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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. list	Listing of Agency Privacy Act Officials (partial, CIA Act) (1 page)	n.d.	P3/b(3)

COLLECTION:

Clinton Presidential Records
 Domestic Policy Council
 Bruce Reed (Subject File)
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FOLDER TITLE:

Lobbying Reform-Reports

rs54

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(u)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

OMB Analysis

SUMMARY ANALYSIS OF THE "LOBBYING DISCLOSURE ACT OF 1993"

- Sec. 1 - Provides title.
- Sec. 2 - Findings and purpose section, i.e., that there is inadequate public disclosure of paid lobbying activities.
- Sec. 3 - This section provides definitions.

"Client" includes anyone or any organization that hires or retains someone to engage in influencing activity on its behalf (including in-house employees).

"Covered executive branch officials" include the President, the Vice President, any EXOP employee (other than clericals), all PAS appointees, all SES appointees, all Schedule C's, and all military officers above grade O-6.

"Covered legislative branch officials" include any Member or employee of the House or Senate (including Joint Committees, but excepting clerical employees).

The term "lobbying contact" means any oral or written communication with a covered official with regard to the formulation, modification or adoption of Federal legislation, rules, regulations, Executive Orders, or any other program, policy or position of the United States Government. However, the term specifically excludes lobbying by public officials acting in their official capacity, the giving of Congressional or similar public testimony, providing information to a covered official in response to a specific written request from that official, a request made in conjunction with a judicial or quasi-judicial proceeding, or communications made on behalf of an individual with regard to such individual's benefits, employment, or other personal matters involving only that individual. The term also excludes responses to notices that appear in the Federal Register, Commerce Business Daily and similar publications, but only if the communication is directed to the official specifically designated in the notice to receive such communications (substitute officials are not permitted).

"Lobbyist" is defined as one who is retained for financial or other compensation to perform lobbying activities, but does not include lobbying activities that are "only incidental to, and not a significant part of, the services provided by such individual to the client." In essence, this definition defines

lobbying as any type of nonexempt influencing activity, but then provides that influencing is not lobbying, if the communication is "only incidental to, or not a significant part of the services" rendered to the client.

- Sec. 4 - Registration provisions.** Provides that lobbyists must register with the Office of Lobbying Registration and Public Disclosure, Department of Justice, within 30 days after first making a lobbying contact of a covered official on behalf of a client. Provides an overall exemption for lobbyists whose receipts in connection with covered activities do not exceed \$1,000 in a semi-annual period (with respect to a specific client).

Provides for contents of the registration statement to be filed by lobbyists, including the name of any organization (other than the client) that contributes, participates in, or has a significant interest, with respect to matters on which lobbying is being conducted.

Provides for disclosure of the general issues on which lobbying is being conducted on behalf of the client. Also provides for disclosure of the name of each lobbyist, and whether that individual has served as a covered Executive or Legislative branch official within the previous 2 years. Also requires that for registrants representing more than one client, that a separate registration be filed for each client (further provides that a single lobbying organization may file only one registration statement for all its employees).

- Sec. 5 - Reports by registered lobbyists.** Provides for semiannual disclosure of lobbying activities by registrants, including, but not limited to, a list of "significant lobbying activities" and references to the issues which the lobbyists(s) covered.

For the Legislative Branch, disclosure must be of the name of the Chamber lobbied, i.e., "House" or "Senate," or the name of the Committee of Congress that was lobbied (in the case of Committee lobbying).

For the Executive Branch, disclosure must be of the "agency" lobbied. **Note:** The term "agency" as used in the definitions section of this bill includes any "authority" to undertake action. This means that the name of the Executive branch "agency" being disclosed must correspond to the authority for undertaking the action on which lobbying was conducted, e.g., the Office of Federal Procurement Policy, the Office of

Nuclear Energy - DOE, the Office of Fair Housing - HUD, or any one of hundreds (potentially thousands) of "authorities" by which official Executive branch action is undertaken.

An estimate of income or expenses incurred by the client must be disclosed based upon a set of dollar ranges specified in the bill.

- Sec. 6 - Administrative duties of the Office of Lobbying Registration and Public Disclosure.** Provides for the overall administrative functions of this new office within the Department of Justice. The main function of the office would be to receive lobbying registration and disclosure reports, and to make such information available (including in electronic form) to Congress and the public. The Office would be headed by a PAS IV.
- Secs. 7, 8 & 9 - Provides for informal resolution of alleged noncompliance with the Act and determinations of such noncompliance, as well as other types of violations.** This section specifies "due process" procedures for undertaking informal resolution of disputes concerning noncompliance with the provisions of the Act.
- Sec. 10 - Judicial review.** This section provides for judicial review of the decisions of the Director by the appropriate United States Court of Appeals. Provides that penalty assessments shall be stayed during the pendency of an appeal.
- Sec. 11 - Rules of construction.** Provides (among other things) that "Nothing in this Act shall be construed to grant general audit or investigative authority to the Director, or to authorize the Director to review the files of a registrant ..." Query: How will the Director ensure appropriate compliance with the terms of the statute in questionable cases?
- Sec. 12 - Conforming amendments to the Foreign Agents Registration Act.**
- Sec. 13 - Conforming amendments to the "Byrd Amendment."** This section eliminates the disclosure provisions of the Byrd Amendment, but does not strike the "no use of appropriated funds language" or the certification requirement provided under 31 U.S.C. § 1352.
- Sec. 14 - Repeal of certain lobbying provisions.** This section repeals nonconforming sections of the Federal Regulation of Lobbying Act, the provisions relating to

Housing Lobbyists Activities, and the Registration Requirement Relating to Public Utility Lobbying.

- Sec. 15 - Provides for necessary conforming amendments to related statutes.
- Sec. 16 - Provides for severability of the provisions of the Act.
- Sec. 17 - Provides for authorization of appropriations for the Office of Lobbying Registration and Public Disclosure, Department of Justice.
- Sec. 18 - Provides for effective dates for the Act. Most of the general provisions of the Act would take effect one year after the date of enactment, with proposed regulations to be published within 270 days after the date of enactment.

CRS Report for Congress

Interest Groups and Lobbying: Selected References, 1987-1989

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March 1989



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National
Executive Office

Regional Offices
and

Members

Business and Professional
Public Interest Fund

Center for Law and Social Policy

Center for Law and
Public Interest

Center for Public
Representation

Center for Economic
Public Policy

Children's Defense Fund

Consumers Union

Economic Law Center

Environmental Law Center

Equal Rights Institute

Food Resources and
Action Center

Health Care Action Center

Institute for Public
Representation

Justice Action Center

Legal Resources and
Action Center

Mississippi and Louisiana Defense
and Educational Fund

National Education Foundation

National Equal Rights and
Education Fund

National Women's Foundation

National Women's Law Center

National Children's Rights Fund

National Public Access Defense
Center

National Lawyers for the
Public Interest

Public Access Center

State and Local
Defense Fund

Women's Law Project

Women's Law Defense Fund

ALLIANCE FOR JUSTICE BACKGROUND ANALYSIS OF THE LOBBYING DISCLOSURE ACT

The Lobbying Disclosure Act of 1993, S. 349/H.R. 832, introduced by Senator Carl Levin (D-Mich.) and Representative John Bryant (D-Tex.), is intended to reform disclosure rules concerning lobbying activities at the federal level. The legislation arose from the Wedtech scandal and other business abuses. The Senate Governmental Affairs Committee reported the bill on February 25. House hearings are scheduled for March 17.

While the Alliance for Justice supports the concept of disclosure, certain provisions are a threat to public interest advocacy. The bill infringes on one of the central tenets of the First Amendment--guaranteeing the rights of citizens and organizations to petition their government. The points below explain how the Levin/Bryant bill will erect a barrier to the kind of organized, informed citizen involvement that is essential to democratic self-government.

1. *The Act Will Chill Public Interest Advocacy By Expanding Record-Keeping, Accounting and Reporting Burdens To Include Executive Branch Communications and By Requiring Disclosure of the "Specific Issues" Addressed By Lobbyists.*

Unlike current lobbying disclosure rules which apply only to the relatively discrete activity of lobbying Congress, the Act would require public interest organizations to record and report every occasion on which they communicate with high-level federal administrative officials on any matter, a potentially enormous burden for many nonprofit and other citizen organizations. The Act thereby disrupts the carefully constructed balance under existing law, under which efforts to influence federal policy are unfettered while efforts to obtain federal funds in the form of grants, contracts and loans, are subject to disclosure through the Byrd Amendment. This scheme was put in place by Congress only three years ago, and there is no evidence that it does not adequately protect the public against abusive lobbying practices. Broader proposals to expand disclosure rules to include nonprofits' executive branch communications previously have been rejected by Congress as unnecessary.

For both legislative and executive lobbying contacts, registered lobbyists are required under the Act to report the "specific issues" upon which the registrant engaged in "significant" lobbying activities, including a list of bill numbers and references to "specific regulatory actions, programs, projects, contracts, grants and loans." In many cases, disclosure of such details will be tantamount to disclosure of the persons with whom the lobbyist had contact and possibly even the nature of the contact. Public disclosure, or the threat of disclosure, of such information could interfere significantly with the willingness of legislative and executive branch officials to communicate with outsiders and could deter many citizen lobbyists from undertaking activities in the public interest.

2. *Charitable, Religious and Educational Organizations Would be Subjected to Overlapping Regulatory Schemes and Redundant Enforcement Mechanisms.*

Charitable, religious and educational organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code are already subject to several comprehensive requirements which not only provide adequate disclosure of their activities but restrict the amount of lobbying that such organizations may conduct. Under a provision enacted in 1976, charities may not spend more than 20 percent of their budgets on lobbying activities and they must report all expenditures for direct and grassroots lobbying on their annual IRS returns. Charities not electing to follow the 1976 provision are subject to even more stringent limits on their lobbying and must disclose more detailed information on their lobbying activities. All charities must allow public inspection of their IRS returns. Organizations such as trade associations and corporations that lobby on behalf of business are not subject to comparable restrictions or disclosure rules.

The IRS regulations implementing these requirements fill more than 40 pages, and there are a growing number of rulings and other related materials of which charities must also be aware. It is unreasonable to expect these organizations to master yet another body of rules in order to engage in advocacy activities. It is also unreasonable to subject charitable organizations to a multiplicity of enforcement procedures.

3. *Citizen Lobbying Activities Protected By The First Amendment Should Not Be Subject To The Type of Intrusive Regulatory Controls Contained in the Act.*

The burdens of the Act cannot be measured by looking only at its record-keeping and reporting requirements alone. In a classic example of regulatory overkill, the Act establishes a new federal agency within the Department of Justice, the Office of Lobbying Registration and Public Disclosure, with the power to assess civil penalties of up to \$100,000 per violation against lobbying entities that fail to report in a timely fashion or that file incomplete or inaccurate reports. The power to investigate and punish violations of the Act gives the new agency virtually unlimited authority to intrude into citizens' constitutionally protected lobbying activities under the guise of seeking to determine whether a violation has occurred.

Consider, for example, an organization which does not report a lobbying contact because it is believed to come within one of the Act's exemptions. If the Department of Justice, acting in response to an anonymous tip, a news story, or some other source of information, demands to know why the organization did not include this activity, how can the organization defend itself without disclosing the very communications and contacts which it feels are protected from disclosure? And, if the organization does agree to reveal the details of the lobbying contact, will not the agency investigators immediately approach each individual involved in order to verify the truth of the organization's response?

The problem of intrusive investigations will be compounded for organizations that do not register and report their lobbying activities because they are not covered by the Act's provisions. A lobbying organization need not register under the Act if it does not incur at least \$1000 in expenses on lobbying activities during a six month period. In addition, an organization will not have to report if none of its employees engage in lobbying as a "significant" part of the services for which they are paid. Any non-reporting organization which relies on either of these provisions must be prepared to have all of its activities scrutinized by the Department of Justice if its failure to report is challenged. The Department of Justice will have no other means of verifying that the organization falls under the \$1000 threshold or that all of its employees satisfy the "insignificant" test.

Nonprofit organizations have in recent years experienced firsthand the chilling effect on protected advocacy activities resulting from the heavy-handed intrusion of federal regulators. Federal grantees subject to audit under OMB Circular A-122, grantees of the Legal Service Corporation who are subject to especially stringent lobbying restrictions, and the women's rights and civil rights organizations who were targeted by the Senate's special counsel in the aftermath of the Thomas/Hill hearings can all testify to the agony caused by these investigations. The Act will widen considerably the organizations and individuals who will face similar intrusions into their constitutionally protected lobbying activities.

4. *The Act Leaves Inappropriately Wide Latitude For Regulators To Expand The Scope of Mandatory Disclosure And Increase The Burden On Citizen Advocacy.*

The Act grants virtually unlimited authority to the Office of Lobbying Registration And Public Disclosure to promulgate regulations having the force of law and to issue other binding pronouncements which will inevitably expand the reach of the Act's requirements. In addition, gaps in the Act's scheme and the vagueness of many of its terms leave room for overzealous regulators to impose their own notions of the information to be disclosed. Among the critical issues delegated to the agency to resolve are:

- how are lobbying activities conducted by affiliated organizations to be treated?
- when does research constitute reportable "efforts in support of" lobbying, and when are grassroots lobbying activities "in direct support" of direct lobbying contacts?

- how are multi-purpose expenditures to be allocated between lobbying and nonlobbying accounts?
- what "agencies" will lobbying organizations have to identify in their reports?
- how are lobbyists to report contacts with members of Congress who are not members of a Committee to which legislation has been assigned?
- how are "significant" and "minor" violations to be defined?
- must churches and other religious organizations that do not currently report their lobbying activities to IRS file reports under the Act?
- which agency officials must request information in order for the Act's technical assistance exemption to apply?
- to what degree of detail must registered lobbyists describe the "specific issues" upon which they have engaged in lobbying activities?
- what records must organizations maintain in order to demonstrate that they have made a "good faith estimate" of their lobbying expenditures?
- who is an "independent contractor or agent" whose activities do not have to be reported?

It is inappropriate, if not dangerous, to grant to any federal agency such unbridled authority to control the constitutionally protected activities of citizens.

5. *The Regulation of First Amendment Activities Should Not Be Entrusted to a Law Enforcement Agency.*

The Office of Lobbying Registration And Public Disclosure was placed within the Department of Justice, according to the 1992 Senate Report, because of the Department's prior involvement in enforcing the Foreign Agents Registration Act (FARA). The selection of DOJ as the enforcement agency for the new lobbying disclosure requirements gives rise to very serious concerns.

FARA has been enforced by the Internal Security Division, an agency which has also had responsibility for enforcing McCarthy era loyalty requirements. The same Senate Subcommittee which developed the Act reported that the Internal Security Division interprets FARA far more broadly than was ever intended, requiring registered organizations to detail activities that are wholly unrelated to their registrations.

DOJ is the chief law enforcement agency of the federal government, with full access to the investigatory resources of the FBI. While the Act itself contains no explicit criminal penalties for violating its provisions, there are numerous provisions of the United States Criminal Code, including the RICO and civil conspiracy provisions, which could be brought to bear by aggressive prosecutors. The Act contemplates that the new agency may share information which it receives with other divisions within the department, an especially pernicious practice if it is the Department's own actions or policies that are the subject of an organization's lobbying activities.

When, after years of study, Congress created a comprehensive regulatory scheme for federal political campaign activity, it assigned enforcement responsibility to the Federal Election Commission, an independent agency outside of the executive branch which is governed by a bipartisan commission. Numerous other areas of federal regulation -- environment, securities, communications -- have similarly been insulated from the political forces in the Department of Justice. It is inappropriate for the First Amendment activities of ordinary citizens to be made subject to review by the prosecutors and investigators of the Department of Justice.

6. *The Proposed Enforcement Procedures Are Easily Susceptible to Harassment.*

Experience under the Federal Election Campaign Act and the lobbying and political activity strictures of the Internal Revenue Code demonstrates that advocacy organizations frequently file complaints against their ideological adversaries for no reason other than to disrupt their activities. The Act contains none of the protection needed to reduce the opportunities for such harassment.

The new enforcement agency may take action in response to information provided by any outside source, even anonymous or unsworn complaints. There is no requirement that complainants even provide facts to substantiate their allegations.

The Act also grants regulators virtually full reign to carry out intrusive, bad faith investigations. Regulators may initiate proceedings no matter how long a period has elapsed since a report was or should have been filed. Investigators are not subject to review before they determine to go forward in response to complaints. The new Office of Lobbying Registration and Public Disclosure has apparent authority to demand access to the work-product of attorneys and other confidential materials such as personnel files and accountants' workpapers. The Office also has apparent authority to demand the appearance of witnesses to testify under oath without any safeguards to limit abuses in this area. There is no procedure by which a lobbying organization may challenge overly broad demands for information.

Although some respondents are entitled to adjudicatory hearings before being penalized, respondents charged with "minor noncompliances," a term left entirely to the regulators to define, are only entitled to "an oral hearing," and then only if the regulators

themselves decide to allow it. If a lobbying organization does not object to a penalty, it cannot raise any challenge to it in court.

8. *By Exempting Public Officials Who Lobby, The Act Raises Important Issues of Fairness.*

State and local public officials are exempt from the reporting requirements of the Act even though they routinely engage in a broad range of activities to influence policies of the legislative and executive branches of the federal government. A large number of states and local governments maintain offices in the District of Columbia for this very purpose. On many issues of importance to the public, including regulation of the environment, administration of social welfare programs, and the appropriation and distribution of federal funds, state and local officials represent a narrow point of view which does not always coincide with the public interest. The lobbying activities of state and local public officials should be subject to the same requirements as other persons seeking to influence federal legislative and executive policies.

"Highly ethical conduct cannot be secured by legislation alone..." (Common Cause, 1989)

LOBBYING LAWS

The provision of federal law with the broadest applicability to federal employees is a criminal statute, codified at 18 U.S.C. Sec. 207 which may work to restrict or regulate some private "representational" or lobbying type of activities by employees in the executive branch after leaving government service.

Current law regarding post-employment lobbying includes the following:

- A lifetime ban on "switching sides." All former executive branch employees are permanently banned from lobbying anywhere in the federal government on behalf of another person, on a matter in which they were personally and substantially involved.
- A two-year ban on "switching sides" on a somewhat broader range of matters which were under the employees official responsibility. Former executive branch employees are barred for two-years from lobbying anywhere in the federal government on behalf of another person, on a matter involving specific parties which the employees know or should know was pending under government service, and in which the United States has a direct and substantial interest.
- A one-year restriction on assisting others on certain trade or treaty negotiations. Any former executive or legislative branch employee or Member of Congress, who was personally and substantially involved in an ongoing trade or treaty negotiation on behalf of the United States within their last year of government service is barred for one year from representing aiding or advising any other person on the basis of that information concerning such ongoing negotiation.
- A one-year ban on senior level employees of the executive branch representing or advising foreign governments or foreign political parties.
- A one-year cooling off period for certain high level officials barring representational communications back before others in government. All former executive branch employees paid at the GS-17 salary level or above, and comparable military officers, are barred for one year from lobbying their former agency on behalf of another person, on any matter on which such person seeks official action by such agency.
- A one year ban on former Members of Congress lobbying anywhere in the legislative branch. Elected officers of each House are barred from lobbying any Member, officer or employee of a legislative office for one year after leaving Congress.
- Members of Congress who worked personally and substantially on a treaty or trade negotiation are restricted from using such information for the purpose of aiding, assisting, advising or representing anyone other than the United States for one year after leaving the government.

- Members and senior level legislative branch employees covered by the one-year cooling off period are also prohibited for a year after leaving office from representing an official foreign entity with intent to influence any decision of an agency or employee of the United States Government.
- A Member of Congress may not accept a civil office before the end of his or her term if that office was created or the salary for that office was increased during the Members current term.
- All former Senate staffers are prohibited for one year after leaving the Senate from lobbying the Senator for whom they used to work or the Senator's staff; or committee staff if relevant.

The Ethics Reform Law of 1989 expanded lobbying prohibitions to Members of Congress, and top congressional staff, and barred very senior executive branch officials from lobbying all other top officials in addition to their own agency.

The principal federal conflict of interest law Title 18, Sec. 208 provides that once any federal employee or officer in the executive branch begins "negotiating" subsequent employment with a private employer that he must disqualify himself from any official governmental duties which affect the financial interests of that potential private employer.

Procurement Officials

P.L. 100-679 established post employment revolving door restrictions by those who had certain procurement functions. These provisions were suspended by the Ethics Reform Act of 1989 and only recently became effective (June 1, 1991).

- A two year ban on representational activities or negotiations for procurement officials who had participated personally and substantially in the awarding of such contract.
- A two year ban in participation in performance of a contract in which the federal officer or employee had participated "personally and substantially in procurement," or had "personally reviewed and approved the award."
- Procurement officials are banned from engaging in discussions about future employment or business opportunity with a competing contractor.

THE 1946 LOBBY ACT

Widely seen as ineffective and poorly drawn, the Act was called "a phantom law" by Senator Carl Levin during 1991 Senate hearings.

The statute requires that lobbyists register and file quarterly reports with the Clerk of the House and the Secretary of the Senate. Lobbying is interpreted to mean only direct contact between a member of Congress where the member advocates specific legislation.

Neither grass roots lobbying, staff contacts, or communications or even telephone communications between a member and a lobbyist are considered lobbying contacts for the purpose of the Act. Reports received by the Clerk and the Secretary of the Senate are not checked for accuracy or completeness. Lobbyists have wide latitude in interpreting the nature and extent of their reporting.

The Act includes both civil and criminal penalties but according to Congressional staffers no one has ever been successfully prosecuted.

According to Senator Carl Levin, almost 10,000 of the 13,500 individuals and organizations listed in the book *Washington Representatives* are not registered under the Federal Lobbying Regulation Act and three quarters of those unregistered representatives contacted by the GAO said that they routinely contact Members and staff, deal with Federal legislation, and seek to influence actions of either Congress or the executive branch.

Most executive branch lobbying is not covered by any disclosure statute and even the Byrd Amendment -- which requires the disclosure of lobbying on contracts, grants, and loans, -- resulted in fewer than a dozen disclosures in a year.

THE LOBBYING DISCLOSURE ACT OF 1992

Senator Levin's legislation, S.2279, The Lobbying Disclosure Act of 1992, which the Washington Post called a "sweeping new bill" and the "most comprehensive law governing lobbyists in more than four decades," would replace the broad 1946 Lobby Act, make substantial changes to the 1938 Foreign Agents Registration Act (FARA) and amend or repeal two other statutes.

S.2279 covers executive branch staff, grassroots lobbying, lobbying congressional and executive branch staff, substantial coalition lobbying, and certain aspects of foreign interest lobbying.

- Lobbyists and interest groups would be required to register with the Office of Government Ethics within 30 days after making a "lobbying" contact with a federal official, lawmaker, or lawmakers aide and to report the interests they represent.
- The registrant must also state the approximate percentage of equitable ownership (if any) in the client held by a foreign interest, and any other foreign affiliate of the client.
- The OGE is charged with setting regulations, reviewing submissions for completeness and accuracy, developing systems to analyze lobbying submissions and disseminating the information.
- Lobbyists would be required to report twice a year (as opposed to quarterly in current law) on who they contact, what issues they have lobbied on and how much money they have spent.

- Establish fines for non-compliance. Late filers would be penalized \$200 a week and bigger violators could be fined as much as \$100,000. Again, according to staffers no lobbyist has ever been punished for a violation of current law.
- Reform lobbying by elevating the occupation and recognizing lobbying as a legitimate activity thus encouraging greater disclosure and accountability.
- Makes greater use of administrative actions and fines rather than criminal penalties to resolve problems of non compliance and other enforcement questions.
- Streamlines disclosure requirements, combining several lobbying statutes in a single authority (one-stop shopping) and provides for semiannual rather than quarterly reporting.

Note: Currently those who lobby on domestic and foreign issues must register and report to the Clerk of the House or the Secretary of the Senate, those who lobby on foreign interests register with the Dept. of Justice and, under the Byrd Amendment, lobbyists register with the Department or agency from which they seek a grant, loan, or contract and lobbyists seeking to influence HUD policies must register at HUD. S.2279 consolidates the location for these registrations and reports under OGE.

CONSTITUTIONAL ISSUES

The American Civil Liberties Union testified on April 27, 1989 before the House Subcommittee on Administrative Law and Government Relations. They expressed concern about post-employment lobbying restrictions saying "Former government employees do not lose their rights as a result of government employment." They assert that limits on free speech must meet "the more stringent standards of compelling state interest and least intrusive alternative traditionally applied by the Court."

They agree that "the state has a right to protect itself from improper activities by former government officials. Current statutory limits on post-employment political activity are, in our view, within the limits sanctioned by the Supreme Court rulings. But further expansion of that statute must be based on a documented record the the current law is inadequate to alleviate these harms..."

At this time, the ACLU opposed extending coverage to members of Congress a provision which, at least in part, was ultimately retained in the legislation as enacted.

They also opposed the one-year ban on foreign lobbying because "the proper focus of ethics laws is misconduct not clients." They asserted that "it does not follow that activities on behalf of foreign entities should be treated differently than activities on behalf of domestic groups." Notwithstanding these objections, this legislation was also adopted.

Most recently the ACLU testified on S.2279 that they are in general agreement with the overall structure of the bill. They support the unified registration and semiannual reporting; the reporting of aggregate receipts and expenses, the elimination of the requirement in current law that contributors over \$500 be reported and are comfortable with the test provided for disclosure of coalition membership.

