

Dated: August 15, 1996.

Russell D. Morris,
Commissioner.

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DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

Privacy Program

AGENCY: Department of the Army, DOD.
ACTION: Final rule.

SUMMARY: The Department of the Army is revising its Privacy Act exemption regulations to correct minor administrative errors. No additions to exemption rules are being made at this time.

EFFECTIVE DATE: August 26, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Pat Turner at (520) 538-6856 or DSN 879-6856.

SUPPLEMENTARY INFORMATION: Executive Order 12866. The Director, Administration and Management, Office of the Secretary of Defense has determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of \$100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act of 1980. The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act. The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within

the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

List of Subjects in 32 CFR Part 505

Privacy.

Accordingly, 32 CFR part 505 is amended as follows:

1. The authority citation for 32 CFR part 505 continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat 1896 (5 U.S.C.552a).

2. Section 505.5 is revised to read as follows:

§ 505.5 Exemptions.

(a) *Exempting systems of records.* The Secretary of the Army may exempt Army systems of records from certain requirements of the Privacy Act. There are two kinds of exemptions: General and specific. The general exemption relieves systems of records from most requirements of the Act; the specific exemptions from only a few. See appendix C to this part.

(b) *General exemptions.* Only Army activities actually engaged in the enforcement of criminal laws as their primary function may claim the general exemption. To qualify for this exemption, a system must consist of:

(1) Information compiled to identify individual criminals and alleged criminals, which consists only of identifying data and arrest records; type and disposition of charges; sentencing, confinement, and release records; and parole and probation status;

(2) Information compiled for the purpose of criminal investigation including efforts to prevent, reduce, or control crime and reports of informants and investigators associated with an identifiable individual; or

(3) Reports identifiable to an individual, compile at any stage of the process of enforcement of the criminal laws, from arrest or indictment through release from supervision.

(c) *Specific exemptions.* The Secretary of the Army has exempted all properly classified information and a few systems of records that have the following kinds of information, from certain parts of the Privacy Act. The Privacy Act exemption cite appears in parentheses after each category.

(1) Classified information in every Army system of records. This exemption is not limited to the systems listed in Sec. 505.5(d). Before denying as individual access to classified information, the Access and Amendment Refusal Authority must make sure that it was properly classified under the standards of Executive Orders 11652, 12065, or 12958 and that it must

remain so in the interest of national defense of foreign policy. (5 U.S.C. 552a(k)(1)).

(2) Investigatory data for law enforcement purposes (other than that claimed under the general exemption). However, if this information has been used to deny someone a right, privilege or benefit to which the individual is entitled by Federal law, it must be released, unless doing so would reveal the identity of a confidential source. (5 U.S.C. 552a(k)(2)).

(3) Records maintained in connection with providing protective services to the President of the United States or other individuals protected pursuant to Title 18 U.S.C., section 3056. (5 U.S.C. 552a(k)(3)).

(4) Statistical data required by statute and used only for statistical purposes and not to make decisions on the rights, benefits, or entitlements of individuals, except for census records which may be disclosed under Title 13 U.S.C., section 8. (5 U.S.C. 552a(k)(4)).

(5) Data compiled to determine suitability, eligibility, or qualifications for Federal service, Federal contracts, or access to classified information. This information may be withheld only to the extent that disclosure would reveal the identify of a confidential source. (5 U.S.C. 552a(k)(5)).

(6) Testing material used to determine if a person is qualified for appointment or promotion in the Federal service. This information may be withheld only if disclosure would compromise the objectivity or fairness of the examination process. (5 U.S.C. 552a(k)(6)).

(7) Information to determine promotion potential in the Armed Forces. Information may be withheld, but only to the extent that disclosure would reveal the identity of a confidential source. (5 U.S.C. 552a(k)(7)).

(d) *Procedures.* When a system manager seeks an exemption for a system of records, the following information will be furnished to the Director of Information Systems for Command, Control, Communications and Computers, Washington, DC 20310-0107; applicable system notice, exemptions sought, and justification. After appropriate staffing and approval by the Secretary of the Army, a proposed rule will be published in the Federal Register, followed, by a final rule 60 days later. No exemption may be invoked until these steps have been completed.

(e) *Exempt Army records.* The following records may be exempt from certain parts of the Privacy Act:

(1) A0020-1aSAIG.

(i) *System name*: Inspector General Investigative Files.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2) or (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(4)(G), (e)(4)(H), and (f).

(iii) *Authority*: 5 U.S.C. 552a(k)(2) and (k)(5).

(iv) *Reasons*: Selected portions and/or records in this system are compiled for the purposes of enforcing civil, criminal, or military law, including executive orders or regulations validly adopted pursuant to law. Granting individuals access to information collected and maintained in these files could interfere with enforcement proceedings; deprive a person of a right to fair trial or an impartial adjudication or be prejudicial to the conduct of administrative action affecting rights, benefits, or privileges of individuals, constitute an unwarranted invasion of personal privacy; disclose the identity of a confidential source; disclose nonroutine investigative techniques and procedures, or endanger the life or physical safety of law enforcement personnel; violate statutes which authorize or require certain information to be withheld from the public such as: Trade or financial information, technical data, National Security Agency information, or information relating to inventions. Exemption from access necessarily includes exemption from the other requirements.

(2) *A0020-1bSAIG*.

(i) *System name*: Inspector General Action Request/Assistance Files.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2) or (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(4)(G), (e)(4)(H), and (f).

(iii) *Authority*: 5 U.S.C. 552a(k)(2) and (k)(5).

(iv) *Reasons*: Selected portions and/or records in this system are compiled for the purposes of enforcing civil, criminal, or military law, including Executive Orders or regulations validly adopted pursuant to law. Granting individuals access to information collected and maintained in these files could interfere with enforcement proceedings; deprive a person of a right to fair trial or an impartial adjudication or be prejudicial to the conduct of administrative action affecting rights, benefits, or privileges of individuals; constitute an unwarranted invasion of personal privacy; disclose the identity of a confidential source; disclose nonroutine investigative techniques and

procedures, or endanger the life or physical safety of law enforcement personnel; violate statutes which authorize or require certain information, to be withheld from the public such as: Trade or financial information, technical data, National Security Agency information, or information relating to inventions. Exemption from access necessarily includes exemption from the other requirements.

