

02110, and at the Region I office of the Environmental Protection Agency, One Congress Street, Suite 1100, Boston, Massachusetts 02114. A copy of the proposed consent decree may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy, please enclose a check (there is a 25 cent per page reproduction cost) in the amount of \$8.75 payable to the "United States Treasury."

Ronald G. Gluck,
Assistant Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

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DEPARTMENT OF JUSTICE

[AAG/A Order No. 265-2002]

Privacy Act of 1974; System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Federal Bureau of Prisons (Bureau) proposes to modify its system of records entitled "Inmate Central Records System, JUSTICE/BOP-005". The system notice, which was last published on June 7, 1984 (49 FR 23711), is now being modified and will become effective 60 days from the date of publication.

As previously published, the system included only those persons who were committed to the custody of the Attorney General and thereby to the Bureau of Prisons under 18 U.S.C. 4003, 4042 and 4082. The Bureau is modifying the system to include all additional individuals who are directly committed to the custody of the Bureau of Prisons, pursuant to the additional authority of 18 U.S.C. 3621 and 5003 (state inmates), and inmates from the District of Columbia pursuant to section 11201 of Chapter 1 of Subtitle C of Title XI of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. L. 105-33; 111 Stat. 740).

In addition to edits which have been made to better describe the system and/or improve its clarity, the Bureau has added a statement on the purpose of this system and expanded the list of records contained in this system to include "drug testing and DNA samples and analysis records." Also, the routine use section has been reorganized to better describe or clarify certain routine uses. New routine uses have been added to allow for the release of information to courts and administrative forums and to

prevent immediate loss of life or serious bodily injury. In addition, an existing routine use has been modified to include the General Services Administration (GSA) as a potential recipient of records access during records management inspections. This modification is consistent with Public Law 98-497 (44 U.S.C. 2102) which renamed the National Archives and Records Service as the "National Archives and Records Administration (NARA)" and established it as a separate agency which would continue to share its records management inspection responsibilities with GSA. Accordingly, the routine use has been changed to show that while NARA and GSA are separate agencies, they have retained shared responsibilities for records management inspections under the authority of 44 U.S.C. 2904 and 2906.

Appropriate sections have been revised to reflect technological advances and new agency practices regarding the storage, retrieval, access, retention and disposal of records in the system. The Bureau has re-designated the system manager and also clarified record access procedures.

The exemptions from certain Privacy Act provisions continue, as previously published in 28 CFR 16.97(a) and (b). Exemptions from (e)(1) and (e)(5) have been added for law enforcement purposes.

Title 5 U.S.C. 552a (e)(4) and (11) provide that the public be given a 30-day period in which to comment; and the Office of Management and Budget (OMB), which has oversight responsibilities under the Privacy Act, requires that it be given a 40-day period in which to review the system. Therefore, please submit any comments by June 10, 2002. The public, OMB, and the Congress are invited to send written comments to Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (1400 National Place Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on the proposed modification. A description of the modified system is provided below.

Dated: April 26, 2002.

Robert F. Diegeman,
Acting Assistant Attorney General for Administration.

Justice/BOP-005

SYSTEM NAME:

Inmate Central Records System.

SYSTEM LOCATION:

Records may be retained at the Central Office, Regional Offices, or at any of the Federal Bureau of Prisons (Bureau) and/or contractor-operated correctional facilities. A list of Bureau locations may be found at 28 CFR part 503 and on the Internet at <http://www.bop.gov>.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals currently or formerly under the custody of the Attorney General and/or the Director of the Bureau of Prisons.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to the care, classification, subsistence, protection, discipline, and programs of federal inmates. Such records may include:

- (1) Computation of sentence and supporting documentation; (2) correspondence and other documentation concerning pending charges, and wanted status, including warrants; (3) requests from other federal and non-federal law enforcement agencies for notification prior to release; (4) records of the allowance, forfeiture, withholding and restoration of good time; (5) information concerning present offense, prior criminal background, sentence and parole; (6) identification data including date of birth, Social Security number, driver's license number, alien registration number, physical description, sex, race, religious preference, photographs, fingerprints, digital image, biometric identifier, drug testing and DNA samples and analysis records; (7) institution designation and housing assignments, including separation orders, and supporting documentation; (8) work and payroll records; (9) program selections, assignment and performance or progress reports; (10) prison conduct records, including information concerning disciplinary actions, participation in escapes, assaults, and disturbances; (11) economic, social, and religious background, including special religious dietary requirements; (12) educational data, including industrial and vocational training; (13) physical and mental health data; (14) United States Parole Commission orders, actions and related forms; (15) correspondence regarding the inmate, including his or her release, adjustment and violations; (16) transfer information, including orders and transportation arrangements; (17) mail, visiting and telephone records; (18) personal property records; (19) safety reports and rules; (20) release processing forms and certificates; (21)