PROPOSAL FOR CLINTON LOBBYING REFORM AGENDA

- Completely overhaul, revise and consolidate current laws governing lobbying. Current law is completely ineffective in enforcing disclosure, encouraging compliance or preventing abuses. No one has ever been successfully prosecuted for violations of lobbying laws??
- Create a clearinghouse such as the Office of Government Ethics for the disclosure of lobbying information (in accordance with Senator Levin's legislation). This clearinghouse will collect, analyze and disseminate lobbying information similar to the way the Federal Elections Commission (FEC) does.
- Extend current bans on "switching sides" currently two-years or less to five years??? (Perot has proposed five years. It is unclear to me whether extending the length of the ban increases First Amendment problems.)
- Endorse general proposals contained in Senator Carl Levin's legislation S.2279 which covers executive branch staff, grassroots lobbying, lobbying congressional and executive branch staff, substantial coalition lobbying, and certain aspects of foreign interest lobbying. The following are key provisions:
 - Require lobbyists and interest groups to register with the Office of Government Ethics within 30 days after making a "lobbying" contact with a federal official, lawmaker, or lawmakers aide and to report the interests they represent. The OGE would set regulations, review submissions, develop systems to analyze submissions and disseminate information. Require lobbyists to report twice a year (instead of four times) on who they contact, what issues they lobbied on and how much money they spent.
 - Require the registrant to state the approximate percentage of equitable ownership (if any) in the client held by a foreign interest, and any other foreign affiliate of the client.
 - Establish fines for non-compliance. Late filers could be penalized \$200 a week and bigger violators could be fined as much as \$100,000. According to staffers no lobbyist has ever been punished for a violation of current law.
 - Whenever possible, utilize administrative actions and fines rather than criminal penalties to resolve problems of non compliance and other enforcement questions.
 - Streamline disclosure requirements, combine several lobbying statutes in a single authority (one-stop shopping) and provide for semiannual rather than quarterly reporting. Currently those who lobby on domestic and foreign issues must register and report to the Clerk of the House or the Secretary of the Senate, foreign interests must register with the Dept. of Justice and, under the Byrd Amendment, with with the department or agency from which they seek a grant, loan, or contract and those lobbying HUD policies must register at HUD. S.2279 consolidates the location for registrations and reports under OGE.

Foreign Lobbying

According to the Center for Public Integrity, since 1974, nearly half -- of former senior USTR officials have personally registered or their firms have registered with the Justice Department.

In a Clinton Administration we would:

- Impose a lifetime ban on the President, Vice President, former trade representatives, members of Congress, or certain senior level government officials who have participate substantially in trade negotiations from lobbying on behalf of foreign governments.
- Prohibit PAC contributions by corporations controlled by foreign interests whose percentage of foreign ownership exceeds 50%.

A Clinton Administration "Code of Ethics"

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PEROT POSITIONS

- Competition with Japan: A central Perot theme is that Japan is a formidable economic competitor and that the Reagan and Bush administrations have allowed themselves to be out-negotiated and out-hustled by Japan and other allies in international trade negotiations.
- Washington's revolving door: Perot's third theme is that decisions in Washington -- particularly those involving foreign trade disputes -- are being improperly influenced by lobbyists who used to work for the U.S. government but now are paid by foreign interests.
- If he were elected President, Perot said, "I would ask for a law immediately from Congress that anybody that participates in this (trade talks) can't go over to the other side later. They can't cash in on having been around it."
(Harsh views on Japan may help fuel Perot Campaign, Los Angeles Times, June 11, 1992)
- In the best anti-Establishment tradition, he would prohibit former federal employees from "revolving door" lobbying for five years after leaving office and ax all "freebies and perks" for both Congress and Cabinet officials. He would even make the vice president fly on commercial airlines. (Angry voters see Perot riding in like cavalry, Los Angeles Times, March 22, 1992)

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/06/93 ACTION/CONCURRENCE/COMMENT DUE BY: 10/08/93

SUBJECT: REPORT ON THE FEDERAL AGENCIES' IMPLEMENTATION OF THE PRIVACY ACT OD 1974

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	PASTER	<input type="checkbox"/>	<input type="checkbox"/>
McLARTY	<input type="checkbox"/>	<input type="checkbox"/>	RASCO	<input type="checkbox"/>	<input type="checkbox"/>
NEEL	<input type="checkbox"/>	<input type="checkbox"/>	RUBIN	<input type="checkbox"/>	<input type="checkbox"/>
PANETTA	<input type="checkbox"/>	<input type="checkbox"/>	SEGAL	<input type="checkbox"/>	<input type="checkbox"/>
BAGGETT	<input type="checkbox"/>	<input type="checkbox"/>	SEIDMAN	<input type="checkbox"/>	<input type="checkbox"/>
EMANUEL	<input type="checkbox"/>	<input type="checkbox"/>	STEPHANOPOULOS	<input type="checkbox"/>	<input type="checkbox"/>
GEARAN	<input type="checkbox"/>	<input type="checkbox"/>	TYSON	<input type="checkbox"/>	<input type="checkbox"/>
GERGEN	<input type="checkbox"/>	<input type="checkbox"/>	VARNEY	<input type="checkbox"/>	<input type="checkbox"/>
GIBBONS	<input type="checkbox"/>	<input type="checkbox"/>	WATKINS	<input type="checkbox"/>	<input type="checkbox"/>
HALE	<input type="checkbox"/>	<input type="checkbox"/>	WILLIAMS	<input type="checkbox"/>	<input type="checkbox"/>
HERMAN	<input type="checkbox"/>	<input type="checkbox"/>	STRONG, Donsia	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LAKE	<input type="checkbox"/>	<input type="checkbox"/>	CLERK	<input type="checkbox"/>	<input checked="" type="checkbox"/>
LINDSEY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
McGINTY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MONTOYA	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
NUSSBAUM	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS: Please forward your comments directly to my office by COB 10/08/93. Thanks.
PLEASE RETURN THE REPORT.

RESPONSE: *Wedn Close of business*

JOHN D. PODESTA
Assistant to the President
and Staff Secretary
Ext. 2702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

October 4, 1993

10:04 PM:06

The President
The White House

Dear Mr. President:

I am pleased to submit for your approval the biennial report of the President on the executive agencies' activities under the Privacy Act of 1974, as amended. The enclosed report covers calendar years 1990 and 1991 in detail. It also provides historical data and discusses key trends.

The report covers activities of the Office of Management and Budget (OMB) to oversee the agencies' implementation of the Act and to issue formal guidance. As the Act requires, the report also describes the actions of the agencies in carrying out their responsibilities. These include publishing required Privacy Act notices and helping record subjects gain access to their records. The report also details the efforts of agencies to train their employees to carry out the Act's provisions.

OMB will continue to monitor the agencies' activities in the coming years.

Respectfully submitted,

Leon E. Panetta
Director

Enclosure

THE WHITE HOUSE

WASHINGTON

Dear Mr. Speaker:

I am pleased to forward the enclosed report on the Federal agencies' implementation of the Privacy Act of 1974, as amended (5 U.S.C. 552a). The report covers calendar years 1990 and 1991.

In addition to the data required to be reported by the statute, the report also describes agencies' efforts in training their employees to carry out the provisions of the Privacy Act responsibly and reliably.

While agencies continue to meet their responsibilities under the Act, they are becoming increasingly concerned about how the Act's provisions will work in a computerized environment. A challenge for the years ahead will be to harmonize the provisions of the Privacy Act with the technologies that are now coming into play.

Sincerely,

The Honorable Thomas S. Foley
Speaker of the
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

Dear Mr. President:

I am pleased to forward the enclosed report on the Federal agencies' implementation of the Privacy Act of 1974, as amended (5 U.S.C. 552a). The report covers calendar years 1990 and 1991.

In addition to the data required to be reported by the statute, the report also describes agencies' efforts in training their employees to carry out the provisions of the Privacy Act responsibly and reliably.

While agencies continue to meet their responsibilities under the Act, they are becoming increasingly concerned about how the Act's provisions will work in a computerized environment. A challenge for the years ahead will be to harmonize the provisions of the Privacy Act with the technologies that are now coming into play.

Sincerely,

The Honorable Robert C. Byrd
President pro tempore
of the Senate
Washington, D.C. 20510

Foreword

This report describes the activities of OMB and the agencies for the period 1990-1991. Section (r) of the Privacy Act of 1974 (5 U.S.C. 552a, as amended) contains the reporting requirements for the President's biennial report to the Congress. These are:

- A description of the activities of the Office of Management and Budget (OMB) in carrying out its responsibilities under the Privacy Act. Those responsibilities are listed in Section (v) of the Act. They include developing guidelines and regulations to help agencies carry out the Act's provisions and overseeing agencies' implementing activities.
- A listing of changes agencies have made to their published systems of records during the period of the report.
- A description of how individuals' have exercised their rights to see and correct records about themselves.
- Any other information that would help the Congress in reviewing the effectiveness of the Privacy Act.

Besides the information the Act specifically requires to be reported, this report describes in detail three areas of agency activity:

- Agencies' use of "call detail records" (CDR) to monitor employees' use of telecommunications resources.
- Agencies' specific procedures in providing record subjects access to their own records.
- Agencies' efforts to train employees about their Privacy Act responsibilities.

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I. Activities of the Office of Management and Budget.

A. The Computer Matching and Privacy Protection Act of 1988. Public Law 100-503, The Computer Matching and Privacy Protection Act of 1988 (CMPPA), amended the Privacy Act of 1974 to regulate Federal, State and local agencies' sharing of computerized Privacy Act data for two primary purposes:

- Making decisions about applicants' eligibility for Federal benefits programs;
- Recovering payments and delinquent debts under such programs.

An additional purpose was to regulate computer matching of Federal employee personnel and payroll records for non-routine purposes.

The effective date of these provisions was changed by statutory amendment in 1989 to permit agencies operating matching programs in existence before June 1, 1989, to delay compliance until January 1, 1990. OMB issued guidance on both the basic provisions of the CMPPA and the amendment extending its implementation date.

B. The Computer Matching and Privacy Protection Amendments of 1990. In 1990, Congress passed the Computer Matching and Privacy Protection Amendments (Amendments). The changes made by the amendments addressed agencies' problems in implementing the due process provisions of the CMPPA (see 5 U.S.C. 552a(p), "Verification and Opportunity to Contest Findings"). Under the 1988 provisions, before taking an adverse action, an agency was required to verify independently any information developed through a matching program that indicated ineligibility for a benefit program. The agency was also required to notify the individual of any proposed action and wait thirty days for the individual to respond. These provisions were intended to ensure fairness in the process of determining benefits.

As agencies implemented the CMPPA, it became apparent that in some instances, the due process provisions conflicted with existing protections that had been working well prior to the CMPPA. This was especially true in programs such as Food Stamps, Aid to Families with Dependent Children, and Medicaid, all of which had well-established due process traditions provided by statute, regulation, or both.

The consequence of providing individuals with thirty days to respond to a notice of adverse finding was to automatically overpay some beneficiaries. Indeed, as they implemented the CMPPA, agencies discovered instances where strict adherence to the independent verification requirement could have serious financial and administrative implications for the management of their programs.

The Amendments of 1990 changed both the independent verification and 30-day notice due process protection provisions. They authorize agencies that have in law or

regulation a different time period for notification than 30 days to substitute that other period. Agencies without alternative periods must wait 30 days. The Amendments also authorize an agency's Data Integrity Board to waive the independent verification procedures when it finds a high degree of confidence in the accuracy of the data.

C. OMB Guidance. Section (v) of the Privacy Act of 1974 (5 U.S.C. 552a) charges OMB with overseeing agencies' implementing activities and issuing regulations and guidelines. The CMPPA and the Amendments increased the Privacy Act oversight responsibilities of OMB. The CMPPA required OMB to issue guidelines on computer matching, to provide continuing assistance and oversight to the agencies on matching activities, and to provide a consolidated report to the Congress. OMB issued comprehensive guidance on implementing the CMPPA's provisions on June 19, 1989, (see 54 *FR* at 25818). The Amendments of 1990 required OMB to provide further guidance on their implementation.

On April 23, 1991, OMB issued proposed guidance on the Computer Matching and Privacy Protection Amendments of 1990 and requested interested parties to comment.

This guidance, if adopted, would allow, where a statute is silent or permits, agencies to establish notification periods shorter than 30 days through a rulemaking which allows public comment. Agencies would have to ensure opportunity for meaningful notice and sufficient opportunity for individuals to respond if a notification period shorter than 30 days were adopted. In addition, the guidance would require agencies to disclose not only that they have information that indicates ineligibility, but what that information is, so that individuals could respond meaningfully.

The guidance would also allow program officials to petition the Data Integrity Boards of recipient agencies (in the case of Federal matching programs) or the Federal source agency (in the case of a Federal/State matching program), to waive the independent verification requirement. However, program officials would have to identify the type of matching data eligible for the waiver and conduct thorough determinations of data accuracy before making such a petition.

D. Current Activity. OMB is currently working to complete its proposed guidance and to issue guidance to agencies on conducting cost-benefit analyses in support of their decisions to use computer matching techniques to make eligibility determinations about Federal beneficiaries.

II. Federal Agencies' Implementing Activities.

This report provides both an aggregate and a detailed look at Federal agencies' implementing activities. Its approach is based on analysis that shows that 22 agencies account for over 95 percent of the Federal systems of records inventory and that a subset of 14 of these agencies account for 98 percent of all access and amendment requests agencies receive. For purposes of the detailed look, only the 22 and the subset are examined. The aggregate section includes the activities of all Federal agencies.

A. Federal Government as a Whole. The following are aggregations of data about the publication and access and amendment activities of the Federal agencies.

1. Changes in systems of records. As the chart below shows, there has been little change over the past four years in total numbers of systems of records maintained. For 1990, total systems of records and total exempt systems of records were 4,771 and 814, respectively. For 1991, the totals were 4792 and 826. The modest growth in exempt systems reflects additions made by newly created Inspector General offices at many of the smaller agencies. Appendix I contains more detailed information on selected agencies.

All Agencies' Systems of Records Inventories

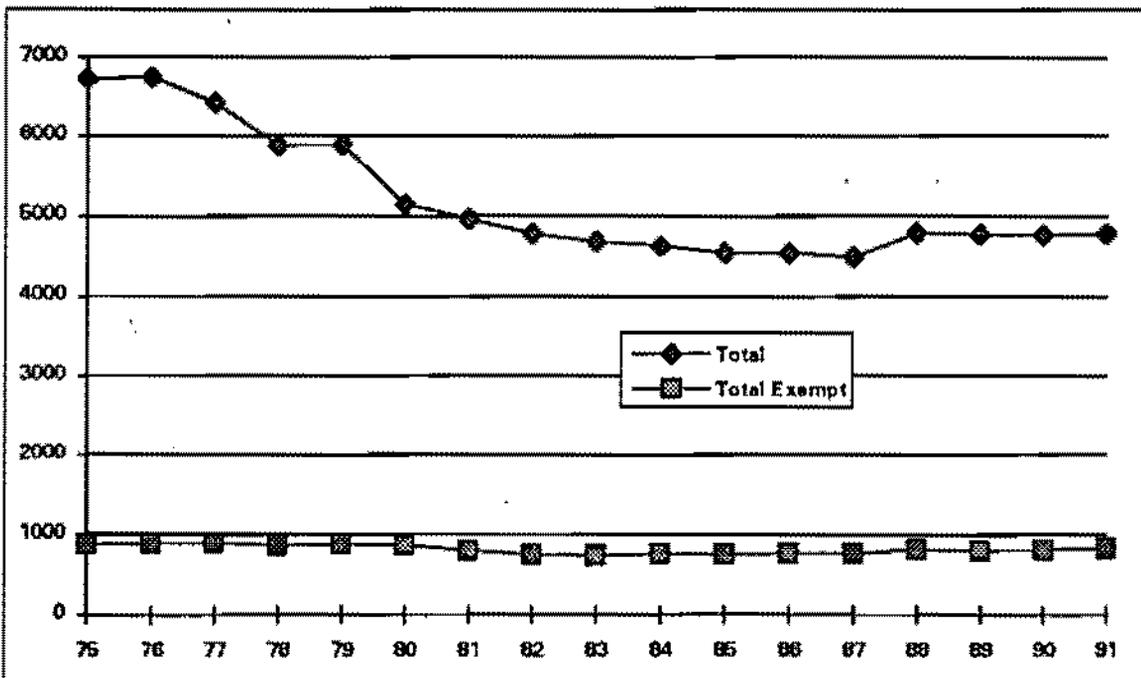


Chart I

2. Access Requests Processed. Most agencies process first-party access requests under provisions of both the Privacy Act and the Freedom of Information Act. The effect of this dual processing is to give the requester the

maximum information available, regardless of which Act was cited. As the table below shows, the ratio of requests granted to requests denied has not appreciably changed over the past four years. Most requesters are granted access, in whole or part, to their records.

Access Request Totals

All Agency Totals	1988	1989	1990	1991
Total access requests	159,039	184,270	129,280	161,135
Granted in whole or part	135,324	165,112	106,430	119,531
Denied in whole	3,094	2,803	2,291	2,122

Table 1

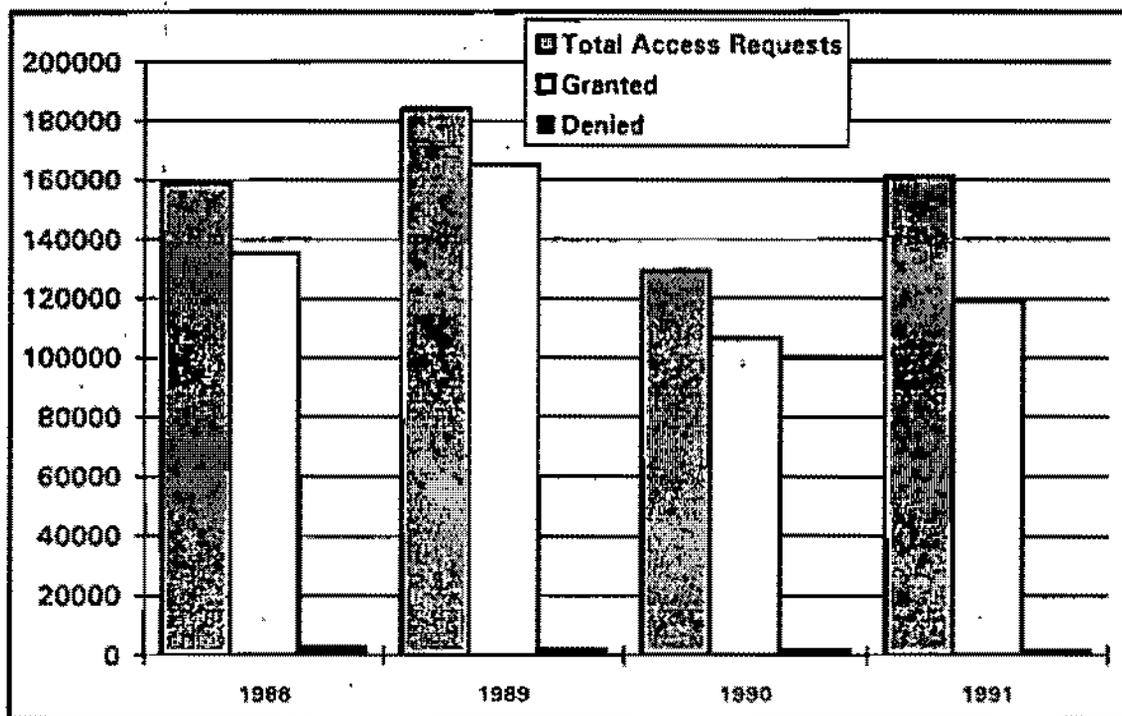


Chart 2

3. Amendment Requests Processed. While the number of amendment requests in 1990 and 1991 increased by more than double the number in 1988 and 1989, the number of requester seeking to amend records is very small compared to those seeking access. As in earlier reports, a requester who makes an amendment request generally succeeds in achieving all or part of his or her goal.

Total Amendment Requests

	1988	1989	1990	1991
Total amendment requests	1,884	2,190	4,429	4,665
Granted in whole or part	1,637	1,837	4,108	4,362
Denied in whole	184	277	308	273

Table 2

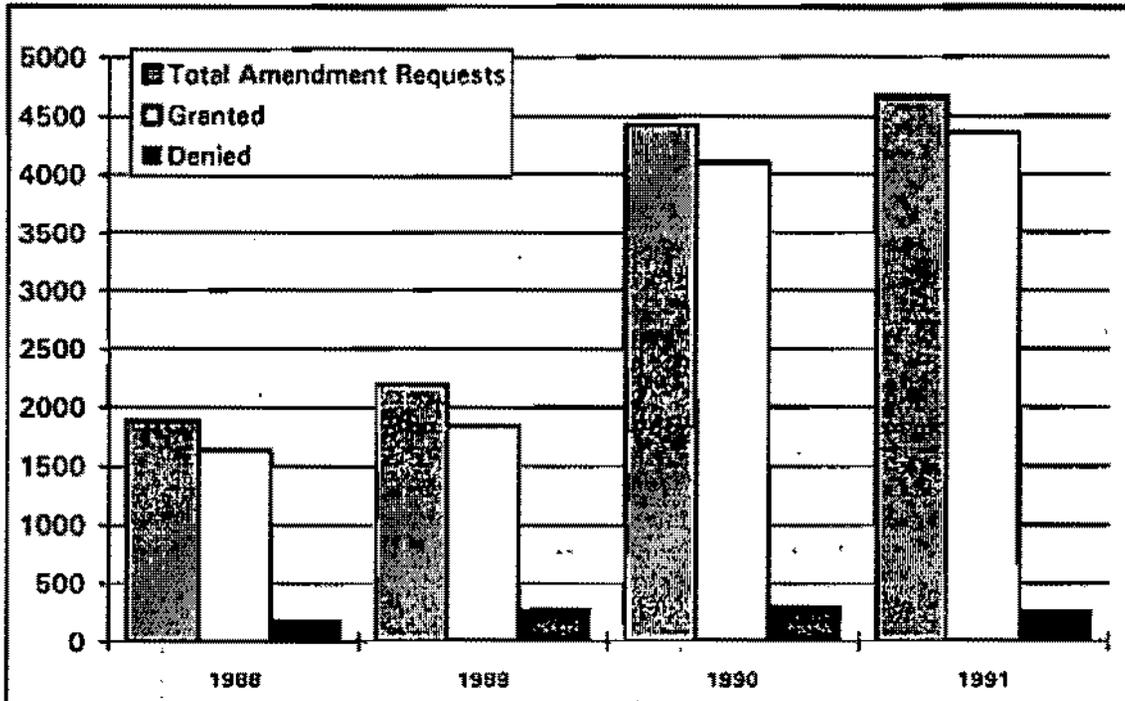


Chart 3

B. Selected Agencies' Activities.

1. **Changes in Systems of Records.** The following agencies maintain a very significant portion (95 percent) of the total number of systems of records: Department of Agriculture, Department of Commerce, Department of Defense, Department of Education, Department of Energy, Department of Health and Human Services, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Central Intelligence Agency, National Science Foundation, Office of Personnel Management, Panama Canal Commission, Securities and Exchange Commission, Small Business Administration, United States Information Agency, and the United States Postal Service. Appendix I contains a detailed description of the publication activities of these agencies for CY 1990 and CY 1991.

Department of Agriculture	1988	1989	1990	1991
All Systems	241	245	245	248
Exempt Systems	55	54	54	54
Department of Commerce	1988	1989	1990	1991
All Systems	69	70	70	70
Exempt Systems	17	17	17	17
Department of Defense	1988	1989	1990	1991
All Systems	1262	1220	1231	1227
Exempt Systems	123	113	119	127
Department of Education	1988	1989	1990	1991
All Systems	89	89	92	96
Exempt Systems	4	4	4	4
Department of Energy	1988	1989	1990	1991
All Systems	76	76	77	77
Exempt Systems	10	10	10	10
Department of Health and Human Resources	1988	1989	1990	1991
All Systems	347	354	364	370
Exempt Systems	16	16	16	16
Department of Housing and Urban Dev	1988	1989	1990	1991
All Systems	66	55	56	57
Exempt Systems	3	3	3	3
Department of the Interior	1988	1989	1990	1991
All Systems	223	222	222	221
Exempt Systems	15	15	14	14
Department of Justice	1988	1989	1990	1991
All Systems	251	257	260	262
Exempt Systems	111	111	111	113
Department of Labor	1988	1989	1990	1991
All Systems	81	81	97	97
Exempt Systems	21	21	35	35
Department of State	1988	1989	1990	1991
All Systems	57	57	57	57
Exempt Systems	29	29	29	29

Department of Transportation	1988	1989	1990	1991
All Systems	210	211	214	214
Exempt Systems	29	29	30	30
Department of the Treasury	1988	1989	1990	1991
All Systems	350	372	374	383
Exempt Systems	123	125	127	127
Department of Veterans Affairs	1988	1989	1990	1991
All Systems	57	58	59	58
Exempt Systems	2	2	2	2
Central Intelligence Agency	1988	1989	1990	1991
All Systems	67	67	67	67
Exempt Systems	67	67	67	67
National Science Foundation	1988	1989	1990	1991
All Systems	51	51	52	49
Exempt Systems	3	3	5	5
Office of Personnel Management	1988	1989	1990	1991
All Systems	35	35	35	35
Exempt Systems	8	8	8	8
Panama Canal Commission	1988	1989	1990	1991
All Systems	99	99	99	99
Exempt Systems	16	16	16	16
Securities and Exchange Commission	1988	1989	1990	1991
All Systems	91	70	54	54
Exempt Systems	30	9	9	9
Small Business Administration	1988	1989	1990	1991
All Systems	73	73	73	73
Exempt Systems	6	6	6	6
U.S. Information Agency	1988	1989	1990	1991
All Systems	61	58	58	58
Exempt Systems	11	12	12	12
U.S. Postal Service	1988	1989	1990	1991
All Systems	81	85	87	88
Exempt Systems	8	8	8	8

Table 5

2. Access and Amendment Requests Processed. A subset of 14 of the agencies listed above processes 98 percent of all access and amendment requests. These agencies are all of those listed in the systems of records publication section except for the Panama Canal Commission, Securities and Exchange Commission, Small Business Administration, United States Information Agency, and the United States Postal Service. The table on the following pages shows their activities. Appendix II describes these requests in more detail, including the results of appeals of denials of access and amendment requests. Appendix II also describes in detail how agencies process access requests. It indicates that most agencies process first party requests under both the Privacy Act and the Freedom of Information Act, giving the requester the benefit of both Acts.

