

requires information concerning the suitability or eligibility of an individual for a license or permit;

(i) Pursuant to subsection (b)(3) of the Privacy Act, the Department of Justice may disclose relevant and necessary information to a former employee of the Department 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.

**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 via a configuration of personal computer, client/server, and mainframe systems architecture and may be accessed by those with a need-to-know at all Bureau and contractor facilities. Some information may be stored in other computerized media, e.g., hard disk, floppy diskettes, magnetic tape, digital recordings, Compact Discs (CDs), and/or optical disks. Documentary records are maintained in manual file folders and/or on index card files.

**RETRIEVABILITY:**

Records may be retrieved by identifying data including name and/or register number of inmate and/or claim number generated by the system.

**SAFEGUARDS:**

Manual records are stored in locked filing cabinets or in safes and can be accessed only by authorized personnel by key or combination formula. Automated equipment is kept in secured rooms and can be accessed only by authorized personnel through passwords and identification codes. All records in Bureau facilities are maintained in guarded buildings.

**RETENTION AND DISPOSAL:**

Records in this system are retained for a period of two (2) years after expiration of sentence. Some records may be transferred into another record system: the Inmate Central Records System, JUSTICE/BOP-005, or the Inmate Physical and Mental Health Record System, JUSTICE/BOP-007, and some records may be destroyed by shredding and/or electronic means.

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant Director, Health Services Division, Federal Bureau of Prisons; 320 First Street NW., Washington, DC 20534.

**NOTIFICATION PROCEDURE:**

Inquiries should be directed to the System Manager listed above.

**RECORD ACCESS PROCEDURES:**

All requests for records may be made by writing to the System Manager identified above, Federal Bureau of Prisons, 320 First Street NW., Washington, DC 20534. The envelope should be clearly marked "Privacy Act Request." This system of records is exempted from access pursuant to 5 U.S.C. 552a(j). A determination as to the applicability of the exemption to a particular record(s) 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: Individuals covered by the system (inmates and former inmates); Bureau staff; hospital and/or medical sources; pre-sentence reports; other mental health care agencies' observation reports; Federal, State, local, tribal, and foreign law enforcement agencies; and Federal/State probation and judicial offices.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2), (e)(3), (e)(4)(H), (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) and have been published in the **Federal Register** and codified at 28 CFR 16.97(a) and (b).

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**DEPARTMENT OF JUSTICE**

[AAG/A Order No. 274-2002]

**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 "Federal Tort Claims Act Record System, JUSTICE/BOP-009." This system, as last published on September 28, 1978 (43 FR 44737), previously covered only those claims

submitted to the Bureau pursuant to the Federal Tort Claims Act, 28 U.S.C. 2675 (FTCA). It is now being expanded to include administrative claims submitted to the Bureau pursuant to the Military Personnel and Civilian Employees Claims Act, 31 U.S.C. 3721 (CECA), and the Bureau of Prisons Claims Act, 31 U.S.C. 3722 (BOPCA). To reflect this change, the system is being re-titled "Administrative Claims Record System, JUSTICE/BOP-009." This system, as now modified, will become effective 60 days from the date of publication in the **Federal Register**.

Other modifications to the system include updating the system's locations, description of the Categories of Records, and the purpose of the system. A number of other changes were made to update, clarify and/or improve other sections. For example, the section describing Storage has been modified to include all updated technical improvements, including digital recordings and Compact Discs (CDs). The entire Routine Use section has been re-organized and expanded. The exemptions previously promulgated at 28 CFR 16.97 (a) and (b) remain the same.

Title 5 U.S.C. 552a (e)(4) and (11) provide that the public be provided a 30-day period in which to comment. 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 July 18, 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: June 5, 2002.

**Robert F. Diegelman,**  
*Acting Assistant Attorney General for Administration.*

**JUSTICE/BOP-009**

**SYSTEM NAME:**

Administrative Claims Record System.

