

(c) Report on an attachment all account numbers and account names included in this special account if different than identified in 1(d) above.

(d) Report all persons or entities not identified in 1(d) above who have a 10% or more financial interest in this special account, including limited partners, indicating with an asterisk those having discretionary trading authority with respect to this account. If none, write "none". Use a continuation sheet, if necessary.

Name: \_\_\_\_\_  
Last, First, Middle Initial

Location: \_\_\_\_\_  
City and State or Country

(e) Report all persons other than those above who control the trading of accounts included in the special account. Use a continuation sheet, if necessary. If there are more than five such persons, show "multiple controllers" in the space below.

Name: \_\_\_\_\_  
Last, First, Middle Initial

Location: \_\_\_\_\_  
City and State or Country

3. Controlled Accounts. If you checked item 1(c), complete (a) or (b) below.

(a) If ten or more accounts are controlled by the advisor, provide on an attachment the account number and name of each pool controlled by the advisor, and the name and location of the CPO.

(b) If fewer than ten accounts are controlled by the advisor, provide on an attachment for each account the account number and names and locations of persons having a ten percent or more financial interest in the account. For commodity pools, provide the account number, name of the pool, and name and location of the CPO.

4. If the person or entity identified in 1(d) has trading authority over, or a 10% or more financial interest in, accounts not included in the special account, complete the information below for each such account. If none, write "none". Use a continuation sheet if necessary. Check "F" for financial interest and "C" for control.

Name: \_\_\_\_\_ Account Number: \_\_\_\_\_  F  C

Name: \_\_\_\_\_ Account Number: \_\_\_\_\_  F  C

5. Are trades and positions in this special account usually associated with commercial activity of the account owner in related cash commodities (i.e., positions considered as hedging in futures or options)?  Yes  No

If "yes," list those specific futures or option markets in which the trader hedges. Use a continuation sheet if necessary.

\_\_\_\_\_

6. Name, location and business phone number of the account executive handling the account. (If account executive is in a foreign country, list country and city.)

Name: \_\_\_\_\_ Business Phone: \_\_\_\_\_  
Last, First, Middle Initial

Location: \_\_\_\_\_  
City and State or Country

7. Firm Name and Address:	8. Name (Print):	
	9. Title:	
	10. Business Phone:	11. Date:
	12. Signature:	

**DEPARTMENT OF JUSTICE****28 CFR Part 16**

[AAG/A Order No. 113-96]

**Exemption of Records System Under the Privacy Act**

AGENCY: Department of Justice.

ACTION: Final rule.

**SUMMARY:** The Department of Justice, Bureau of Prisons (BOP), is exempting a Privacy Act system of records from subsections (c)(3) and (4), (d), (e)(2), and (3), (e)(5) and (e)(8), (f), and (g) of the Privacy Act, 5 U.S.C. 552a. This system of records is the BOP "Telephone Activity Record System (JUSTICE/BOP-011)." Information in this system relates to inmate telephone activity and may include information relating to official Federal investigations and matters of law enforcement of the BOP pursuant to 18 U.S.C. 2510 et. seq., 3621, 4003, 4042, and 4082. The exemptions are necessary to protect third party privacy and to avoid interference with law enforcement activities, e.g., to preclude the disclosure of investigative techniques, to prevent subjects of investigations from frustrating the investigative process, and to more effectively ensure the safety, security and good order of Federal correctional facilities.

EFFECTIVE DATE: February 20, 1996.

**FOR FURTHER INFORMATION CONTACT:** Patricia E. Neely (202-616-0178).

**SUPPLEMENTARY INFORMATION:** On April 21, 1995 (60 FR 19871), a proposed rule was published in the Federal Register with invitation to comment by May 22, 1995. On May 26, 1995 (60 FR 27933), BOP extended the comment period to June 26, 1995. BOP informally provided a further extension of the comment period to the record subjects until July 26, 1995.

