

records from the following subsections of the Privacy Act: (e)(1) and (e)(5), pursuant to 5 U.S.C. 552a(j). The system of records to be exempted is the "Inmate Trust Fund Accounts and Commissary Record System, Justice/BOP-006". This system continues to be exempted from the subsections of the Privacy Act as previously promulgated.

The additional exemptions are necessary to preclude the compromise of institution security; to ensure the safety of inmates, Bureau personnel and the public; to protect third party privacy; to protect law enforcement and investigatory information; and/or to otherwise ensure the effective performance of the Bureau's law enforcement functions.

**EFFECTIVE DATE:** This final rule is effective August 9, 2002.

**FOR FURTHER INFORMATION CONTACT:**  
Mary Cahill, (202) 307-1823.

**SUPPLEMENTARY INFORMATION:** On March 15, 2002 (67 FR 11631) a proposed rule was published in the **Federal Register** with an invitation to comment. No comments were received.

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

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

Administrative practices and procedure, Freedom of Information, Sunshine Act, Privacy.

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

#### PART 16—[AMENDED]

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

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

2. Paragraphs (l) and (m) are added to § 16.97 to read as follows:

#### § 16.97 Exemption of Federal Bureau of Prisons Systems—limited access.

\* \* \* \* \*

(l) The following system of records is exempted pursuant to 5 U.S.C. 552a(j) from subsections (e)(1) and (e)(5): Bureau of Prisons Inmate Trust Fund Accounts and Commissary Record System, (Justice/BOP-006).

(m) These exemptions apply only to the extent that information in this

system is subject to exemption pursuant to 5 U.S.C. 552a(j). Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, e.g. public source materials, or those supplied by third parties, the applicable exemption may be waived, either partially or totally, by the Bureau. Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (e)(1) to the extent that the Bureau may collect information that may be relevant to the law enforcement operations of other agencies. In the interests of overall, effective law enforcement, such information should be retained and made available to those agencies with relevant responsibilities.

(2) From subsection (e)(5) because in the collection and maintenance of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely and complete. Data which may seem unrelated, irrelevant or incomplete when collected may take on added meaning or significance as an investigation progresses or with the passage of time, and could be relevant to future law enforcement decisions. In addition, amendment of the records may interfere with law enforcement operations and would impose an impossible administrative burden by requiring that law enforcement information be continuously reexamined, even where the information may have been collected from the record subject or other criminal justice agencies. The restrictions of subsection (e)(5) would restrict and delay trained correctional managers from timely exercising their judgment in managing the inmate population and providing for the safety and security of the prisons and the public.

\* \* \* \* \*

Dated: July 31, 2002.

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

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#### DEPARTMENT OF JUSTICE

#### 28 CFR Part 16

[AAG/A Order No. 281-2002]

#### Privacy Act of 1974; Implementation

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** The Department of Justice, Bureau of Prisons ("Bureau"), is exempting a Privacy Act system of records from the following subsections of the Privacy Act: (e)(1) and (e)(5), pursuant to 5 U.S.C. 552a(j). The system of records to be exempted is the "Inmate Physical and Mental Health Records System, Justice/BOP-007". This system continues to be exempted from the subsections of the Privacy Act as previously promulgated.

The additional exemptions are necessary to preclude the compromise of institution security; to better ensure the safety of inmates, Bureau personnel and the public; to better protect third party privacy; to protect law enforcement and investigatory information; and/or to otherwise ensure the effective performance of the Bureau's law enforcement functions.

**EFFECTIVE DATE:** This final rule is effective August 9, 2002.

**FOR FURTHER INFORMATION CONTACT:**  
Mary Cahill, (202) 307-1823.

**SUPPLEMENTARY INFORMATION:** On March 15, 2002 (67 FR 11631) a proposed rule was published in the **Federal Register** with an invitation to comment. No comments were received.

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

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

Administrative practices and procedure, Freedom of Information, Sunshine Act, Privacy.

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

#### PART 16—[AMENDED]

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

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

2. Paragraphs (n) and (o) are added to § 16.97 to read as follows:

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

\* \* \* \* \*

(n) The following system of records is exempted pursuant to 5 U.S.C. 552a(j) from subsections (e)(1) and (e)(5): Bureau of Prisons Inmate Physical and Mental Health Records System, (Justice/BOP-007).