Access and Amendment Activities of Selected Agencies

Dept of Agriculture	1988	1989	1990	1991
Total access requests	3,591	6,016	3,698	3,822
Granted in whole or part	3,360	5,779	3,230	3,583
Denied in whole	100	75	127	141
Total amendment requests	686	961	495	530
Granted in whole or part	659	882	458	479
Denied in whole	27	79	37	51
Dept of Commerce	1988	1989	1990	1991
Total access requests	50	47	93	63
Granted in whole or part	34	31	76	47
Denied in whole	5	8	8	6
Total amendment requests	2	1	1	0
Granted in whole or part	0	1	0	0
Denied in whole	2	0	1	0
Dept of Defense	1988	1989	1990	1991
Total access requests	58,486	67,991	51,340	75,081
Granted in whole or part	52,589	63,954	47,627	69,263
Denied in whole	987	475	379	511
Total amendment requests	524	546	470	632
Granted in whole or part	378	391	338	524
Denied in whole	93	106	132	108
Dept of Education	1988	1989	1990	1991
Total access requests	28	56	94	109
Granted in whole or part	23	39	74	83
Denied in whole	1	3	2	2

Total amendment requests	1	3	1	1
Granted in whole or part	0	1	1	0
Denied in whole	1	2	0	1
Dept of Energy				
	1988	1989	1990	1991
Total access requests	539	520	1,238	2,392
Granted in whole or part	498	488	1,175	2,333
Denied in whole	4	9	14	20
Total amendment requests				
	2	4	3	0
Granted in whole or part	2	2	2	0
Denied in whole	0	2	0	0
Dept of Health and Human Svcs				
	1988	1989	1990	1991
Total access requests	2,107	3,366	1,259	1,326
Granted in whole or part	2,037	3,251	1,174	1,248
Denied in whole	14	48	1	4
Total amendment requests				
	11	13	26	15
Granted in whole or part	11	11	20	13
Denied in whole	0	2	6	2
Dept of Housing and Urban Dev				
	1988	1989	1990	1991
Total access requests	152	45	23	35
Granted in whole or part	145	39	23	31
Denied in whole	7	5	0	3
Total amendment requests				
	15	2	1	1
Granted in whole or part	13	1	1	1
Denied in whole	2	1	0	0
Dept of the Interior				
	1988	1989	1990	1991
Total access requests	144	132	853	3,771
Granted in whole or part	115	104	840	3,742
Denied in whole	19	17	5	16
Total amendment requests				
	1	2	10	10
Granted in whole or part	1	1	9	8
Denied in whole	0	0	1	2
Dept of Justice				
	1988	1989	1990	1991
Total access requests	23,453	18,552	21,002	21,325
Granted in whole or part	9,889	8,448	8,394	12,714
Denied in whole	865	1,119	928	392

Total amendment requests	14	28	32	85
Granted in whole or part	2	4	2	53
Denied in whole	12	22	18	13
Dept of Labor				
	1988	1989	1990	1991
Total access requests	3,673	3,336	968	1,326
Granted in whole or part	2,862	2,757	928	1,278
Denied in whole	132	96	10	13
Dept of Labor				
Total amendment requests	27	0	2	5
Granted in whole or part	25	0	1	0
Denied in whole	2	0	1	4
Dept of State				
	1988	1989	1990	1991
Total access requests	791	757	843	732
Granted in whole or part	790	757	549	696
Denied in whole	1	0	2	2
Dept of State				
Total amendment requests	27	0	6	25
Granted in whole or part	25	0	8	9
Denied in whole	2	0	6	2
Dept of Transportation				
	1988	1989	1990	1991
Total access requests	33,954	41,983	16,265	17,981
Granted in whole or part	33,910	41,939	14,550	12,736
Denied in whole	5	22	11	9
Dept of Transportation				
Total amendment requests	309	349	3,099	3,085
Granted in whole or part	309	331	3,076	3,078
Denied in whole	0	18	23	7
Dept of the Treasury				
	1988	1989	1990	1991
Total access requests	3,412	2,887	3,114	4,622
Granted in whole or part	1,817	1,585	1,818	3,300
Denied in whole	602	451	608	665
Dept of the Treasury				
Total amendment requests	36	22	17	19
Granted in whole or part	11	5	0	0
Denied in whole	7	6	17	17

Dept of Veterans Affairs	1988	1989	1990	1991
Total access requests	23,565	31,619	19,205	18,775
Granted in whole or part	23,046	30,178	18,611	18,105
Denied in whole	224	296	73	102
<hr/>				
Total amendment requests	185	179	174	193
Granted in whole or part	170	151	126	145
Denied in whole	15	28	48	48
<hr/>				
Central Intelligence Agency	1988	1989	1990	1991
Total access requests	1,623	1,956	1,886	1,846
Granted in whole or part	920	1,225	1,387	1,237
Denied in whole	125	176	112	146
<hr/>				
Total amendment requests	0	1	2	1
Granted in whole or part	0	1	2	1
Denied in whole	0	0	0	0
<hr/>				
Office of Personnel Management	1988	1989	1990	1991
Total access requests	4,262	5,764	6,431	7,729
Granted in whole or part	4,079	5,297	5,974	7,222
Denied in whole	4	3	11	90
<hr/>				
Total amendment requests	79	66	90	63
Granted in whole or part	56	55	64	51
Denied in whole	23	11	18	18

Table 4

All Agency Totals	1988	1989	1990	1991
Total access requests	159,039	184,270	129,280	161,135
Granted in whole or part	135,324	165,112	106,430	119,531
Denied in whole	3,094	2,803	2,291	2,122
<hr/>				
Total amendment requests	1,884	2,190	4,429	4,665
Granted in whole or part	1,637	1,837	4,108	4,362
Denied in whole	184	277	308	273

Table 5

III. Other Information to Help the Congress in its Oversight Role.

A. Agencies' Use of Call Detail Records (CDR). As presented in the last report, OMB developed guidance on how the recordkeeping provisions of the Privacy Act affect agencies' programs (so called "call detail programs") to collect and use information about their employees' use of the Federal long distance telephone system to reduce or eliminate abuse of this resource. Final guidance was issued on April 20,

1987 (52 FR 12990), in conjunction with technical guidance on call detail records published by the General Services Administration.

As the guidance noted, CDR present something of a dilemma for Privacy Act recordkeepers. Because, in many instances, CDR are neither filed nor retrieved by an employee's name or other identifier, the records are not clearly Privacy Act records. Indeed, the guidance opines that a telephone number, by itself, is not a Privacy Act record.

Nevertheless, some agencies collect CDR expressly to discourage employees from improperly using the agency's telecommunications resources and to identify employees who are abusers. For employees who are found to be abusers, the consequences can range from monetary fines to disciplinary action. For agencies that are operating such Call Detail Programs, therefore, fairness suggests that they take a broader view of the scope of the Act and create systems of records in which to maintain CDR that is used to make a determination about an employee.

For the current report, OMB survey agencies to determine how they treat CDR. The results of that survey are shown below in Table 5. As the responses indicate, there are several distinct possibilities. An agency may simply not collect CDR. Or it may collect CDR, but never associate it with an employee, *i.e.*, it is used exclusively for the technical management of the agency's telecommunications services. Or it may collect the data and associate it with an employee, but never retrieve using the employee's name or a telephone number that is linked with the name. In this latter case, the agency is maintaining Privacy Act records, but not operating a system of records, and the Act's protections do not come into play. Finally, in some instances an agency may collect the data, associate it with a name and maintain the data in a system of records.

As the data show, few agencies reported treating CDR as covered by the Privacy Act. Departments were more likely than the smaller agencies to keep CDR in systems of records. Fully half of the 14 reporting Departments did so. Moreover, some Departments that reported not collecting CDR were moving to establish Call Detail Programs and were considering the effect of the Privacy Act on their practices. By contrast, only 10 out of 49 reporting smaller agencies indicated that they maintained CDR in systems of records, although several reported moving in that direction.

OMB does not consider this snapshot of agencies' CDR practices definitive, and will continue to monitor agencies' practices to determine whether further guidance is needed.

	Collects CDR	Treat As Privacy Act Records	Keep in System of Records
Departments			
Agriculture	No	No	No
Commerce	Yes	Yes	Yes
Defense	Yes	No	No
Education	No	No	No
Energy	Yes	Yes	Yes
Health and Human Services	No	No	No
Housing and Urban Development	Yes	Yes	Yes
Interior	Yes	Yes	Yes
Justice	Yes	No	No
Labor	No	No	No
State	Yes	No	No
Transportation	Yes	Yes	Yes
Treasury	Yes	Yes	Yes
Veterans Affairs	Yes	Yes	No
Agencies			
Agency for International Development	Yes	Yes	Yes
Central Intelligence Agency	No	No	No
Commission of Fine Arts	No	No	No
Committee for Purchase from the Blind	No	No	No
Commodity Futures Trading Commission	No	No	No
Consumer Product Safety Commission	No	No	No
Environmental Protection Agency	Yes	Yes	Yes
Equal Employment Opportunity Commission	Yes	Yes	Yes
Export-Import Bank	No	No	No
Farm Credit Administration	Yes	No	No
Federal Communications Commission	Yes	Yes	Yes
Federal Deposit Insurance Commission	Yes	Yes	Yes
Federal Election Commission	No	No	No
Federal Emergency Management Agency	No	No	No
Federal Energy Regulatory Commission	Yes	Yes	No
Federal Labor Relations Authority	Yes	No	No
Federal Maritime Commission	No	No	No
Federal Reserve System	Yes	No	No
General Services Administration	No	No	No
Inter-American Foundation	Yes	No	No
Interstate Commerce Commission	Yes	No	No
International Trade Commission	No	No	No
Joint Board for the Enrollment of Actuaries	No	No	No
Merit Systems Protection Board	No	No	No
National Aeronautics and Space Administration	Yes	No	No
National Archives and Records Administration	Yes	No	No
National Capitol Planning Commission	Yes	No	No
National Credit Union Administration	No	No	No
National Endowment for the Humanities	No	No	No
National Labor Relations Board	Yes	No	No

Nuclear Regulatory Commission	Yes	Yes	Yes
National Science Foundation	Yes	Yes	Yes
Office of Administration	Yes	No	No
Office of Government Ethics	No	No	No
Office of Personnel Management	Yes	No	No
Overseas Private Investment Corporation	No	No	No
Office of the Special Counsel	No	No	No
Panama Canal Commission	Yes	Yes	Yes
Peace Corps	No	No	No
Pension Benefit Guaranty Corporation	Yes	Yes	Yes
Postal Rate Commission	No	No	No
Railroad Retirement Board	Yes	No	No
Securities and Exchange Commission	Yes	No	No
Selective Service System	Yes	No	No
Small Business Administration	No	No	No
Tennessee Valley Authority	Yes	Yes	Yes
U.S. Information Agency	Yes	No	No
U.S. Postal Service	No	No	No
U.S. Trade Representative	No	No	No

Table 6

B. Agencies' Privacy Act Training Activities. Agencies' training practices vary widely. Some agencies conduct regular, formal training: the Departments of Defense and Energy, for example. Others have no formal agency program, but conduct training as part of new employee orientation and give on-the-job training to employees who are involved in handling records containing individually identifiable data. Still others send employees to formal training courses provided by the USDA Graduate School, the Department of Justice, the American Society of Access Professionals or the Office of Personnel Management, among others. A description of the training activities of selected agencies is at Appendix III.

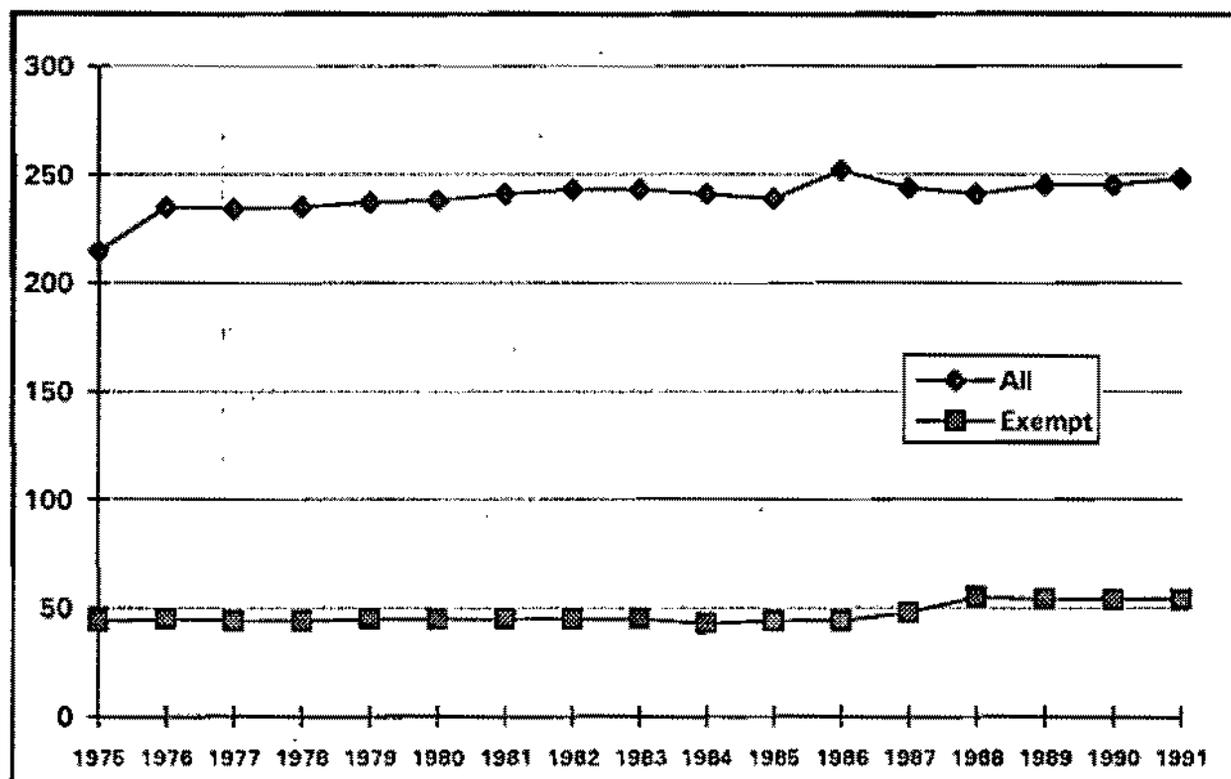
Appendix I
Systems of Records Publication Activity
1975-1991

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Department of Agriculture

Systems of Records Publication Activity

1975-1991

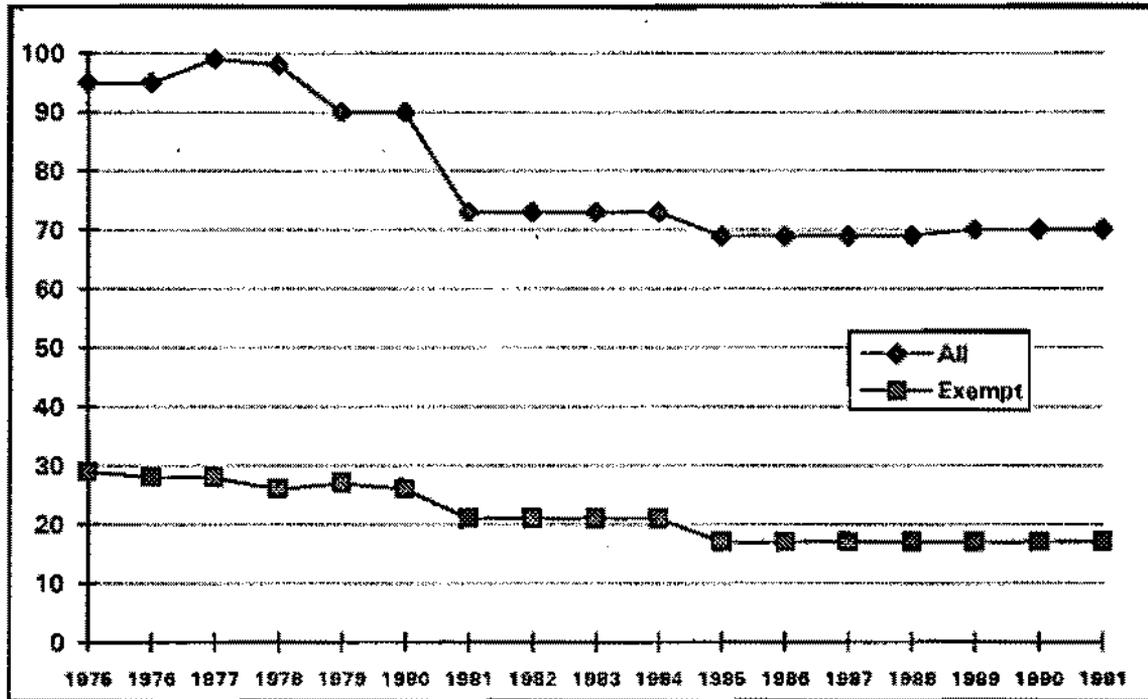


During the two-year period, USDA published an average of six public notices a year, covering four new systems of records, a like number of new routine uses, and the deletion of a number of other uses.

Agency received no comments on any of its systems or other Privacy Act implementing activities

Department of Commerce

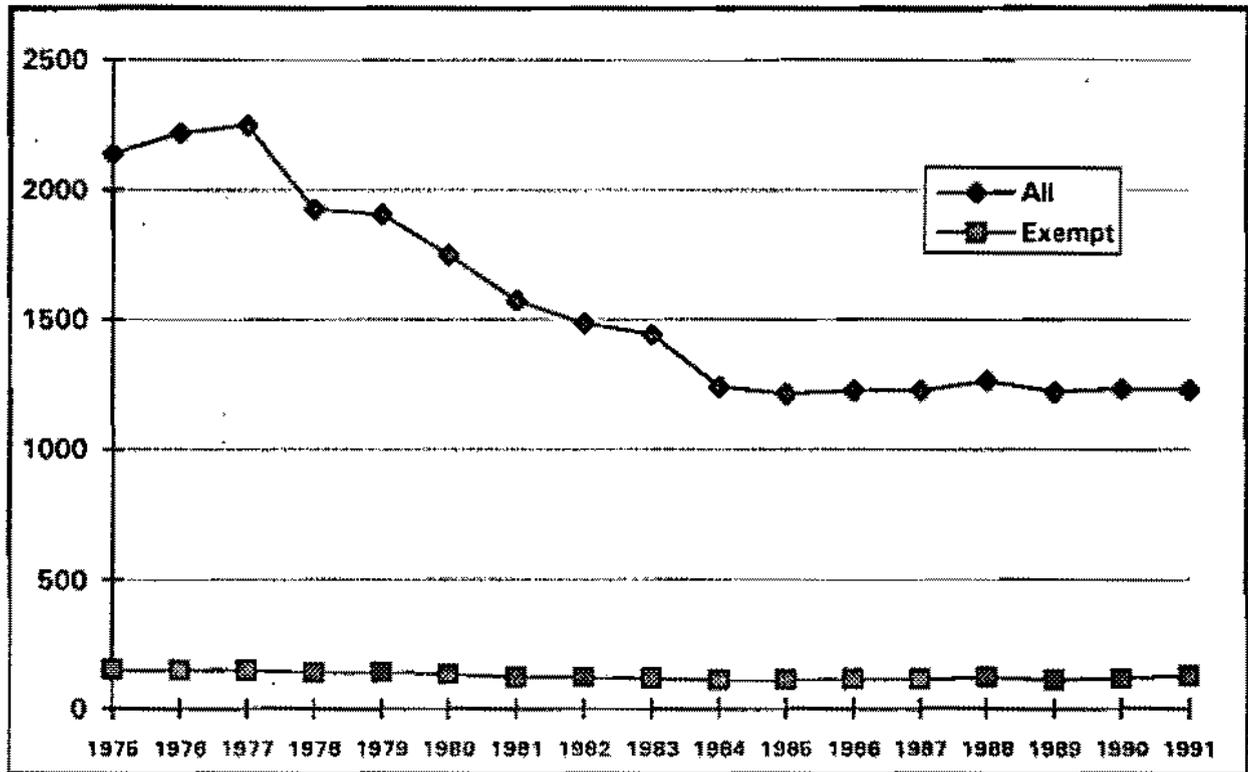
Systems of Records Publication Activity 1975-1991



While Commerce had no publication activity during the reporting period, special attention was directed at identifying additional groups of records, e.g., grants, procurement, and bank card records that have the potential for coverage under the Privacy Act. Specifically at issue was whether or not certain records qualified for new systems establishment, or possibly merging into existing Department systems versus government-wide coverage. At the end of calendar year 1991, action was well underway to establish three additional Privacy Act systems of records.

Department of Defense

Systems of Records Publication Activity 1975-1991



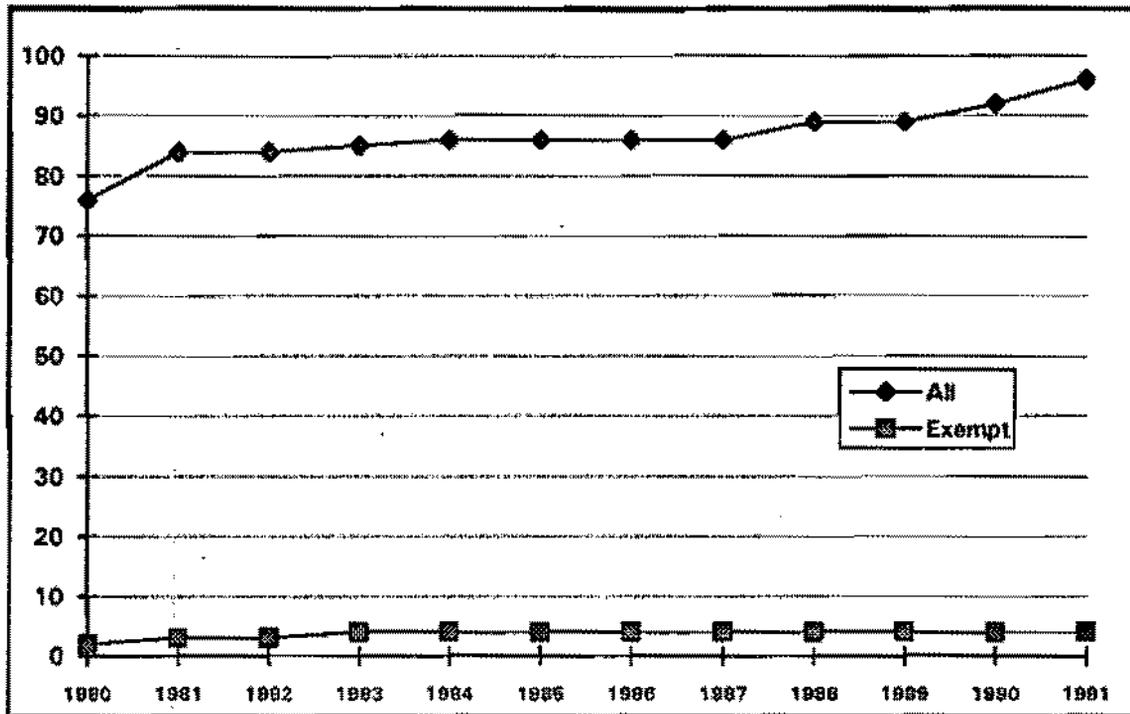
During 1990, in addition to the figures in Item 5, DoD published 66 amendments and/or alterations to systems of record notices. DoD published updates to seven DoD Component's Official Mailing Address Directories which are used by individuals to address Privacy Act inquiries. The Department of the Army published changes to all the system identification numbers to its systems of records notices in accordance with the Modern Army Recordkeeping System which the Army is now using.

During 1991, in addition to the figures in Item 5, DoD published 199 amendments and/or alterations to systems of record notices. DoD also published revisions to six DoD Component's introductory indexes which appear before their compilations. These indexes help individuals identify and locate a particular system of records within a DoD Component. Also, DoD deleted system identification numbers from system names of four DoD Components.

During the reporting period, DoD conducted a review of its Component's exemption rules and has published amendments to those rules that were discovered to be deficient and/or incomplete. This office will continue to review its DoD Component's exemption rules and make changes where necessary.

The Department of Defense received no comments from the public on its implementation of the Privacy Act of 1974.

Department of Education Systems of Records Publication Activity 1975-1991



In 1990 the Department added the following three systems of records to its inventory of systems of records:

- ED/OIG Non-Federal Auditor Referral File, (55 FR 578-80);
- NCES Affidavits of Nondisclosure, (55 FR 2134); and
- NCES Longitudinal Studies and the School and Staffing Surveys, (55 FR 2132).

Also in 1990, the Department amended the following two existing systems of records notices:

- Department of Suspension Proceedings under Executive Order 12549 and the Drug-Free Workplace Act. This amendment added an additional system manager and system

location, (55 *FR* 2131-31). Another amendment consisted of a name change, (55 *FR* 8168-69)

- Federal Student Aid Application File, (55 *FR* 38833-36). This amendment consisted of a name change, a new routine use and other technical changes.

