

DoD 5400.11-R



**DEPARTMENT OF DEFENSE
PRIVACY PROGRAM**

May 14, 2007

**OFFICE OF THE DIRECTOR, ADMINISTRATION
AND MANAGEMENT**



OFFICE OF THE SECRETARY OF DEFENSE
1950 DEFENSE PENTAGON
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FOREWORD

This Regulation is reissued under the authority of DoD Directive 5400.11, "DoD Privacy Program," May 8, 2007 (Reference (a)). It provides guidance on section 552a of title 5 United States Code (U.S.C.), the Privacy Act of 1974, as amended, (Reference (b)), and prescribes uniform procedures for implementation of the DoD Privacy Program.

DoD 5400.11-R, "Department of Defense Privacy Program," August 13, 1983, is hereby canceled.

This Regulation applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to as the "DoD Components").

The provisions of this Regulation shall be applicable by contract or other legally binding action to U.S. Government contractors whenever a DoD contract requires the performance of any activities associated with maintaining a system of records, including the collection, use, and dissemination of records on behalf of the contracting DoD Component. When maintaining a system of records or a portion of a system of records, contractors and their employees shall be considered employees of the contracting DoD Component for purposes of the criminal penalties of the Act.

This Regulation does not apply to:

- Requests for information made under the Freedom of Information Act (DoD Directive 5400.7) (Reference (c)). They are processed in accordance with DoD 5400.7-R (Reference (d)).
- Requests for information from systems of records controlled by the Office of Personnel Management (OPM), although maintained by a DoD Component. These are processed in accordance with policies established by OPM (Reference (e)).
- Requests for personal information from the General Accountability Office. These are processed in accordance with DoD Directive 7650.1 (Reference (f)).
- Requests for personal information from Congress. These are processed in accordance with DoD Directive 5400.4 (Reference (g)), except for the specific provisions in Chapter 4 of this Regulation.

This Regulation is effective immediately and its use is mandatory for all DoD Components. The Heads of the DoD Components may issue supplementary instructions only when necessary to provide for unique requirements within their Components. Such instructions may not conflict with the provisions of this Regulation.

Send recommended changes to this Regulation to the following address:

Director, Defense Privacy Office
1901 South Bell Street, Room 920
Arlington, VA 22202-4512

The DoD Components may obtain copies of this Regulation through their own publication channels. Approved for public release; distribution unlimited. Copies are available via the World Wide Web at <http://www.dtic.mil/whs/directives>. Authorized registered users may obtain copies of the publication from the Defense Technical Information Center, 8725 John J. Kingman Road, Fort Belvoir, VA 22060-6218. Other Federal Agencies and the public may obtain copies from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