(3) *A0025-55SAIS*.

(i) *System name*: Request for Information Files.

(ii) *Exemption*: (A) All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f) and (g).

(B) All portions of the system maintained by offices of Initial Denying Authorities which do not have a law enforcement mission and which fall within the scope of 5 U.S.C. 552a(k)(1) through (k)(7) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f).

(iii) *Authority*: 5 U.S.C. 552a(j)(2), and (k)(1) through (k)(7).

(iv) *Reasons*: This system of records is maintained solely for the purpose of administering the Freedom of Information Act and processing routine requests for information. To insure an accurate and complete file on each case, it is sometimes necessary to include copies of records which have been the subject of a Freedom of Information Act request. This situation applies principally to cases in which an individual has been denied access and/or amendment of personal records under an exemption authorized by 5 U.S.C. 552. The same justification for the original denial would apply to denial of access to copies maintained in the Freedom of Information Act file. It should be emphasized that the majority of records in this system are available on request to the individual and that all records are used solely to process requests. This file is not used to make any other determinations on the rights, benefits or privileges of individuals.

(4) *A0027-1DAJA*.

(i) *System name*: General Legal Files.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(1), (k)(2), (k)(5), (k)(6), and (k)(7) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), and (f).

(iii) *Authority*: 5 U.S.C. 552a(k)(1), (k)(2), (k)(5), (k)(6), and (k)(7).

(iv) *Reasons*: Various records from other exempted systems of records are

sometimes submitted for legal review or other action. A copy of such records may be permanently incorporated into the General Legal Files system of records as evidence of the facts upon which a legal opinion or review was based. Exemption of the General Legal Files system of records is necessary in order to ensure that such records continue to receive the same protection afforded them by exemptions granted to the systems of records in which they were originally filed.

(5) *A0027-10aDAJA*.

(i) *System name*: Prosecutorial Files.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

(iii) *Authority*: 5 U.S.C. 552a(j)(2).

(iv) *Reasons*: (A) From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f) and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges; and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from other requirements.

(B) From subsection (c)(3) because the release of accounting of disclosure would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(C) From subsection (e)(2) because in a criminal or other law enforcement investigation, the requirement that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(D) From subsection (e)(3) because compliance would constitute a serious

impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(E) From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures or evidence.

(6) *A0027-10bDAJA*.

(i) *System name*: Courts-Martial Files.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(d)(2), (d)(4), (e)(2), (e)(3), (e)(4)(H), and (g).

(iii) *Authority*: 5 U.S.C. 552a(j)(2).

(iv) *Reasons*: Courts-martial files are exempt because a large body of existing criminal law governs trials by courts-martial to the exclusion of the Privacy Act. The Congress recognized the judicial nature of courts-martial proceedings and exempt them from the Administrative Procedures Act by specifically excluding them from the definition of the term 'agency' (Title 5 U.S.C. 551(1)(f)). Substantive and procedural law applicable in trials by court-martial is set forth in the Constitution, the Uniform Code of Military Justice (UCMJ) Manual for Courts-Martial, United States, 1969 (Revised edition), and the decisions of the U.S. Court of Military Appeals and Courts of Military Review. The right of the accused not to be compelled to be a witness against himself and the need to obtain accurate and reliable information with regard to criminal misconduct necessitate the collection of information from sources other than the individual accused. Advising the accused or any other witness of the authority for collection of the information, the purpose for which it is to be used, whether disclosure is voluntary or mandatory, and the effects on the individual of not providing the information would unnecessarily disrupt and confuse court-martial proceedings. It is the responsibility of the investigating officer or military judge to determine what information will be considered as evidence. In making the determination, the individual's rights are weighed against the accused's right to fair trial. The determination is final for the moment and the witness' failure to comply with the decision would delay the proceeding and may result in prosecution of the witness for wrongful refusal to testify. In a trial by court-martial, the accused has a unique

opportunity to assure that the record is accurate, relevant, timely, and complete as it is made. He has the right to be present and the trial, to be represented by counsel at general and special courts-martial, and to consult with counsel in summary courts-martial, to review and challenge all information before it is introduced into evidence, to cross-examine all witnesses against him, to present evidence in his behalf and in general and special courts-martial, to review and comment upon the record for trial before it is authenticated. Procedures for correction of the record and controlled by paragraphs 82, 86, and 95, Manual for Courts-Martial, 1969 (Revised edition). After completion of appellate review, the record may not be amended. Article 76 of the Uniform Code of Military Justice (10 U.S.C. 876) provides that the proceedings, findings and sentences of courts-martial as approved, reviewed or affirmed are final and conclusive and binding upon all departments, courts, agencies, and of the United States subject only to action upon a petition for new trial (Article 73, UCMJ), action by the Secretary concerned (Article 74, UCMJ), and the authority of the President.

(7) *A0190-5DAMO*.

(i) *System name*: Vehicle Registration System (VRS).

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

(iii) *Authority*: 5 U.S.C. 552a(j)(2).

(iv) *Reasons*: (A) From subsections (c)(4), (d), (e)(4)(G), (e)(4)(H), (f) and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges; and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from other requirements.

(B) From subsection (c)(3) because the release of accounting of disclosure

would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(C) From subsection (e)(2) because in a criminal or other law enforcement investigation, the requirement that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(D) From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(E) From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures or evidence.

(8) *A0190-9DAMO*.

(i) *System name*: Absentee Case Files.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

(iii) *Authority*: 5 U.S.C. 552a(j)(2).

(iv) *Reasons*: (A) From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f) and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges; and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from other requirements.

(B) From subsection (c)(3) because the release of accounting of disclosure

would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(C) From subsection (e)(2) because in a criminal or other law enforcement investigation, the requirement that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(D) From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(E) From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures or evidence.

(9) *A0190-14DAMO*.

(i) *System name*: Registration and Permit Files.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3).

(iii) *Authority*: 5 U.S.C. 552a(k)(2).

