal investigation, refer cases for command disciplinary action, and consult the servicing SJA. In unified combatant commands, process component unique system complaints through the respective component chain of command.

§ 806b.5 Personal Notes.

The Privacy Act does not apply to personal notes on individuals used as memory aids. Personal notes may become Privacy Act records if they are retrieved by name or other personal identifier and at least one of the following three conditions apply:

(a) Keeping or destroying the records is not at the sole discretion of the author;

(b) The notes are required by oral or written directive, regulation, or command policy; or

(c) They are shown to other agency personnel.

§ 806b.6 Systems of Records Operated by a Contractor.

Contractors who are required to operate or maintain a PA system of records by contract must follow this part for collecting, safeguarding, maintaining, using, accessing, amending and disseminating personal information. The record system affected is considered to be maintained by the Air Force and is subject to this part. Systems managers for offices who have contractors operating or maintaining such record systems must ensure the contract contains the proper PA clauses,

and identify the record system number, as required by the Defense Acquisition Regulation and this part.

(a) Contracts for systems of records operated or maintained by a contractor will be reviewed annually by the appropriate MAJCOM Privacy Officer to ensure compliance with this part.

(b) Disclosure of personal records to a contractor for use in the performance of an Air Force contract is considered a disclosure within the agency under exception (b)(1) of the Privacy Act (see § 806b.47(a)).

§ 806b.7 Responsibilities.

(a) The Air Force Chief Information Officer (AF-CIO) is the senior Air Force Privacy Official with overall responsibility for the Air Force Privacy Act Program.

(b) The Office of the General Counsel to the Secretary of the Air Force (SAF/GCA) makes final decisions on appeals.

(c) The General Litigation Division, AFLSA/JACL, receives PA appeals and provides recommendations to the appellate authority. Service unique appeals, from unified combatant commands, should go through the respective chain of command.

(d) The Plans and Policy Directorate, Office of the Chief Information Officer (AF-CIO/P) manages the program through the Air Force PA Officer who:

(1) Administers procedures outlined in this part.

(2) Reviews publications and forms for compliance with this part.

(3) Reviews and approves proposed new, altered, and amended systems of records; and submits system notices and required reports to the Defense Privacy Office.

(4) Serves as the Air Force member on the Defense Privacy Board and the Defense Data Integrity Board.

(5) Provides guidance and assistance to MAJCOMs, FOAs, DRUs and combatant commands for which AF is executive agent in their implementation and execution of the Air Force Privacy Program. Insures availability of training and training tools for a variety of audiences.

(6) Provides advice and support to those commands to ensure that information requirements developed to collect or maintain personal data conform to PA standards; and that appropriate procedures and safeguards are developed, implemented, and maintained to protect the information.

(e) MAJCOM commanders, and Deputy Chiefs of Staff (DCS) and comparable officials at Secretary of the Air Force and Headquarters United States Air Force (HQ USAF) offices implement this part.