In 1991, the Department added the four following systems of records to its inventory of systems of records:

- National Center for Education Statistics National Assessment of Educational Progress, (56 *FR* 15866-69);
- America 2000: An Education Strategy Toll-Free Telephone Line and Database, (56 *FR* 18808-10);
- National Science Scholars, (56 *FR* 51885-88); and
- Jacob K. Javits Fellows System (56 *FR* 56991-93).

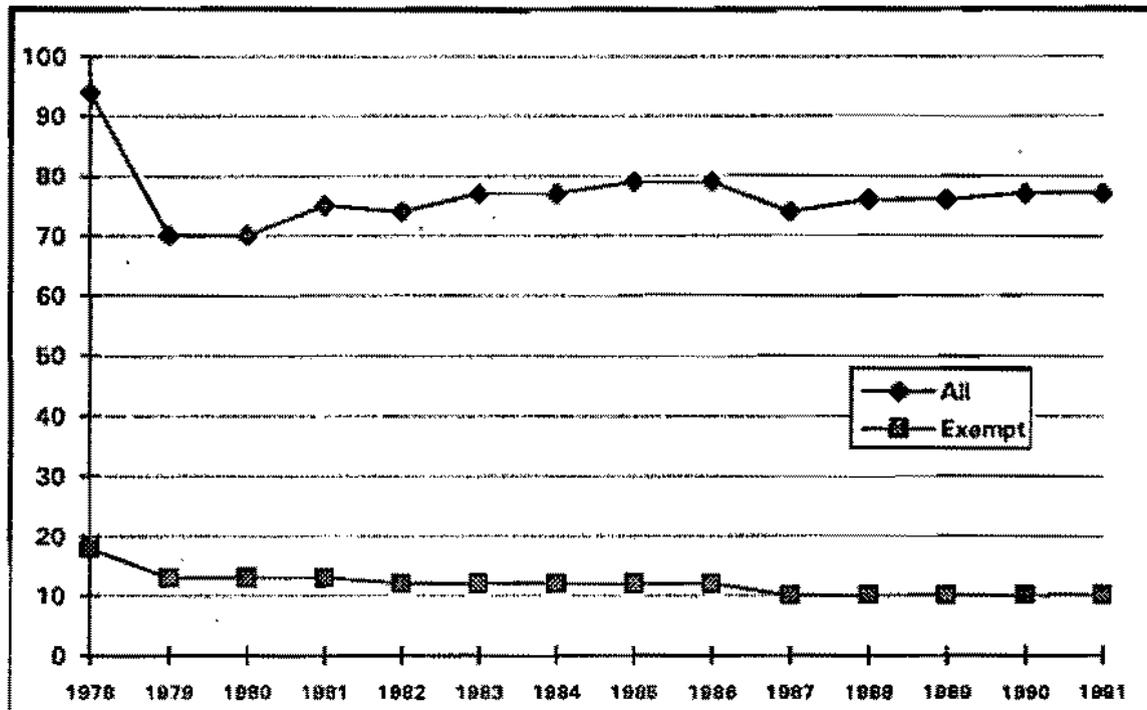
Also in 1991, the Department amended the following existing system of record notice:

- Guaranteed Loan Program--Loan Control Master File, (56 *FR* 19646-47). This amendment added a new routine use for the purpose of permitting disclosure to the Internal Revenue Service for the purpose of determining whether student loan defaulters were also delinquent with regard to Federal tax obligations.

No comments were received on the published Privacy Act systems of records.

Department of Energy

Systems of Records Publication Activity 1975-1991



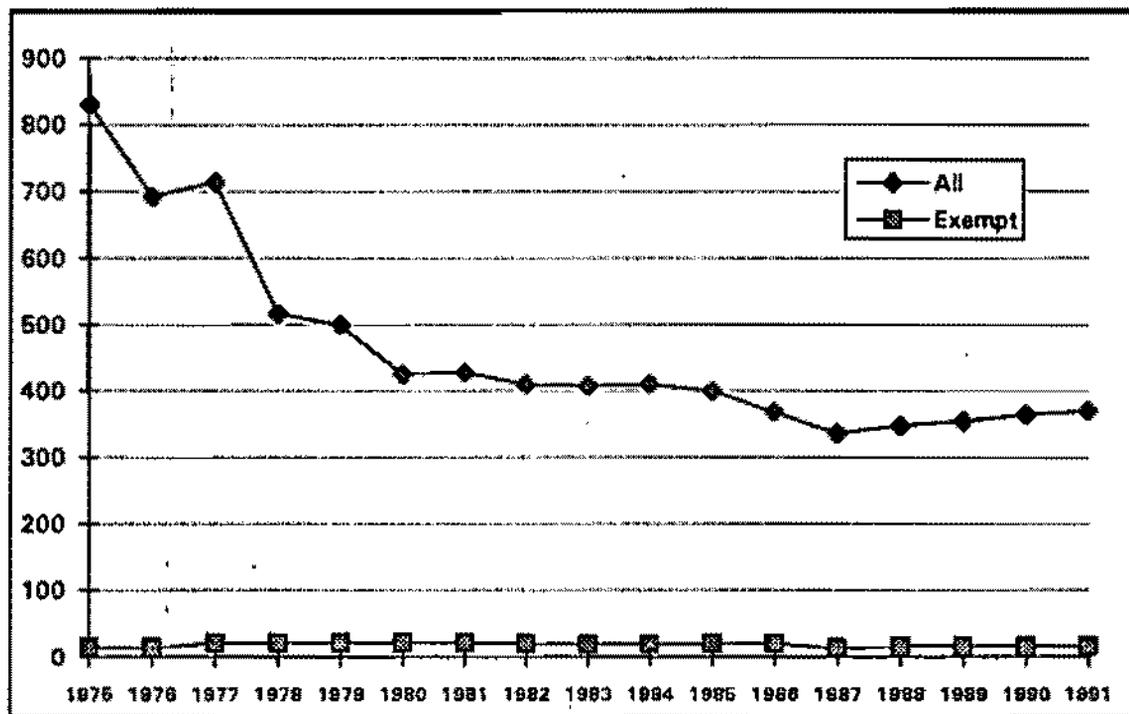
In 1990, the Department of Energy published a proposed new system of records. The system, DOE-80, "Quality Assurance Training and Qualification Records" was to maintain training and qualification records of DOE and contractor employees in order to satisfy the requirements of 10 C.F.R. part 50, Appendix B, 10 C.F.R. part 60, subpart G, and the Nuclear Regulatory Commission Review Plan for High-Level Waste Repository Quality Assurance Program Descriptions. This notice was published August 8, 1990. On August 14, 1990, DOE also published a proposed revision to an existing system of records. The title of DOE-75 was amended from DOE-75, "Savannah River Telephone Call Account System" to DOE-75, "Call Detail Records." This change included all DOE locations rather than the previous system which allowed collection of data at Savannah River only.

In 1991, the Department of Energy published a proposed amendment to an existing system of records. DOE-54, "Investigative Files of Inspector General" was revised to reflect the change in storage of investigative data to include storage on floppy and hard computer disks. This system was published in final on April 10, 1992.

Department of Health and Human Services

Systems of Records Publication Activity

1975-1991



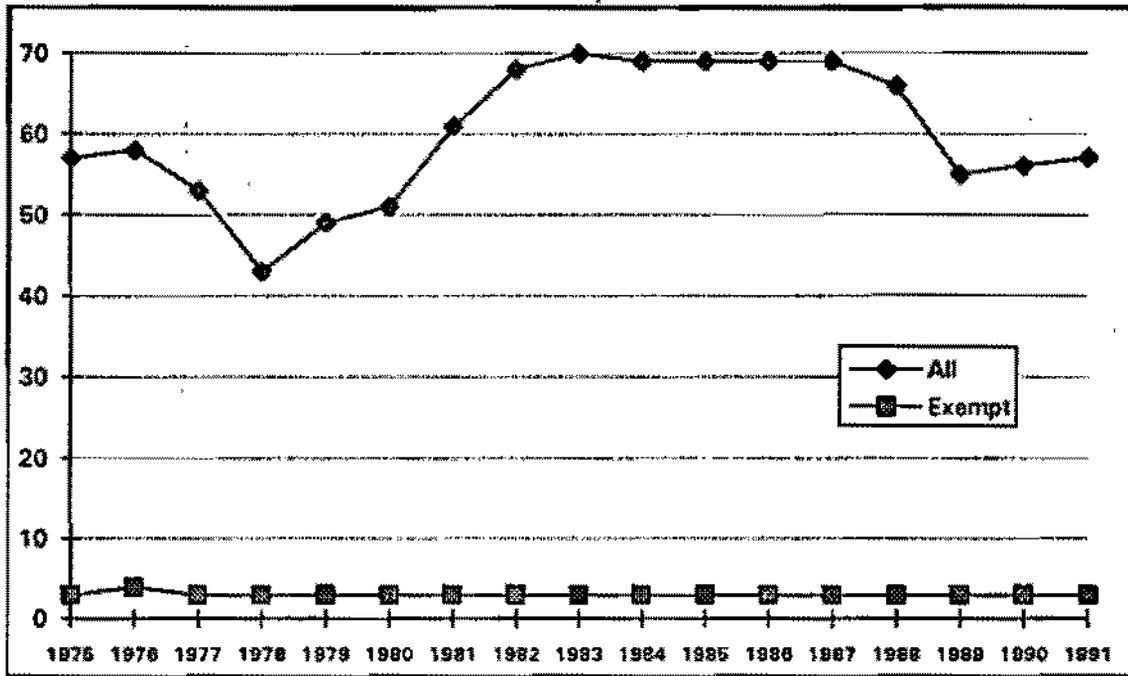
In 1990, the Department added 13 new non-exempt systems of records. It also added 19 new routine uses.

In 1992, the Department added 10 new systems of records and 4 new routine uses.

The Social Security Administration received a letter from the National Senior Citizens Law Center regarding the establishment of the Privacy Act system of records "Master Representative Payee File." The thrust of the comments was for greater and more direct access to information in the file by beneficiaries and other individuals to whom the information pertains. This was the only public comment received by the Department in response to a published system of records notice.

Department of Housing and Urban Development

Systems of Records Publication Activity 1975-1991



In 1990, the Department published four notices in the *Federal Register* relating to its Privacy Act System of Records:

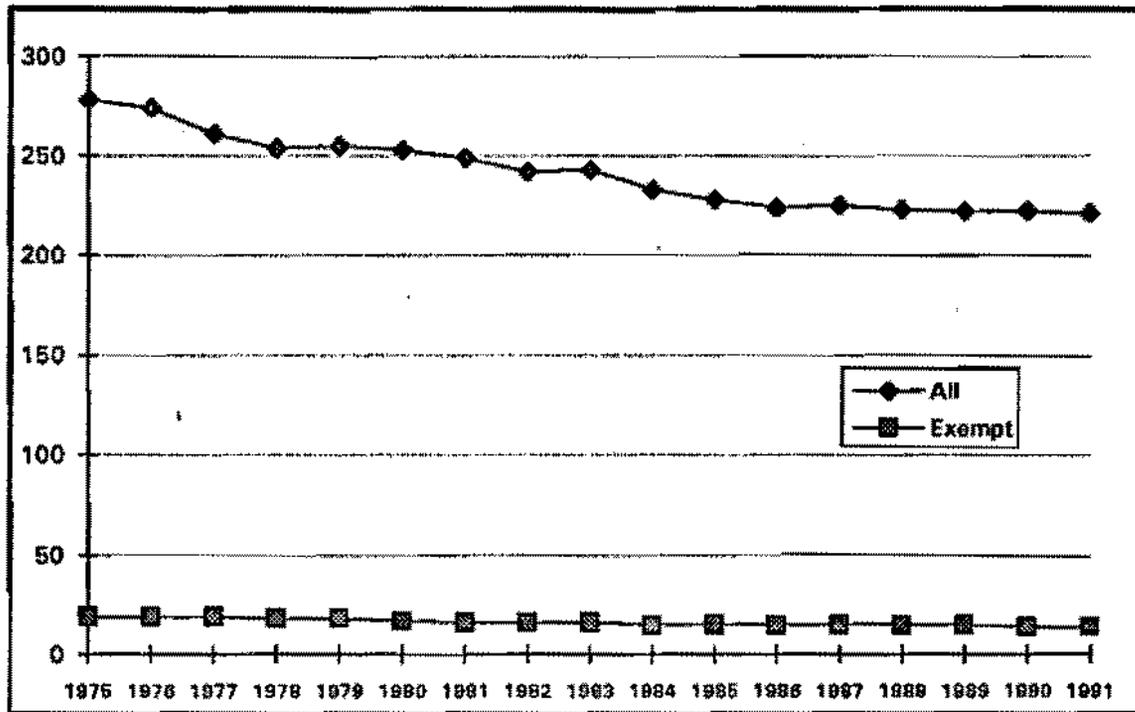
- A new systems of records, HUD/Dept-81 Ethics Filings, and three amendments:
- Amendment to HUD/Dept-2, Accounting Records;
- Amendment to HUD/Dept-32 Delinquent/Default/Assigned/Temporary Mortgage Assistance Payments (TMAP) Program; and
- Amendment to HUD/H-11 Multifamily Tenant Characteristics Data.

In 1991, two notices were published in the *Federal Register*:

- Amendment to HUD/Dept-81 Ethics Filings; and
- New system, HUD/Dept-82 ADP Security Clearance Information System.

Department of the Interior

Systems of Records Publication Activity 1975-1991



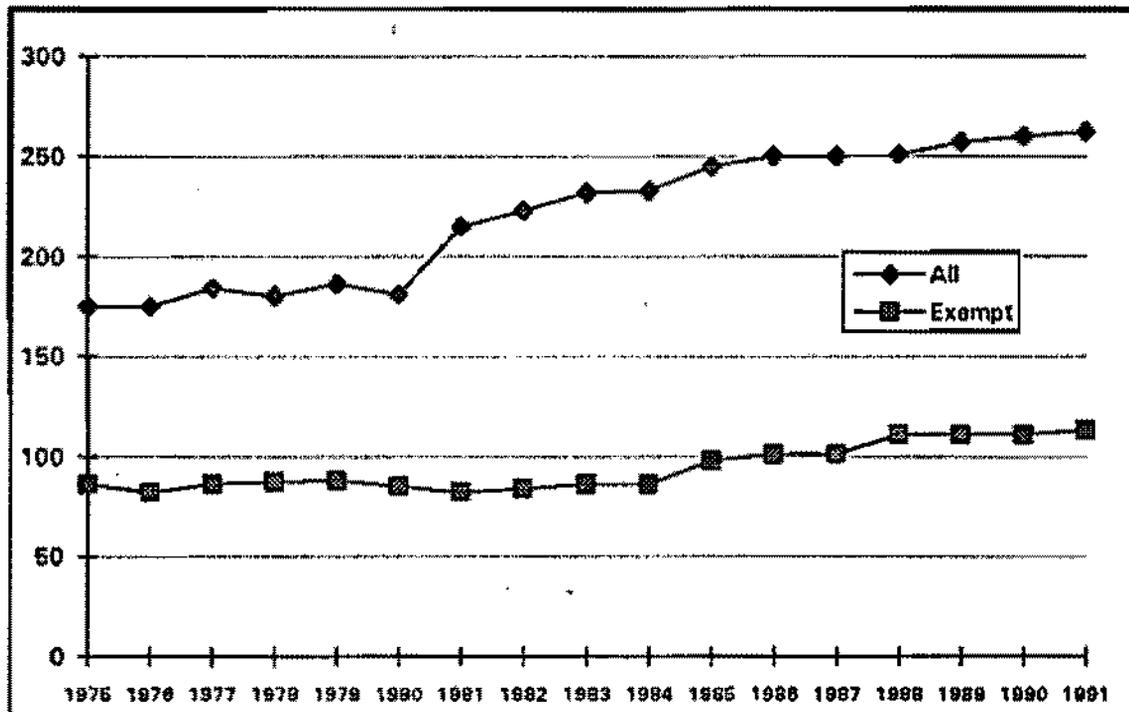
During 1990 and 1991, the Department published seven and five notices respectively. During this two year period, the number of systems of records notices maintained by the Department of the Interior (DOI) decreased from 223, at the end of calendar year 1989, to 221, at the end of calendar year 1991. This decrease was the net result of the establishment of three new systems of records notices, and the deletion of five other systems of records notices. One new system of records notice pertains to a system of records maintained on individuals associated with surface mining operations, who are Federal violators or have unpaid penalties; and the other two new systems of records notices pertain to two systems of records maintained on individuals associated with the land and minerals program. The five deleted systems of records notices included three notices that pertained to records previously maintained on individuals associated with the land and minerals program. These three notices were replaced by two of the new systems of records notices. In addition, the deletions also included one system of records notice concerning records no longer maintained on individuals associated with certain correspondence files, and one system of records notice that had been determined to be repetitive of a Department-wide system of records notice pertaining to administrative operations.

Six of the eight routine use additions published in 1990 pertain to four record systems concerning Indian social service and law enforcement programs, and expanded and clarified existing routine uses to include the release, for the purpose of protection of a child, to the appropriate Federal, State, local or tribal government agencies and appropriate persons responsible for the protection of a child. One additional routine use pertains to the disclosure of financial information to another Federal agency for the purpose of collecting a debt owed the Federal government. One additional routine use pertains to the disclosure to employees and contractors of DOE and the Nuclear Regulatory Commission, in the conduct of audits of DOI programs, including the employment records for those employees whose work is related to high level nuclear waste. The Department did not publish any changes to routine uses in 1991.

In 1990 and 1991, the Department did not receive any public comments related to any of its systems of records or other Privacy Act activities.

Department of Justice

Systems of Records Publication Activity 1975-1991



In 1990, the Department deleted one and added four non-exempt systems. DOJ also added two and deleted six routine uses.

Specifically, on February 13, 1989 (54 *FR* 6626), the Criminal Division removed a system which originally had been established to assist the United States Attorneys in locating persons whose addresses were unknown and who had outstanding and uncollected Federal criminal fines or Federal bond forfeitures. (The system was entitled "Records on Persons Who Have Outstanding and Uncollected Federal Criminal Fines or Federal Bond Forfeitures, Justice/CRM-016.") However, because the Criminal Division no longer provided this assistance and the records retention period established by the National Archives and Records Administration (NARA) for these records had expired, the records were destroyed in accordance with the appropriate General Records Schedule (GRS).

The Office of Justice Programs published a new system entitled "Denial of Federal Benefits Clearinghouse System (DEBAR), Justice/OJP-013," (55 *FR* 31459). The system covers individuals convicted of Federal or State offenses involving drug

trafficking or possession of a controlled substance who have been denied Federal benefits by Federal or State courts pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. The President's report (issued pursuant to the statute) sets the Department of Justice up as the "clearinghouse for the judiciary" and, as such, requires the Department to "maintain records of all information received from Federal and State court officials, and [to] forward such data to the General Services Administration (GSA) for inclusion on the 'Lists of Parties Excluded from Federal Procurement or Non procurement Programs' (Debarment List)." (In turn, GSA is tasked with keeping this list current and making it available to other agencies.)

The Justice Management Division published a system of records entitled "Employee Assistance Program (EAP) Treatment and Referral Records, Justice/JMD-016," on April 2, 1990 (55 FR 12296). Subsequently, on October 1, 1990 (55 FR 40020) a new routine use was published; on November 26, 1990 (55 FR 49149), a complete description of the system, including the new routine use, was published in the annual compilation of minor changes. Generally, the system covers current and former employees of the Department's Offices, Boards, and Divisions; however, it may occasionally cover current and former employees of other Department organizations. The EAP is a voluntary program designed to assist the recovery of employees who are experiencing one or more of a variety of personal or behavioral problems (e.g., marital, financial, substance abuse). Records are maintained to document referral and participation in the EAP program; the nature and effects of the employee's personal or behavioral problem(s); efforts to counsel, treat, and rehabilitate the employee; and progress made in attaining his/her full recovery. Records may be used to track compliance with agreements made to mitigate discipline based upon treatment (abeyance agreements).

The Immigration and Naturalization Service (INS) published two systems of records. The "Security Access Control System (SACS), Justice/INS-014" (published on May 10, 1990 (55 FR 19674)) covers INS employees and is used to improve the security of Federal records and property (and the safety of INS employees) by instituting a more effective means by which to detect unauthorized entry into INS buildings. The "Port of Entry Office Management Support System (POMS), Justice/INS-015" (published on June 14, 1990 (55 FR 24167)) covers INS employees assigned inspection duties at U.S. ports of entry and is used to assist management in scheduling leave, assigning and controlling overtime, accounting for use of overtime funds, and in the overall management of resources at the various ports of entry.

A routine use was added to the "Department of Justice (DOJ) Controlled Parking Records, Justice/JMD-017" on October 2, 1990 (55 FR 40245). The routine use permits the disclosure of relevant information about parking assignments to other Federal agencies to enable DOJ, as well as the recipient Federal agencies, to ensure fairness in agency parking programs. (Agency parking spaces may be assigned according to a variety of established priorities among Federal agencies, and in some instances, according to specific criteria, e.g., carpools with the greatest number of participants (except in a tie).)

One routine use was added and four were deleted from the "Employee Assistance Program 40020). The new routine use was added to permit disclosure to the extent necessary to prevent an imminent and potential crime which directly threatens loss of life or serious bodily injury. The four were deleted because the Privacy Act already provided the necessary and appropriate authority for the proposed disclosures.

Two routine uses were deleted from the "Deportable Alien Control System (DACS), Justice/INS-012" on November 26, 1990 (55 *FR* 49181). The DACS system provides INS with an automated data base which assists in the arrest, deportation, or detention of aliens in accordance with immigration and nationality laws. It also serves as a docket and control system by providing management with information concerning the status and/or disposition of deportable aliens. A routine use permitting release to the alien (or to his/her attorney or representative) in connection with any proceeding before INS was deleted. Such a routine use is unnecessary where the alien is subsequently "lawfully admitted for permanent residence" (and thus an "individual" under the Act)--unnecessary because the information in a non-exempt system cannot be withheld from the individual covered by the system. Similarly, with the alien's written consent, the information cannot be withheld from the alien's attorney or representative. INS also determined that it would not need a routine use allowing disclosure to the news media and the public pursuant to 28 C.F.R. 50.2 (i.e., allowed unless it were determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy).

Finally, on November 26, 1990, the Department published its annual compilation of minor changes to systems of records for calendar year 1990.

In 1991, the Department deleted three non-exempt systems. In addition, DOJ added three non-exempt systems and two exempt systems. Finally, the agency redescribed an existing system. Major changes to the system included the removal of a routine use and the promulgation of exemptions.

Specifically, INS deleted the following systems of records on March 5, 1991 (56 *FR* 9234): Application/Petition Tracking System (APTS), Justice/INS-002; Top Priority Program (TPP), Justice/INS-004; and Case Control System, Justice/INS-005.

APTS records had been incorporated into a new Privacy Act system of records of much broader scope entitled "Fees Application Receipt and Entry System (FARES), Justice/INS-013." TPP records had been established as temporary records and were destroyed in accordance with an appropriate GRS one year after the individual or organization ceased to be

an active subject of the system. The TPP program had not been active since 1980, and no new records were being added to the system. To the extent that records of a similar type exist in INS official files, they may now be accessed from a system entitled "Immigration and Naturalization Service (INS) Alien File (A-File) and Central Index System (CIS), Justice/INS-001A." Case control records were found to be duplicative of those either in the CIS system or in the DACS system. Accordingly, the case control records were deleted in accordance with the appropriate GRS.

INS published two non-exempt systems of records. "The Secondary Verification Automated Log (SVAL), Justice/INS-016" (published on August 12, 1991 (56 FR 38157)) was established to maintain records of a second attempt by entitlement agencies to verify immigration status by comparing paper documents (known as the "secondary verification"). Secondary verification is conducted where alien eligibility for certain benefits was not or could not be confirmed through direct access to an INS automated data base entitled "Alien Status Verification Index (ASVI), Justice/INS009" (known as the "primary verification"). The SVAL system is used to track the interim and final disposition of the second request to verify eligibility which may require referral to an INS district office. The "Priority Automated Commuter Entry Systems (PACES), Justice/INS-017" (published on June 11, 1991 (56 FR 26836)) was established to maintain records of the adjudication of applications to travel in commuter lanes which have been provided at certain land border entry points into the United States. The lanes have been provided to reduce border delays by allowing low-risk frequent border crossers, who have been pre-screened and pre-authorized, to travel across the border subject only to random border inspections.

The Antitrust Division published the "Civil Investigative Demand (CID) Tracking System, Justice/ATR-014" on November 6, 1991 (56 FR 56664). The system is used (1) to determine whether a party has been the recipient of a CID during a previous investigation(s), (2) to identify the title (or nature) of that investigation(s), and (3) to determine whether that individual should be issued a CID in an ongoing investigation(s). (CID's require the production of documents and/or answers to written interrogatories, or oral testimony, in connection with certain civil investigations.)

The Office of the Inspector General published two exempt systems of records. The "Office of the Inspector General Records Index System, Justice/OIG-001" (published on September 25, 1991 (56 FR 48578)) was established to enable the Inspector General to carry out his responsibilities for auditing, inspecting, and investigating Departmental programs and operations with an objective to promote economy, efficiency, and effectiveness of such programs and operations, and to prevent and detect fraud, waste, and abuse in such programs and operations. The "Office of Inspector General, Freedom of Information/Privacy Act (FOIA/PA) Records, Justice/OIG-003" (published on October 9, 1991 (56 FR 50947)) was established to enable the OIG to process requests for access to its records under the FOIA/PA. This system may contain investigative records that were withheld pursuant to a request for access to Justice/OIG-001.

