

CHANGE 1  
WVMR(ARMY) 340-21  
1 June 1981

HEADQUARTERS, WEST VIRGINIA  
ARMY NATIONAL GUARD  
1703 Coonskin Drive  
Charleston, WV 25311

*change 1*

PRIVACY ACT PROGRAM  
FOR  
WEST VIRGINIA ARMY NATIONAL GUARD

*Series 36*

WVMR(ARMY) 340-21, 26 March 1980, is changed as follows:

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2. References:

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- d. (Added) 1A Supplement 1 to AR 340-17.

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6.1 (Added) Immediate Action Upon Receipt of Request for Information.

The individual receiving a request for information under the Freedom of Information Act will take immediate action to place the request under suspense control; will date/time stamp the request (or, if date/time stamp is not available will enter the date/time received and initial the entry); and will advise the Deputy Chief of Staff for Personnel and Administration, Office of the Adjutant General, 1703 Coonskin Drive, Charleston, WV 25311, of the receipt of the request, so that it may be accorded priority treatment.

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13. Privacy Review Board.

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d.1 (Added) After approval of the National Guard Bureau, release as much as possible of the requested information or records, even if the entire request cannot be granted. The Freedom of Information Act requires that exempt and nonexempt material be segregated, in order to grant the maximum access.

d.2 (Added) Requests for information under the Freedom of Information Act must not be denied based on superficial review; nor should a request for records be denied because the records are false, obsolete, inaccurate, misleading, or otherwise defective. None of these reasons is adequate legal justification for denying a request for access to records.

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FOR THE GOVERNOR:

*Robert L. Childers*  
ROBERT L. CHILDERS  
Major General  
The Adjutant General

*Dist*  
*4-2-80*

STATE OF WEST VIRGINIA  
ADJUTANT GENERAL'S DEPARTMENT  
CHARLESTON 25311

WVMR (ARMY) 340-21

WV MILITARY REGULATION (ARMY)  
NUMBER 340-21

26 March 1980

PRIVACY ACT PROGRAM  
FOR  
WEST VIRGINIA ARMY NATIONAL GUARD

*Series 36*

1. Purpose. This regulation prescribes policies and procedures for implementation and accounting of The Privacy Act of 1974 as it applies to the West Virginia Army National Guard. Policies and procedures are prescribed for --

- a. Notifying an individual whether the West Virginia Army National Guard system of records contains a record concerning the individual.
- b. Verifying the identity of an individual requesting his/her record or information before the record or information is furnished.
- c. Providing access to, or copies of, records to an individual in response to his/her request.
- d. Reviewing a request from an individual to amend a record, taking prompt action thereon, and acting on an appeal from an initial adverse determination as the result of an amendment request.
- e. Collecting, safeguarding, maintaining, using and disclosing personal information.
- f. Exempting certain systems of records from provisions of this regulation.
- g. Assuring privacy protection to individuals who furnish information under promises of confidentiality.

2. References:

- a. Public Law 93-579, The Privacy Act of 1974.
- b. AR 340-21, The Army Privacy Program.
- c. AR 340-17, as amended.

3. General Policies. The policies prescribed by this regulation are:

- a. To protect the personal property of individuals from unwarranted invasion.

b. To permit an individual to know what records the West Virginia Army National Guard have on him/her, to have access to, or copies of, such records or portions thereof, and to request amendment of such records, whenever exemptions do not apply or there is no significant, legitimate governmental purpose to be served by claiming an exemption.

c. To collect, maintain, use or disclose any record of identifiable personal information only for a necessary and lawful purpose.

d. To insure that the information is timely and accurate for the intended use and is adequately safeguarded to prevent misuse or unauthorized access/disclosure.

e. To act on all requests promptly, accurately and fairly. Delay will not be permitted even though requests appear to be minor in nature.

f. To maintain established policies for the purpose of making determinations and to act upon cases which may or may not result in amendment of personal records.

g. To maintain prescribed records of each disclosure of personal information on each individual as required.

