

For Further Information or To Submit Comments Contact: Barry S. Lineback, Telephone: (703) 603-7740, Fax: (703) 603-0655, or e-mail CMTEFedReg@AbilityOne.gov.

**Barry S. Lineback,**

Director, Business Operations.

[FR Doc. 2010-644 Filed 1-14-10; 8:45 am]

**BILLING CODE 6353-01-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Docket No. DoD-2009-HA-0137]

#### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

**DATES:** Consideration will be given to all comments received by February 16, 2010.

*Title and OMB Number:* An Outcome Evaluation of the SOS Suicide Prevention Program; OMB Control Number 0720-TBD.

*Type of Request:* New.

*Number of respondents:* 399.

*Responses Per Respondent:* 2.

*Annual Responses:* 798.

*Average Burden Per Response:* 1 Hour.

*Annual Burden Hours:* 798 hours.

*Needs and Uses:* The information collection requirement is necessary to evaluate the effectiveness of the SOS Suicide Prevention Program which is used as suicide prevention programming in middle and high schools throughout the country. The surveys are completed in school and then returned to the University of Connecticut's Institute for Public Health Research for analysis.

*Affected Public:* Individuals or households.

*Frequency:* Semi-annually.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* Mr. John Kraemer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Kraemer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

*DoD Clearance Officer:* Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/ Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209-2133.

Dated: January 6, 2010.

**Patricia L. Toppings,**

OSD Federal Register Liaison Officer,  
Department of Defense.

[FR Doc. 2010-596 Filed 1-14-10; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Docket No. DoD-2008-HA-0019]

#### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

**DATES:** Consideration will be given to all comments received by February 16, 2010.

*Title and OMB Number:* TRICARE Dual Eligible Fiscal Intermediary (TDEFIC) Provider Satisfaction Survey, OMB Control Number 0720-TBD.

*Type of Request:* New.

*Number of Respondents:* 46,800.

*Responses Per Respondent:* 1.

*Annual Responses:* 46,800.

*Average Burden Per Response:* 15 minutes.

*Annual Burden Hours:* 11,700 hours.

*Needs and Uses:* The survey Wisconsin Physician Services (WPS) is to administer a contract requirement that the Government has accepted and paid for as part of the contract award. This survey is conducted on a monthly basis, and the sample will be drawn

from all providers that have had a claim processed in the previous week and therefore is not limited to just Network Providers. WPS will use the survey to assess provider satisfaction, attitudes, and perceptions regarding the claims processing and customer services provided by WPS for the TDEFIC in order to improve internal operations and customer services to increase provider satisfaction.

*Affected Public:* Individuals or households; Business or other for profit; Federal government.

*Frequency:* Monthly.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* Mr. John Kraemer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Kraemer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

*DoD Clearance Officer:* Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/ Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209-2133.

Dated: January 6, 2010.

**Patricia L. Toppings,**

OSD Federal Register Liaison Officer,  
Department of Defense.

[FR Doc. 2010-597 Filed 1-14-10; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Manual for Courts-Martial; Proposed Amendments

**AGENCY:** Joint Service Committee on Military Justice (JSC).

**ACTION:** Notice of Public Response to Proposed Amendments to the Manual

for Courts-Martial, United States (2008 ed.) (MCM).

**SUMMARY:** The JSC is forwarding final proposed amendments to the MCM to the Department of Defense. The proposed changes constitute the 2009 annual review required by the MCM and DoD Directive 5500.17, "Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice," May 3, 2003. The proposed changes concern the rules of procedure and evidence and the punitive articles applicable in trials by courts-martial. These proposed changes have not been coordinated within the Department of Defense under DoD Directive 5500.1, "Preparation, Processing and Coordinating Legislation, Executive Orders, Proclamations, Views Letters Testimony," June 15, 2007, and do not constitute the official position of the Department of Defense, the Military Departments, or any other Government agency.

**ADDRESSES:** Comments and materials received from the public are available for inspection or copying at the Office of the Judge Advocate General, Criminal Law Division (Code 20), 1254 Charles Morris Street, SE., Suite B01, Washington Navy Yard, District of Columbia between 9 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Stacia Gawronski, Executive Secretary, Joint Service Committee on Military Justice, 1254 Charles Morris Street, SE., Suite B01, Washington Navy Yard, District of Columbia 20374, (202) 685-7683, (202) 685-7084 fax.

**SUPPLEMENTARY INFORMATION:**

**Background**

On 17 September 2009, the JSC published a notice of Proposed Amendments to the Manual for Courts-Martial and a Notice of Public Meeting to receive comments on these proposals. The public meeting was held on 29 October 2009. One individual representing an organization spoke at the public meeting to announce that the organization would be submitting written comments. One individual and one organization submitted comments through the **Federal Register** electronic bulletin board.