One comment was received from a record subject (an inmate) who contended that the proposed exemption would violate privacy rights of the record subjects. Although the basis for this contention is not clear, it appears to be based upon the commenter's belief that the exemptions are unnecessary since "conversations are monitored now and obviously this would deter anyone in his right mind from conducting criminal activities over the phone while incarcerated." However, while the monitoring of inmate telephone calls is successful in deterring many inmates from using BOP telephones to conduct criminal activities or violate BOP regulations, it nevertheless does not deter all inmates or all cases. Therefore,

these exemptions are essential for the reasons stated in this final rule.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, it is hereby stated that the order will not have a "significant economic impact on a substantial number of small entities."

**List of Subjects in 28 CFR Part 16**

Administrative Practices and Procedure, Freedom of Information Act, Government in the Sunshine Act, and the Privacy Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by the Attorney General Order No. 793-78, 28 CFR part 16 is amended as set forth below.

Dated: February 7, 1996.

Stephen R. Colgate,

*Assistant Attorney General for Administration.***PART 16—[AMENDED]**

The authority for Part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g) and 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717 and 9701.

2. 28 CFR 16.97 is amended by adding and reserving paragraph (d) and by adding paragraphs (e) and (f) to read as follows:

**§ 16.97 Exemption of Federal Bureau of Prisons (BOP) Systems—limited access.**

\* \* \* \* \*

(d) [Reserved]

(e) The following system of records is exempt from 5 U.S.C. 552a (c) (3) and (4), (d), (e) (2) and (3), (e)(5) and (e)(8), (f) and (g):

Telephone Activity Record System (JUSTICE/BOP-011).

(f) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2) and/or (k)(2). Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, the applicable exemption may be waived, either partially or totally, by the BOP. Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) to the extent that this system of records is exempt from subsection (d), and for such reasons as those cited for subsection (d) in paragraph (f)(3) below.

(2) From subsection (c)(4) to the extent that exemption from subsection (d) makes this exemption inapplicable.

(3) From the access provisions of subsection (d) because exemption from this subsection is essential to prevent access of information by record subjects that may invade third party privacy; frustrate the investigative process; jeopardize the legitimate correctional interests of safety, security, and good order to prison facilities; or otherwise compromise, impede, or interfere with BOP or other law enforcement agency activities.

(4) From the amendment provisions from subsection (d) because amendment of the records may interfere with law enforcement operations and would impose an impossible administrative burden by requiring that, in addition to efforts to ensure accuracy so as to withstand possible judicial scrutiny, it would require that law enforcement information be continuously reexamined, even where the information may have been collected from the record subject. Also, some of these records come from other Federal criminal justice agencies or State, local and foreign jurisdictions, or from Federal and State probation and judicial offices, and it is administratively impossible to ensure that the records comply with this provision.

(5) From subsection (e)(2) because the nature of criminal and other investigative activities is such that vital information about an individual can be obtained from other persons who are familiar with such individual and his/her activities. In such investigations it is not feasible to rely solely upon information furnished by the individual concerning his/her own activities since it may result in inaccurate information.

(6) From subsection (e)(3) because in view of BOP's operational responsibilities, application of this provision to the collection of information is inappropriate. Application of this provision could provide the subject with substantial information which may in fact impede the information gathering process or compromise an investigation.

(7) From subsection (e)(5) because in the collection and maintenance of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely and complete. Material which may seem unrelated, irrelevant or incomplete when collected may take on added meaning or significance at a later date or as an investigation progresses. Also, some of these records may come from other Federal, State, local and foreign law

enforcement agencies, and from Federal and State probation and judicial offices and it is administratively impossible to ensure that the records comply with this provision. It would also require that law enforcement information be continuously reexamined even where the information may have been collected from the record subject.

(8) From subsection (e)(8) because the nature of BOP law enforcement activities renders impractical the notice of compliance with compulsory legal process. This requirement could present a serious impediment to law enforcement such as revealing investigative techniques or the existence of confidential investigations, jeopardize the security of third parties, or otherwise compromise law enforcement efforts.

(11) From subsections (f) and (g) to the extent that this system is exempt from the access and amendment provisions of subsection (d).