#### 4. Applicability and Scope:

a. This regulation applies to all requests received by elements of the West Virginia Army National Guard from individuals who seek information on, or the amendment of records pertaining to them under the provisions of The Privacy Act of 1974. It governs the collection, maintenance, use and disclosure of personal information by all elements of the West Virginia Army National Guard.

b. When the West Virginia Army National Guard provides, by contract, for the operation of a system of records to accomplish a function, the requirements of this regulation will be applied to such system. The criminal sanctions specified by Section 3(i) of The Privacy Act may be applicable to such a contractor or employee.

5. Statutory Authority. The Privacy Act of 1974 (5 USC 552a) is the statutory basis for the Privacy Program. The act itself assigns overall government-wide responsibility for implementation to the Office of Management and Budget (MS) and specific responsibility to the Civil Service Commission (CS) and the General Services Administration (GSA). These agencies have issued detailed regulations and guidance for government-wide implementation of The Privacy Act. Within the Department of Defense, the Act is further implemented by DOD Directive 5400.11 and by Army Regulation 340-21.

6. Responsibilities:

a. Office of The Adjutant General:

(1) Provides procedural guidance for all ARNG commanders concerning implementation and accounting of The Privacy Act.

(2) Appoint Privacy Act Coordinator to coordinate The Privacy Act provisions and procedures for the Adjutant General's Department and assist The Adjutant General in the implementation of The Privacy Act Program throughout the State. (Ref: Para 1-9, AR 340-21)

(3) Appoint a Privacy Review Board to periodically review the status of the West Virginia Army National Guard concerning actions taken to comply with The Privacy Act and related regulations. (Ref: Para 1-8, AR 340-21)

b. Major Commands:

(1) Supervise and execute The Privacy Act Program within the command.

(2) Appoint a Privacy Act Coordinator to coordinate and carry out required privacy functions within the command.

(3) Develop privacy training programs and insure privacy management systems are established throughout the command.

(4) Prepare and submit required reports and statistical data concerning the overall command to the State Privacy Act Coordinator.

c. Group/Battalion/Squadron Commands:

(1) Supervise and execute The Privacy Act Program within the command.

(2) Appoint a Privacy Act Coordinator to coordinate required privacy functions within the command and to advise the commander concerning all aspects of The Privacy Act Program for the command.

(3) Prepare and publish implementation procedures for the command concerning The Privacy Act requirements and programs as directed.

(4) Maintain active supervision over subordinate units to insure that all systems of records subject to requirements of The Privacy Act are properly maintained and properly used throughout the command.

(5) Establish The Privacy Act Program as a matter of special emphasis pertaining to all staff visits and inspections of all subordinate units of the command.

d. Units/Companies/Batteries/Detachments:

(1) Commanders will insure that The Privacy Act Program is properly implemented and maintained for the unit in accordance with published regulations and directives.

(2) Appoint a Unit Privacy Act Coordinator (preferably the Unit AST) to coordinate and supervise all privacy functions within the unit and to advise the Unit Commander concerning all aspects of The Privacy Act Program within the unit.

(3) Prepare and maintain all required forms and records pertaining to the Privacy Program for all assigned unit personnel.

(4) Present periodic briefings to all unit personnel concerning The Privacy Act of 1974 and insure that all assigned personnel fully understand their rights and restrictions under The Privacy Act Program.

7. Collection of Information. Personal information collected directly from an individual, either verbally or in writing, for inclusion in Military Personnel Records Jacket or for unit records will be obtained as follows:

a. Obtain Consent Statement from each member of the unit concerning his/her desires relative to the release of his/her personal information (see Inclosure 1). These signed statements will be maintained in a three-ring binder in alphabetical order of the individual's last name.

b. Privacy Act Statement will be available for each required form identified as being subject to The Privacy Act of 1974. This includes federal, state and locally devised forms upon which information about the individual is entered which is private in nature (see Inclosure 2).

