

Form H3-1. Privacy Act Request to Amend or Expunge Records Describing a Person's First Amendment Activity (UFO Research, Lectures, and Group Membership)

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Use. A researcher, writer, organizer, or experiencer has obtained (through a Privacy Act or FOIA request) an agency record describing their lectures, publications, conference attendance, online posts, or membership in a UFO organization, and wants it amended or expunged. The request relies on 5 U.S.C. §552a(e)(7), which bars an agency from maintaining a record describing how an individual exercises First Amendment rights unless the record is expressly authorized by statute or by the individual, or is pertinent to and within the scope of an authorized law enforcement activity, and on *Garris v. FBI*, 937 F.3d 1284 (9th Cir. 2019), which requires that continued maintenance be justified as well as the original collection. If the agency refuses, the requester may seek review within the agency and then sue for amendment (5 U.S.C. §552a(g)(1)(A), (g)(2)).

When to use. After obtaining a federal agency record that describes the requester's speech, writing, or association. **Not for:** Getting the records in the first place ([Form B1-1](#) or [Form H2-1](#)), or correcting public statements by officials ([Issue F4](#)).

Deadlines. The agency must acknowledge an amendment request within 10 working days and then promptly correct the record or explain its refusal (5 U.S.C. §552a(d)(2)). Agency regulations set the time for an internal appeal. Suit must be brought within two years from the date the cause of action arises (§552a(g)(5)).

[Requester name, address, email, phone]

[Date]

[Privacy Act Officer]

[Agency and component]

[Address or portal]

Re: Request under 5 U.S.C. §552a(d)(2) and (e)(7) to expunge or amend records about [Requester]; your reference [FOIA/PA no. ____]

Dear Privacy Act Officer:

In response to my request no. [____], the [agency] released the records listed in the attachment (the “Records”), which are maintained in [system of records, if known]. I request that the agency expunge the Records or, in the alternative, amend them by removing the material identified below.

1. The Records describe my exercise of First Amendment rights. The Records describe [my lectures on unidentified anomalous phenomena at ____ on ____ / my articles published in ____ / my attendance at the ____ conference / my membership in and role as ____ of ____ / my posts on ____]. Speaking, writing, publishing, assembling, and associating with others on this subject are activities protected by the First Amendment.

2. Section 552a(e)(7) bars maintaining them. An agency may “maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.” 5 U.S.C. §552a(e)(7). No statute authorizes the Records, and I have not authorized them. The prohibition applies to continued maintenance as well as to collection, and the agency must show that keeping each record is pertinent to a specific authorized law enforcement activity. *Garris v. FBI*, 937 F.3d 1284, 1294-1300 (9th Cir. 2019) (ordering the FBI to expunge a threat assessment of a website and its editors).

3. No authorized law enforcement activity supports the Records. [The Records do not refer to any investigation, allegation of unlawful conduct, or threat. / The Records refer to ____, which was closed on ____ and did not concern me.] I am not, and have never been, the subject of any investigation of unlawful conduct to my knowledge. Interest in unidentified anomalous phenomena is a subject Congress has made a matter of public reporting and study (50 U.S.C. §§3373, 3373b).

4. The Records are inaccurate or incomplete in these respects. [Identify any factual errors, e.g., a statement that I “claimed contact with aliens” when the lecture described radar data; a characterization of the group as “subversive.”] Under §552a(d)(2)(B)(i), I ask that these statements be corrected or removed.

5. Effects. [Describe concrete effects if any: secondary screening at airports since ____; a question about the Records in a security clearance interview on ____; disclosure of the Records to ____; loss of ____.]

6. Request. Please (a) expunge the Records, including copies in other systems and any index entries; (b) if the agency declines to expunge any Record, amend it by removing the material identified above and correcting the errors in paragraph 4; (c) notify every person or agency to

whom the Records were disclosed of the correction, as §552a(c)(4) requires; and (d) provide the accounting of disclosures for the Records under §552a(c)(3).

If the agency refuses any part of this request, please state the reasons, the name and title of the reviewing official, and the procedure for review of the refusal, as §552a(d)(2)(B)(ii) requires.

Sincerely,

[Signature]

Attachment: list of Records, with page or document numbers, and copies.

Drafting notes

- Check the agency's published system of records notice for exemptions under §552a(j) or (k). The CIA and parts of the FBI exempt many systems from the access and amendment provisions. Neither subsection allows an agency to exempt a system from §552a(e)(7) itself, but some agencies have used (j) to exempt systems from the civil remedies in §552a(g), and courts have reached different results on whether that bars an (e)(7) suit. Read the notice and the circuit's cases before deciding where to sue.
- Plead concrete effects. For constitutional claims seeking expungement, the Ninth Circuit requires a concrete injury beyond the record's existence (*Phillips v. U.S. Customs & Border Protection*, 74 F.4th 986 (9th Cir. 2023)).
- Damages under §552a(g)(4) require actual pecuniary loss and an intentional or willful violation (*Doe v. Chao*, 540 U.S. 614 (2004); *FAA v. Cooper*, 566 U.S. 284 (2012)). Amendment and expungement do not.
- For a group, each member whose activity is described should file a separate request; the Privacy Act protects individuals, not organizations.
- [Issue H3](#) §5.1 explains the standard.