

# A Comparison of the Freedom of Information Act and the Privacy Act

## What is the relationship between the FOIA and the Privacy Act?

**A**lthough the two laws were enacted for different purposes, there is some similarity in their provisions. Both the FOIA and the Privacy Act give you the right to request access to records held by agencies of the federal government. The FOIA's access rights are generally given to "any person," but the Privacy Act's access rights are given only to the individual who is the subject of the records sought (if that individual is a U.S. citizen or a lawfully admitted permanent resident alien).

The FOIA applies to all federal agency records.

The Privacy Act, however, only applies to those federal agency records that contain information about individuals, are maintained in a "system of records," and which are retrievable by a name or personal identifier of the individual. Each law has a somewhat different set of fees, time limits,

and exemptions from its right of access.

If the information you seek pertains to the activities of a federal agency, an organization, or some person other than yourself, you should make your request under the FOIA, which covers all agency records. If the information you seek is about yourself, you should also make the request under the Privacy Act, which covers most



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records of federal agencies that pertain to individuals. Sometimes you can use the FOIA to obtain records about yourself that are not in a Privacy Act "system of records."

If you are in doubt about which law applies or would better suit your needs, you may refer to both in your request letter. If you request records about yourself and do

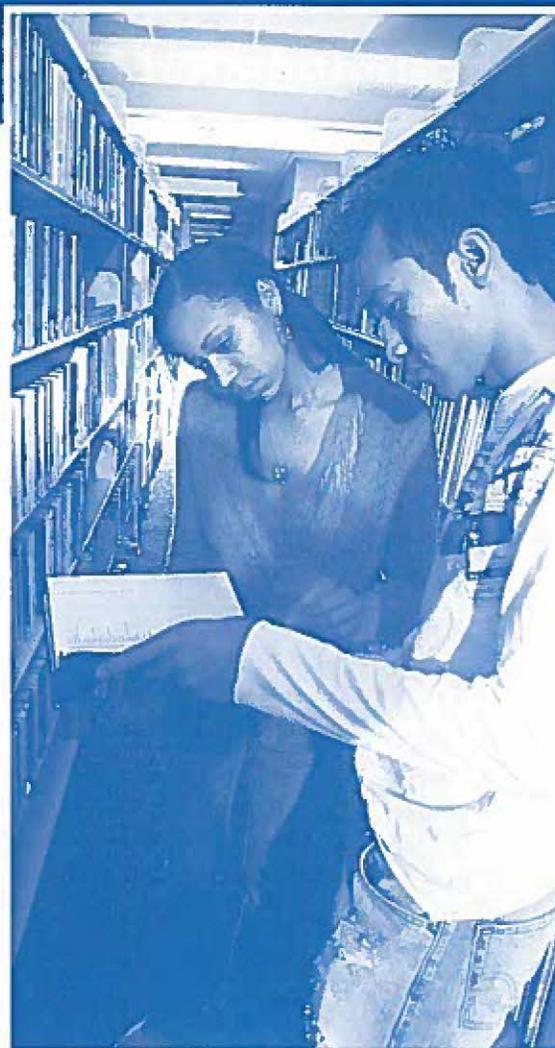
**NOTE: PMO , Family Advocacy (FAP), and Counseling records are all records maintained in a system of records and should be requested under the Privacy Act. Requests made by insurance companies and social services are made under Privacy Act (ROUTINE USE)**

**NOTE: Command , IG, or other investigations; housing verifications, PMO requests for someone other than yourself and non-specific personnel related records should be requested under FOIA.**

not specify a statute, the agency should process the request under both the FOIA and the Privacy Act and withhold requested information from you only if it is exempt under both laws.

### **Can I request information about other people?**

Yes, but such information might be withheld from you to protect their personal privacy. The FOIA contains two very important provisions concerning personal privacy: Exemption 6 and Exemption 7(C). The FOIA's Exemption 6 permits an agency to withhold information about individuals if disclosing it would be "a clearly unwarranted invasion of personal privacy." This includes, for example, almost all of the information in medical and financial benefit files and much of the information in personnel files. Exemption 7(C) provides even stronger privacy protection for personal information contained in law enforcement records. To decide whether to withhold information under these two FOIA privacy exemptions, an agency must balance personal privacy interests against any public interest that would be served by disclosure. Neither Exemption



6 nor Exemption 7(C) can be used to deny you access to information about yourself, only to deny you information about other persons. Additionally, unless disclosure of information about other people is required under the FOIA, the Privacy Act will apply and may prevent disclosure of personally identifiable information contained in a system of records.