(1) A copy of the Privacy Act Statement for each required form will be maintained in the Unit Files Area in a three-ring binder. Upon preparation of the form, the individual will be informed whether disclosure of private information is mandatory or voluntary, by what legal authority the information is solicited, and what uses will be made of the form and information. The individual will be given a copy of the Privacy Act Statement, if he/she desires one, on any required form.

(2) If state or locally devised forms are used which require personal information from the individual, a Privacy Act Statement will be prepared for each such form using the format contained in Inclosure 2.

(3) All federal forms requiring The Privacy Act Statements are foot-noted in DA Pamphlet 310-2.

c. Privacy Act Statement - Health Care Records (DD Form 2005) will be prepared on each individual and filed in the Health Record (DD Form 722). See Inclosure 3.

d. When disclosures of personal information on any individual is requested by outside agencies or third parties, consent for the release of such information must be first obtained from the individual on whom the information pertains. This consent must be in writing and signed by the applicable individual. A record of each disclosure of personal information will be maintained by the unit releasing the information utilizing Disclosure Accounting Record (DA Form 4410-R) as indicated in Inclosure 4. This accounting record must be retained for a period of five years after the last disclosure, or for the life of the record, whichever is longer.

e. Report of Forms Falling Within the Provisions of The Privacy Act of 1974 (DA Form 4369-R) will be prepared and maintained at the level where each locally devised form is used which contains personal information on an individual. See paragraph 7b, above, concerning preparation of The Privacy Act Statement on locally devised forms. Format for DA Form 4369-R is shown as Inclosure 5.

f. Individual home addresses or lists or compilations of home addresses and home telephone numbers must have the following statement entered on the list or roster or container:

"The information on this list (roster) is for official use within this Unit only and will not be furnished to any commercial enterprise, company, representative, or any organization or agency outside Department of Defense."

(1) The above lists (rosters) (data cards) in whole or any portion thereof will not be disclosed without the consent of the individual(s) involved. See para 7a, above, for consent procedures.

(2) Persons responsible for maintaining home address locator services must obtain the individual's continuing consent or refusal for release of the home address in response to oral, written, or telephonic requests from third parties.

(3) Disclosures made from a locator service, with the consent of the individual involved, are considered to be in accordance with the Freedom of Information Act and therefore do not require disclosure accounting utilizing DA Form 4410-R.

g. Activities which publish directives (orders, letters, etc.) which contain personal information on individuals must exercise care to insure that such publications are not posted or made available to outside sources or

third parties. When such directives are displayed or posted, the personal information thereon will be obliterated by overmarking or other means to insure confidentiality.

h. Rosters, lists, or other compilation of information on individuals which contain personal information will not be posted or displayed in any manner whereby outside agencies or third parties may obtain unauthorized personal information on individuals. Rather, such lists or rosters will be maintained as OFFICIAL USE documents with controlled access.

8. Access to Records:

a. Access of an individual to his/her personal Army National Guard Military Personnel Records Jacket or related records may be accomplished by the individual concerned contacting the unit technician responsible for maintenance and security for the records at the armory or facility where the individual is assigned. The individual may review his/her records at the armory location.

b. Access of an individual to his/her records located at the State Adjutant General's Office may be accomplished by the individual contacting the State Personnel Officer at the Adjutant General's Department in order to coordinate arrangements. Proper identification must be presented by the individual prior to gaining access to his/her personal records.

9. Amendment to Records:

a. Records of West Virginia Army National Guard personnel may be amended by an individual who provides sufficient justification to merit the amendment of his/her records. The justification must be presented to the unit technician responsible for maintenance of the individual's records at the unit of assignment. The amendment can be accomplished at the unit level by the responsible technicians.

b. Upon amendment of records at the unit level, copies of the amended records along with a letter of explanation concerning the amendment will be forwarded to The Adjutant General, State of West Virginia, ATTN: WVAR-PA, 1703 Coonskin Drive, Charleston, WV 25311.

