

MEMORANDUM

January 15, 1997

To: Jeremy Gunn

From: Laura Denk

Subject: Reporting Requirements for Freedom of Information Act, Privacy Act, and Government in the Sunshine Act

In response to your e-mail this morning, here are the reporting requirements for the Freedom of Information Act, the Privacy Act, and the Government in the Sunshine Act.

Freedom of Information Act

Next annual report due: March 1, 1997

On or before March 1 of each calendar year, each agency must submit a report covering its FOIA activities for the preceding calendar year. The report takes the form of a one page letter to the Speaker of the House and the President of the Senate, and it includes a paragraph on each of the following topics:

- *information about FOIA denials*, including number of FOIA denials and reasons for each denial, number of administrative appeals, the actions on appeal and reasons for each action, names and titles of people responsible for denial of records
- *copy of any rules made by our agency during the year, including FOIA fee schedule*
- *written total amount of fees we collected for making records available*

With regard to Federal Register reporting requirements, the FOIA requires that each agency “currently publish” certain information in the Federal Register, such as the statement of organization, function, and methods of operation (the statement that we published in 1995 is current), rules of the agency that are “generally applicable” to the public (such as rules that affect people receiving benefits.) The description of organization, function, and methods of operation that we published in 1995 is still current, and I do not believe that we have issued any procedural or substantive rules that are generally applicable to the public under the FOIA standards.

Privacy Act

Next report due: June 30, 1998

The Act itself says that the President must report to Congress on agency compliance once every **two** years. OMB Guidance to Federal Agencies previously required agencies to report to the President annually, but in 1996, OMB issued a new circular (A-130, App. I) that changed the reporting requirement so that agencies now report to the President once every **two** years. Our next report will be due on or before June 30, 1998, and will cover calendar years 1996 and 1997. (We filed our long 1994-1995 report in early December of 1995, and Maya Bernstein told me at that time that we need not file any additional reports to be in compliance with the then annual, now biennial, reporting requirement.)

In order to double check my understanding of the new OMB regulation, I have left a message on Maya Bernstein's voice mail and asked her to return my call so that I can ask about with Maya & asked her to call me back to make sure we are in compliance.

You also asked about Federal Register requirements. If we establish any new systems of records, make a substantial alteration to an old Privacy Act system of records, or adopt a new routine use, we are required to publish a notice in the Federal Register 40 days before we begin to use the new system. (Forty days gives agencies time to go through the required notice and comment period.) In addition, OMB Guidance requires each agency to review its Privacy Act systems of records every two years to ensure that current Federal Register notices are accurate. We, of course, did a comprehensive check of our systems of records and published the results at the end of 1995. We are due for another comprehensive check at the end of 1997, if we are still in business. As a practical matter, I keep an eye on computer and paper files in the office to determine whether new databases, file classifications, etc... fall under our old systems of records notice or if we need to issue a new one.

Chet and David are aware of these Privacy Act concerns and Chet, especially, is in the habit of letting me know when people ask him to make a change in Privacy Act systems on the computer.

Sunshine Act

I am not aware of any periodic reporting requirements set forth by the Sunshine Act. We have been publishing our Sunshine Act meeting notices in the Federal Register for each meeting.

If you have any additional questions, please let me know.