The United States Marshals Service (USMS) published its "Prisoner Transportation System, Justice/USN-003," on September 6, 1991 (56 FR 44101) to more clearly describe the records of the system and to identify the records as those relating only to the inter district movement of prisoners. The USMS also exempted the system from certain Privacy Act provisions and deleted an unnecessary routine use. The exemptions were promulgated to protect the security of prisoners, informants, and law enforcement personnel; and to prevent a serious threat to law enforcement communications systems. Since the USMS is a non litigating agency, the routine use permitting it to disclose records directly to adjudicative bodies or to the courts during litigation was removed.

On November 19, 1991 (56 FR 58399), the Department published notice of the reassignment of responsibilities affecting three of its systems of records. Publication of the notice was accompanied by a final rule document to make appropriate changes to Title 28 of the Code of Federal Regulations (28 C.F.R.). Appropriate changes were made to both the notice and to 28 C.F.R. to reflect (1) reassignment of responsibility for drug enforcement task force evaluation and reporting records from the Office of the Associate Attorney General to the Office of the Deputy Attorney General and (2) reassignment of responsibility for Assistant United States Attorney applicant and personnel records from the Office of the Deputy Attorney General to the Executive Office for United States Attorneys. The changes affected internal management responsibilities only and did not have any effect on the public.

Finally, on March 10, 1992 (57 FR 8473), the Department published its annual compilation of minor changes to systems of records for calendar year 1991.

The Department received comments about Privacy Act systems on four occasions--on three occasions from the Chairman of the House Committee on Government Operations, and on one occasion from a private citizen.

- By letter dated March 30, 1990, Chairman Bob Wise, House Committee on Government Operations, objected to certain routine uses as outlined in the new EAP system. The Chairman objected generally on the basis that other provisions of the Privacy Act already provided authority for necessary and appropriate disclosures. The Department responded on January 29, 1991, and agreed to remove the routine uses.
- By letter dated September 16, 1991, the Chairman requested that the Department review and reconsider the application of the (j)(2) exemption to the "Office of the Inspector General Record Index, Justice/OIG-001" system of records. He objected on the basis that the (j)(2) exemption is only available for a system of records maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws.

- In a letter dated December 17, 1991, the Department responded that the system is indeed an investigative record system and is maintained by the Investigations Division of the Department's Office of the Inspector General (i.e., an identifiable criminal investigation subunit) in which other OIG divisions play a limited, or subsidiary, part. In a letter dated December 19, 1991, the Chairman accepted this explanation for the application of (j)(2) to this system.
- In a separate letter, dated October 2, 1991, the Chairman objected on the same basis to the application of (j)(2) to the FOIA/PA records system. He also objected to a routine use which would permit the disclosure of information to the news media and the public pursuant to 28 C.F.R. 50.2. He argued that the effect of the routine use, combined with the exemption, was to deny individuals any right to see records pertaining to themselves while reserving the right to make the same information public.
- In a separate letter, also dated December 17, 1991, the Department explained that this system is largely derivative of other, underlying, record systems and contains few original materials, and that the exemption is necessary to prevent the requester from obtaining the same previously-withheld materials merely by making a subsequent request for access to this system. The Department cited recent case law which, in principle, supported this position. In addition, the Department explained that the purpose of the routine use was to permit disclosure to the public of such information protected by the Privacy Act as could not be withheld under the FOIA. The routine use would allow the Department to make such disclosures whether or not it has an FOIA request physically in hand. (See *Bartel v. FAA*, 725 F.2d 1403, 1411 - 13 (D.C. Cir. 1984).)

In his letter of December 19, 1991, Chairman Wise continued to object to the application of (j)(2) to this system, contending that regardless of its contents, the system did not meet the law's threshold requirement (i.e., that (j)(2) can be applied only to a system of records maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws). He accepted the Department's explanation for the routine use with a caveat that the routine use language should be more narrowly constructed to reflect the Department's intent, i.e., limited to disclosures that are required under the FOIA.

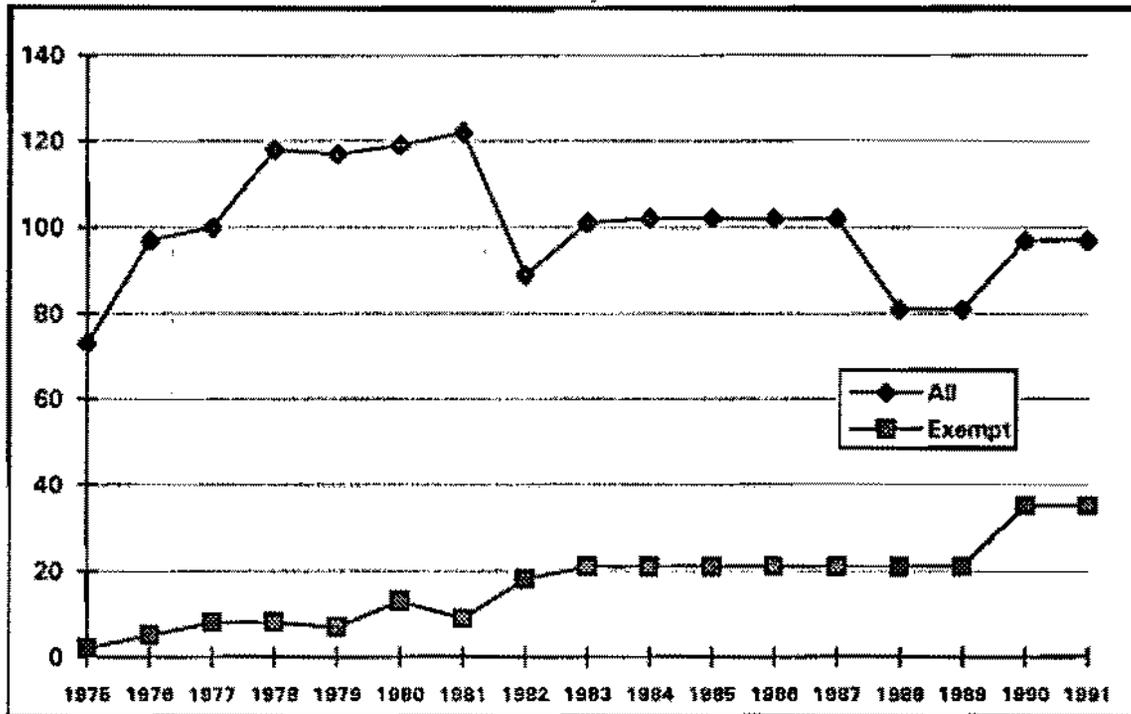
In conclusion, the Department determined that the (j)(2) exemption was properly claimed for both of these systems and the routine use was both necessary and proper. However, the "Office of the Inspector General Index System" was renamed to "Office of the Inspector General Investigative Records" to more clearly reflect the nature of the system (57 FR 8476).

- The Department received undated comments from a private citizen who favored the exemption of the "United States Marshals Service Prisoner Transportation System, Justice/USM-003,H but expressed concern about the proposed routine uses. The routine uses would permit disclosure to the news media and the public; to Members of Congress; and to NARA.

By letter dated November 18, 1991, the Department explained that where appropriate, and within the limitations defined by the Privacy Act, the Privacy Act permits disclosure if 30 days notice thereof has been published in the Federal Register. The specific routine uses were explained generally as follows: The routine uses would permit disclosure to the news media only to the extent that such disclosure would not constitute an unwarranted invasion of privacy and only to the extent such disclosure is required by the FOIA; to a Member of Congress only where he/she has requested the information on behalf of and at the request of the individual, and only to the extent that the FOIA requires disclosure to the individual (notwithstanding the exemption) were he/she to make his/her own request; and to NARA only to perform a statutorily required government function.

Department of Labor

Systems of Records Publication Activity 1975-1991



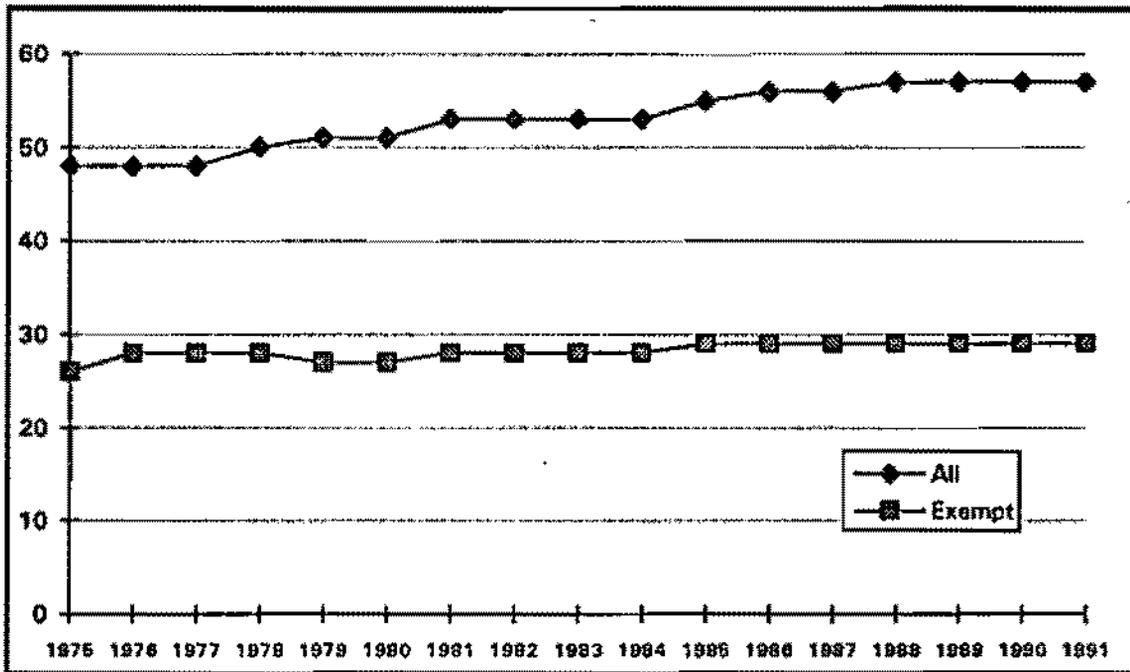
On February 28, 1990, the Department published a 93 page document in the *Federal Register* which republished, in full, all of its systems of records. This republication updated an earlier July 13, 1982 publication. The 1990 publication listed 97 systems.

In 1991, no changes to the systems of records were made or published, but the Department is currently preparing a new republication, in full, in order to update the 1990 document.

The Department received only one letter of comment regarding the February 28, 1990 publication, this being from Congressman Robert E. Wise, Jr., Chairman of the Government Information, Justice and Agriculture Subcommittee of the Committee on Government Operations. By letter dated April 5, 1990, Congressman Wise commented that some of the proposed routine uses and some of the exemptions were inappropriate. By letter dated October 18, 1990, the Solicitor of Labor, Robert P. Davis, responded to these comments, essentially by explaining the basis for the exemptions. However, the Department did agree to amend certain of the routine uses, as was recommended by the Congressman.

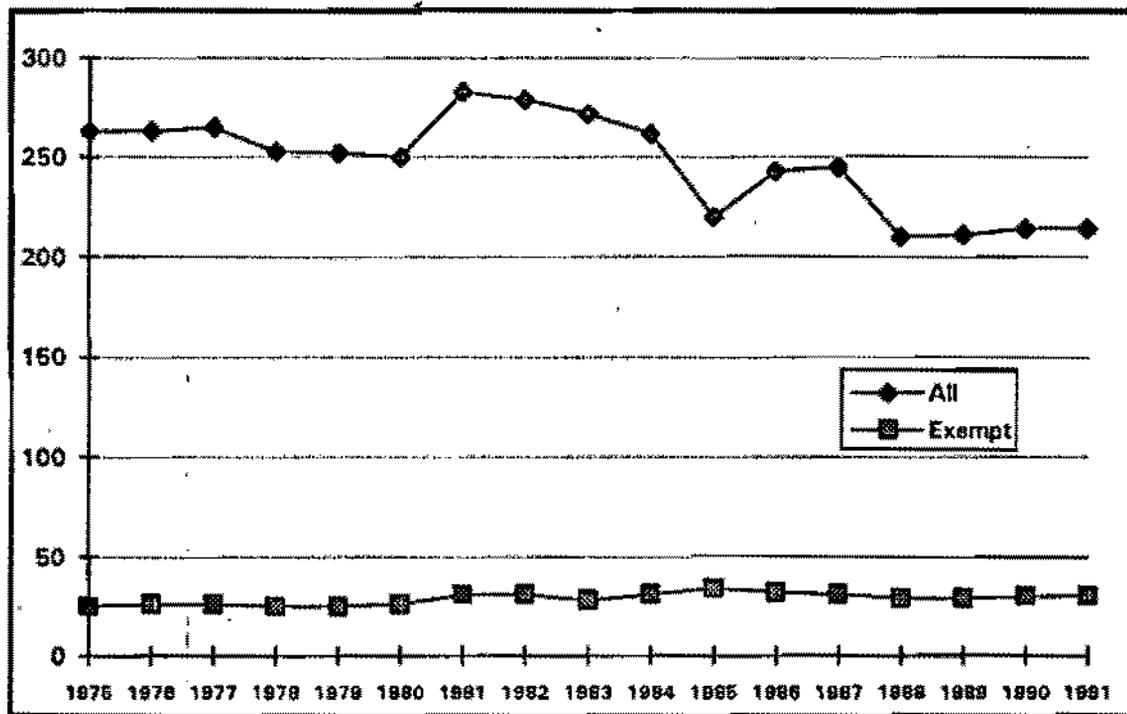
Department of State

Systems of Records Publication Activity 1975-1991



On February 21, 1991, the Department published a comprehensive revision of the records of the Office of the Inspector General (STATE-53) which included changes to the name location, categories of individuals and of records, authority, routine uses, retrievability, safeguards, retention, and disposal.

Department of Transportation Systems of Records Publication Activity 1975-1991



In January 1990, the U.S. Coast Guard amended DOT/CG-634 (Child Care Program Record System) to cover all records maintained by the U.S. Coast Guard pertaining to children of active duty members of the Uniformed Services and other Federal employees who are enrolled in a U.S. Coast Guard child care program.

In February 1990, the U.S. Coast Guard amended DOT/CG-571 (Physical Disability Separation System) to revise the system's location, policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system.

In April 1990, the Federal Aviation Administration amended DOT/ FAA-815 (Investigative Record System) to expand the categories of records to include information regarding illegal drug trafficking by pilots, aircraft owners, and aircraft mechanics, and by adding computer system hardware and software.

In September 1990, the Department of Transportation revised its General Routine Use regarding use of Privacy Act records in litigation to conform with Office of Management and Budget advice.

In November 1990, the Research and Special Programs Administration established three new systems of records, DOT/ RSPA-09 (Hazardous Materials Incident Telephonic Report System); DOT/RSPA-10 (Hazardous Materials Incident Written Report System); and DOT/RSPA-11 (Hazardous Materials Information Requests System), to cover records maintained in connection with the collection and dissemination of information related to the release of hazardous materials during transportation (including transportation by pipeline).

In January 1991, the U.S. Coast Guard established a new system of records, DOT/CG-577 (USCG Federal Medical Care Recovery Act Record System), to cover all records on claims pursued under the Federal Medical Care Recovery Act.

In April 1991, the Office of the Secretary established a new system of records, DOT/ALL-7, for the Departmental Accounting and Financial Information System maintained in connection with the accounting for and maintenance of financial information for the agencies within the Department of Transportation.

In May 1991, the Saint Lawrence Seaway Development Corporation (SLSDC) deleted DOT/SLS-155 (Emergency Operating Records) because it is no longer in existence. The SLSDC also amended three systems of records, DOT/SLS-151 (Claimants under Federal Tort Claims Act); DOT/SLS-152 (Data Automation Program Records); and DOT/SLS-153 (Employees' Compensation Records), to revise the systems' locations and change the name and address of the systems manager for each.

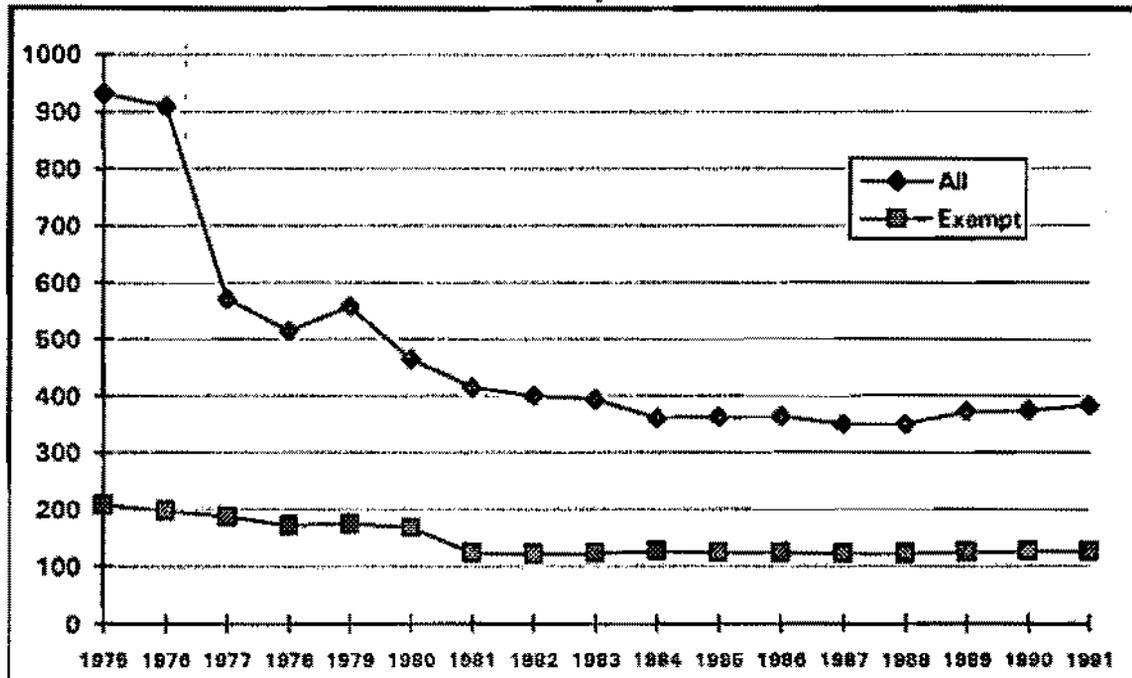
In August 1991, the Office of the Secretary amended two systems of records, DOT/OST-024 (Parking Permit Application File and Vanpool Application File); and DOT/OST-025 (Parking Permit Management System), to include, as a routine use of the information contained in each system, matching of applicants for the purpose of creating or adding to carpools and vanpools and the distribution of information concerning applications by individuals to other Federal agencies as part of a matching program designed to expose fraudulent applications.

In November 1991, the Office of the Secretary established a new system of records, DOT/ALL-8 (Employee Transportation Facilitation), to reflect the data collected for ride sharing, parking permit application files, vanpool application files, and transit fare subsidies. DOT/OST-024 (Parking Permit Application Files and Vanpool Application Files) was deleted and merged with the new DOT/ALL-8 system of records for better management and control.

The agency received no comments on any of its publications.

Department of the Treasury

Systems of Records Publication Activity 1975-1991



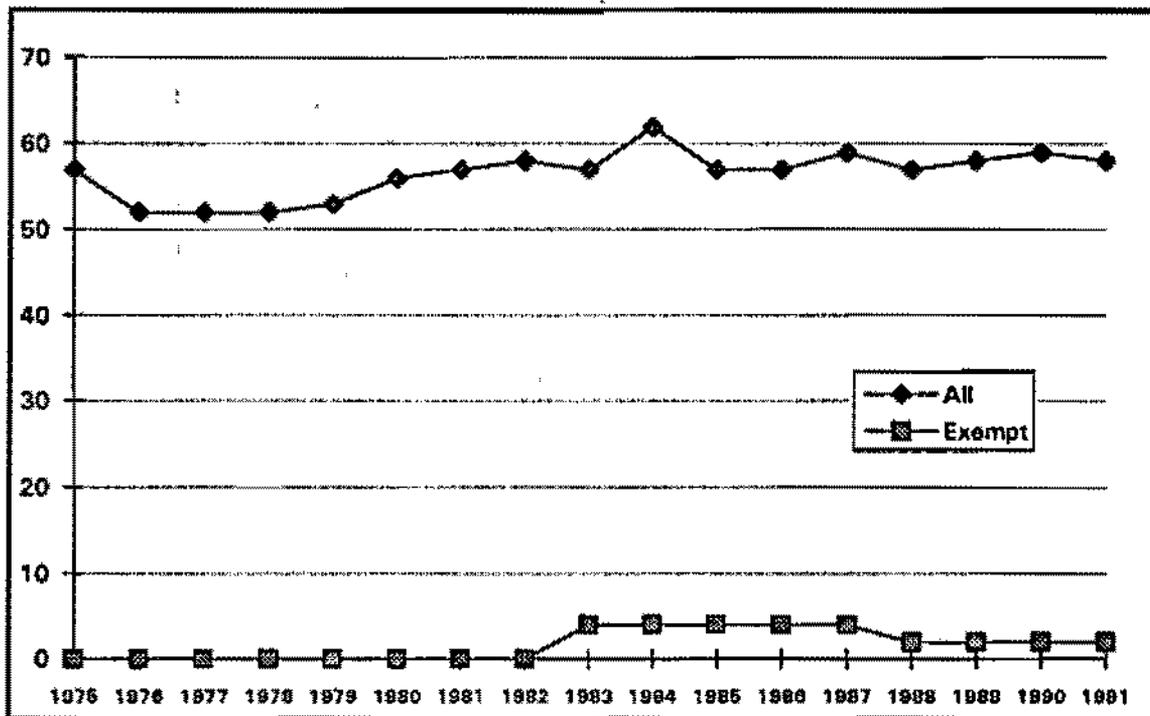
In CY 90, the Department of the Treasury published one non-exempt system of records notice; one exempt system of records notice; and one notice amending a routine use for a system of records.

As a result of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), the Federal Home Loan Bank Board (FHLBB) was terminated and part of its functions were assigned to the Office of Thrift Supervision (OTS), which became a component of the Department of the Treasury. A notice was published on August 2, 1990, to correct the disclosure regulations published by OTS (November 1989) by adding the regulation exempting a system of records from certain provisions of the Privacy Act. The Department of the Treasury published a notice adopting the FHLBB's systems of records on October 29, 1990.

In CY 91, the Department of the Treasury added nine new non-exempt systems of records to its inventory of Privacy Act systems of records. Three systems of records notices were altered; two of those alterations involved the addition of new routine uses. No comments were received on any of the Department's publication or other Privacy Act implementing activities.

Department of Veterans Affairs

Systems of Records Publication Activity 1975-1991



In 1990, the publication activities of the Veterans Health Administration (VHA) primarily related to the credentialing and privileging of clinicians, and reports to, and requests for information from the National Practitioner Data Bank. A new system of records was established to house the records that relate to these programs. In addition, 2 routine uses were added to the notices of 17 systems of records (6 VA systems notices) to address activities related to the National Practitioner Data Bank. In 1991, VHA publication activities included the following:

- The notices for 5 systems were amended to more accurately describe the information that is maintained in the records.
- The notices for 3 systems of records were deleted where the records are no longer maintained or the information is included in another system of records.
- A new system of records was established for information that is maintained in the Decentralized Hospital Computer Program.

- The notice for the Health Care Provider Credentialing and Privileging Records System was republished to announce some changes to the system notice, to address the public comments that were received which addressed some of the routine uses, and to change the title of the system to Health Care Provider Records.

Public comments were received concerning a new system of records (77VAll, Health Care Provider Credentialing and Privileging Records-VA) which was published on July 27, 1990 (55 FR 30790). Seventeen routine uses were proposed for the system of records. Since a number of public comments were received, on October 30, 1990 (55 FR 45716) the public comment period was extended until November 29, 1990. The comments were addressed in a republication of the system notice on June 13, 1991 (56 FR 27292). Comments were received from 12 individuals or groups of individuals:

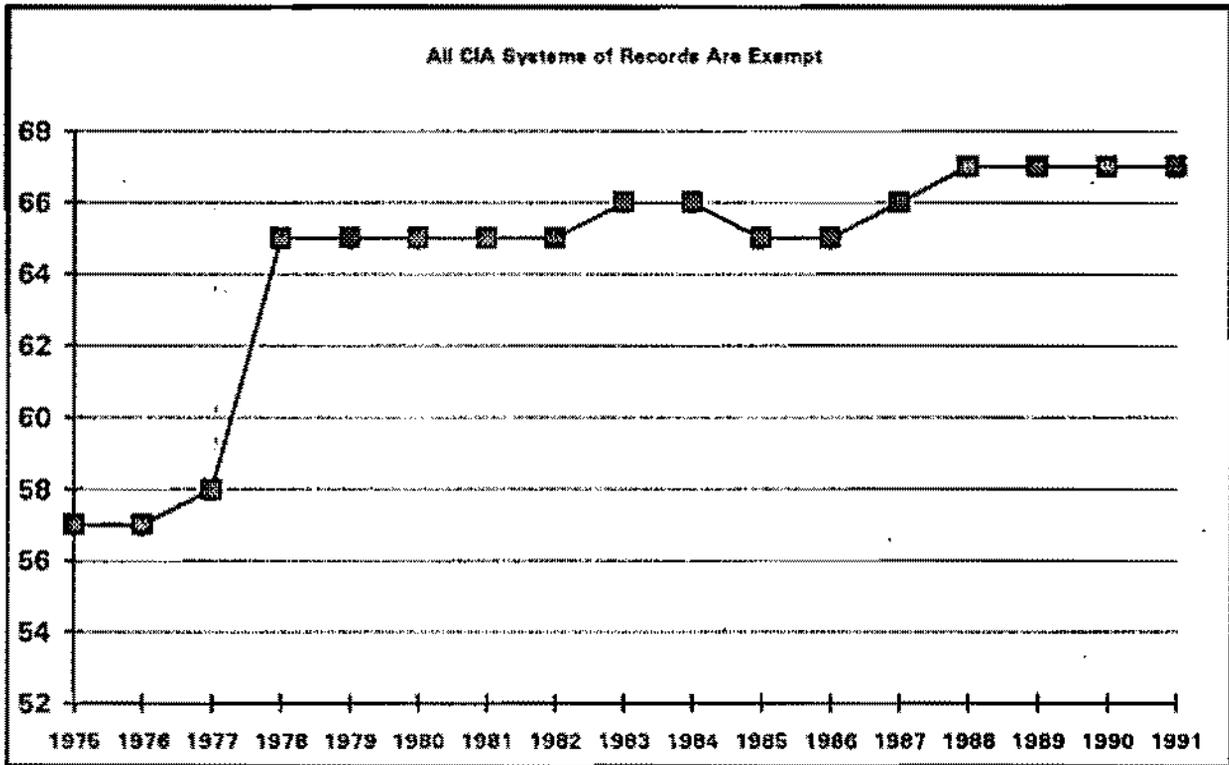
- Nine commenters erroneously interpreted a routine use to permit the disclosure of medical quality assurance information that is protected from disclosure by 38 U.S.C. 5705.
- Two commenters misinterpreted a routine use which provides for disclosures to congressional offices when an inquiry is made on behalf of the subject of the records.
- Two commenters also misinterpreted a routine use that permits the disclosure of certain information to labor organizations.
- Eleven comments concerned a routine use which proposed the disclosure of certain information concerning health care providers to patients when the information was needed by the patient to make a decision regarding treatment. The routine use was revised as a result of the comments.

