



Privacy Fact Sheet

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Veteran Making Serious Threat to Health or Safety of Other(s)

There are several scenarios where a patient has made a credible threat to the health or safety of an individual, such as a spouse or a public figure. Disclosure of protected health information (**excluding 38 U.S.C. 7332 information**) in such a situation is allowed as long as the requirements of the privacy laws are followed. This fact sheet will address this issue and provide guidance on when information regarding such a threat may be disclosed.

VHA **may disclose** individually-identifiable health information (IIHI) in accordance with:

- 5 U.S.C 552a(b)(3) – pursuant to a routine use; or
- 5 U.S.C. 552a(b)(8) – to a person pursuant to a showing of compelling circumstances affecting the health or safety of any individual if upon such disclosure notification is transmitted to the last known address of such individual to whom the records pertain; **and**
- 45 CFR 164.512(j)(1)(i) – to prevent or lessen a **serious and imminent** threat to the safety of an individual or the public as long as the disclosure is to a party that is in a position to prevent or lessen the threat such as a law enforcement official or the individual threatened; or
- 45 CFR 164.512(k)(2) – to avert a serious threat to the safety of the public as long as the protected health information is given to authorized federal officials for the conduct of lawful intelligence, counter-intelligence and other national security activities.

Threat to family member: Disclosures may be made to a family member of a patient when it is necessary to prevent or lessen a **serious and imminent** threat to the health or safety of the family member. Disclosure may also be made to local authorities who may be able to prevent or lessen the threat.

Threat to public at large: Disclosures may be made to a person or person(s) reasonably able to prevent or lessen a threat made to the health or safety of the public (e.g., Police Department regarding bomb threat).

Threat to national security: Disclosure may be made to law enforcement authorities to identify or apprehend an individual making a serious threat against the nation (e.g., FBI regarding terrorist activity).

NOTE: When using 5 USC 552a(b)(8) as Privacy Act authority to disclose IIHI for a serious threat, disclosure notification must be provided to the individual to whom the information pertains. If other Privacy Act authority is applied, e.g., Routine Use for Standing Written Request, such notification is not required. Disclosures should be coordinated with the facility Privacy Officer for proper accounting of disclosures.

Privacy Office at a glance...

VHA personnel should contact the VHA Privacy Office via email through the VHA 19 Privacy Issues mail group for additional questions.

Website: <http://vaww.vhaco.va.gov/privacy/vhapo.htm>