(iv) *Reasons*: From subsection (c)(3) because the release of accounting of disclosures would place the subject of an investigation on notice that he or she is under investigation and provide him or her with significant information concerning the nature of the investigation thus resulting in a serious impediment to criminal law enforcement investigations, activities or the compromise of properly classified material.

(10) *A0190-30DAMO*.

(i) *System name*: Military Police Investigator Certification Files.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2), (k)(5), and (k)(7) may be exempt from the provisions of 5 U.S.C. 552a(d), (e)(4)(G), (e)(4)(H), and (f).

(iii) *Authority*: 5 U.S.C. 552a(k)(2), (k)(5) and (k)(7).

(iv) *Reasons*: From subsections (d), (e)(4)(G), (e)(4)(H), and (f) because disclosure of portions of the information in this system of records would seriously impair selection and

management of these uniquely functioning individuals; hamper the inclusion of comments, reports and evaluations concerning the performance, qualifications, character, actions, and propensities of the agency; and prematurely compromise investigations which either concern the conduct of the agent himself or herself, or investigations wherein he or she is integrally or only peripherally involved. Additionally, the exemption from access necessarily includes exemptions from the amendment and the agency procedures that would otherwise be required to process these types of requests.

(11) *A0190-40DAMO*.

(i) *System name*: Serious Incident Reporting Files.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

(iii) *Authority*: 5 U.S.C. 552a(j)(2).

(iv) *Reasons*: (A) From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f) and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges, and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from the other requirements.

(B) From subsection (c)(3) because of the release of accounting of disclosure would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(C) From subsection (e)(2) because in a criminal or other law enforcement investigation, they require that information be collected to the greatest extent practicable from the subject individual would alert the subject as to

the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(D) From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(E) From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and be revealing investigative techniques, procedures or evidence.

(12) *A0190-45DAMO*

(i) *System name*: Offense Reporting System (ORS).

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

(iii) *Authority*: 5 U.S.C. 552a(j)(2).

(iv) *Reasons*: (A) From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f) and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges, and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from the other requirements.

(B) From subsection (c)(3) because of the release of accounting of disclosure would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(C) From subsection (e)(2) because in a criminal or other law enforcement investigation, they require that information be collected to the greatest extent practicable from the subject

individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(D) From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(E) From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and be revealing investigative techniques, procedures or evidence.

(13) *A0190-47DAMO*.

(i) *System name*: Correctional Reporting System (CRS).

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f), and (g).

(iii) *Authority*: 5 U.S.C. 552a(j)(2).

(iv) *Reasons*: Granting individuals access to information collected and maintained by this component relating to the enforcement of criminal laws could interfere with the orderly administration of justice. Disclosure of this information could jeopardize the safety and well-being of information sources, correctional supervisors and other confinement facility administrators. Disclosure of the information could also result in the invasion of privacy of persons who provide information used in developing individual treatment programs. Further, disclosure could result in a deterioration of a prisoner's self-image and adversely affect meaningful relationships between a prisoner and his counselor or supervisor. These factors are, of course, essential to the rehabilitative process. Exemption from the remaining provisions is predicated upon the exemption from disclosure or upon the need for proper functioning of correctional programs.

(14) *A0195-2aUSACIDC*.

(i) *System name*: Source Register.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(5), (e)(8), (f), and (g).

(iii) *Authority*: 5 U.S.C. 552a(j)(2).

(iv) *Reasons*: (A) From subsection (c)(3) because release of accounting of disclosures would provide the informant with significant information

concerning the nature of a particular investigation, the internal methods and techniques involved in criminal investigation, and the investigative agencies (state, local or foreign) involved in a particular case resulting in a serious compromise of the criminal law enforcement processes.

(B) From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f), and (g) because disclosure of portions of the information in this system of records would seriously impair the prudent and efficient handling of these uniquely functioning individuals; hamper the inclusion of comments and evaluations concerning the performance qualification, character, identity, and propensities of the informant; and prematurely compromise criminal investigations which either concern the conduct of the informant himself or investigations wherein he/she is integrally or only peripherally involved. Additionally, the exemption from access necessarily includes exemption from amendment, certain agency requirements relating to access and amendment of records and civil liability predicated upon agency compliance with specific provisions of the Privacy Act.

(C) From subsection (d), (e)(4)(G), (e)(4)(H), and (f) are also necessary to protect the security of information properly classified in the interest of national defense and foreign policy.

(D) From subsection (e)(1) because the nature of the criminal investigative function creates unique problems in prescribing what information concerning informants is relevant or necessary. Due to close liaison and existing relationships with other Federal, state, local and foreign law enforcement agencies, information about informants may be received which may relate to a case then under the investigative jurisdiction of another Government agency but it is necessary to maintain this information in order to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of both the USACIDC and other agencies. Additionally, the failure to maintain all known information about informants could affect the effective utilization of the individual and substantially increase the operational hazards incumbent in the employment of an informant in very compromising and sensitive situations.

(E) From subsection (e)(2) because collecting information from the informant would potentially thwart both the criminal investigative process and the required management control over these individuals by appraising the

informant of investigations or management actions concerning his involvement in criminal activity or with USACIDC personnel.

(F) From subsection (e)(3) because supplying an informant with a form containing the information specified could result in the compromise of an investigation, tend to inhibit the cooperation of the informant, and render ineffectual investigative techniques and methods utilized by USACIDC in the performance of its criminal law enforcement duties.

(G) From subsection (e)(5) because this requirement would unduly hamper the criminal investigative process due to type of records maintained an necessity for rapid information retrieval and dissemination. Also, in the collection of information about informants, it is impossible to determine what information is then accurate, relevant, timely and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation or contact brings new details to light. In the criminal investigative process, accuracy and relevance of information concerning informants can only be determined in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability of trained investigators to exercise their judgment in reporting information relating to informant's actions and would impede the development of criminal intelligence necessary for effective law enforcement.

(H) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to criminal law enforcement by revealing investigative techniques, procedures, and the existence of confidential investigations.

(15) *A0195-2bUSACIDC*.

(i) *System name*: Criminal Investigation and Crime Laboratory Files.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f), and (g).

(iii) *Authority*: 5 U.S.C. 552(j)(2).