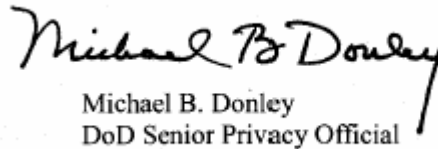

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REFERENCES

- (a) DoD Directive 5400.11, "DoD Privacy Program," May 8, 2007
- (b) Section 552a of title 5, United States Code
- (c) DoD Directive 5400.7, "DoD Freedom of Information (FOIA) Program," October 28, 2005
- (d) DoD 5400.7-R, "DoD Freedom of Information Act Program," September 1998
- (e) Title 5, Code of Federal Regulations, Parts 293, 294, 297, 735, and 736, current edition
- (f) DoD Directive 7650.1, "General Accountability Office (GAO) and Comptroller General Access to Records," September 11, 1997
- (g) DoD Directive 5400.4, "Provision of Information to Congress," January 30, 1978
- (h) DoD 5200.1-R, "Information Security Program," January 14, 1997
- (i) Section 3303a of title 44, United States Code
- (j) Federal Acquisition Regulation, Subpart 24.1, "Protection of Individual Privacy," current edition
- (k) Section 3711(e) of title 31, United States Code
- (l) Executive Order 9397, "Numbering System for Federal Accounts Relating to Individual Persons," November 30, 1943
- (m) DoD Instruction 7750.7, "DoD Forms Management Program," May 31, 1990
- (n) Section 1746 of title 28, United States Code
- (o) DoD 6025.18-R, "DoD Health Information Privacy Regulation," January 24, 2003
- (p) Section 552 of title 5, United States Code, as amended
- (q) Public Law 86-36, "National Security Agency-Officers and Employees,"
- (r) Sections 130b, 424, 3013, 5013, and 8013 of title 10, United States Code
- (s) Section 6 of title 13, United States Code
- (t) DoD Directive 1344.9, "Indebtedness of Military Personnel," October 27, 1994
- (u) Section 3056 of title 18, United States Code
- (v) DoD 5025.1-M, "Directives System Procedures," March 2003
- (w) Administrative Instruction 102, "Office of the Secretary of Defense (OSD) Federal Register (FR) System," November 6, 2006
- (x) Section 301 of title 5, United States Code
- (y) Federal Register, Volume 40, page 28948, July 9, 1975
- (z) Chairman of the Joint Chiefs of Staff Manual 6510.01, "Defense-in-Depth: Information Assurance (IA) and Computer Network Defense (CND)," Change 3, March 8, 2006
- (aa) Federal Register, Volume 54, page 25818, June 19, 1989
- (ab) Office of Management and Budget Circular No. A-130, "Management of Federal Information Resources," February 8, 1996, as amended
- (ac) DoD Directive 8500.1, "Information Assurance (IA)," October 24, 2002
- (ad) Section 3501 of title 44, United States Code, Note (Public Law 107-347, section 208, "Privacy Provisions," E-Government Act of 2002)
- (ae) DoD Instruction 8500.2, "Information Assurance (IA) Implementation," February 6, 2002
- (af) DoD Deputy Chief Information Officer Memorandum, "Department of Defense (DoD) Privacy Impact Assessment (PIA) Guidance," October 28, 2005
- (ag) DoD Memorandum, "Disposition of Unclassified DoD Computer Hard Drives," June 4, 2001
- (ah) DoD 8910.1-M, "DoD Procedures for Management of Information Requirements," June 30, 1998

DL1. DEFINITIONS

DL1.1. Access. For the purposes of this Regulation, the review of a record or a copy of a record, or parts thereof, in a system of records by any individual.

DL1.2. Agency. For the purposes of disclosing records subject to the Privacy Act (Reference (b)) among the DoD Components, the Department of Defense is considered a single agency. For all other purposes, to include requests for access and amendment, denial of access, or amendment, appeals from denials, and record keeping, as relating to the release of records to non-DoD Agencies, each DoD Component is considered an agency within the meaning of Reference (b).

DL1.3. Computer Matches. The computerized comparison of two or more automated systems of records or a system of records with non-Federal records. Manual comparison of systems of records or a system of records with non-Federal records are not covered.

DL1.4. Confidential Source. A person or organization who has furnished information to the Federal Government under an express promise, if made on or after September 27, 1975, that the person's or the organization's identity shall be held in confidence or under an implied promise of such confidentiality if this implied promise was made on or before September 26, 1975.

DL1.5. Disclosure. The transfer of any personal information from a system of records by any means of communication (such as oral, written, electronic, mechanical, or actual review) to any person, private entity, or Government Agency, other than the subject of the record, the subject's designated agent, or the subject's legal guardian.

DL1.6. Federal Benefit Program. A program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals.

DL1.7. Federal Personnel. Officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the United States (including survivor benefits).

DL1.8. Individual. A living person who is a citizen of the United States or an alien lawfully admitted for permanent residence. The parent of a minor or the legal guardian of any individual may also act on behalf of an individual. Members of the U.S. Armed Forces are "individuals." Corporations, partnerships, sole proprietorships, professional groups, businesses, whether incorporated or unincorporated, and other commercial entities are not "individuals" when acting in an entrepreneurial capacity with the Department of Defense, but are "individuals" when acting in a personal capacity (e.g., security clearances, entitlement to DoD privileges or benefits, etc.).

DL1.9. Individual Access. Access to information pertaining to the individual by the individual or his or her designated agent or legal guardian.

DL1.10. Lost, Stolen, or Compromised Information. Actual or possible loss of control, unauthorized disclosure, or unauthorized access of personal information where persons other than authorized users gain access or potential access to such information for an other than authorized purposes where one or more individuals will be adversely affected. Such incidents also are known as breaches.