**Discussion of Comments and Changes**

The JSC considered the public comments and decided to modify the proposed addition of a paragraph addressing child pornography under Article 134 in Part IV of the MCM. The JSC is satisfied the other proposed

amendments are appropriate to implement without modification. The JSC will forward the public comments and proposed amendments to the Department of Defense.

*The public comments regarding the proposed changes follow:*

a. Recommended that the proposed 'Child pornography' addition to Article 134, UCMJ, should be broadened to include the female breast. The JSC considered that broadening the definition in this way would be over inclusive and did not want to unintentionally criminalize conduct or depictions not sexual in nature (for example, a picture of a baby in the bath).

b. Opined the proposed change to Military Rule of Evidence (M.R.E.) 504 regarding spousal privilege does not seem to limit the privilege in a logical manner. For example, if a husband and wife both provided illegal drugs to a 12-year-old, the spouses would not be allowed to invoke their privilege against testifying against each other. However, if the wife was engaged in a sexual relationship with the same non-relative, 12-year-old (and not acting *in loco parentis*), and the wife told the husband about the relationship, the marital privilege would remain intact. The JSC considered that adultery is a crime against the person of the other spouse for purposes of M.R.E. 504(c)(2)(A) under *U.S. v. Taylor*, 64 M.J. 416 (C.A.A.F. 2007), and therefore, the marital privilege would not remain intact in the second example given.

c. Raised several concerns regarding the adequacy of the rule-making process itself. The JSC considered these concerns and determined that the rulemaking process is adequate, satisfies statutory requirements, and provides meaningful opportunity for public participation.

**Proposed Amendments After Period for Public Comment**

The proposed recommended amendments to the Manual for Courts-Martial to be forwarded through the DoD for action by Executive Order of the President of the United States are as follows:

*Section 1.* Part III of the Manual for Courts-Martial, United States, is amended as follows:

(a) M.R.E. 504 (c)(2)(D) is added to read as follows:

"(D) Where both parties have been substantial participants in illegal activity, those communications between the spouses during the marriage regarding the illegal activity in which they have jointly participated are not marital communications for purposes of

the privilege in subdivision (b), and are not entitled to protection under the privilege in subdivision (b)."

(b) The following amendments conform M.R.E. 609 to F.R.E. 609:

(1) M.R.E. 609 (a) is amended to substitute the words "character for truthfulness" for the word "credibility."

(2) M.R.E. 609 (a)(2) is amended to substitute the words "regardless of the punishment, if it readily can be determined that establishing the elements of the crime required proof or admission of an act of dishonesty or false statement by the witness" for the words "if it involved dishonesty or false statement, regardless of the punishment."

(3) M.R.E. 609 (c) is amended to substitute the words "a subsequent crime that was punishable by death, dishonorable discharge, or imprisonment in excess of one year" for the words "a subsequent crime which was punishable by death, dishonorable discharge, or imprisonment in excess of one year."

*Section 2.* Part IV of the Manual for Courts-Martial, United States, is amended as follows:

(a) Paragraph 13, Article 89, Disrespect toward a superior commissioned officer, paragraph c.(1) is amended to substitute the words "uniformed service" for "armed forces" everywhere the words "armed forces" appear in that paragraph. This change is made to clarify that the uniformed officers of the Public Health Service and the National Oceanographic and Atmospheric Administration, when assigned to and serving with the armed forces, are included in the definition of a superior commissioned officer.

(b) A clerical amendment is made to Paragraph 35, Article 111, Drunken or reckless operation of vehicle, aircraft or vessel, paragraph f to read as follows:

"(f) *Sample Specification.*  
In that \_\_\_\_ (personal jurisdiction data), did (at/on board—location) (subject matter jurisdiction data, if required), on or about \_\_\_\_, 20\_\_, (in the motor pool area) (near the Officer's Club) (at the intersection of \_\_\_\_ and \_\_\_\_ ) (while in the Gulf of Mexico) (while in flight over North America) physically control [a vehicle, to wit: (a truck) (a passenger car) (\_\_\_\_)] [an aircraft, to wit: (an AH-64 helicopter) (an F-14A fighter) (a KC-135 tanker) (\_\_\_\_)] [a vessel, to wit: (the aircraft carrier USS \_\_\_\_ (the Coast Guard Cutter \_\_\_\_ ) (\_\_\_\_)], [while drunk] [while impaired by \_\_\_\_] [while the alcohol concentration in his (blood or breath) equaled or exceeded the applicable limit under subparagraph (b) of the text of the statute in paragraph 35 as shown by

chemical analysis] [in a (reckless) (wanton) manner by (attempting to pass another vehicle on a sharp curve) (by ordering that the aircraft be flown below the authorized altitude)] [and did thereby cause said (vehicle) (aircraft) (vessel) to (strike and) (injure \_\_\_\_)].”