Final Regulations and Rules of Practice were published in the *Federal Register* on February 3, 1992 (57 FR 4088), for the Board of Veterans' Appeals' System of Records, 81VAOI, Attorney Fee Schedules, which became effective on March 4, 1992. Although there were comments registered with respect to that publication in the *Federal Register*, none of the comments concerned the Board's system of records or implicated the Privacy Act, even though subpart G of 38 C.F.R. Part 20 involves representation.

Central Intelligence Agency

Systems of Records Publication Activity

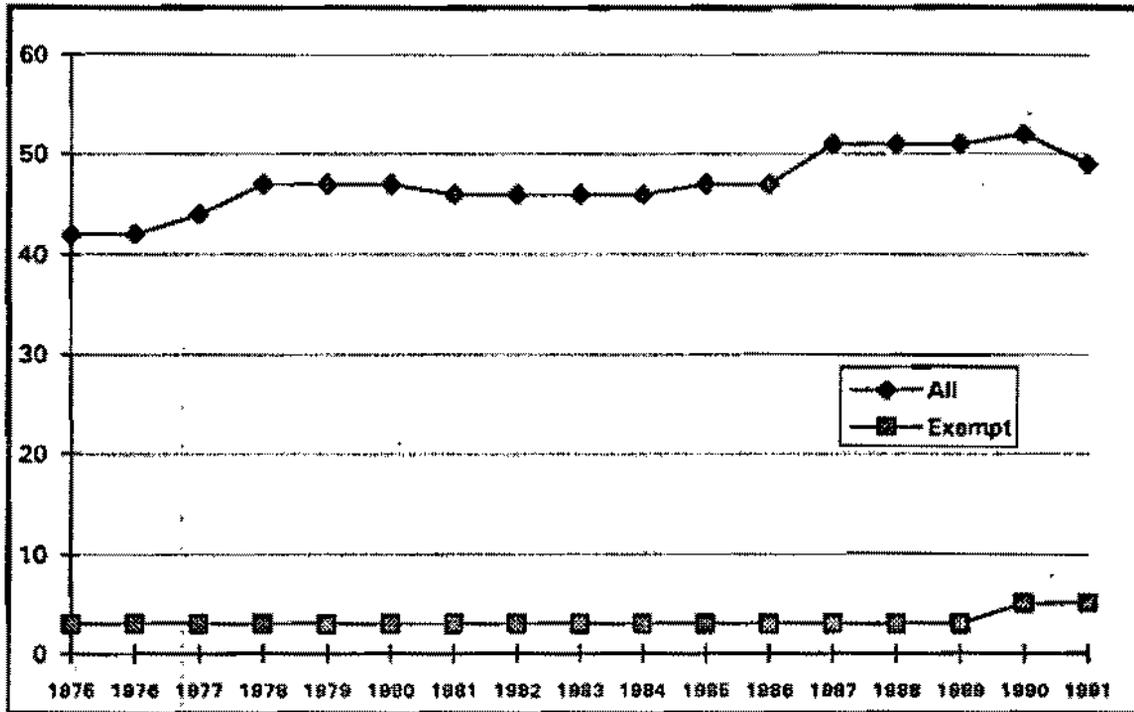
1975-1991



The Central Intelligence Agency (CIA) had no publication activities in 1990 and 1991 concerning its Privacy Act Systems of Records.

National Science Foundation

Systems of Records Publication Activity 1975-1991

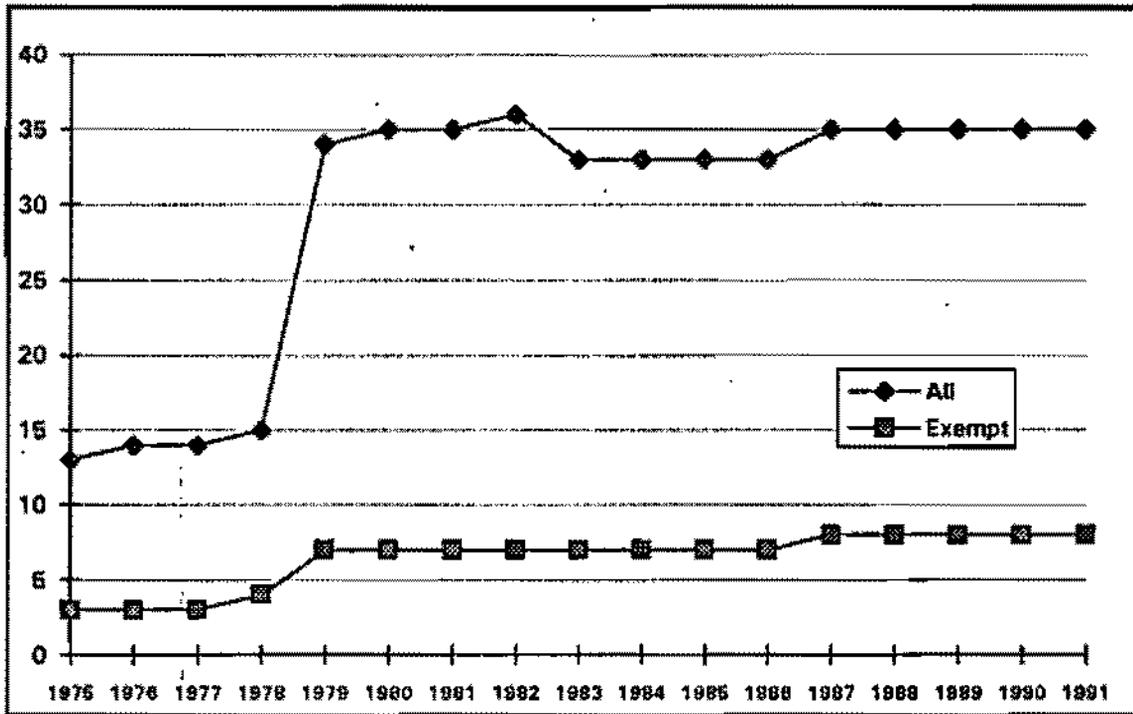


NSF received comments from Congressman Robert E. Wise, Jr., objecting to NSF's use of the (k)(5) exemption for investigatory material which would identify persons supplying evaluations of NSF applicants and their proposals.

NSF agreed that reviewers should be aware of the possibility that their identities could be released. Its current Privacy Act notice to reviewers states that (i) reviewer identities will be kept confidential to the maximum extent possible, and (ii) NSF considers reviews to be exempt from disclosure but cannot guarantee that it will not be forced to release them. In response to Congressman Wise's concerns, NSF agreed to amend its notice to make more explicit the possibility that NSF might be required to release reviewer identities under the Privacy Act.

Office of Personnel Management

Systems of Records Publication Activity 1975-1991

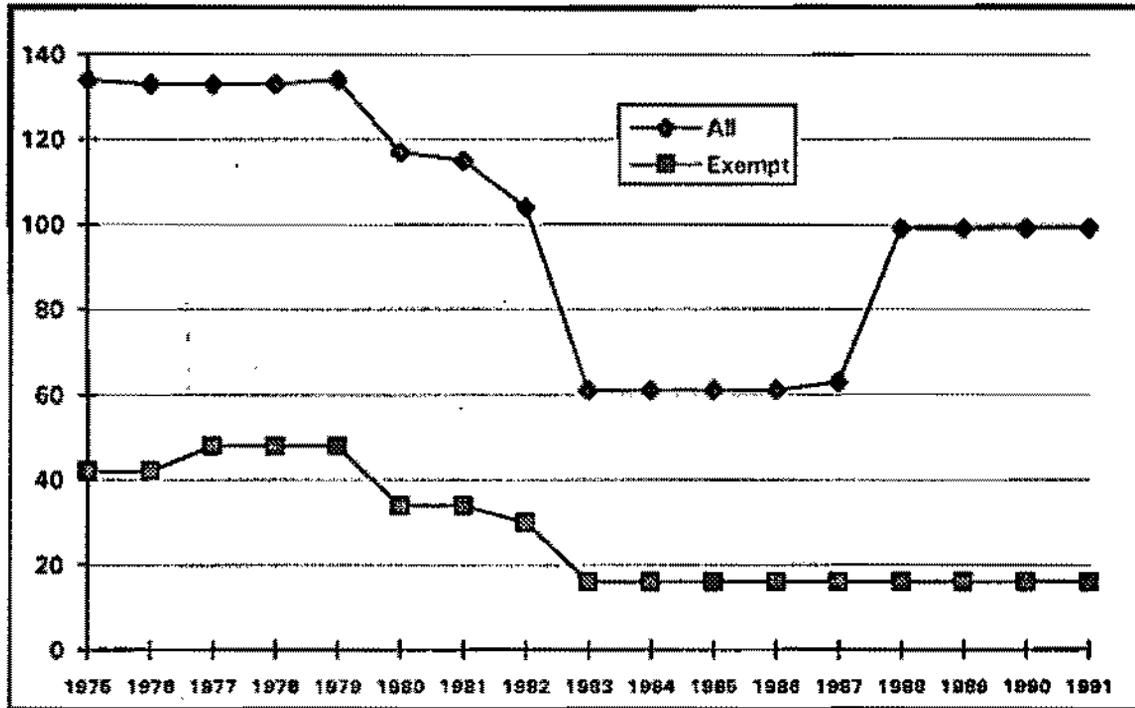


On February 5, 1990, OPM published in the *Federal Register*, in their entirety, all OPM systems of records. No comments were received regarding any of the changes made to the notices (e.g., new routine uses).

An exemption to one system of records, OPM/GOVT-6, Personnel Research and Test Validation, system was proposed on February 26, 1991, at 56 *FR* 7819. The exemption proposed, (k)(4), was adopted on May 16, 1992, at 57 *FR* 20956 when the accompanying regulatory change became final.

Panama Canal Commission

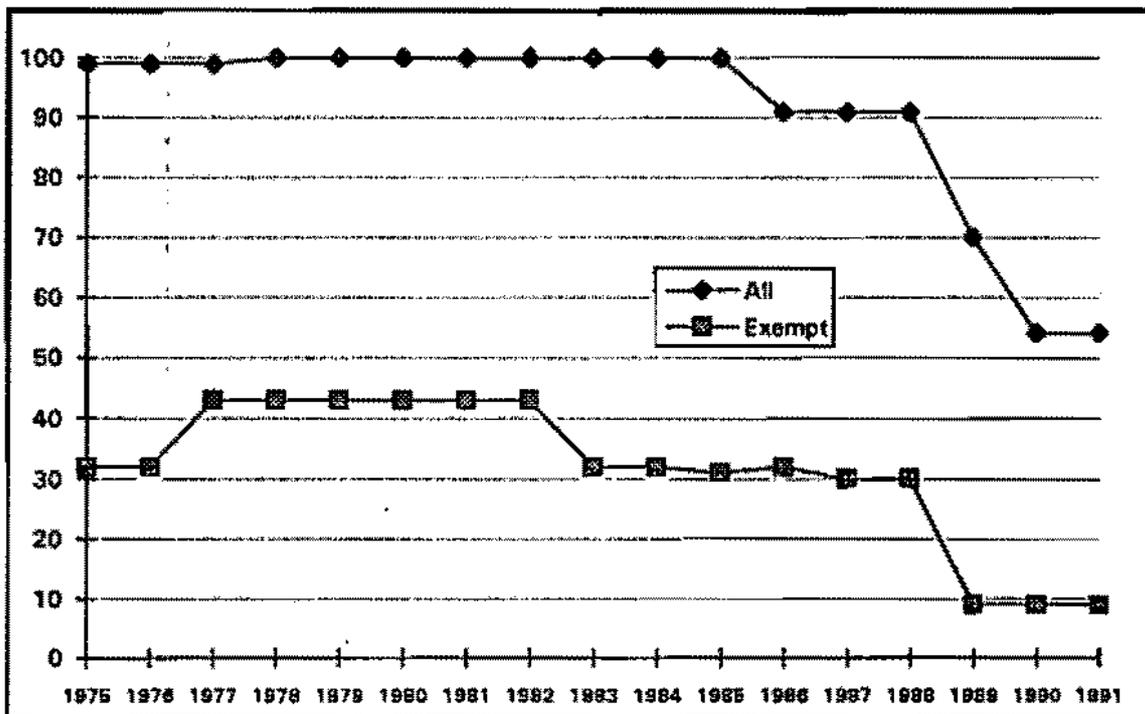
Systems of Records Publication Activity 1975-1991



The Panama Canal Commission had no publication activities during 1990 and 1991.

Securities and Exchange Commission

Systems of Records Publication Activity 1975-1991

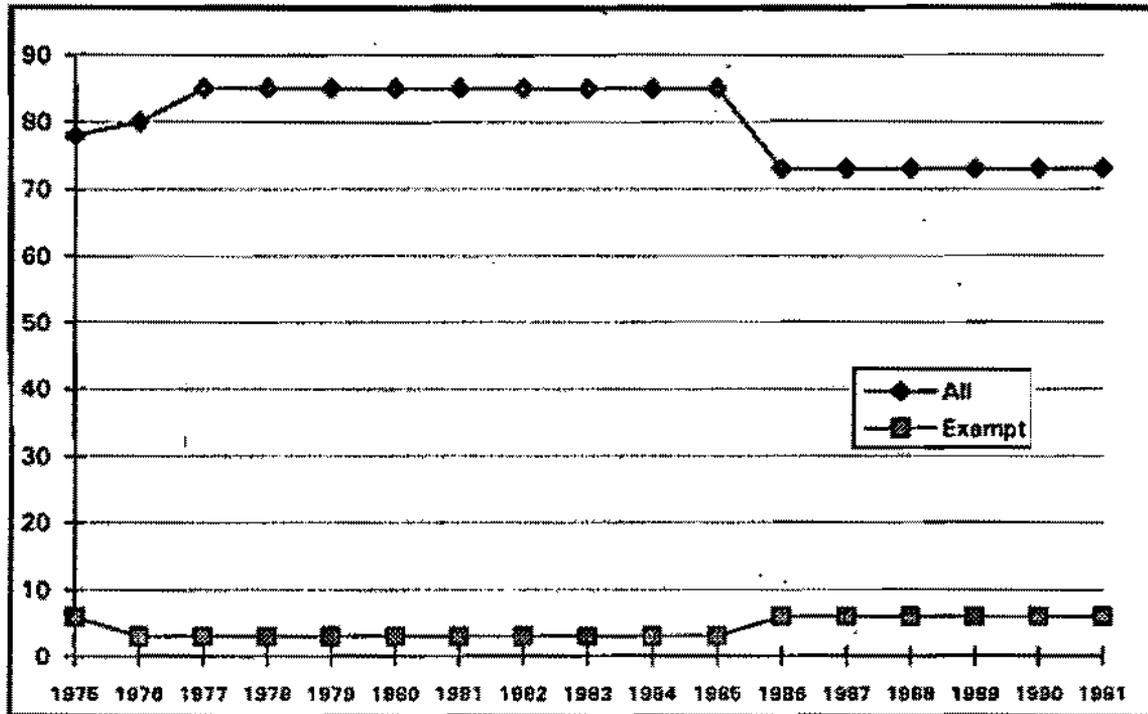


In 1990, the Commission conducted an extensive review of its published systems of records notices. During the course of this review, numerous notices covering systems of records no longer used or maintained by the Commission were identified. For the most part, publication activity focused primarily on the deletion of these obsolete notices. In addition, the Commission consolidated several system notices that were redundant. Prior to the consolidation, the Commission maintained more than twenty descriptions of systems of records for its enforcement files. The consolidation was intended to reflect the actual practice of requesters and Commission staff of treating such files as falling into a single system of records, and to bring the consolidated descriptions up to date.

In 1991, the Commission continued its review of published systems of records notices and identified ten notices that required minor alterations. For the most part, these alterations involved updating Commission addresses, but included revised system names, a revised system manager, corrected C.F.R. citations, and a revised retention and disposal period.

Small Business Administration

Systems of Records Publication Activity 1975-1991

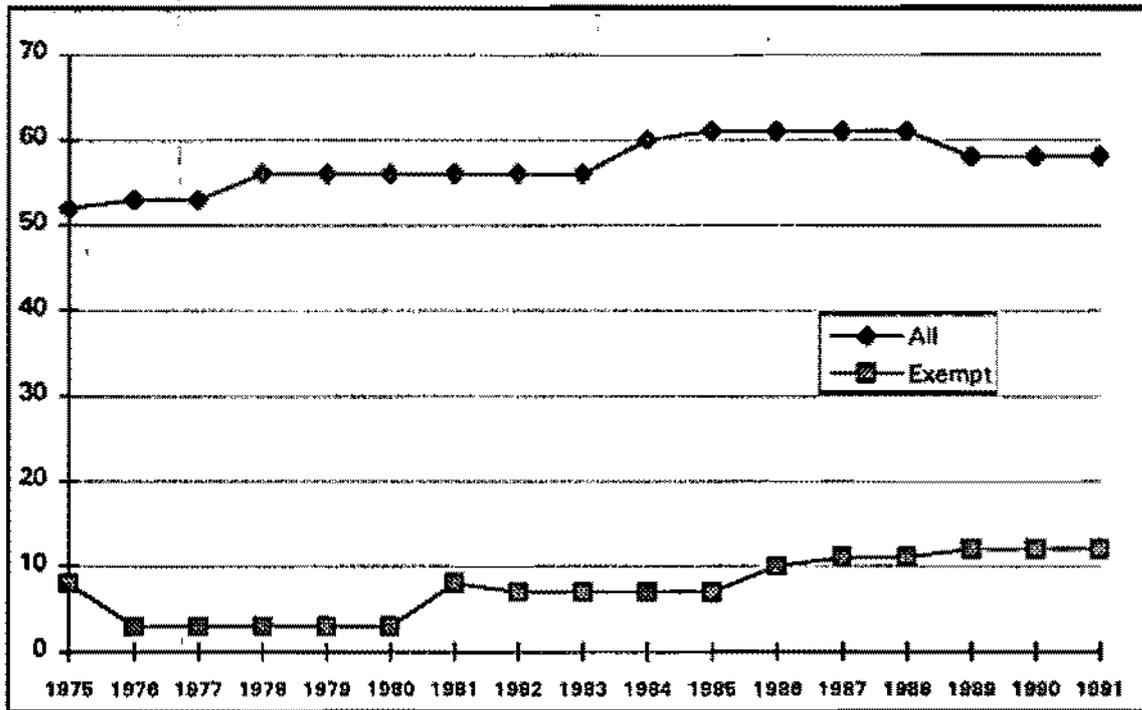


There were no publication activities in 1990.

On February 26, 1991, the SBA's complete Systems of Records was published in the *Federal Register* as a Revision of Privacy Act Systems of Records. A correction was published on March 13, 1991 to include routine uses for a particular system which were omitted as a result of a typographical error.

United States Information Agency

Systems of Records Publication Activity 1975-1991

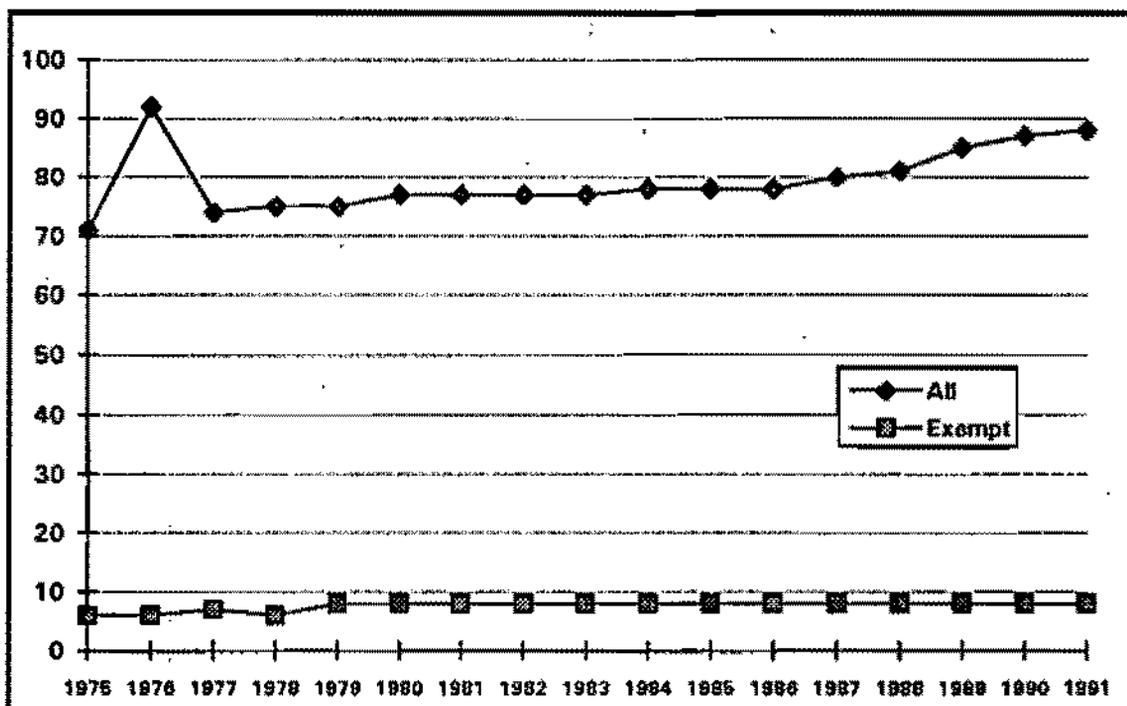


USIA's Privacy Act Notice of Systems of Records was entirely updated and republished in the *Federal Register*, August 6, 1990 (Vol. 55, No. 151).

No updates were determined to be necessary in 1991.

United States Postal Service

Systems of Records Publication Activity 1975-1991



In 1990, the Postal Service published notice of a new computer matching program and related routine use; two new systems of records; and, editorial corrections and revisions to several systems of records. Each notice is discussed briefly below:

- Notice of the matching program. On May 17, 1990 (55 FR 20554), the Postal Service published notice of a new matching program that compared postal employee data with the Colorado Bureau of Investigation's arrest and fugitive data. The same publication contained notice of a new routine use permitting disclosure of limited payroll information to accomplish that program. The program is further described below.
- Notice of two new systems of records. On October 10, 1990 (55 FR 41282), the Postal Service published notice of two new systems of records. New system USPS 150.030, Records and Information Management--Computer Logon ID Records collects information linking a user of a Postal Service computer to an assigned computer logon

ID for the purpose of controlling access to computer data and/or files. New system of records USPS 040.040, Customer Programs--Customer Holiday Address List File collects names and addresses of customers who elected to submit their holiday mailing lists for conversion to pre-bar-coded mailing labels as part of a limited test. This system is further described below.

- Notice of editorial corrections and revisions to several systems of records. On October 11, 1990 (55 *FR* 197), the Postal Service published notice of editorial corrections and revisions to six systems of records. The changes corrected an earlier publication typo and clarified system descriptions, but did not alter the nature, characteristics, or purposes of the involved systems.

1991

The Postal Service published notice of editorial changes to a system of records; a new routine use to an existing system of records; expansion of the categories of individuals and records covered within an existing system of records; a new system of records and modification to an existing system of records clarifying the types of information collected; expansion of the categories of individuals within an existing system of records; and amendment of an existing routine use. Each publication is discussed briefly below:

- Notice of editorial changes to a system of records. On March 20, 1991 (56 *FR* 11798) the Postal Service published notice of editorial revisions to its existing system of records USPS 080.010, Inspection Requirements--Investigative File System. The revisions were extensive, but did not alter the character or use of information contained in the system. For example, a generic description of investigative records was replaced with a listing of the 229 statutes under which the Inspection Service has investigative and enforcement authority, with the objective of enabling an individual to better determine whether records about him/her may be contained within the system.
- Notice of a new routine use to an existing system of records. On April 2, 1991 (56 *FR* 13505), the Postal Service published notice of the addition of a new routine use to USPS 050.020, Finance Records--Payroll System to permit disclosure of limited employee data to the Internal Revenue Service for computer matching purposes. The computer match compared postal employee and IRS delinquent taxpayer files to identify postal employees owing delinquent federal taxes and returns and, if necessary, to levy their wages to collect the taxes. Since it was conducted for "tax administration" purposes, the matching program was excluded from the computer matching provisions of the Privacy Act (5 USC 552a(a)(8)(B)(iv)(II)).
- Notice of the expansion of the categories of individuals and records covered within an existing system of records. On May 8, 1991 (56 *FR* 21396), the Postal Service

published advance notice of modification to USPS 120.140, Personnel Records--Employee Assistance Program Records. The categories of individuals and records covered were amended to reflect that records and information about one group of individuals (applicants for EAP counselor positions) were no longer being kept while those about another group (employee family members seeking referrals) were being added.