(iv) *Reasons*: (A) From subsection (c)(3) because the release of accounting of disclosures would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning coordinated investigative effort and techniques and the nature of the investigation, resulting in a serious

impediment to criminal law enforcement activities or the compromise of properly classified material.

(B) From subsections (c)(4), (d), (e)(4)(G), (e)(4)(H), (f), and (g) because access might compromise on-going investigations, reveal classified information, investigatory techniques or the identity of confidential informants, or invade the privacy of persons who provide information in connection with a particular investigation. The exemption from access necessarily includes exemption from amendment, certain agency requirements relating to access and amendment of records, and civil liability predicated upon agency compliance with those specific provisions of the Privacy Act. The exemption from access necessarily includes exemption from other requirements.

(C) From subsection (e)(1) because the nature of the investigative function creates unique problems in prescribed specific perimeters in a particular case as to what information is relevant or necessary. Also, due to close liaisons and working relationships with other Federal, state, local, and foreign law enforcement agencies, information may be received which may relate to a case then under the investigative jurisdiction of another Government agency but it is necessary to maintain this information in order to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of both the USACIDC and other agencies.

(D) From subsection (e)(2) because collecting information from the subject of criminal investigations would thwart the investigative process by placing the subject of the investigation on notice thereof.

(E) From subsection (e)(3) because supplying an individual with a form containing the information specified could result in the compromise of an investigation, tend to inhibit the cooperation of the individual queried, and render ineffectual investigation techniques and methods utilized by USACIDC in the performance of their criminal law enforcement duties.

(F) From subsection (e)(5) because this requirement would unduly hamper the criminal investigative process due to the great volume of records maintained and the necessity for rapid information retrieval and dissemination. Also, in the collection of information for law enforcement purposes, it is impossible to determine what information is then accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may

acquire new significance as further investigation brings new details to light. In the criminal investigation process, accuracy and relevance of information can only be determine in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability of trained investigators to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement.

(G) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to criminal law enforcement by revealing investigative techniques, procedures, and the existence of confidential investigations.

(16) *A0195-6USACIDC*.

(i) *System name:* Criminal Investigation Accreditation and Polygraph Examiner Evaluation Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2), (k)(5), or (k)(7) may be exempt from the provisions of 5 U.S.C. 552a(d), (e)(1), (e)(4)(G), (e)(4)(H), and (f).

(iii) *Authority:* 5 U.S.C. 552a(k)(2), (k)(5), and (k)(7).

(iv) *Reasons:* (A) From subsections (d), (e)(4)(G), (e)(4)(H), and (f) because disclosure of portions of the information in this system of records would seriously impair the selection and management of these uniquely functioning individuals; hamper the inclusion of comments, reports and evaluations concerning the performance, qualifications, character, action and propensities of the agent; and prematurely compromise investigations with either concern the conduct of the agent himself or investigations wherein he or she is integrally or only peripherally involved. Additionally, the exemption from access necessarily includes exemptions from the amendment and the agency procedures which would otherwise be required to process these types of requests.

(B) From subsection (e)(1) because the failure to maintain all known information about agents could affect the effective utilization of the individual and substantially increase the operational hazards incumbent in the employment of agents in very compromising and sensitive situations.

(17) *A0210-7DAMO*.

(i) *System name:* Expelled or Barred Person Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

(iii) *Authority:* 5 U.S.C. 552a(j)(2).

(iv) *Reasons:* (A) From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f) and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges, and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from the other requirements.

(B) From subsection (c)(3) because of the release of accounting of disclosure would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(C) From subsection (e)(2) because in a criminal or other law enforcement investigation, they require that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(D) From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(E) From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and be revealing investigative techniques, procedures or evidence.

(18) *A0340JDMSS*.

(i) *System name:* HDQA Correspondence and Control/Central File System.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k) may be exempt from the provisions of 5 U.S.C.

552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f).

(iii) *Authority*: 5 U.S.C. 552a(k)(1) through (k)(7).

(iv) *Reasons*: Documents are generated by other elements of the Army or are received from other agencies and individuals. Because of the broad scope of the contents of this system and since the introduction of documents is largely unregulatable, specific portions or documents that may require an exemption cannot be predetermined. Therefore, and to the extent that such material is received and maintained, selected individual documents may be exempted from disclosure under any of the provisions of sections (k)(1) through (k)(7) of 5 U.S.C. 552a.

(19) *A0340-21SAIS*.

(i) *System name*: Privacy Case Files.

(ii) *Exemption*: (A) All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f), and (g).

(B) All portions of this system maintained by the DA Privacy Review Board and those Access and Amendment Refusal Authorities which do not have a law enforcement mission and which fall within the scope of 5 U.S.C. 552a(k)(1) through (k)(7) may be exempt from the provisions of 5 U.S.C. 552a(c)(3)(d), (e)(1), (e)(4)(G), (e)(4)(H), and (f).

(iii) *Authority*: 5 U.S.C. 552a(j)(2) and (k)(7).

(iv) *Reasons*: This system of records is maintained solely for the purpose of administering the Privacy Act of 1974. To insure accurate and complete file on each case, it is sometimes necessary to include copies of records which have been the subject of a Privacy Act request. This situation applies principally to cases in which an individual has been denied access and/or amendment of personal records under an exemption authorized by 5 U.S.C. 552a. The same justification for the original denial would apply to a denial of access and/or amendment of copies maintained in the Privacy Act Case File. It should be emphasized that the majority of records in this system are available on request to the individual and that all records are used solely to administer Privacy Act requests. This file is not used to make any other determination on the rights, benefits or privileges of individuals.

(20) *A0350-37TRADOC*.

(i) *System name*: Skill Qualification Test (SQT).

(ii) *Exemption*: All portions of this system which fall within the scope of 5

U.S.C. 552a(k)(6) may be exempt from the provisions of 5 U.S.C. 552a(d).

(iii) *Authority*: 5 U.S.C. 552a(k)(6).

(iv) *Reasons*: Exemption is needed for the portion of records which pertains to individual item response on tests, to preclude compromise of scoring keys.

(21) *A0351-12DAPE*.

(i) *System name*: Applicants/Students, U.S. Military Academy Prep School.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(5) and (k)(7) may be exempt from the following provision of 5 U.S.C. 552a(d).