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

(1) From subsection (e)(1) to the extent that the Bureau may collect information that may be relevant to the law enforcement operations of other agencies. In the interests of overall, effective law enforcement, such information should be retained and made available to those agencies with relevant responsibilities.

(2) From subsection (e)(5) because in the collection and maintenance of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely and complete. Data which may seem unrelated, irrelevant or incomplete when collected may take on added meaning or significance during the course of an investigation or with the passage of time, and could be relevant to future law enforcement decisions. In addition, because many of these records come from sources outside the Bureau of Prisons, it is administratively impossible for them and the Bureau to ensure compliance with this provision. The restrictions of subsection (e)(5) would restrict and delay trained correctional managers from timely exercising their judgment in managing the inmate population and providing for the health care of the inmates and the safety and security of the prisons and the public.

\* \* \* \* \*

Dated: July 31, 2002.

**Robert F. Diegelman,**

*Acting Assistant Attorney General for Administration.*

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**DEPARTMENT OF JUSTICE**

**28 CFR Part 16**

**[AAG/A Order No. 278-2002]**

**Privacy Act of 1974; Implementation**

**AGENCY:** Foreign Terrorist Tracking Task Force (FTTTF), Justice.

**ACTION:** Final rule.

**SUMMARY:** The Department of Justice is exempting a Privacy Act system of records from subsections (c)(3), (d)(1), (2), (3) and (4), and (e)(1) and (4)(I) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(1). The system of records to be exempted is the “Flight Training Candidates File System, JUSTICE/FTTTF-001.”

The Flight Training Candidates File System is a system of records established pursuant to section 113 of the Aviation and Transportation Security Act (ATSA), Public Law 107-71, 49 U.S.C. 44939 to support the administration of the required risk assessment of candidates for flight instruction who are aliens or persons designated by the Under Secretary of Transportation for Security, U.S. Department of Transportation. Subsequent to the terrorist hijacking and crashing of aircraft on September 11, 2001, Congress determined that aliens seeking training in the operation of aircraft with a takeoff weight of 12,500 pounds or more should be subject to closer scrutiny. Pursuant to Section 113 of ATSA, persons who wish to provide such training to aliens or others designated by the Under Secretary of Transportation for Security must first notify the Attorney General, and provide identifying information with regard to the prospective trainee, so that the Attorney General may determine whether the prospective trainee poses a risk to aviation or national security.

The exemption is necessary as explained in the accompanying final rule.

**DATES:** This final rule is effective August 9, 2002.

**FOR FURTHER INFORMATION CONTACT:** Mary Cahill, (202) 307-1823.

**SUPPLEMENTARY INFORMATION:** On June 10, 2002 (67 FR 39838), a proposed rule was published in the **Federal Register** with an invitation to comment. No comments were received.

This order relates to individuals as well as small business entities. In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601-602, the Attorney General, by approving this regulation, certifies that this rule will not have “a significant economic impact on a substantial number of small entities.”

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

Administrative practices and procedures, Courts, Freedom of Information, Sunshine Act, Privacy.

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

**PART 16—[AMENDED]**

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

**Authority:** 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 524; 31 U.S.C. 3717, 9701.

2. Section 16.105 is added to subpart E to read as follows:

**Subpart E—Exemption of Records Systems Under the Privacy Act**

**§ 16.105 Exemption of Foreign Terrorist Tracking Task Force System.**

(a) The following system of records is exempt from 5 U.S.C. 552a, subsections (c)(3), (d)(1), (2), (3) and (4), and (e)(1) and (4)(I): Flight Training Candidates File System (JUSTICE/FTTTF-001). This exemption applies only to the extent that information is subject to exemption pursuant to 5 U.S.C. 552a(k)(1).

(b) Exemption from the particular subsections is justified for the following reasons:

(1) From subsection (c)(3) because making available to a record subject the accounting of disclosures could reveal information that is classified in the interest of national security.

(2) From subsection (d)(1), (2), (3) and (4) because access to and amendment of certain portions of records within the system would tend to reveal or compromise information classified in the interest of national security.

(3) From subsection (e)(1) because it is often impossible to determine in advance if information obtained will be relevant for the purposes of conducting the risk analysis for flight training candidates.

(4) From subsection (e)(4)(I) to the extent that this subsection is interpreted to require more detail regarding the record sources in this system than have been published in the **Federal Register**.