- Notice of a new system of records and of modification to an existing system of records clarifying the types of information collected. On May 20, 1991 (56 *FR* 23093), the Postal Service published notice of a new system of records. The new system, USPS 130.050, Philately--United States Postal Service Olympic Pen Pal Club, collects information provided by children who register to be matched with a pen pal. In the same notice, USPS 130.040, Philately--Philatelic Product Sales and Distribution was renamed Philately--Postal Product Sales and Distribution and amended to make clear that the system collects information about sales of postal products under promotion programs as well as of philatelic items.
- Notice of expansion of the categories of individuals within an existing system of records. On June 19, 1991 (56 *FR* 28181), the Postal Service published notice of modifications to its system USPS 120.070, Personnel Records--General Personnel Folder (Official Personnel Folders and Records Related Thereto). The Federal Employees Health Benefit Program (FEHB) requires the Postal Service to maintain information on certain former spouse and family members who may be eligible for health benefits coverage under the FEHB program. The category of individuals section of the system description was amended to include former spouse and family members.
- Notice of amendment of existing routine use. On July 29, 1991 (56 *FR* 35880), the Postal Service published notice of its intent to amend system USPS 010.080, Collection and Delivery Records--Rural Carrier Route Records. A routine use permitting disclosure of name and address information to local governments or planning authorities for the limited purpose of address conversion (for the 911 emergency system) was amended to permit disclosure to agents under contract to those local governments or planning authorities.

During calendar year 1990, the Postal Service received two comments, one in response to its notice of a matching program and the other in response to its establishment of a new system of records. None were received during calendar year 1991. Following is a brief discussion of those received in 1990.

- The Matching Program - The Postal Service published notice of its intent to conduct a matching program that compared postal employee data with the Colorado Bureau of Investigation's arrest and fugitive data. The objective of the program is to identify any

which potentially relate to postal offenses, to locate fugitives, and to identify employees who have engaged in criminal activities (e.g., narcotics use, theft, forgery) that may make them unsuitable for postal employment.

Senator David Pryor's written comments questioned the program's utility; the possibility of any adverse actions against employees based on an arrest as opposed to a conviction; the claimed benefit of deterrence; and the accuracy of arrest records used in the match. The Postal Service responded to his specific questions at that time and recently sent a follow-up letter discussing matching results to date. The USPS described to Senator Pryor the extraordinary measures being taken to ensure that hit information is accurate and conclusive, the nature of offenses identified, and how those offenses correlate to on-duty conduct that could threaten postal revenues, mail security, and employee safety.

- The New System - The Postal Service published notice of its intent to establish a new system of records collecting the names and addresses of customers who chose to submit their holiday mailing lists for conversion to pre-bar-coded mailing labels as part of a limited test in the Akron, Ohio area. During the holidays, there is a large increase in handwritten envelopes which are not machine-readable and must be handled through more costly mechanized and manual processing. The collected names and addresses would be converted to pre-bar-coded mailing labels permitting automated processing.

Congressman Bob Wise expressed his written concerns that the Postal Service would monitor the mailing practices of its customers by maintaining permanent lists of mailers and recipients of personal mail. The Postal Service assured Congressman Wise that it had no interest in such monitoring and that the program was designed to increase the amount of machine-readable mail during the Christmas mailing period. Congressman Wise was further assured that the project in Akron would test the cost-effectiveness of the program and the results would dictate its continuance.

Appendix II
Selected Agencies' Access and Amendment Activity
1990-1991

Department of Agriculture	II-2
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Department of Agriculture Access and Amendment Activities

Access Requests

	1990	1991
Number of requests	3,698	3,822
Number granted in whole or part	3,430	3,583
Number denied in whole	127	141
Number for which no record was found	141	98

Amendment Requests

	1990	1991
Number of requests	495	530
Number granted in whole or part	458	479
Number denied in whole	37	51

Appeals of Denials

	1990	1991
Number of access denials appealed	3	8
Number in which denial was upheld	2	3
Number of amendment denials appealed	4	1
Number in which denial was upheld	4	1

Requests are processed under both Acts to provide the broadest possible access and assistance. Requests are generally processed within 10 working days. Requests are referred to other agencies only when the information requested is maintained by those agencies. In instances where the information requested entails USDA and another Federal agency, USDA will consult with the other agency and attempt to reach agreement on which agency should respond to the request. At present, there is no backlog.

Department of Commerce Access and Amendment Activities

Access Requests

	1990	1991
Number of requests	93	63
Number granted in whole or part	76	47
Number denied in whole	8	6
Number for which no record was found	7	7

Amendment Requests

	1990	1991
Number of requests	1	0
Number granted in whole or part	0	0
Number denied in whole	1	0

Appeals of Denials

	1990	1991
Number of access denials appealed	0	0
Number in which denial was upheld	0	0
Number of amendment denials appealed	0	0
Number in which denial was upheld	0	0

Requests for access to records under the Privacy Act rose by 30 percent from the previous reporting period; requests to amend records remained nearly constant, with no significant change from the previous reporting period.

There were no appeals based on access or amendment denials during the reporting period.

The Department's policy for processing access and amendment requests under both the Freedom of Information Act and the Privacy Act is based on the requester's preference. In cases where the requester has not indicated either statute, the agency uses both Acts.

Most of the requests are processed within 10 days. Because the Department receives such a low volume of requests under the Privacy Act, there has never been a backlog. Requests are referred to other agencies when it is determined that the referral agency has jurisdictional interest in the responsive records.

In addition to the breakdown of activity as reported above, one request was referred to the Office of Personnel Management; and one request was canceled during CY 1990. For CY 1991, one request resulted in no response from the requester when the agency attempted to obtain additional identifying information.

Department of Defense Access and Amendment Activities

Access Requests

	1990	1991
Number of requests	51,340	75,081
Number granted in whole or part	47,627	69,263
Number denied in whole	379	511
Number for which no record was found	2,623	4,687

Amendment Requests

	1990	1991
Number of requests	470	632
Number granted in whole or part	338	524
Number denied in whole	132	108

Appeals of Denials

	1990	1991
Number of access denials appealed	78	58
Number in which denial was upheld	60	30
Number of amendment denials appealed	28	25
Number in which denial was upheld	27	17

The DoD's procedures for accessing and/or amending records contained in a system of records are outlined in each DoD system of records notice. The notice provides the individual with an address and the information required to do a search for records or to grant access. DoD 5400.11-R, Chapter 3, provides guidelines for DoD Components in processing amendment or access requests. Each Component has implemented DoD 5400.11-R through a regulation or instruction.

Requests that specifically cite or reasonably imply that the request is made under the Privacy Act (PA) are processed under the PA. Requests that specifically cite or reasonably imply that the request is made under the Freedom of Information Act

(FOIA) are processed under the FOIA. Requests that cite both the PA and the FOIA are processed under the Act that provides the greater degree of access.

The majority of requests are acknowledged within 10 working days and answered within 30 days. The exception is the Defense Investigative Service where it takes 45-50 days because requests for access to ongoing investigations are held until the investigation is closed.

Requests for records that are under the cognizance of another agency, are forwarded to that agency for a response. The individual is notified of the referral action.

Department of Education
Access and Amendment Activities

Access Requests

	1990	1991
Number of requests	94	109
Number granted in whole or part	74	83
Number denied in whole	2	2
Number for which no record was found	18	24

Amendment Requests

	1990	1991
Number of requests	1	1
Number granted in whole or part	1	0
Number denied in whole	0	1

Appeals of Denials

	1990	1991
Number of access denials appealed	0	0
Number in which denial was upheld	0	0
Number of amendment denials appealed	0	0
Number in which denial was upheld	0	0

The Department processes requests for access to individuals' records under both the Freedom of Information Act and the Privacy Act. In most cases, a requester may request access to records pertaining to himself or herself under the Freedom of Information Act or they do not cite either Act.

In the case of payroll and personnel records, Department employees requesting information about themselves do not cite the Privacy Act or the Freedom of Information Act. These records are made available to employees upon request after presenting their identification badge. Amendment to employee personnel records is either by an official Personnel action or specific submission from the employee (i.e., name change). Other requests for access or amendment to records follow the criteria

set forth in the Department's Privacy Act regulations at 34 C.F.R. Part 5b. On an average, it takes 5-10 days to process a request once the request reaches the office maintaining the responsive records. If the responsive records are on microfiche or are stored at the Federal Records Center it may take one to two weeks to process the request. There are no reported backlogs of Privacy Act requests.

The Department refers requesters to other agencies under the following circumstances: (1) Requests from former employees who request access to information in their Official Personnel Folder are referred to the Office of Personnel Management; and (2) Requests that are re-directed to another agency as a result of the subject of the request.

Department of Energy Access and Amendment Activities

Access Requests

	1990	1991
Number of requests	1,238	2,392
Number granted in whole or part	1,175	2,333
Number denied in whole	14	20
Number for which no record was found	29	11

Amendment Requests

	1990	1991
Number of requests	3	0
Number granted in whole or part	2	0
Number denied in whole	0	0

Appeals of Denials

	1990	1991
Number of access denials appealed	9	5
Number in which denial was upheld	6*	3
Number of amendment denials appealed	0	0
Number in which denial was upheld	0	0

* 3 Appeals were dismissed

At Headquarters, the Privacy Act (PA) Office and the Freedom of Information Act (FOIA) Office are the same, however in some field locations the offices are separate. DOE refers requesters to other agencies when the documents they are requesting originated in an agency other than DOE (i.e., security clearance investigation files). In addition, if records are located that belong to another agency, DOE refers review of those documents to the appropriate agency for a release determination.

Requesters must provide proof of identification before a request will be processed. In locations where the FOIA and PA are operated from two different offices, the PA Office forwards requests to the FOIA Office when it is appropriate. On average, DOE is able to process PA requests in 60-90 days.

Department of Health and Human Services Access and Amendment Activities

Access Requests

	1990	1991
Number of requests	1,259	1,326
Number granted in whole or part	1,174	1,248
Number denied in whole	1	1
Number for which no record was found	84	77

Amendment Requests

	1990	1991
Number of requests	26	15
Number granted in whole or part	20	13
Number denied in whole	6	2

Appeals of Denials

	1990	1991
Number of access denials appealed	1	0
Number in which denial was upheld	0	0
Number of amendment denials appealed	1	0
Number in which denial was upheld	0	0

The Operating Divisions of the Department (Administration for Children and Families, Health Care Financing Administration, Public Health Service, and Social Security Administration) process access and amendment requests separately in accordance with the published HHS Privacy Act Regulations, as supplemented by Operating Division implementing instructions and guidelines. The Department policy is to process under whichever Act (FOIA or Privacy Act) provides the most information to the requester regardless of the statute cited in the request. Requests are referred to other Federal agencies only if there is evidence that another agency, such as OPM, might be maintaining the requested records, or there is some indication that this Department does not have the legal authority to release the records. Requests are generally processed by Department components within 10 days without creating a backlog. Occasionally, complicated requests take more time; for example, if requested records must be collected from widely scattered locations in the Department.

Department of Housing and Urban Development Access and Amendment Activities

Access Requests

	1990	1991
Number of requests	23	35
Number granted in whole or part	23	31
Number denied in whole	0	3
Number for which no record was found	0	1

Amendment Requests

	1990	1991
Number of requests	1	1
Number granted in whole or part	1	1
Number denied in whole	0	0

Appeals of Denials

	1990	1991
Number of access denials appealed	0	0
Number in which denial was upheld	0	0
Number of amendment denials appealed	0	0
Number in which denial was upheld	0	0

While there are two separate offices responsible for the Freedom of Information Act and the Privacy Act, all incoming requests are initially reviewed to determine the applicability of both Acts. Those actions applicable to both Acts are processed accordingly in order to allow the inquirer the maximum opportunity to obtain the requested information. This applies regardless as to whether the requester indicates that the request is being requested under the Freedom of Information Act or the Privacy Act. As you know there are statutory deadlines for responding to Freedom of Information Requests; every effort is made to meet those deadlines. Generally, Privacy Act requests are responded to within five working days; there is no backlog of requests.

Privacy Act requests are referred to other agencies only when the information being requested originated with another agency or documents contain information that originated with another agency. The general practice is to refer any requested

documents originating with other agencies to those agencies for processing and direct response to the requester; documents containing information that originated with other agencies are referred to those agencies for consultation regarding the release or withholding of the information. The requester is provided an interim response indicating that the request has been forwarded to the originating agencies for a direct response.

Department of the Interior Access and Amendment Activities

Access Requests

	1990	1991
Number of requests	853	3,771
Number granted in whole or part	840	3,742
Number denied in whole	5	18
Number for which no record was found	8	13

Amendment Requests

	1990	1991
Number of requests	10	10
Number granted in whole or part	9	8
Number denied in whole	1	2

Appeals of Denials

	1990	1991
Number of access denials appealed	0	0
Number in which denial was upheld	0	0
Number of amendment denials appealed	1	2
Number in which denial was upheld	0	2

During the last four years, the Department has experienced an increase in the number of access requests. In 1988, the Department received 144 access requests, compared to 3,771 access requests received in 1991. The Bureau of Indian Affairs (BIA) received seventy-eight percent (78%) of the Department's access requests during 1991.

In 1991, the DOI conducted a Department-wide Privacy Act training program. In addition, numerous bureaus and offices, in particular, the BIA held Privacy Act training sessions. As a result of this training, the Department experienced a significant increase in the number of access requests, particularly concerning BIA Indian enrollment and land records systems.

The Department maintains a decentralized Privacy Act program consisting of 24 bureau and office components. Access requests received by the Department are

processed under both the Privacy Act and the Freedom of Information Act. Records are provided to the requester under either Act that provides the greater access to records requested.

Privacy Act requests are usually processed within 10 working days. There is currently no backlog of requests.

Privacy Act requests are referred to other Federal agencies when it is determined that the requested records are maintained by that agency. The requester is then informed of the referral action. In instances where the requested records are determined to be maintained by an entity outside the Federal government, the requester is told to submit a request directly to that entity.

Department of Justice Access and Amendment Activities

Access Requests

	1990	1991
Number of requests	21,002	21,325
Number granted in whole or part	8,394	12,714
Number denied in whole	928	392
Number for which no record was found	5,404	3,695

Amendment Requests

	1990	1991
Number of requests	32	85
Number granted in whole or part	2	53
Number denied in whole	18	13

Appeals of Denials

	1990	1991
Number of access denials appealed	347	274
Number in which denial was upheld	145	105
Number of amendment denials appealed	0	1
Number in which denial was upheld	0	1

Sections 16.41 through 16.50 of Title 28 of the Code of Federal Regulations provide a detailed description of how the Department processes Privacy Act requests for access and amendment.

First party requests are processed under the Privacy Act and the FOIA; third party requests are processed under the FOIA.

The length of time it takes to process a request will vary significantly--often within a Department component and more frequently among the components, depending upon a wide range of variables, e.g., the nature of a request; whether records are located and, if located, the number and type of responsive records located; whether consultations with other Department components or agencies are required; and whether field office locations must be searched, etc. Generally, components provided

an "on average" estimate to process a request that ranged from 30 minutes to 105 days. Two components provided estimates that exceeded a year. However, one of these components, the Federal Bureau of Investigation (FBI), indicated that it does not track separately the time it takes to process a Privacy Act request and gave an average turnaround time of 451 days for responding to FOIA/Privacy Act requests (for which records are found). In general, components who have field offices and/or those with major law enforcement and litigation responsibilities reported longer processing times.

At the close of business on December 31, 1991, the Department had 8,024 unprocessed Privacy Act requests on hand.

Section 16.42 of 28 C.F.R. discusses the circumstances under which requesters are referred to other agencies.

Department of Labor Access and Amendment Activities

Access Requests

	1990	1991
Number of requests	968	1,326
Number granted in whole or part	928	1,278
Number denied in whole	27	33
Number for which no record was found	10	13

Amendment Requests

	1990	1991
Number of requests	2	5
Number granted in whole or part	1	0
Number denied in whole	1	4

Appeals of Denials

	1990	1991
Number of access denials appealed	29	21
Number in which denial was upheld	22	16
Number of amendment denials appealed	5	5
Number in which denial was upheld	5	5

The Department processes requests for access under both the Freedom of Information Act and the Privacy Act. This procedure is designed to permit a broader release of Departmental records.

In this Department, the majority of Privacy Act requests are processed within 30 days. Only one sub-agency has developed a backlog. The Office of Workers' Compensation Programs, within the Employment Standards Administration, averages approximately 1,000 requests per year, and therefore, their backlog varied from a very small number to several hundred.

The Department refers requesters to other agencies whenever the other agency is the custodian of the records that have been requested.

Department of State
Access and Amendment Activities

Access Requests

	1990	1991
Number of requests	843	732
Number granted in whole or part	549	696
Number denied in whole	2	2
Number for which no record was found	116	96

Amendment Requests

	1990	1991
Number of requests	6	25
Number granted in whole or part	8	9
Number denied in whole	6	2

Appeals of Denials

	1990	1991
Number of access denials appealed	8	14
Number in which denial was upheld	3	0
Number of amendment denials appealed	1	0
Number in which denial was upheld	0	0

Over a decade ago, the Department established a centralized approach to responding to all requests from the public under the Freedom of Information Act (FOIA), Privacy Act, Executive Orders No. 12356 and 12600, Ethics in Government Act, and referrals from other agencies.

Basically, there are four stages in the Department's processing of requests for access under the Privacy Act or the FOIA:

- Receipt and acknowledgment of the request;
- Search for and retrieval of the responsive documents;
- Review of the responsive documents; and
- Response and release to the requester.

The Department's policy is that, within each stage of processing, a request

proceeds on a first-in, first-out basis, unless a formal determination is made to expedite. Because many requests necessitate multiple searches, different segments of the same case may be at different levels in each of the queues simultaneously. As a result, parts of the response may be processed more quickly than others. That is, following receipt and acknowledgment, it first goes to the bottom of the search queue in the tasked location and works its way to the top, at which point the search is undertaken and completed; that segment of the request then moves to the bottom of the review queue and works its way to the top, at which point the review of that segment is undertaken and completed; then the segment moves to the bottom of the out-processing queue and works its way to the top, at which point that segment is completed and the requester is so advised of the results. Thus, simple requests, such as those for identifiable documents that can be quickly located in one location with a small queue generally will be processed more quickly.

The following are the Department's statistics on average processing time:

	1990	1991
Direct Requests	242 Days	361 Days
Privacy Referral	155 Days	190 Days

The following are the Department's backlog statistics:

	1990	1991
Direct Requests	629	533
Referrals	60	41
Access Appeals	15	23
Amendments	18	27
Appeals of Amendment Denials	4	5

**Department of Transportation
Access and Amendment Activities**

Access Requests

	1990	1991
Number of requests	16,265	17,981
Number granted in whole or part	14,550	12,736
Number denied in whole	11	9
Number for which no record was found	1,704	5,236

Amendment Requests

	1990	1991
Number of requests	3,099	3,085
Number granted in whole or part	3,076	3,078
Number denied in whole	23	7

Appeals of Denials

	1990	1991
Number of access denials appealed	1	3
Number in which denial was upheld	1	3
Number of amendment denials appealed	3	2
Number in which denial was upheld	3	2

A request by the subject of the information for access to or amendment of information in a Privacy Act system of records is directed to the manager of the system, irrespective of whether the request invokes the Privacy Act or the Freedom of Information Act. The manager has the authority to grant the request; a denial requires legal staff concurrence.

A request by other than the subject of the information for access to information in a Privacy Act system of records is denied if the request invokes the Privacy Act, and the requester is advised that only the subject of the information has access rights under the Privacy Act. A request by other than the subject of the information for access to information in a Privacy Act system of records that invokes the Freedom of Information Act is evaluated as is any other Freedom of Information request. The fact information is in a Privacy Act system of records is considered in determining whether disclosure would be an invasion of privacy.

Appeal of a decision to deny a request in any part is directed to the head of the agency or his/her delegate, irrespective of whether the initial request was treated under Privacy Act or Freedom of Information Act. (For instance, for records maintained by the Office of the Secretary of Transportation (OST), the General Counsel has been delegated the authority to decide both Privacy Act and Freedom of Information Act appeals.) The decision on appeal is administratively final. Decisions by any part of DOT other than OST must have the concurrence of the Department's General Counsel. A senior attorney in the Office of the General Counsel reviews proposed denials for the General Counsel.

The average time for processing a Privacy Act request is 10-12 working days. If a delay is anticipated, the requester is sent an interim reply. The Department of Transportation has no backlog of requests to report.

Requesters are occasionally referred to other agencies where the requested files are known to be maintained. When a request is referred, the requester is notified by letter of the agency the request has been transferred to. If the information maintained in one of the agency's system of records was originally provided by another agency, the Department requests that the originating agency review the record and approve release.

Department of the Treasury Access and Amendment Activities

Access Requests

	1990	1991
Number of requests	3,114	4,822
Number granted in whole or part	1,818	3,300
Number denied in whole	608	665
Number for which no record was found	397	426

Amendment Requests

	1990	1991
Number of requests	17	19
Number granted in whole or part	0	0
Number denied in whole	17	17

Appeals of Denials

	1990	1991
Number of access denials appealed	5	11
Number in which denial was upheld	5	6
Number of amendment denials appealed	0	0
Number in which denial was upheld	0	0

Privacy Act requests received by the Department of the Treasury are processed in accordance with Treasury Department disclosure regulations published at 31 C.F.R. Part 1, Subpart C; Directive TD 25-04, "Implementation of the Privacy Act of 1974, as amended"; and the "Privacy Act Handbook." The regulations set forth the general procedures to be used by an individual to gain access to his or her records, and list the exemptions that may exist under 5 U.S.C. 552a (j) and (k). The procedures also describe the required format of the request and any special requirements for access, including access to medical records.

The procedures for the amendment of records pertaining to a requester are also contained in Treasury regulation 31 C.F.R. Part 1, Subpart C. The procedures set out the general requirements for making a request for amendment of records, describe the

required format of a request, explain the procedures a responsible official is to use to conduct a review for amendment of a record and what to include in the response to a request for amendment when the request is denied. The appendices to the regulation more specifically describe each Treasury component's requirements for requesting notification, access to and amendment of records.

To ensure maximum disclosure, the requests are processed under both the Privacy Act and the Freedom of Information Act.

Privacy Act requests are in most cases processed within 10 days of receipt. In others, the processing of a Privacy Act request has taken up to 5 months from the date of receipt depending upon whether the records are law enforcement records, the need to perfect the request, the scope and magnitude of the search, and the workload of the program office. Department of the Treasury components that have backlogs report an aggregate backlog of approximately 436 Privacy Act requests.

The Department of the Treasury generally does not refer Privacy Act requests to other agencies. Privacy Act requests and the associated documents have been referred to other agencies when:

- The request should have been addressed to another agency; or
- The documents originated with another agency; or
- The request and associated records concern a joint training program and the materials are divided between the Federal Law Enforcement Training Center and another agency; or
- The record requested was created by an agency other than the Department of the Treasury and has been classified or otherwise restrictively endorsed by the originating agency, and a copy is in the possession of the Treasury Department. That record is referred to the originating agency for determination as to all issues in accordance with the Privacy Act.

Department of Veterans Affairs Access and Amendment Activities

Access Requests

	1990	1991
Number of requests	19,205	18,775
Number granted in whole or part	18,611	18,105
Number denied in whole	73	102
Number for which no record was found	521	568

Amendment Requests

	1990	1991
Number of requests	174	193
Number granted in whole or part	126	145
Number denied in whole	48	48

Appeals of Denials

	1990	1991
Number of access denials appealed	54	33
Number in which denial was upheld	9	7
Number of amendment denials appealed	31	23
Number in which denial was upheld	18	16

Access and amendment requests are handled on a case-by-case basis and may be processed under the FOIA, the Privacy Act, or both, depending upon the statute cited in the request. VA follows the procedures set forth in the applicable VA regulations (38 C.F.R. 1.550 through 1.584) and VA Policy Manual, MP-1, Part II, Chapter 21, "Access to Veterans Administration Systems of Records Under the Privacy Act of 1974."

When a request for access involves a medical record which includes potentially "sensitive information," the record is reviewed by a designated physician at the health care facility to determine if disclosure of the information would have a serious adverse effect on the individual's mental or physical health if disclosed to the individual. These procedures follow the provisions established in 38 C.F.R. 1.577(d). A request for amendment of a record is normally reviewed by the System Manager for a

determination as to whether or not the record should be amended. A request that involves amendment of a medical record is reviewed by a designated physician at the health care facility.

A response to a request is prepared in accordance with the time limits set forth in the VA regulations. Requests are normally acknowledged within 10 days of receipt in the office having custody of the records, excluding Saturdays, Sundays, and legal public holidays. If the request is made under the FOIA, the acknowledgment includes the Department's determination to comply with the request. If the record cannot be released within 10 days, it is released as soon as possible thereafter. If the request is for amendment of a record covered by the Privacy Act, the action to amend or refuse the amendment is normally taken within 30 days, and the requester is promptly notified of that action. The average time to process requests for access to records covered by the Privacy Act, that is, to release the information, varies between 7 and 30 workdays for different VA components; to process requests to amend records varies between 13 and 30 workdays.