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## 28 CFR Part 16

[AAG/A Order No. 114-96]

### Exemption of Records System Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

**SUMMARY:** The Department of Justice is exempting a Privacy Act system of records from subsections (c) (3) and (4), (d), (e) (1), (2), and (3), (e)(5) and (e)(8), and (g) of the Privacy Act, 5 U.S.C. 552a. This system of records is the "Bureau of Prisons, Office of Internal Affairs Investigative Records, Justice/BOP-012." Information in this system relates to official Federal investigations and law enforcement matters of the Office of Internal Affairs (OIA) of the Federal Bureau of Prisons (BOP), pursuant to the Inspector General Act of 1978, 5 U.S.C. App., as amended by the Inspector General Act amendments of 1988. The exemptions are necessary to avoid interference with the law enforcement functions of the BOP. Specifically, the exemptions are necessary to prevent subjects of investigations from frustrating the investigatory process; to preclude the disclosure of investigative techniques; to protect the identities and physical safety of confidential informants and of law enforcement personnel; to ensure OIA's ability to obtain information from information sources; to protect the privacy of third parties; and to safeguard classified

information as required by Executive Order 12356.

**EFFECTIVE DATE:** February 20, 1996.

**FOR FURTHER INFORMATION CONTACT:** Patricia E. Neely, 202-616-0178.

**SUPPLEMENTARY INFORMATION:** On August 29, 1995 (60 FR 44901), a proposed rule with invitation to comment was published in the Federal Register.

One late comment was received in which the individual was under the erroneous impression that the exemption of a Privacy Act system of records is promulgated to protect the record from disclosure to third parties. Subsection (b) of the Privacy Act already prohibits disclosure to third parties, except as otherwise expressly authorized by that subsection. As permitted by subsections (j) and (k) of the Privacy Act, the proposed rule was promulgated to permit BOP, where necessary and appropriate, to exempt itself from certain of the Act's provisions as they apply to the record subject. The exemptions are essential for the reasons stated in this final rule.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, it is hereby stated that the order will not have "a significant economic impact on a substantial number of small entities."

#### List of Subjects in 28 CFR Part 16

Administrative Practices and Procedures, Courts, Freedom of Information Act, Government in the Sunshine Act, and the Privacy Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793-78, 28 CFR part 16 is amended as set forth below.

Dated: February 7, 1996.

Stephen R. Colgate,  
*Assistant Attorney General for Administration.*

### PART 16—[AMENDED]

1. The authority for Part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, 9701.

2. 28 CFR 16.97 is amended by adding paragraphs (g) and (h) to read as follows:

#### § 16.97 Exemption of the Federal Bureau of Prisons (BOP) Systems-limited access.

\* \* \* \* \*

(g) The following system of records is exempt pursuant to the provisions of 5 U.S.C. 552a(j)(2) from subsections (c) (3) and (4), (d), (e) (1), (2), and (3), (e)(5)

and (e)(8), and (g) of 5 U.S.C. 552a. In addition, the following system of records is exempt pursuant to the provisions of 5 U.S.C. 552a (k)(1) and (k)(2) from subsections (c)(3), (d), and (e)(1) of 5 U.S.C. 552a:

Bureau of Prisons, Office of Internal Affairs  
Investigative Records, JUSTICE/BOP-012

(h) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2), (k)(1), and (k)(2). Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, e.g., public source materials, the applicable exemption may be waived, either partially or totally, by the Office of Internal Affairs (OIA). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because release of disclosure accounting could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation and the fact that they are subjects of the investigation, and reveal investigative interest by not only the OIA but also by the recipient agency. Since release of such information to the subjects of an investigation would provide them with significant information concerning the nature of the investigation, release could result in activities that would impede or compromise law enforcement such as: the destruction of documentary evidence; improper influencing of witnesses; endangerment of the physical safety of confidential sources, witnesses, and law enforcement personnel; fabrication of testimony; and flight of the subject from the area. In addition, release of disclosure accounting could result in the release of properly classified information which could compromise the national defense or disrupt foreign policy.

(2) From subsection (c)(4) because this system is exempt from the access provisions of subsection (d) pursuant to subsections (j) and (k) of the Privacy Act.

(3) From the access and amendment provisions of subsection (d) because access to the records contained in this system of records could provide the subject of an investigation with information concerning law enforcement activities such as that relating to an actual or potential criminal, civil or regulatory violation; the existence of an investigation; the