**SYSTEM LOCATION:**

Records may be retained at the Central Office, Regional Offices, or at any of the Federal Bureau of Prisons (Bureau) facilities, or at any location

operated by a contractor authorized to provide computer and/or correctional services to Bureau inmates. A list of Bureau facilities may be found at 28 CFR part 503 and on the Internet at <http://www.bop.gov>.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former inmates, including pre-trial detainees, under the custody of the Attorney General and/or the Director of the Bureau of Prisons, civilians who are claimants under the Federal Tort Claims Act (FTCA), current and former employees who are claimants under the FTCA, the Military Personnel and Civilian Employees Claims Act (CECA), and the Bureau of Prisons Claims (BOPCA).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records in this system include: (1) Claims and supporting documents; (2) personal data regarding the claimant, including name, register number (if an inmate or former inmate), address, social and criminal background (if applicable), and employment history; (3) investigative reports; (4) medical reports; (5) property records; (6) litigation reports, pleadings and decisions (7) correspondence; and (8) processing data, including dates of receiving and responding to the claim.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The system is established and maintained under authority of the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. (FTCA); the Military Personnel and Civilian Employees Claims Act, 31 U.S.C. 3721 (CECA); and the Bureau of Prisons Claims Act, 31 U.S.C. 3722 (BOPCA).

**PURPOSE OF THE SYSTEM:**

The purpose of this system is to process and track administrative claims submitted to the Bureau under the FTCA, the CECA, and the BOPCA. The system is maintained to assist in the processing of these claims for personal injury and/or property damages and to provide an information source for subsequent litigation concerning these claims in United States Courts.

**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 Federal, State, local, foreign and international law enforcement agencies and officials for law enforcement purposes such as civil court actions, regulatory proceedings, responding to an emergency, inmate disciplinary proceedings; or for such

law enforcement needs as prison administration, investigations, and possible criminal prosecutions.

(b) 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;

(c) To Members 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 record subject;

(d) 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;

(e) 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;

(f) In a proceeding before a court, grand jury, or administrative or regulatory body when the records are determined by the Department of Justice to be arguably relevant to the proceeding;

(g) To a federal, state, or local licensing agency or association which requires information concerning the suitability or eligibility of an individual for a license or permit;

(h) Pursuant to subsection (b)(3) of the Privacy Act, the Department of Justice may disclose relevant and necessary information to a former employee of the Department 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

(i) To any person or entity to the extent necessary to prevent an immediate loss of life or serious bodily injury.

**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 via a

configuration of personal computer, client/server, and mainframe systems architecture and may be accessed by those with a need-to-know at all Bureau and contractor facilities. Some information may be stored in other computerized media, e.g., hard disk, floppy diskettes, magnetic tape, digital recordings, Compact Discs (CDs), and/or optical disks. Documentary records are maintained in manual file folders and/or on index card files.

**RETRIEVABILITY:**

Documents are indexed by the claimant's name and/or claim 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 proper use of passwords and user identification codes to access the system. Automated equipment and manual records are stored in guarded buildings and can be accessed only by authorized personnel through passwords and identification codes.

**RETENTION AND DISPOSAL:**

Information in this system is maintained for twelve (12) years after close of case, at which time documentary records are destroyed by shredding. Electronic records are erased after ninety (90) days unless archived into the case file.

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant Director/General Counsel, Federal Bureau of Prisons; 320 First Street NW., Washington, DC 20534.

**NOTIFICATION PROCEDURE:**

Inquiries should be directed to the System Manager listed above.

**RECORD ACCESS PROCEDURES:**

All requests for records may be made by writing to the System Manager identified above, Federal Bureau of Prisons, 320 First Street NW., Washington, DC 20534. The envelope should be clearly marked "Privacy Act Request." This system of records is exempted from access pursuant to 5 U.S.C. 552a(j). A determination as to the applicability of the exemption to a particular record(s) 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: claimants; inmates; Bureau staff; Federal, State,

local, tribal, and foreign law enforcement agencies; Federal/State probation and judicial offices; Congress; contract and consulting physicians, including hospitals; and attorneys for claimants.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2), (e)(3), (e)(4)(H), (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) and have been published in the **Federal Register** and codified at 28 CFR 16.97(a) and (b).

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**DEPARTMENT OF JUSTICE**

**Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons**

**AGENCY:** Department of Justice.

**ACTION:** Policy guidance document.

**SUMMARY:** The Department of Justice (DOJ) adopts final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (DOJ Recipient LEP Guidance). The DOJ Recipient LEP Guidance is issued pursuant to Executive Order 13166, and supplants existing guidance on the same subject originally published at 66 FR 3834 (January 16, 2001).

