

I.

II. Review Board Liability Under the Terms of the Privacy Act

A. Relevant Sections of the Privacy Act

1. Criminal Penalties, 5 U.S.C. § 552a(i)(1)

- *Any officer or employee of an agency,*
- *who by virtue of his employment of official position,*
- *has possession of, or access to, agency records which contain individually identifiable information **the disclosure of which is prohibited by this section or by rules or regulations established thereunder,***
- and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it,
- shall be guilty of a misdemeanor and fined not more than \$5,000.

2. The “no disclosure without consent” rule, 5 U.S.C. § 552a(b)

- No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains [subject to 12 exceptions].

3. Exception to the “no disclosure without consent” rule, 5 U.S.C. § 552(a)(b)(6) (National Archives)

- can disclose “to the National Archives and Records Administration as a record which has sufficient *historical or other value to warrant its continued preservation by the United States Government*, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value.”