(c) A clerical amendment is made to Paragraph 48, Article 123, Forgery, paragraph c.(4) to add the word “to” after the word “liability” the second time it appears in the fifth sentence.

(d) Paragraph 68b. is added as follows:

“68b. Article 134—(Child pornography)

a. *Text.* See paragraph 60.

b. *Elements.*

(1) *Possessing, receiving, or viewing child pornography.*

(a) That the accused knowingly and wrongfully possessed, received or viewed child pornography; and

(b) That under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(2) *Possessing child pornography with intent to distribute.*

(a) That the accused knowingly and wrongfully possessed child pornography;

(b) That the possession was with the intent to distribute; and

(c) That under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(3) *Distributing child pornography.*

(a) That the accused knowingly and wrongfully distributed child pornography to another; and

(b) That under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(4) *Producing child pornography.*

(a) That the accused knowingly and wrongfully produced child pornography; and

(b) That under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. *Explanation.*

(1) “Child Pornography” means any visual depiction of a minor, or what appears to be a minor, engaging in sexually explicit conduct, even if the minor depicted was not an actual person or did not actually exist.

(2) An accused may not be convicted of possessing, receiving, viewing, distributing, or producing child pornography, if he was not aware that the images were of minors, or what appeared to be minors, engaged in sexually explicit conduct. Awareness may be inferred from circumstantial evidence such as the name of a computer file or folder, the name of the host Web site from which a visual depiction was viewed or received, search terms used, and the number of images possessed.

(3) “Distributing” means delivering to the actual or constructive possession of another.

(4) “Minor” means any person under the age of 18 years;

(5) “Possessing” means exercising control of something. Possession may be direct physical custody like holding an item in one’s hand, or it may be constructive, as in the case of a person who hides something in a locker or a car to which that person may return to retrieve it. Possession must be knowing and conscious. Possession inherently includes the power or authority to preclude control by others. It is possible for more than one person to possess an item simultaneously, as when several people share control over an item.

(6) “Producing” means creating or manufacturing. As used in this paragraph, it refers to making child pornography that did not previously exist. It does not include reproducing or copying.

(7) “Sexually explicit conduct” means actual or simulated:

(a) Sexual intercourse or sodomy, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(b) Bestiality;

(c) Masturbation;

(d) Sadistic or masochistic abuse; or

(e) Lascivious exhibition of the genitals or pubic area of any person.

(8) “Visual depiction” includes any developed or undeveloped photograph, picture, film or video; any digital or computer image, picture, film or video made by any means, including those transmitted by any means including streaming media, even if not stored in a permanent format; or any digital or electronic data capable of conversion into a visual image.

(9) “Wrongfulness.” Any facts or circumstances which show that a visual depiction of child pornography was unintentionally or inadvertently acquired are relevant to wrongfulness, including, but not limited to, the method by which the visual depiction was acquired, the length of time the

visual depiction was maintained, and whether the visual depiction was promptly, and in good faith, destroyed or reported to law enforcement.

(10) On motion of the government, in any prosecution under this paragraph, except for good cause shown, the name, address, social security number, or other nonphysical identifying information, other than the age or approximate age, of any minor who is depicted in any child pornography or visual depiction or copy thereof shall not be admissible and may be redacted from any otherwise admissible evidence, and the panel shall be instructed, upon request of the Government, that it can draw no inference from the absence of such evidence.

d. *Lesser included offenses.*

(1) *Possessing, receiving, or viewing child pornography*

Article 80—attempts

(2) *Possessing child pornography with intent to distribute*

Article 80—attempts

Article 134—possessing child pornography

(3) *Distributing child pornography*

Article 80—attempts

Article 134—possessing child pornography

Article 134—possessing child pornography with intent to distribute

(4) *Producing child pornography*

Article 80—attempts

Article 134—possessing child pornography

e. *Maximum punishment.*

(1) *Possessing, receiving or viewing child pornography.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 10 years.

(2) *Possessing child pornography with intent to distribute.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 15 years.

(3) *Distributing child pornography.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 20 years.

(4) *Producing child pornography.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 30 years.

f. *Sample specification.* Possessing, receiving, viewing, possessing with intent to distribute, distributing or producing child pornography.