(iii) *Authority*: 5 U.S.C. 552a(k)(5) and (k)(7).

(iv) *Reasons*: It is imperative that the confidential nature of evaluation material on individuals, furnished to the US Military Academy Preparatory School under an express promise of confidentiality, be maintained to ensure the candid presentation of information necessary in determinations involving admission to or retention at the United States Military Academy and suitability for commissioned military service.

(22) *A0351-17aUSMA*.

(i) *System name*: U.S. Military Academy Candidate Files.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(5), (k)(6), or (k)(7) may be exempt from the provisions of 5 U.S.C. 552a(d).

(iii) *Authority*: 5 U.S.C. 552a(k)(5), (k)(6) and (k)(7).

(iv) *Reasons*: (A) From subsection (d) because access might reveal investigatory and testing techniques. The exemption from access necessarily includes exemption from amendment, certain agency requirements relating to access and amendment of records, and civil liability predicated upon agency compliance with those specific provisions of the Privacy Act.

(B) Exemption is necessary to protect the identity of individuals who furnished information to the United States Military Academy which is used in determining suitability, eligibility, or qualifications for military service and which was provided under an express promise of confidentiality.

(C) Exemption is needed for the portion of records compiled within the Academy which pertain to testing or examination material used to rate individual qualifications, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

(D) Exemption is required for evaluation material used by the Academy in determining potential for

promotion in the Armed Services, to protect the identity of a source who furnished information to the Academy under an express promise of confidentiality.

(23) *A0351-17bUSMA*.

(i) *System name*: U.S. Military Academy Personnel Cadet Records.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(5) or (k)(7) may be exempt from the provisions of 5 U.S.C. 552a(d).

(iii) *Authority*: 5 U.S.C. 552a(k)(5) and (k)(7).

(iv) *Reasons*: It is imperative that the confidential nature of evaluation and investigatory material on candidates, cadets, and graduates, furnished to the United States Military Academy under promise of confidentiality be maintained to insure the candid presentation of information necessary in determinations involving admissions to the Military Academy and suitability for commissioned service and future promotion.

(24) *A0380-13DAMO*.

(i) *System name*: Local Criminal Intelligence Files.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

(iii) *Authority*: 5 U.S.C. 552a(j)(2).

(iv) *Reasons*: (A) From subsections (e)(4)(G), (e)(4)(H), (f), and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges; and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from the other requirements.

(B) From subsection (c)(3) because the release of accounting of disclosure would place the subject of an investigation on notice that he is under investigation and provide him with

significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(C) From subsection (e)(2) because, in a criminal or other law enforcement investigation, the requirement that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(D) From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(E) From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures or evidence.

(25) *A0380-67DAMI*.

(i) *System name*: Personnel Security Clearance Information Files.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(1), (k)(2), or (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I).

(iii) *Authority*: 5 U.S.C. 552a(k)(1), (k)(2), or (k)(5).

(iv) *Reasons*: The material contained in this record system contains data concerning sensitive sources and operational methods whose dissemination must be strictly controlled because of national security intelligence considerations. Disclosure of documents or the disclosure accounting record may compromise the effectiveness of the operation, and negate specialized techniques used to support intelligence or criminal investigative programs, or otherwise interfere with the orderly conduct of intelligence operations or criminal investigations.

(26) *A0381-20bDAMI*.

(i) *System name*: Counterintelligence/ Security Files.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (d)(5), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I), and (f).

(iii) *Authority*: 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5).

(iv) *Reasons*: (A) From subsection (c)(3) because disclosing the agencies to

which information from this system has been released could inform the subject of an investigation of an actual or potential criminal violation, or intelligence operation or investigation; or the existence of that investigation or operation; of the nature and scope of the information and evidence obtained as to his/her activities or of the identity of confidential sources, witnesses, and intelligence personnel and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an investigation; endanger the physical safety of confidential sources, witnesses, intelligence personnel, and their families; lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony and disclose investigative techniques and procedures. In addition, granting access to such information could disclose classified and sensitive sources, information, and operational methods and could constitute an unwarranted invasion of the personal privacy of others.

(B) From subsection (d)(1) through (d)(5) because granting access to records in this system of records could inform the subject of a counterintelligence operation or investigation of an actual or potential criminal violation or the existence of that operation or investigation; of the nature and scope of the information and evidence obtained as to his/her activities; or of the identity of confidential sources, witnesses and intelligence personnel and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an operation or investigation; endanger the physical safety of confidential sources, witnesses, intelligence personnel and their families; lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony and disclose investigative techniques and procedures. In addition, the agency is required to protect the confidentiality of sources who furnished information to the Government under an expressed promise of confidentiality or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. This confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of specific

information in the early stages of an investigation or operation. Relevance and necessity are often questions of judgement and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established. In addition, during the course of the investigation or operation, the investigator may obtain information which is incidental to the main purpose of the investigative jurisdiction of another agency. Such information cannot readily be segregated. Furthermore, during the course of the investigation or operation, the investigator may obtain information concerning violations of laws other than those which are within the scope of his/her jurisdiction. In the interest of effective intelligence operations and law enforcement, military intelligence agents should retain information, since it is an aid in establishing patterns of criminal or intelligence activity and provide valuable leads for other law enforcement or intelligence agencies.

(D) From subsection (e)(4)(G), (e)(4)(H), and (f) because this system or records is being exempt from subsections (d) of the Act, concerning access to records. These requirements are inapplicable to the extent that this system of records will be exempt from subsections (d)(1) through (d)(5) of the Act. Although the system would be exempt from these requirements, the Deputy Chief of Staff for Intelligence has published information concerning its notification, access, and contest procedures because under certain circumstances, the Deputy Chief of Staff for Intelligence could decide it is appropriate for an individual to have access to all or a portion of his/her records in this system of records.

(E) From subsection (e)(4)(I) because it is necessary to protect the confidentiality of the sources of information, to protect the privacy and physical safety of confidential sources and witnesses and to avoid the disclosure of investigative techniques and procedures. Although the system will be exempt from this requirement, the Deputy Chief of Staff for Intelligence has published such a notice in broad, generic terms.

(27) *A0381-100aDAMI*.