10. Denial of Access or Amendment Refusal:

a. Denial of access or amendment of records refusal of an individual's record requires the forwarding of all case information to The Adjutant General, State of West Virginia, ATTN: WVAR-PA, 1703 Coonskin Drive, Charleston, WV 25311, for further action by the Privacy Review Board as necessary.

b. Unit technicians at the individual's assigned unit do not have the authority to deny access to records or to refuse to amend records.

11. Processing Access and Amendment Requests:

a. When the legality of access or amendment of records is questionable, the technicians responsible for an individual's records at unit level will acknowledge receipt of a request for access or amendment of a record within ten working days after receipt of the request from the individual.

b. An individual requesting access or amendment of his/her records will be informed, within thirty days after receipt of the request, of how access or amendment will be made.

c. When a person responsible for an individual's records at unit level determines that access or amendment should be denied, a copy of the denial, along with the records in question, will be forwarded to The Adjutant General, State of West Virginia, ATTN: WVAR-PA, within ten working days after receipt of a request for access or amendment from the individual concerned. The person responsible for maintenance of the individual's records will also notify the individual of the referral action within the same ten working days following receipt.

d. The packet forwarded in the case to The Adjutant General will include a copy of the request from the individual, a copy of the records in question, and a copy of the reason(s) recommending denial of amendment or access.

12. Disclosures of Information:

a. Disclosure of personal information within the Department of Defense between the various components do not require a specific procedure other than those currently in existence.

b. Disclosures to outside agencies and third parties are limited by the provisions of The Privacy Act. Types of information that cannot be released without the express written consent of the individual follows:

- (1) Home address.
- (2) Home telephone number.
- (3) Social Security Number.
- (4) Medical history.
- (5) Duty performance characteristics to include personal or behavioral characteristics.

- (6) Criminal or employment history.
- (7) Photographs or anything else particularly identifying the individual, such as fingerprints or voice prints.
- (8) Any other information concerning the individual when a doubt exists relative to ability to release under The Privacy Act.

c. The types of information applicable to The Privacy Act should not be confused with the types of information that can be disclosed to outside agencies and third parties under the provisions of The Freedom of Information Act of 1966 (Public Law 93-502 and Section 522, Title 5, USC). Some examples of information pertaining to West Virginia Army National Guard military personnel which may normally be released without written consent of the individual are:

- (1) Name.
- (2) Rank and/or grade.
- (3) Date of rank.
- (4) Date of birth.
- (5) Salary as a member of the Army National Guard.
- (6) Present and/or past duty assignments and future duty assignments that have been approved.
- (7) Unit of assignment address and telephone number.
- (8) Source of commission for commission officers.
- (9) Military and civilian education levels.
- (10) Promotion sequence number.

13. Privacy Review Board. A Privacy Review Board will be established by The Adjutant General, State of West Virginia for the Army National Guard. Membership of the Board will consist of the Assistant Adjutant General for Army, Chief of Staff, Command Administrative Officer, TPO, Deputy Chief of Personnel and Administration, and the Assistant USPFPO for West Virginia. The functions of the Board will include:

- a. To review all appeals of refusal to access or amendment of records and make recommendations on the appeals to The Adjutant General. (Ref Para 11, above)

b. To review the status of The Privacy Act Program of the West Virginia Army National Guard concerning actions taken to comply with The Privacy Act and related regulations.

c. To make recommendations to The Adjutant General for changes in policies and procedures based on a review of any problems or difficulties encountered in compliance with The Privacy Act and related regulations.

d. To examine and approve, to The Adjutant General, required reports of narrative and statistical data on The Privacy Act Program of the West Virginia Army National Guard.

e. To act on such other matters as may be referred to the Board.

FOR THE GOVERNOR:



ROBERT L. CHILDERS  
Major General  
The Adjutant General

# DISPOSITION FORM

For use of this form, see AR 340-15; the proponent agency is The Adjutant General's Office.