In that \_\_\_\_ (personal jurisdiction data), did, at \_\_\_\_, on or about \_\_\_\_ knowingly and wrongfully (possess) (receive) (view) (distribute) (produce) child pornography, to wit: a (photograph) (picture) (film) (video)

(digital image) (computer image) of a minor, or what appears to be a minor, engaging in sexually explicit conduct, with intent to distribute the said child pornography.)”

*Section 3.* These amendments shall take effect 30 days from the date of this order.

(a) Nothing in these amendments shall be construed to make punishable any act done or omitted prior to the effective date of this order that was not punishable when done or omitted.

(b) Nothing in these amendments shall be construed to invalidate any nonjudicial punishment proceedings, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action begun prior to the effective date of this order, and any such nonjudicial punishment, restraint, investigation, referral of charges, trial, or other action may proceed in the same manner and with the same effect as if these amendments had not been prescribed.

#### The White House

##### *Changes to the Discussion Accompanying the Manual for Courts Martial, United States*

(a) A clerical amendment is made to the first paragraph of the Discussion following R.C.M. 1107(d)(1) to correctly reference R.C.M. 1003(b)(5) and (6) instead of R.C.M. 1003(b)(6) and (7).

Dated: December 18, 2009.

**Patricia L. Toppings,**  
*OSD Federal Register Liaison Officer,  
Department of Defense.*

[FR Doc. 2010-600 Filed 1-14-10; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Docket ID: DOD-2010-OS-0003]

#### Privacy Act of 1974; System of Records

**AGENCY:** National Security Agency/  
Central Security Service, DoD.

**ACTION:** Notice to amend a system of records.

**SUMMARY:** The National Security Agency/Central Security Service is proposing to amend a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

**DATES:** This proposed action will be effective without further notice on February 16, 2010 unless comments are received which result in a contrary determination.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

\* *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

\* *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

*Instructions:* All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Ms. Anne Hill at (301) 688-6527.

**SUPPLEMENTARY INFORMATION:** The National Security Agency/Central Security Service systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the contact above (see **FOR FURTHER INFORMATION CONTACT**).

The specific change to the records system being amended is set forth below followed by the notice, as amended, published in its entirety. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: January 12, 2010.

**Mitchell S. Bryman,**  
*Alternate OSD Federal Register Liaison  
Officer, Department of Defense.*

#### GNSA 09

##### SYSTEM NAME:

NSA/CSS Personnel File (January 7, 2009; 74 FR 698).

##### CHANGES:

\* \* \* \* \*

##### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with “National Security Agency Act of 1959, Public Law 86-36, (codified at 50 U.S.C. 402); 5 U.S.C. and certain implementing Office of Personnel Management regulations contained within 5 CFR part 293, Personnel Records; 10 U.S.C. 1124, Cash awards for disclosures, suggestions, inventions, and scientific achievements; 44 U.S.C. 3101, Records management by agency heads; general duties and E.O. 9397 (SSN), as amended.”

\* \* \* \* \*

#### GNSA 09

##### SYSTEM NAME:

NSA/CSS Personnel File.

##### SYSTEM LOCATION:

Primary location: National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

*Decentralized segments:* Each staff, line, contract and field element and supervisor as authorized and appropriate.

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

Civilian employees, personnel under contract, military assignees, dependents of NSA/CSS personnel assigned to field elements, individuals integrated into the cryptologic reserve program, custodial and commercial services personnel.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

File contains personnel papers and forms including but not limited to applications, transcripts, correspondence, notices of personnel action, performance appraisals, internal staffing resume, professionalization documentation and correspondence, training forms, temporary duty, letters of reprimand, special assignment documentation, letters of commendation, promotion documentation, field assignment preference, requests for transfers, permanent change of station, passport, transportation, official orders, awards, suggestions, pictures, complaints, separation, retirement, time utilization, scholarship/fellowship or other school appointments, military service, reserve status, military check in/out sheets, military orders, security appraisal, career battery and other test results, language capability, military personnel utilization survey, work experience, notes and memoranda on individual aspects of performance, productivity and suitability, information on individual eligibility to serve on various boards and committees, emergency loan records, other information relevant to personnel management, housing information where required.

##### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Agency Act of 1959, Public Law 86-36, (codified at 50 U.S.C. 402); 5 U.S.C. and certain implementing Office of Personnel Management regulations contained within 5 CFR part 293, Personnel Records; 10 U.S.C. 1124, Cash awards for disclosures, suggestions, inventions, and scientific achievements; 44 U.S.C. 3101, Records management by agency heads; general duties and E.O. 9397 (SSN), as amended.