

## Privacy Act Update

*Cummings v. Dep't of Navy*, 279 F.3d 1051 (D.C. Cir 2002)

*A former naval aviator sued the Navy for alleged Privacy Act violations, claiming the DON made an unauthorized release of her Field Naval Aviator Evaluation Board to the author of a book. DON won dismissal of her case in the District Court under the theory that Privacy Act damages claims against the DON by an active-duty member are barred by Feres, if the alleged wrongful disclosure was incident to service. Plaintiff appealed. On 15 Feb 02, the D.C. Circuit Court of Appeals reversed the dismissal, holding that Feres does not bar Privacy Act lawsuits brought by military personnel against the military departments apply to the Privacy Act.*

**Practice point: Be aware of to whom records subject to the Privacy Act are disclosed! Re-familiarize yourself with the exceptions to the "no disclosure without consent" rule. 5 U.S.C. § 552a(b) (1)- (b)(12).**