DL1.11. Maintain. To maintain, collect, use, or disseminate records contained in a system of records.

DL1.12. Non-Federal Agency. Any state or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a computer matching program.

DL1.13. Official Use. Within the context of this Regulation, this term is used when officials and employees of a DoD Component have demonstrated a need for the use of any record or the information contained therein in the performance of their official duties, subject to DoD 5200.1-R (Reference h)).

DL1.14. Personal Information. Information about an individual that identifies, links, relates, or is unique to, or describes him or her, e.g., a social security number; age; military rank; civilian grade; marital status; race; salary; home/office phone numbers; other demographic, biometric, personnel, medical, and financial information, etc. Such information is also known as personally identifiable information (i.e., information which can be used to distinguish or trace an individual's identity, such as their name, social security number, date and place of birth, mother's maiden name, biometric records, including any other personal information which is linked or linkable to a specified individual).

DL1.15. Privacy Act. The Privacy Act of 1974, as amended, 5 U.S.C. 552a (Reference (b)).

DL1.16. Privacy Act Request. A request from an individual for notification as to the existence of, access to, or amendment of records pertaining to that individual. These records must be maintained in a system of records.

DL1.17. Member of the Public. Any individual or party acting in a private capacity to include Federal employees or military personnel.

DL1.18. Recipient (matching) Agency. Any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a computer matching program.

DL1.19. Record. Any item, collection, or grouping of information, whatever the storage media (paper, electronic, etc.), about an individual that is maintained by a DoD Component, including, but not limited to, an individual's education, financial transactions, medical history, criminal or employment history, and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, or a photograph.

DL1.20. Risk Assessment. An analysis considering information sensitivity, vulnerabilities, and cost in safeguarding personal information processed or stored in the facility or activity.

DL1.21. Routine Use. The disclosure of a record outside the Department of Defense for a use that is compatible with the purpose for which the information was collected and maintained by the Department of Defense. The routine use must be included in the published system notice for the system of records involved.

DL1.22. Source Agency. Any agency which discloses records contained in a system of records to be used in a computer-matching program, or any state or local government or agency thereof, which discloses records to be used in a computer-matching program.

DL1.23. Statistical Record. A record maintained only for statistical research or reporting purposes and not used in whole or in part in making determinations about specific individuals.

DL1.24. System of Records. A group of records under the control of a DoD Component from which personal information about an individual is retrieved by the name of the individual, or by some other identifying number, symbol, or other identifying particular assigned, that is unique to the individual.

C1. CHAPTER 1

SYSTEMS OF RECORDS

C1.1. GENERAL

C1.1.1. System of Records. To be subject to the provisions of this Regulation a “system of records” must:

C1.1.1.1. Consist of “records,” (as defined in paragraph DL1.19) that are retrieved by the name of an individual or some other personal identifier; and

C1.1.1.2. Be under the control of a DoD Component.

C1.1.2. Retrieval Practices

C1.1.2.1. Records in a group of records that may be retrieved by a name or personal identifier are not covered by this Regulation, even if the records contain personal data and are under control of a DoD Component. The records must be retrieved by name or other personal identifier to become a system of records for the purpose of this Regulation.

C1.1.2.1.1. When records are contained in an automated Information Technology (IT) system that is capable of being manipulated to retrieve information about an individual, this does not automatically transform the system into a system of records, as defined in this Regulation.

C1.1.2.1.2. In determining whether an automated system is a system of records that is subject to this Regulation, retrieval policies and practices shall be evaluated. If DoD Component policy is to retrieve personal information by name or other unique personal identifier, it is a system of records. If DoD Component policy prohibits retrieval by name or other identifier, but the actual practice of the Component is to retrieve information by name or identifier, even if done infrequently, it is a system of records.

C1.1.2.2. If records are retrieved by name or personal identifier, a system notice must be submitted in accordance with paragraph C6.4 of Chapter 6.

C1.1.2.3. If records that are not retrieved by name or personal identifier but then are rearranged in such a manner that they are retrieved by name or personal identifier, a new systems notice must be submitted in accordance with paragraph C6.4 of Chapter 6.