(i) *System name*: Intelligence/ Counterintelligence Source Files.

(ii) *Exemption*: All portions of this system of records that fall within the scope of 5 U.S.C. 552a(k)(1), (k)(2), or (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (d)(5), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I), and (f).

(iii) *Authority*: 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5).

(iv) *Reasons*: (A) From subsection (c)(3) because disclosing the agencies to which information from this system has been released could reveal the subject's involvement in a sensitive intelligence or counterintelligence operation or investigation of an actual or potential criminal violation, or intelligence operation or investigation; or the existence of that investigation or operation. Granting access to such information could seriously impede or compromise an investigation or operation; endanger the physical safety of participants and their families, confidential sources, witnesses, intelligence personnel, and their families; and lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony and disclose investigative techniques and procedures.

(B) From subsection (d)(1) through (d)(5) because granting access to records could inform the subject of an intelligence or counterintelligence operation or investigation of an actual or potential criminal violation or the existence of that operation or investigation; or the nature and scope of the information and evidence obtained, or of the identity of confidential sources, witnesses and intelligence personnel. Granting access to such information could seriously impede or compromise an operation or investigation; endanger the physical safety of confidential sources, witnesses, intelligence personnel and their families; lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony; disclose investigative techniques and procedures; invade the privacy of those individuals involved in intelligence programs and their families; compromise and thus negate specialized techniques used to support intelligence programs; and interfere with and negate the orderly conduct of intelligence and counterintelligence operations and investigations. In addition, the agency is required to protect the confidentiality of sources who furnished information to the Government under an expressed promise of confidentiality or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. This confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of specific information in the early stages of an

investigation or operation. Relevance and necessity are often questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established. In addition, during the course of the investigation or operation, the investigator or operative may obtain information which is incidental to the main purpose of the investigative jurisdiction of another agency. Such information cannot readily be segregated. Furthermore, during the course of the investigation or operation, the investigator may obtain information concerning violations of law other than those which are within the scope of his/her jurisdiction. In the interest of effective intelligence operations and law enforcement, military intelligence agents should retain information, since it is an aid in establishing patterns of criminal or intelligence activity and provides valuable leads for other law enforcement or intelligence agencies.

(D) From subsection (e)(4)(G), (e)(4)(H), and (f) because this system of records is being exempt from subsection (d) of the Act concerning access to records. These requirements are inapplicable to the extent that this system of records will be exempt from subsections (d)(1) through (d)(5) of the Act. Although the system would be exempt from these requirements, the Deputy Chief of Staff for Intelligence has published information concerning its notification, access, and contest procedures because under certain circumstances, the Deputy Chief of staff for Intelligence could decide it is appropriate for an individual to have access to all or a portion of his/her records in this system of records.

(E) From subsection (e)(4)(I) because it is necessary to protect the confidentiality of sources of information, to protect the privacy and physical safety of participants and their families, confidential sources, and witnesses and to avoid the disclosure of specialized techniques and procedures. Although the system will be exempt from this requirement, the Deputy Chief of Staff for Intelligence has published such a notice in broad generic terms.

(28) *A0381-100bDAMI*

(i) *System name*: Technical Surveillance Index.

(ii) *Exemption*: All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (d)(5), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I).

(iii) *Authority*: 5 U.S.C. 552a(k)(1), (k)(2) or (k)(5).

(iv) *Reasons*: (A) From subsection (c)(3) because disclosing the identities of agencies to which information from this system has been released could inform the subject of an investigation of an actual or potential criminal violation or intelligence operation; of the existence of that investigation or operation; of the nature and scope of the information and evidence obtained as to his/her activities or of the identify of confidential sources, witnesses, and intelligence or law enforcement personnel and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an investigation; endanger the physical safety of confidential sources, witnesses, intelligence or law enforcement personnel, and their families; lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony and disclose investigative techniques and procedures. In addition, granting access to such information could disclose classified and sensitive sources and operational methods and could constitute an unwarranted invasion of the personal privacy of others.

(B) From subsection (d)(1) through (d)(5) because granting access to records in this system of records could inform the subject of an investigation of an actual or potential criminal violation; of the existence of that investigation; of the nature and scope of the information and evidence obtained as to his/her activities; or of the identity of confidential sources, witnesses and intelligence or law enforcement personnel and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an investigation; endanger the physical safety of confidential sources, witnesses, intelligence or law enforcement personnel and their families; lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony and disclose investigative techniques and procedures. In addition, granting access to such information could disclose classified, sensitive sources and operational methods and could constitute an unwarranted invasion of the personal privacy of others.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of specific information in the early stages of an investigation or operation. Relevance and necessity are often questions of judgment and timing, and it is only after

the information is evaluated that the relevance and necessity of such information can be established. In addition, during the course of the investigation or operation, the investigator may obtain information which is incidental to the main purpose of the investigative jurisdiction of another agency. Such information cannot readily be segregated. Furthermore, during the course of the investigation or operation, the investigator may obtain information concerning violation of laws other than those which are within the scope of his/her jurisdiction. In the interest of effective intelligence operations and law enforcement, criminal law enforcement investigators and military intelligence agents should retain this information, since it can aid in establishing patterns of criminal or intelligence activity and can provide valuable leads for other law enforcement or intelligence agencies.

(D) From subsections (e)(4)(G) and (e)(4)(H) because this system of records is being exempt from subsections (d) of the Act, concerning access to records, these requirements are inapplicable to the extent that this system of records will be exempt from subsections (d)(1) through (d)(5) of the Act. Although the system would be exempt from these requirements, the Deputy Chief of Staff for Intelligence and the U.S. Army Criminal Investigations Command have published information concerning its notification, access, and contest procedures for their respective areas because, under certain circumstances, the Deputy Chief of Staff for Intelligence or the U.S. Army Criminal Investigations Command could decide it is appropriate for an individual to have access to all or a portion of his/her records in this system of records.

(E) From subsection (e)(4)(I) because it is necessary to protect the confidentiality of the sources of information, to protect the privacy and physical safety of confidential sources and witnesses and to avoid the disclosure of investigative techniques and procedures. Although the system will be exempt from this requirement, the Deputy Chief of Staff for Intelligence and the U.S. Army Criminal Investigations Command have published such a notice in broad, generic terms.