interview requests; (22) litigation related records; (23) investigatory information; (24) institution tracking records to locate archived files; (25) referrals of non-federal inmates to Bureau custody and/or referrals of Bureau inmates to state custody.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained under the authority of 18 U.S.C. 3621, 4042, 5003 (state inmates), and section 11201 of Chapter 1 of Subtitle C of Title XI of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. L. 105-33; 111 Stat. 740).

PURPOSE OF THE SYSTEM:

This system assists the Attorney General and the Bureau of Prisons in meeting statutory responsibilities for the safekeeping, care and custody of incarcerated persons. It serves as the primary record system on these individuals and includes information critical to the continued safety and security of federal prisons and the public.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant data from this system will be disclosed as follows:

(a) To officers and employees of the Bureau of Prisons and the Department of Justice who have a need for the information in the performance of their duties;

(b) To federal, state, local, tribal, foreign and international law enforcement agencies and court officials for law enforcement and court-related purposes such as investigations, possible criminal prosecutions, civil court actions, or regulatory or parole proceedings, and, prior to release of an inmate, to the chief law enforcement officer of the state and local jurisdiction in which the released inmate will reside, as required by 18 U.S.C. 4042(b);

(c) To a court or adjudicative body before which the Department of Justice or the Bureau is authorized to appear, or to a private attorney authorized by the Department of Justice to represent a Bureau employee, when any of the following is a party to litigation or has an interest in litigation and such records are determined by the Bureau to be arguably relevant to the litigation: (1) The Bureau, or any subdivision thereof, or the Department of Justice, or (2) any Department of Justice or Bureau employee in his or her official capacity, or (3) any Department of Justice or Bureau employee in his or her individual capacity where the

Department of Justice has agreed to provide representation for the employee, or (4) the United States, where the Bureau determines that the litigation is likely to affect it or any of its subdivisions;

(d) In an appropriate proceeding before a court or administrative or regulatory body when records are determined by the Department of Justice to be arguably relevant to the proceeding, including federal, state, and local licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit;

(e) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records;

(f) To victims and/or witnesses, pursuant to federal victim/witness legislation and policy requiring the release of information relating to an inmate's furlough, parole (including appearance before the United States Parole Commission), transfer to a community corrections center, mandatory release, expiration of sentence, escape (including apprehension), death, and other such release-related information;

(g) To state agencies and authorities, pursuant to Public Law 98-135, for the purpose of matching the data against state records to review eligibility of these inmates for unemployment compensation; the requesting state is to erase the Bureau data after this determination has been made;

(h) To the Social Security Administration (SSA), pursuant to Public Law 96-473, for the purpose of matching the data against SSA records to enable the SSA to determine the eligibility of Bureau inmates to receive benefits under the Social Security Act and for the purpose of assisting SSA in providing inmate data to the states administering federal benefit programs such as Food Stamps; SSA is to erase the Bureau data after the match has been made;

(i) To the Veterans Administration (VA), pursuant to Public Law 96-385, for the purpose of matching the data against VA records to determine the eligibility of Bureau inmates to receive veterans' benefits; the VA is to erase the Bureau data after the match has been made;

(j) To the Federal Aviation Administration (FAA), pursuant to Public Law 100-690, for the purpose of matching the data against FAA records

to determine the eligibility of Bureau inmates to hold and obtain airmen certification and qualification;

(k) To the Internal Revenue Service (IRS) for the purposes of matching the data against IRS records for fraud detection;

(l) To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy;

(m) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record;

(n) To the National Archives and Records Administration and General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906;

(o) To any person or entity to the extent necessary to prevent immediate loss of life or serious bodily injury;

(p) To a former employee of the Department, pursuant to subsection (b)(3) of the Privacy Act, for purposes of responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility; and

(q) To the United States Sentencing Commission (USSC) for the purpose of providing inmate identification data to enable the USSC to perform research and conduct studies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Information maintained in the system is stored in electronic media in Bureau facilities via a configuration of personal computer, client/server, and mainframe systems architecture. Computerized records are maintained on hard disk, floppy diskettes, Compact Discs (CDs), magnetic tapes and/or optical disks. Documentary records are maintained in microfilm, manual file folders and/or index card files.