REFERENCE OR OFFICE SYMBOL

SUBJECT

Disclosure Consent Statement

TO

(Unit Commander & Unit)

FROM

(Individual)

DATE

CMT 1

I \*DO/DO NOT consent to the release of my Social Security Number, Home Address, and Home Telephone Number to Outside Agencies or Third Parties.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Individual's Signature)

\*Delete one to complete statement as intended by the Individual.

Inclosure #1 - WVMR (ARMY) 340-21, 26 Mar 80

DA FORM 2496  
1 FEB 62

REPLACES DD FORM 96, EXISTING SUPPLIES OF WHICH WILL BE ISSUED AND USED UNTIL 1 FEB 63 UNLESS SOONER EXHAUSTED.

\* U.S. GPO: 1974-540-843/8656

**DATA REQUIRED BY THE PRIVACY ACT OF 1974**  
(5 U.S.C. 552a)

TITLE OF FORM

PRESCRIBING DIRECTIVE

1. AUTHORITY

2. PRINCIPAL PURPOSE(S)

3. ROUTINE USES

4. MANDATORY OR VOLUNTARY DISCLOSURE AND EFFECT ON INDIVIDUAL NOT PROVIDING INFORMATION

FORM

Privacy Act Statement - 26 Sep 75

DA Form 4368-R, 1 May 75

Inclosure #2 - WVMR(ARMY) 340-21, 26 Mar 80

## PRIVACY ACT STATEMENT – HEALTH CARE RECORDS

*THIS FORM IS NOT A CONSENT FORM TO RELEASE OR USE HEALTH CARE INFORMATION PERTAINING TO YOU.*

### 1. AUTHORITY FOR COLLECTION OF INFORMATION INCLUDING SOCIAL SECURITY NUMBER (SSN)

Sections 133, 1071-87, 3012, 5031 and 8012, title 10, United States Code and Executive Order 9397.

### 2. PRINCIPAL PURPOSES FOR WHICH INFORMATION IS INTENDED TO BE USED

This form provides you the advice required by The Privacy Act of 1974. The personal information will facilitate and document your health care. The Social Security Number (SSN) of member or sponsor is required to identify and retrieve health care records.

### 3. ROUTINE USES

The primary use of this information is to provide, plan and coordinate health care. As prior to enactment of the Privacy Act, other possible uses are to: Aid in preventive health and communicable disease control programs and report medical conditions required by law to federal, state and local agencies; compile statistical data; conduct research; teach; determine suitability of persons for service or assignments; adjudicate claims and determine benefits; other lawful purposes, including law enforcement and litigation; conduct authorized investigations; evaluate care rendered; determine professional certification and hospital accreditation; provide physical qualifications of patients to agencies of federal, state, or local government upon request in the pursuit of their official duties.

### 4. WHETHER DISCLOSURE IS MANDATORY OR VOLUNTARY AND EFFECT ON INDIVIDUAL OF NOT PROVIDING INFORMATION

In the case of military personnel, the requested information is mandatory because of the need to document all active duty medical incidents in view of future rights and benefits. In the case of all other personnel/beneficiaries, the requested information is voluntary. If the requested information is not furnished, comprehensive health care may not be possible, but **CARE WILL NOT BE DENIED.**

This all inclusive Privacy Act Statement will apply to all requests for personal information made by health care treatment personnel or for medical/dental treatment purposes and will become a permanent part of your health care record.

Your signature merely acknowledges that you have been advised of the foregoing. If requested, a copy of this form will be furnished to you.

SIGNATURE OF PATIENT OR SPONSOR

SSN OF MEMBER OR SPONSOR

DATE

**DD FORM 2005**  
1 FEB 76

PREVIOUS EDITION IS OBSOLETE.

Inclosure 3 - WVMR(ARMY) 340-21, 26 Mar 80