(29) *A0601-141DASG.*

(i) *System name:* Army Medical Procurement Applicant Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(5) may be exempt from the provisions of 5 U.S.C. 552a(d).

(iii) *Authority:* 5 U.S.C. 552a(k)(5).

(iv) *Reasons:* It is imperative that the confidential nature of evaluations and investigatory material on applicants applying for enlistment furnished to the US Army Recruiting Command under an express promise of confidentiality, be maintained to insure the candid presentation of information necessary in determinations of enlistment and suitability for enlistment into the United States Army.

(30) *A0601-210aUSAREC.*

(i) *System name:* Enlisted Eligibility Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(5) may be exempt from the provisions of 5 U.S.C. 552a(d).

(iii) *Authority:* 5 U.S.C. 552a(k)(5).

(iv) *Reasons:* It is imperative that the confidential nature of evaluations and investigatory material on applicants applying for enlistment furnished to the US Army Recruiting Command under an express promise of confidentiality, be maintained to insure the candid presentation of information necessary in determinations of enlistment and suitability for enlistment into the United States Army.

(31) *A0601-222USMEPCOM.*

(i) *System name:* ASVAB Student Test Scoring and Reporting System.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(6) may be exempt from the provisions of 5 U.S.C. 552a(d).

(iii) *Authority:* 5 U.S.C. 552a(k)(6).

(iv) *Reasons:* An exemption is required for those portions of the Skill Qualification Test system pertaining to individual item responses and scoring keys to preclude compromise of the test and to insure fairness and objectivity of the evaluation system.

(32) *A0608-18DASG.*

(i) *System name:* Family Advocacy Case Management.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2) and (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(d).

(iii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iv) *Reasons:* Exemptions are needed in order to encourage persons having knowledge of abusive or neglectful acts toward children to report such information and to protect such sources from embarrassment or recriminations as well as to protect their right to privacy. It is essential that the identities of all individuals who furnish information under an express promise

of confidentiality be protected. In the case of spouse abuse, it is important to protect the privacy of spouses seeking treatment. Additionally, granting individuals access to information relating to criminal and civil law enforcement could interfere with ongoing investigations and the orderly administration of justice in that it could result in the concealment, alteration, destruction, or fabrication of information, could hamper the identification of offenders or alleged offenders, and the disposition of charges, and could jeopardize the safety and well-being of parents, children, and abused spouses.

(33) *A0614-115DAMI.*

(i) *System name:* Department of the Army Operational Support Activities.

(ii) *Exemption:* All portions of this system of records that fall within the scope of 5 U.S.C. 552a(k)(1), (k)(2), or (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (d)(5), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I), and (f).

(iii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5).

(iv) *Reasons:* (A) From subsection (c)(3) because disclosing the agencies to which information from this system has been released could reveal the subject's involvement in a sensitive intelligence or counterintelligence operation or investigation of an actual or potential criminal violation, or intelligence operation or investigation; or the existence of that investigation or operation. Granting access to such information could seriously impede or compromise an investigation or operation; endanger the physical safety of participants and their families, confidential sources, witnesses, intelligence personnel, and their families; and lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony and disclose investigative techniques and procedures.

(B) From subsection (d)(1) through (d)(5) because granting access to records could inform the subject of an intelligence or counterintelligence operation or investigation of an actual or potential criminal violation or the existence of that operation or investigation; of the nature and scope of the information and evidence obtained, or of the identity of confidential sources, witnesses and intelligence personnel. Granting access to such information could seriously impede or compromise an operation or investigation; endanger the physical safety of confidential sources, witnesses, intelligence personnel and their

families; lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony; disclose investigative techniques and procedures; invade the privacy of those individuals involved in intelligence programs and their families; compromise and thus negate specialized techniques used to support intelligence programs; and interfere with and negate the orderly conduct of intelligence and counterintelligence operations and investigations. In addition, the agency is required to protect the confidentiality of sources who furnished information to the Government under an expressed promise of confidentiality or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. This confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it.

(C) From subsection (e)(1) because it is not always possible to detect the relevance of specific information in the early stages of an investigation or operation. Relevance and necessity are often questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established. In addition, during the course of the investigation or operation, the investigator or operative may obtain information which is incidental to the main purpose of the investigative jurisdiction of another agency. Such information cannot readily be segregated. Furthermore, during the course of the investigation or operation, the investigator may obtain information concerning violations of law other than those which are within the scope of his/her jurisdiction. In the interest of effective intelligence operations and law enforcement, military intelligence agents should retain information, since it is an aid in establishing patterns of criminal or intelligence activity and provides valuable leads for other law enforcement or intelligence agencies.

(D) From subsection (e)(4)(G), (e)(4)(H), and (f) because this system or records is being exempt from subsections (d) of the Act, concerning access to records. These requirements are inapplicable to the extent that this system of records will be exempt from subsections (d)(1) through (d)(5) of the Act. Although the system would be exempt from these requirements, the Deputy Chief of Staff for Intelligence has published information concerning its notification, access, and contest procedures because under certain circumstances, the Deputy Chief of Staff for Intelligence could decide it is

appropriate for an individual to have access to all or a portion of his/her records in this system of records.

(E) From subsection (e)(4)(I) because it is necessary to protect the confidentiality of sources of information, to protect the privacy and physical safety of participants and their families, confidential sources, and witnesses and to avoid the disclosure of specialized techniques and procedures. Although the system will be exempt from this requirement, the Deputy Chief of Staff for Intelligence has published such a notice in broad, generic terms.

(f) *Exempt OPM records.* Three Office of Personnel Management systems of records apply to Army employees, except for nonappropriated fund employees. These systems, the specific exemptions determined to be necessary and proper, the records exempted, provisions of the Privacy Act from which exempt, and justification are set forth below:

(1) *Personnel Investigations Records (OPM/CENTRAL-9).* All material and information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(1), (k)(2), (k)(3), (k)(5), and (k)(6) is exempt from the requirements of 5 U.S.C. 552a(c)(3) and (d). These provisions of the Privacy Act relate to making accountings of disclosures available to the data subject and access to and amendment of records. The specific applicability of the exemptions to this system and the reasons for the exemptions are as follows:

(i) Personnel investigations may obtain from another Federal agency properly classified information which pertains to national defense and foreign policy. Application of exemption (k)(1) may be necessary to preclude the data subject's access to and amendment of such classified information under 5 U.S.C. 552a(d).