RETRIEVABILITY:

Records are retrievable by identifying data, including name, inmate register

number, FBI number, alien registration number and/or Social Security number.

SAFEGUARDS:

Information is safeguarded in accordance with Bureau rules and policy governing automated information systems security and access. These safeguards include the maintenance of records and technical equipment in restricted areas, and the required use of proper passwords and user identification codes to access the system. Only those Bureau personnel who require access to perform their official duties may access the system equipment and the information in the system.

RETENTION AND DISPOSAL:

Records in this system are retained for a period of thirty (30) years after the expiration of the sentence. Records of an unsentenced inmate are retained for a period of ten (10) years after the inmate's release from confinement. Documentary records are destroyed by shredding; computer records are destroyed by degaussing and/or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Correctional Programs Division, Federal Bureau of Prisons, 320 First Street NW, Washington, DC 20534.

NOTIFICATION PROCEDURE:

Inquiries concerning this system should be directed to the System Manager listed above.

RECORD ACCESS PROCEDURES:

All requests for records may be made in writing to the Director, Federal Bureau of Prisons, 320 First Street NW, Washington, DC 20534, and should be clearly marked "Privacy Act Request." This system is exempt, under 5 U.S.C. 552a(j), from some access. To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Records are generated by: (1) Individual currently or formerly under custody; (2) federal, state, local, foreign and international law enforcement agencies and personnel; (3) federal and state prosecutors, courts and probation services; (4) educational institutions; (5) health care providers; (6) relatives, friends, and other interested individuals or groups in the community; (7) former

or future employers; (8) state, local and private corrections staff; and (9) Bureau staff and institution contractors and volunteers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(H), (e)(5), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e).

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Proprietary ways to essentially lock out competitors.

At the very least severe structural penalties must be implemented to prevent these continued egregious behaviors from continuing. Additionally Microsoft must be made to pay penalties for past misdeed. These penalties could be anything from monetary to release of Microsoft Intellectual Property into the public domain.

I am further disturbed by the proposed settlement, in that it seems to be nothing more than a politically motivated "slap on the wrist." I respectfully urge you to reconsider your current proposed settlement. It is vastly insufficient to reign in the abuses and punish Microsoft.

Cordially,
Steve Chambers
Monmouth Junction, NJ

MTC-827

MTC-MTC-00000830

From: Charles McKnight
To: Microsoft ATR
Date: 11/17/01 12:26 p.m.
Subject: Settlement comments

Greetings,

I would like to express my concern about the settlement reached during the recent Microsoft antitrust case. In the past Microsoft has openly flaunted its disregard of any attempt to impose regulation. The 1995 settlement was essentially toothless, and led to the demise of Netscape as a separately operating company. As a Judge Sporkin pointed out, "simply telling a defendant to go forth and sin no more does little or nothing to address the unfair advantage it has already gained." The current "sanctions" can be, and most likely will be largely ignored by Microsoft. The entire settlement comes across as wishful thinking on the part of the government that this leopard will change its spots.

Although I have no desire to see Microsoft broken up, I am concerned about the predatory tactics it has used in the past and continues to employ. Given the similarities between the 1995 settlement and the currently proposed settlement, I do not believe that any positive effects will be achieved. I believe that Microsoft will continue to drive other companies out of business by bundling software into the operating system, much as they have done with the browser, and are attempting to do with the Windows Media Player and its proprietary formats.

I ask that you reconsider the settlement terms, and offer protection for the smaller companies that are trying to make a living. Don't deny them their chance to enjoy some portion of the same level of success that Microsoft currently enjoys.

Thank you for your time.
Charles McKnight

Disclaimer: My opinions are my own and do not necessarily reflect the opinions of my employer.

MTC-830

MTC-00000831

From: Joel (038) Sandy Harris
To: Microsoft ATR