



## **PROTECTING PERSONAL INFORMATION IN COMPLAINT INVESTIGATIONS**

To investigate a complaint, the Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) will collect information from different sources. Depending on the type of complaint, we may need to get copies of medical records or other personal information. This Fact Sheet explains how OCR protects personal information that is part of an investigative case file.

### **HOW DOES OCR PROTECT PERSONAL INFORMATION?**

OCR is required by law to protect personal information. The Privacy Act of 1974 protects Federal records about an individual containing personally identifiable information, including, but not limited to, the individual's medical history, education, financial transactions, and criminal or employment history that contains an individual's name or other identifying information.

Under the Privacy Act, OCR will disclose an individual's name or other personal information with a signed consent, and only when it is necessary to complete the investigation of the complaint or to enforce civil rights laws or when it is otherwise permitted by law.

Consent is voluntary, and it is not always needed to investigate a complaint; however, failure to give consent is likely to impede the investigation of a complaint and may result in the closure of the case.

### **CAN THE COMPLAINANT SEE OCR'S CASE FILE?**

Under the Freedom of Information Act (FOIA), an individual can request a copy of the individual's case file once the case has been closed; however, OCR may, in some circumstances, withhold information in order to protect the identities of witnesses and other sources of information. Additionally, some records may be withheld to protect OCR's deliberative process privilege or any other legally protected privilege.

### **CAN OCR GIVE A COMPLAINT FILE TO ANYONE ELSE?**

If a complaint indicates a violation or a potential violation of law, OCR can refer the complaint to another appropriate agency without the individual's permission.

If an individual files a complaint with OCR, and we decide we cannot help the individual, we may refer the complaint to another agency, such as the Department of Justice.

### **CAN ANYONE ELSE SEE THE INFORMATION IN A COMPLAINT FILE?**

Public access to OCR's files and records is controlled by the Freedom of Information Act (FOIA). Under FOIA, OCR may be required to release general information about this case upon public request. In the event that OCR receives such a request, we will make every effort, as permitted by law, to protect information that identifies individuals.



If OCR receives protected health information about an individual in connection with a HIPAA investigation or compliance review, we will only share this information with individuals outside of HHS if necessary for our compliance efforts or if we are required to do so by another law.

**DOES IT COST ANYTHING FOR ME (OR SOMEONE ELSE) TO OBTAIN A COPY OF MY FILE?**

In most cases, the first two hours spent searching for document(s) you request under the Freedom of Information Act and the first 100 pages are free. Additional search time or copying time may result in a cost for which you will be responsible. If you wish to limit the search time and number of pages to a maximum of two hours and 100 pages; please specify this in your request. You may also set a specific cost limit, for example, cost not to exceed \$100.00. For details, see HHS's FOIA page.

If you have any questions about this complaint and consent package, please contact OCR at [www.hhs.gov/ocr/office/about/contactus/index.html](http://www.hhs.gov/ocr/office/about/contactus/index.html).

*OR*

Contact the Customer Response Center at (800) 368-1019 (see contact information on page 2 of the Complaint Form).