**DATES:** Effective June 12, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Merrily A. Friedlander, Chief, Coordination and Review Section, Civil Rights Division, 950 Pennsylvania Avenue, NW-NYA, Washington, DC 20530. Telephone 202-307-2222; TDD: 202-307-2678.

**SUPPLEMENTARY INFORMATION:** Under DOJ regulations implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.* (Title VI), recipients of Federal financial assistance have a responsibility to ensure meaningful access to their programs and activities by persons with limited English proficiency (LEP). See 28 CFR 42.104(b)(2). Executive Order 13166, reprinted at 65 FR 50121 (August 16, 2000), directs each Federal agency that extends assistance subject to the requirements of Title VI to publish guidance for its respective recipients

clarifying that obligation. Executive Order 13166 further directs that all such guidance documents be consistent with the compliance standards and framework detailed in DOJ Policy Guidance entitled "Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons with Limited English Proficiency." See 65 FR 50123 (August 16, 2000).

Initial guidance on DOJ recipients' obligations to take reasonable steps to ensure access by LEP persons was published on January 16, 2001. See 66 FR 3834. That guidance document was republished for additional public comment on January 18, 2002. See 67 FR 2671. Based on public comments filed in response to the January 18, 2002 republication, DOJ published revised draft guidance for public comment on April 18, 2002. See 67 FR 19237.

DOJ received 24 comments in response to its April 18, 2002 publication of revised draft guidance on DOJ recipients' obligations to take reasonable steps to ensure access to programs and activities by LEP persons. The comments reflected the views of individuals, organizations serving LEP populations, organizations favoring the use of the English language, language assistance service providers, and state agencies. While many comments identified areas for improvement and/or revision, the overall response to the draft DOJ Recipient LEP Guidance was favorable. Taken together, a majority of the comments described the draft guidance as incorporating "reasonable standards" or "helpful provisions" providing "useful suggestions instead of mandatory requirements" reflecting "common sense" and a "more measured tone" over prior LEP guidance documents.

Two of the comments urged withdrawal of the draft guidance as unsupported by law. In response, the Department notes here as it did in the draft Recipient LEP Guidance published on April 18, 2002 that the Department's commitment to implement Title VI through regulations reaching language barriers is long-standing and is unaffected by recent judicial action precluding *individuals* from bringing judicial actions seeking to enforce those agency regulations. See 67 FR at 19238-19239. This particular policy guidance clarifies existing statutory and regulatory requirements for LEP persons by providing a description of the factors recipients should consider in fulfilling their responsibilities to LEP persons.

Of the remaining 22 comments, three supported adoption of the draft guidance as published, and 19, while

supportive of the guidance and the Department's leadership in this area, suggested modifications which would, in their view, either (1) clarify the application of the flexible compliance standard incorporated by the draft guidance to particular areas or situations, or (2) provide a more definitive statement of the minimal compliance standards in this area. Several areas were raised in more than one comment. In the order most often raised, those common areas of comment were (1) recipient language assistance plans, (2) use of informal interpreters, (3) written translation safe harbors, and (4) cost considerations. The comments in each of these area are summarized and discussed below.

**Recipient Language Assistance Plans.** A large number of comments recommended that written language assistance plans (LEP Plans) be required of all recipients. The Department is cognizant of the value of written LEP plans in documenting a recipient's compliance with its obligation to ensure meaningful access by LEP persons, and in providing a framework for the provision of reasonable and necessary language assistance to LEP persons. The Department is also aware of the related training, operational, and planning benefits most recipients would derive from the generation and maintenance of an updated written language assistance plan for use by its employees. In the large majority of cases, the benefits flowing from a written language assistance plan has caused or will likely cause recipients to develop, with varying degrees of detail, such written plans. Even small recipients with limited contact with LEP persons would likely benefit from having a plan in place to assure that, when the need arises, staff have a written plan to turn to—even if it is only how to access a telephonic or community-based interpretation service—when determining what language services to provide and how to provide them.

However, the fact that the vast majority of the Department's recipients already have or will likely develop a written LEP plan to reap its many benefits does not necessarily mean that every recipient, however small its staff, limited its resources, or focused its services, will realize the same benefits and thus must follow an identical path. Without clear evidence suggesting that the absence of written plans for every single recipient is impeding accomplishment of the goal of meaningful access, the Department elects at this juncture to strongly recommend but not require written language assistance plans. The