(ii) Personnel investigations may contain investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2), e.g., investigations into the administration of the merit system. Application of exemption (k)(2) may be necessary to preclude the data subject's access to or amendment of such records, under 552a(c)(3) and (d).

(iii) Personnel investigations may obtain from another Federal agency information that relates to providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18. Application of exemption (k)(3) may be necessary to preclude the data subject's access to and amendment of such records under 5 U.S.C. 552a(d).

(iv) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirements of 5 U.S.C. 552a(c)(3) and (4). These provisions of the Privacy Act relate to making accountings of disclosures available to the data subject, and access to and amendment of records. These exemptions are claimed because this system contains investigatory material compiled solely for the purpose of determining suitability, eligibility, and qualifications for Federal civilian employment. To the extent that the disclosure of material would reveal the identity of source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, the application of exemption (k)(5) will be required to honor such a promise should the data subject request access to or amendment of the record, or access to the accounting of disclosures of the record.

(v) All material and information in the records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of records by the data subject. This exemption is claimed because portions of this system relate to testing or examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or exemption process.

(2) *Recruiting, Examining, and Placement Records (OPM/GOVT-5).*

(i) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirements of 5 U.S.C. 552a(c)(3) and (d). These provisions of the Privacy Act relate to making accountings of disclosures available to the data subject and access to and amendment of records. These exemptions are claimed because this system contains investigatory material compiled solely for the purpose of determining the appropriateness of a request for approval of an objection to an eligible's qualification for employment in the Federal service. To the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, the application of

exemption (k)(5) will be required to honor such a promise should the data subject request access to the accounting of disclosures of the record.

(ii) All material and information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) are exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of records by the subject. The exemption is claimed because portions of this system relate to testing or examination materials used solely to determine individual qualification for appointment or promotion in the Federal service and access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examining process.

(3) *Personnel Research Test Validation Records (OPM/GOVT-6)*. All material and information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of the records by the data subject. This exemption is claimed because portions of this system relate to testing or examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examination process.

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Dated: August 19, 1996.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[W170-02-7299 and W171-02-7300; FRL-5553-1]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On June 5, 1996, and June 11, 1996, the Environmental Protection Agency (EPA) published a proposal to approve the redesignations to

attainment and associated maintenance plans for the ozone National Ambient Air Quality Standard (NAAQS) for the Wisconsin counties of Walworth, and Kewaunee, Manitowoc, and Sheboygan, respectively. The 30-day comment periods concluded on July 5, 1996, for Walworth County and on July 11, 1996 for the remaining three counties. Two comment letters were received in response to the proposed rulemakings, both from the Citizens Commission for Clean Air in the Lake Michigan Basin. This final rule summarizes all comments and EPA's responses, and finalizes the approval of the redesignations to attainment for ozone and associated maintenance plans for Walworth, Sheboygan, and Kewaunee Counties. Manitowoc County is not being finalized at this time due to a possible monitored exceedance of the ozone standard in that county. The monitored exceedance, as yet, has not been subject to the standard quality assurance procedures. If the exceedance is validated, it would be the fourth exceedance over the past three years and would therefore constitute a violation at the Manitowoc County Woodland Dunes monitor.

EFFECTIVE DATE: This action will be effective August 26, 1996.

ADDRESSES: Copies of the SIP revisions, public comments and EPA's responses are available for inspection at the following address: (It is recommended that you telephone Randy Robinson at (312) 353-6713 before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randy Robinson, Regulation Development Section (AR-18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 353-6713.

SUPPLEMENTARY INFORMATION:

I. Background Information

The redesignation requests and maintenance plans for the Walworth County marginal nonattainment area and the Kewaunee, Manitowoc, and Sheboygan Counties moderate ozone nonattainment areas discussed in this final rule were submitted to EPA by the WDNR on December 15, 1995, and May 15, 1996, respectively. On June 5, 1996, the EPA published in the Federal Register a proposal to approve the redesignation request and associated

section 175A maintenance plan for Walworth County as a revision to the Wisconsin ozone SIP (61 FR 28541). The proposed approval of the Kewaunee, Sheboygan, and Manitowoc Counties redesignation requests and maintenance plans was published on June 11, 1996 (61 FR 29508). Comments were received regarding the proposed rulemakings. Additionally, preliminary exceedances of the ozone National Ambient Air Quality Standard (NAAQS) were monitored in Manitowoc County during the 30 day comment period. If these exceedances are validated, it would mean that Manitowoc County is in violation. Consequently, EPA is not taking final action on the request for redesignation to attainment and maintenance plan for Manitowoc County at this time. The EPA will continue to work with the State to address the Manitowoc situation. This notice does not, therefore, further discuss the Manitowoc redesignation action.

The final rule contained in this document addresses the comments which were received during the public comment period and announces EPA's final action regarding the redesignations and section 175A maintenance plans for Walworth, Kewaunee, and Sheboygan Counties.

II. Public Comments and EPA Responses and Final Rulemaking Actions

The following discussion summarizes and responds to the comments received regarding the proposed redesignations to attainment for Walworth, Kewaunee, and Sheboygan Counties. Walworth County was proposed in a separate rulemaking from Kewaunee and Sheboygan Counties. A set of comments was received for Walworth County on July 5, 1996. A set of comments was received for Kewaunee and Sheboygan Counties on July 11, 1996. However, the bulk of the comments dealt with matters common to both rulemakings. The first part of this section addresses these common comments. The second part will address comments pertaining to a specific area.

Comment: The commentator states that redesignating the counties of Walworth, Kewaunee, and Sheboygan to attainment for ozone is "inappropriate without additional safeguards". The commentator primarily singles out the contingency plan as inadequate to address future ozone violations caused by emissions from upwind areas.

Response: Section 107(3)(d)(E) of the Clean Air Act (Act) sets out the criteria which must be met before an area can be redesignated to attainment. These