At the present time VA, has no reported backlogs of requests for access to or amendment of records covered by the Privacy Act.

A request is referred to another agency when the other agency is the custodian of the records.

Central Intelligence Agency Access and Amendment Activities

Access Requests

	1990	1991
Number of requests	1,886	1,846
Number granted in whole or part	1,387	1,237
Number denied in whole	112	146
Number for which no record was found	334	303

Amendment Requests

	1990	1991
Number of requests	2	1
Number granted in whole or part	2	1
Number denied in whole	0	0

Appeals of Denials

	1990	1991
Number of access denials appealed	30	19
Number in which denial was upheld	24	20
Number of amendment denials appealed	0	0
Number in which denial was upheld	0	0

During CY 1990, the CIA processed own file requests only under the Privacy Act. Beginning in CY 1991, if the requester so requested, the CIA processed own file requests under both the Privacy Act and the Freedom of Information Act (FOIA). Requests for amendments are processed on a case-by-case basis. The CIA receives very few requests for amendments of records.

In CY 1990, the average processing time of a Privacy Act request was 3.1 months; in CY 1991 average processing time was 1.7 months. The backlog of Privacy Act requests as of 31 December 1990 was 636; as of 31 December 1991 it was 754.

A requester will be referred to another U.S. Government agency only if it is clear that what he or she is requesting would not be included in any records retained by this Agency; i.e., a request for Naval personnel records would be referred to the U.S. Department of the Navy.

Office of Personnel Management Access and Amendment Activities

Access Requests

	1990	1991
Number of requests	6,431	7,729
Number granted in whole or part	5,974	7,222
Number denied in whole	11	90
Number for which no record was found	288	301

Amendment Requests

	1990	1991
Number of requests	90	63
Number granted in whole or part	64	51
Number denied in whole	18	18

Appeals of Denials

	1990	1991
Number of access denials appealed	1	3
Number in which denial was upheld	0	1
Number of amendment denials appealed	5	15
Number in which denial was upheld	4	10

OPM processes under both Acts in order to provide maximum access to first party requesters. The normal response time is 10 working days. Currently OPM has no backlog.

If the record is created and maintained in a system of records by the other agency and does not become part of an OPM system of records, OPM will refer the requester to the originating agency.

Appendix III

Selected Agencies' Privacy Act Training Programs

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Department of Agriculture Privacy Act Training Program

The program consists of formal training through workshops, symposia, and seminars sponsored or conducted by the Office of Management and Budget, Department of Justice, Office of Personnel Management, and the American Society of Access Professionals. In-house training is provided on an ad hoc, ongoing basis through directives, discussions, consultations, presentations by the primary legal and administrative offices, as well as by individual agency officers.

Department of Commerce Privacy Act Training Program

Although Commerce does not have a formal Privacy Act training program, all employees are informed of their responsibilities under the Privacy Act during orientation for new employees. Additionally, employees are given a concise list of do's and don'ts at the job site. Privacy Act practitioners throughout the Department rely on the Department's Privacy Act handbook as well as on advice from the Department's legal and senior administrative specialists.

Department of Defense Privacy Act Training Program

All DoD Components have availed themselves of the DoD training film, "The Privacy Act of 1974," produced by the Defense Privacy Office. The Defense Privacy Office conducts an individualized training session for new DoD Component Privacy Points of Contact, as do several of the DoD Components for individuals handling or creating systems of records. Components also take advantage of the Privacy Act courses offered by OPM and USDA, and they participate in seminars given by the American Society of Access Professionals. The Defense Privacy Office does put out a training manual for use by DoD personnel.

The Department of the Air Force publishes an Air Force Pamphlet 12-1, "Privacy Act Training" which is a self-paced training course and is designed to assist personnel who create systems of records, disclose information from records or process requests. The Air Force also publishes "What You Should Know About The Privacy Act" that highlights the key provisions of the Act. The Department of the Navy includes in Secretary of the Navy Instruction 5211.5 a training package for use at local command levels. DCAA publishes an Employee Guide to Privacy, and DIA holds a training class approximately twice a year where the DIA Privacy Act Officer is available to answer questions and provide materials.

Department of Education Privacy Act Training Program

The Privacy Act Staff continually provides guidance and advice by telephone or in person to ED employees seeking this service. The Department's Administrative Communications System Directive on the Privacy Act provides instructions for system managers and Department employees on Privacy Act requirements.

The Department's Privacy Act coordinators are encouraged to attend training workshops and symposiums sponsored by the American Society of Access Professionals (ASAP).

Department of Energy Privacy Act Training Program

The Freedom of Information/Privacy Act Office conducts a formal training seminar approximately every other year. The seminar provides guidance in both the Freedom of Information and Privacy Acts. In addition, the office conducts briefing meetings for offices which are in the process of revising a system notice. In the field, the Privacy Act Officers give briefings for new employees on privacy issues. Some field offices show a video tape which demonstrates situations involving privacy issues that may occur in the workplace for new employees. Additional training/guidance is provided during reviews of field offices conducted by Headquarters and a modular training can be presented, upon request, by Headquarters staff.

Department of Health and Human Services Privacy Act Training Program

In the office of the Secretary, most Privacy Act training is conducted either individually or in small groups. Typically this takes place when individuals are involved in some aspect of Privacy Act activity, such as drafting or updating a Privacy Act System Notice, or attempting to respond to correspondence that relates to the Privacy Act. The HHS Privacy Act Officer serves as the trainer or expert resource in such cases and provides training materials and examples as appropriate. He also serves as a resource to the Privacy Act Officers in the Operating Divisions where most of the systems of records are maintained and where most of the Privacy Act correspondence is handled. Sometimes the OGC Privacy Act Attorney participates in such sessions in addition to briefing all new attorneys on the Act and Departmental policies and procedures relating to privacy.

The Privacy Act Officers in the Operating Divisions provide both individual and group Privacy Act training to employees. For example, the HCFA Privacy Act Officer works closely with the HCFA Training Officer to ensure that all supervisors receive training in Privacy Act matters. He also holds periodic training sessions for HCFA's Systems Security Officers.

The Social Security Administration provides Privacy Act training during the Claims Representative and Service Representative training classes. In 1991, SSA conducted a Privacy Act conference for all Regional and Program Service Center Coordinators.

The Privacy Act Officer of the Public Health Service has developed a structured training program for Washington Area personnel that includes a specific number of training hours in such sessions as: an Overview of the Act; Privacy Act and Records Management; The Impact of Privacy Act/Records Management on Information Resources Management; Privacy Act Considerations in Contracts for Electronic Records Systems. In addition, the separate agencies of the Public Health Service provide training tailored to particular program needs. For example, each year the Epidemic Intelligence Service (EIS) of the Centers for Disease Control (CDC) hires approximately 60 new medical officers who are assigned to CDC's various organizational components. CDC Privacy Act staff provides appropriate training for these officers during the summer or fall training classes for EIS officers.

Department of Housing and Urban Development Privacy Act Training Program

The Department's Privacy Act training program is an ongoing initiative. Departmental policies and procedures pertaining to the Privacy Act are provided in Handbook 1325.1 Privacy Act. Day-to-day guidance is provided by the Departmental Privacy Act Officer, as needed, through direct communication with a network of privacy liaison personnel. In addition, HUD provides privacy training to individual offices or groups expressing a need for such training. The Department recently provided a Privacy overview to a group of financial managers from Field offices. Generally, HUD tries to conduct a Department-wide training program annually. The next training session is scheduled for FY 1993.

Department of the Interior

Privacy Act Training Program

In November 1991, the Department conducted a two-day training program covering both the FOIA and the Privacy Act. Approximately 200 Department FOIA and Privacy Act employees participated in this training program. In addition, the Department conducted Privacy Act training programs at individual bureaus and offices. The Departmental Privacy Act Officer participated in many of these programs.

Department of Justice

Privacy Act Training Program

Training is provided by the Department's Office of Information and Privacy, the Department's Legal Education Institute, the Attorney General's Advocacy Institute, the U.S. Marshals Training Academy, the FBI Training Academy, and internally by Department components. In addition, personnel attend training courses provided by outside entities such as the American Society of Access Professionals, the Office of Personnel Management, and the Department of Agriculture Graduate School.

The objective of the Department's training program is to train both generally and specifically. The training program is designed to provide a general overview of the Act, e.g., purpose, sanctions, exemptions, and agency requirements; and it is also tailored to respond to specific job needs, e.g., those of the access professional and the litigator. Training generally covers systems of records, routine uses, employee access, litigation and appeal procedures, restrictions on disclosure, and disclosure accounting, as well as any Privacy Act provisions which specifically relate to law enforcement activities. Further, it usually covers the "interface" of the FOIA with the Privacy Act. However, for the benefit of DOJ access professionals and litigators, special emphasis is placed on the disclosure restrictions and on how to avoid violation of the Privacy Act during litigation and civil discovery proceedings.

Department of Labor

Privacy Act Training Program

The Department seeks to train all employees who have been employed for two years or less. This training is publicized through DOL Privacy Act coordinators. These three-hour sessions are conducted approximately three times a year with an attendance of roughly 250 persons. Attendance is taken, and certificates are presented to those who attend. The Department also provides specialized training for specific groups such as personnel managers, timekeepers, contract employees and employees of Job Corps

centers. DOL thinks it reaches 60 percent of national office employees with this training. The Department also conducts training at its regional offices at their request. All of the above training is conducted by the Office of the Solicitor.

Department of State Privacy Act Training Program

Training at the Department of State is under the direction of the Foreign Service Institute (FSI) and is conducted in conjunction with those officials who have a recognized expertise in the subject matter. The Department's Information and Privacy Coordinator is called upon by FSI to participate in training programs that are, for the most part, tailored to functional and operational areas of responsibility and include automated systems managers, administrative officers, consular officers, ambassadors, personnel specialists, principal officers, mid-level and junior Foreign Service officers, etc. Training is provided on an individual basis to all new managers of systems of records subject to the Privacy Act. In 1980, copies of Privacy Act Guidelines (copy previously provided to OMB) were distributed to all Departmental offices, domestic field offices, and overseas posts; the Guidelines are relied upon as a reference source for privacy-related issues.

In conjunction with the Department of Agriculture's Graduate School, the Department sponsored an on-site two-day seminar, April 17-18, 1991, entitled "Implementation of the Freedom of Information and Privacy Acts." The seminar was open to all Department employees and was recommended for those having Freedom of Information Act and Privacy Act responsibilities.

Officers in the Office of Freedom of Information, Privacy and Classification Review attend conferences sponsored by the American Society of Access Professionals annually and by other professional associations. These conferences offer an opportunity for Department officers to become apprised of changes to legislation affecting the Privacy Act as well as to participate in round-table discussions with other agencies regarding their policies and procedures.

Department of Transportation Privacy Act Training Program

A Privacy Act briefing is provided to new employees as part of their orientation program. Individual Operating Administrations provide additional guidance to staff who have specific job-related Privacy Act responsibilities. The Office of the Secretary

gives technical briefings to personnel when needed. In addition, the Department uses the training programs provided by the Department of Justice, Department of Agriculture, and the Office of Personnel Management. Agency personnel who either directly or indirectly process Privacy Act and/or Freedom of Information Act requests are sent to a two-day workshop covering both Acts.

Department of the Treasury

Privacy Act Training Program

The Department of the Treasury and its components provide training to their employees on several levels. Privacy Act training is provided to employees as part of monthly briefings; as part of orientation packages prepared for new employees; as part of executive staff meetings, secretarial or administrative personnel training sessions, or as part of special training sessions on the disclosure of medical records. Certain other employees receive Privacy Act training as part of their regular training for new positions to which they have been appointed. The Internal Revenue Service has a Privacy Act training course available on its Nationwide Automated Training System (ATS), and the Privacy Act Officer at the Bureau of the Public Debt writes a regular column in the employee newsletter on Privacy Act issues. In addition, the Department of the Treasury published its Privacy Act Handbook in 1991, which is made available to Privacy Act officers, system managers, office directors, and other employees.

The Department's Privacy Act officers and other responsible officials regularly take advantage of the training offered by the Department of Justice, the Office of Personnel Management, United States Department of Agriculture's Graduate School, and the American Society of Access Professionals (ASAP).

Department of Veterans Affairs

Privacy Act Training Program

DVA has no formal in-house Privacy Act training program; however, information on various training opportunities available to Federal employees is distributed. Employees are encouraged to participate in training opportunities provided by other Federal agencies, such as the Interagency Training Center, General Services Administration; the Graduate School, U.S. Department of Agriculture; the Office of Information and Privacy and the Office of Legal Education, U.S. Department of Justice; and the regional training centers of the Office of Personnel Management. In addition, information is distributed to the administration and staff office Privacy Act Officers to advise them of training offered

by private professional organizations and associations, such as the Society for Access Professionals.

VA's Office of the General Counsel periodically provides a 4-day course on Information Law for VHA field personnel and the District Counsels, and other VA employees may attend on a space-available basis.

Guidance and assistance are provided by the Office of General Counsel and the Office of Information Resources Management. In addition, instructional materials, such as DOJ's updated Overview of the Privacy Act of 1974 and Freedom of Information Act Case List (which contain Privacy Act information) are distributed.

Central Intelligence Agency Privacy Act Training Program

The CIA conducts a FOIA/Privacy Act Seminar that is required for employees dealing with these Acts and available to others on request. This seminar is the primary training vehicle for Privacy Act processing and is an internal training course conducted at least once a year, as needed. It is a fairly intensive two-day course for all levels of personnel and includes lectures on CIA obligations under the Privacy Act, use of exemptions, the basics of Privacy Act processing, and a hands-on exercise in sanitizing and processing documents responsive to a Privacy Act request.

Agency employees also attend external seminars/symposiums on the Freedom of Information Act and the Privacy Act held by other Government agencies, the American Society of Access Professionals, etc.

Office of Personnel Management Privacy Act Training Program

All personnel involved in Privacy Act release of information have received either on-the-job training or formal training (when formal training is a job requirement) to enable them to meet the requirements of the Act.

Appendix IV
Listing of Agency Privacy Act Officials
As Of December 31, 1991

Department of Agriculture

Senior Official Roger Runnigen USDA, Office of Public Affairs Washington, D.C. 20250	Privacy Act Officer Milton E. Sloane Department of Agriculture Office of Public Affairs Room 536A Washington, DC 20250
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Department of Commerce

Senior Official Preston Moore U.S. Department of Commerce 14th St., & Pennsylvania Ave.,NW Room H5830 Washington, D.C. 20230	Privacy Act Officer Geraldine P. LeBoo U.S. Department of Commerce 14th St., & Pennsylvania Ave.,NW Room H6020 Washington, D.C. 20230
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Department of Defense

Senior Official D.O. Cooke Director for Administration and Management Office of the Secretary of Defense Washington, D.C. 20301-1900	Privacy Act Officer Aurelio Nepa, Jr. Director, Defense Privacy Office 400 Army Navy Drive Room 205 Arlington, VA 22202-2884
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Department of Education

Senior Official Cary Green 400 Maryland Avenue, S.W. ROB-3, Room 4682 Washington, D.C. 20202-4135	Privacy Act Officer Chiquitta Thomas Privacy Act Specialist 400 Maryland Avenue, S.W. Washington, D.C. 20202-4135
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Department of Energy

Senior Official Dolores L. Rozzi Director of Administration and Human Resource Management U.S. Department of Energy 1000 Independence Ave., S.W. Washington, D.C. 20585	Privacy Act Officer John H. Carter Chief of FOI and Privacy Acts U.S. Department of Energy 1000 Independence Ave., S.W. Washington, D.C. 20585
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Department of Health and Human Services

Senior Official John Gibbons Acting Assistant Secretary for Public Affairs 638E Humphrey Building Washington, D. C. 20201	Privacy Act Officer Thomas E. Donnelly OASPA 645F Humphrey Building Washington, D.C. 20201
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Department of Housing and Urban Development

Senior Official James E. Tarro 451 7th St., S.W. Room 10110 Washington, D.C. 20410	Privacy Act Officer Jeanette Smith 451 7th St., S.W. Room 4178 Washington, D.C. 20410
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Department of the Interior

Senior Official Oscar W. Mueller, Jr. MS-2242 (PMI) 1849 C Street, N.W. Washington, D.C. 22040	Privacy Act Officer William W. Wolf MS-2242 (PMI) 1849 C Street, N.W. Washington, D.C. 22040
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Department of Justice

Senior Official Paul J. McNulty Department of Justice 10th and Constitution Ave., N.W. Washington, D.C. 20530	Privacy Act Officer Richard L. Huff Office of Information and Privacy Department of Justice 10th and Constitution Ave., N.W. Washington, D.C. 20530
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Department of Labor

Senior Official Thomas C. Komarek Assistant Secretary for Administration and Management Department of Labor, Room S-2514 200 Constitution Ave., N.W. Washington, D.C. 20210	Privacy Act Officer Marshall J. Breger Solicitor of Labor U.S. Department of Labor Room S-2002 200 Constitution Ave., N.W. Washington, D.C. 20210
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Department of State

Senior Official Frank M. Machak Acting Director, Office of Freedom of Information Room 1239 Washington, D.C. 20520-1512	Privacy Act Officer Margaret P. Grafeld Acting Chief, Privacy, Plans and Appeals Division Room 1239 Washington, D.C. 20520-1512
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Department of Transportation

Senior Official Jon H. Seymour (M-1) 400 Seventh St., S.W. Washington, D.C. 20590	Privacy Act Officer John W. Chandler (M-34) 400 Seventh St., S.W. Washington, D.C. 20590
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001. list	Listing of Agency Privacy Act Officials (partial, CIA Act) (1 page)	n.d.	P3/b(3)

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FOLDER TITLE:

Lobbying Reform-Reports

rs54

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Department of Treasury

Senior Official David M. Nummy Assistant Secretary of the Treasury (Management) Department of the Treasury Room 2426-MT 1500 Pennsylvania Ave., N.W. Washington, D.C. 20220	Privacy Act Officer Alana Johnson Departmental Disclosure Officer Department of the Treasury Room 1054 - MT 1500 Pennsylvania Ave., N.W. Washington, D.C. 20220
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Department of Veteran's Affairs

Senior Official S. Anthony McCann Department of Veterans Affairs 810 Vermont Ave., N.W. Washington, D.C. 20420	Privacy Act Officer B. Michael Berger Records Management Service (723) Department of Veterans Affairs 810 Vermont Ave., N.W. Washington, D.C. 20420
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Agency for International Development

Senior Official Stephen Hayes 320-21st St., N.W. Room 4889 Washington, D.C. 20523	Privacy Act Officer James L. Harper 320-21st St., N.W. Room 2884NS Washington, D.C. 20523
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Central Intelligence Agency

[REDACTED]

U.S. Commission on Civil Rights

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Committee for Purchase from the Blind and other Severely Handicapped

Senior Official Beverly L. Milkman 1735 Jefferson Davis Highway Suite 403 Arlington, VA 22202-3461	Privacy Act Officer Connie S. Corley 1735 Jefferson Davis Hwy. Suite 403 Arlington, VA 22202-3461
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Commodity Futures Trading Commission

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U.S. Consumer Product Safety Commission

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U.S. Environmental Protection Agency

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US. Equal Employment Opportunity Commission

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Executive Office of the President

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Export-Import Bank of the U.S.

Senior Official Helene H. Wall 811 Vermont Ave., N.W. Washington, D.C. 20571	Privacy Act Officer Same as Senior Official
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Farm Credit Administration

Senior Official Harold B. Steele 1501 Farm Credit Drive McLean, VA 22101-5090	Privacy Act Officer Ronald H. Erickson 1501 Farm Credit Drive McLean, VA 22101-5090
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Federal Communications Commission

Senior Official Andrew S. Fishel 1919 M St., N.W. Washington, D.C. 20554	Privacy Act Officer William A. Cline 1919 M St., N.W. Washington, D.C. 20554
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Federal Deposit Insurance Corporation

Senior Official Hoyle L. Robinson 550 17th St., N.W. Washington, D.C. 20429	Privacy Act Officer Robert E. Feldman 550 17th St., N.W. Washington, D.C. 20429
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Federal Election Commission

Senior Official John C. Surina 999 E St., N.W. Washington, D.C. 20463	Privacy Act Officer Christina H. VanBrakle 999 E St., N.W. Washington, D.C. 20463
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Federal Emergency Management Agency

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Federal Energy Regulatory Commission

Senior Official George L. B. Pratt 825 N. Capitol St., N.E. Room 9106 Washington, D.C. 20426	Privacy Act Officer Julia White, Esq. 825 N. Capitol St., N.E. Room 8004-B Washington, D.C. 20426
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Federal Labor Relations Authority

Senior Official Solly J. Thomas, Jr. 500 C St., S.W. Room 232 Washington, D.C. 20424	Privacy Act Officer William E. Persina 500 C St., S.W. Washington, D.C. 20424
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Federal Maritime Commission

Senior Official Christopher L. Koch 800 North Capitol Street, N.W. Washington, D.C. 20573-0001	Privacy Act Officer Joseph C. Polking 800 North Capitol Street, N.W. Washington, D.C. 20573-0001
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Federal Mediation and Conciliation Service

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Federal Mine Safety & Health Review Commission

Senior Official Ford B. Ford 1730 K St., N.W. 6th Floor Washington, D.C. 20006	Privacy Act Officer Richard L. Baker 1730 K St., N.W. 6th Floor Washington, D.C. 20006
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Federal Reserve System

Senior Official Elaine Boutilier 20th and C St., N.W. Mail Stop 4 Washington, D.C. 20551	Privacy Act Officer Same as Senior Official
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Federal Trade Commission

Senior Official Christian S. White Assistant General Counsel for Legal Counsel Office of the General Counsel 6th St. & Pennsylvania Ave., NW Washington, D.C. 20580	Privacy Act Officer Same as Senior Official
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Commission of Fine Arts

Senior Official Charles H. Atherton Pension Building 441 F St. N.W., Suite 312 Washington, D.C. 20001	Privacy Act Officer Donald B. Myer Pension Building 441 F St. N.W., Suite 312 Washington, D.C. 20001
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General Services Administration

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Office of Government Ethics

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U.S. Information Agency

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Inter-American Foundation

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Advisory Commission on Intergovernmental Relations

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International Boundary and Water Commission

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U.S. International Trade Commission

Senior Official Lorin L. Goodrich 500 E St., S.W. Room 715 Washington, D.C. 20436	Privacy Act Officer Micheal Hillier 500 E. St., S.W. Room 314 Washington, D.C. 20436
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Interstate Commerce Commission

Senior Official S. Arnold Smith Interstate Commerce Commission Washington, D.C. 20423	Privacy Act Officer Same as Senior Official
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Joint Board for the Enrollment of Actuaries

Senior Official Leslie S. Shapiro Joint Board for the Enrollment of Actuaries c/o Department of the Treasury Washington, D.C. 20220	Privacy Act Officer William H. McVetta Joint Board for the Enrollment of Actuaries c/o Department of the Treasury Washington, D.C. 20220
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U.S. Merit Systems Protection Board

Senior Official Robert E. Taylor 1120 Vermont Avenue, N.W. Washington, D.C. 20419	Privacy Act Officer Michael H. Hoxie 1120 Vermont Avenue, N.W. Washington, D.C. 20419
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National Aeronautics and Space Administration

Senior Official Benita A. Cooper Associate Administrator for Management Systems & Facilities NASA HQ., Code J Washington, D.C. 20546	Privacy Act Officer Wallace O. Keene NASA HQ., Code JT Washington, D.C. 20546
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National Archives and Records Administration

Senior Official James C. Megronigle 7th and Pennsylvania Ave., N.W. Washington, D.C. 20408	Privacy Act Officer John A. Constance 7th & Penn., Ave., N.W. Washington, D.C. 20408
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National Credit Union Administration

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National Labor Relations Board

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National Science Foundation

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U.S. Nuclear Regulatory Commission

Senior Official Patricia A. Norry Nuclear Regulatory Commission Washington, D.C. 20555	Privacy Act Officer Donnie H. Grimsley Nuclear Regulatory Comm. Washington, D.C. 20555
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Occupational Safety and Health Review Commission

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Overseas Private Investment Corporation

Senior Official Jeffrey D. Caplan Overseas Private Investment Corporation 1615 M St., N.W., Room 312 Washington, D.C. 20527	Privacy Act Officer Same as Senior Official
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Panama Canal Commission

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Peace Corps

Senior Official Collins Reynolds 1990 K St., N.W. Washington, D.C. 20526	Privacy Act Officer Jack Maykoski 1990 K St., N.W. Washington, D.C. 20526
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Pension Benefit Guaranty Corporation

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Office of Personnel Management

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Postal Rate Commission

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United States Postal Service

Senior Official Vacant	Privacy Act Officer Betty E. Sheriff USPS Records Officer 475 L'Enfant Plaza S.W. Room 8141 Washington, D.C. 20260-5010
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Railroad Retirement Board

Senior Official Dale G. Zimmerman Railroad Retirement Board 844 Rush Street Chicago, Illinois 60611	Privacy Act Officer LeRoy Blommaert Railroad Retirement Board 844 Rush Street Chicago, Illinois 60611
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Securities and Exchange Commission

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U.S. Small Business Administration

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U.S. Trade Representative

Senior Official Laura B. Sherman 600 17th St., N.W. Washington, D.C. 20506	Privacy Act Officer Dottie Balaban 600 17th St., N.W. Washington, D.C. 20506
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