C1.1.2.4. If records in a system of records are rearranged so that retrieval is no longer by name or other personal identifier, the records are no longer subject to this Regulation, and the system notice for the records shall be deleted in accordance with paragraph C6.5 of Chapter 6.

C1.1.3. Relevance and Necessity. Information or records about an individual shall only be maintained in a system of records that is relevant and necessary to accomplish a DoD Component purpose required by a Federal statute or an Executive Order.

C1.1.4. Authority to Establish Systems of Records. Identify the specific statute or the Executive Order that authorizes maintaining personal information in each system of records. The existence of a statute or Executive Order mandating the maintenance of a system of records does not abrogate the responsibility to ensure that the information in the system of records is relevant and necessary.

If a statute or Executive Order does not expressly direct the creation of a system of records, but the establishment of a system of records is necessary in order to discharge the requirements of the statute or Executive Order, the statute or Executive Order shall be cited as the authority.

C1.1.5. Exercise of First Amendment Rights

C1.1.5.1. Do not maintain any records describing how an individual exercises his or her rights guaranteed by the First Amendment of the U.S. Constitution, except when:

C1.1.5.1.1. Expressly authorized by Federal statute;

C1.1.5.1.2. Expressly authorized by the individual; or

C1.1.5.1.3. Maintenance of the information is pertinent to and within the scope of an authorized law enforcement activity.

C1.1.5.2. First Amendment rights include, but are not limited to, freedom of religion, freedom of political beliefs, freedom of speech, freedom of the press, the right to assemble, and the right to petition.

C1.1.6. System Manager's Evaluation

C1.1.6.1. Evaluate the information to be included in each new system before establishing the System, and evaluate periodically the information contained in each existing system of records for relevancy and necessity. Such a review shall also occur when a system notice alteration or amendment is prepared. See sections C6.4 and C6.5 of Chapter 6.

C1.1.6.2. Consider the following:

C1.1.6.2.1. The relationship of each item of information retained and collected to the purpose for which the system is maintained;

C1.1.6.2.2. The specific impact on the purpose or mission of not collecting each category of information contained in the system;

C1.1.6.2.3. The possibility of meeting the informational requirements through use of information not individually identifiable or through other techniques, such as sampling;

C1.1.6.2.4. The length of time each item of personal information must be retained;

C1.1.6.2.5. The cost of maintaining the information; and

C1.1.6.2.6. The necessity and relevancy of the information to the purpose for which it was collected.

C1.1.7. Discontinued Information Requirements

C1.1.7.1. Stop collecting immediately any category or item of personal information for which retention is no longer justified. Also delete this information from existing records, when feasible.

C1.1.7.2. Do not destroy any records that must be retained in accordance with disposal authorizations established under Section 3303a of 44 U.S.C. (Reference (i)).

C1.2. STANDARDS OF ACCURACY

C1.2.1. Accuracy of Information Maintained. Maintain all personal information that is used or may be used to make any determination about an individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to ensure fairness to the individual in making any such determination.

C1.2.2. Accuracy Determinations before Dissemination. Before disseminating any personal information from a system of records to any person outside the Department of Defense, other than a Federal Agency, make reasonable efforts to ensure that the information to be disclosed is accurate, relevant, timely, and complete for the purpose it is being maintained. See also paragraph C4.1.4 of Chapter 4.

C1.3. GOVERNMENT CONTRACTORS

C1.3.1. Applicability to Government Contractors

C1.3.1.1. When a DoD Component contract requires the operation or maintenance of a system of records or a portion of a system of records or requires the performance of any activities associated with maintaining a system of records, including the collection, use, and dissemination of records, the record system or the portion of the record system affected are considered to be maintained by the DoD Component and are subject to this Regulation. The Component is responsible for applying the requirements of this Regulation to the contractor. The contractor and its employees are to be considered employees of the DoD Component for the purposes of the criminal provisions of Reference (b) during the performance of the contract. Consistent with subpart 24.1 of the Federal Acquisition Regulation (Reference (j)), contracts requiring the maintenance or operation of a system of records or the portion of a system of records shall include in the solicitation and resulting contract such terms as are prescribed by Reference (j).

C1.3.1.2. If the contractor must use, have access to, or disseminate individually identifiable information subject to this Regulation in order to perform any part of a contract, and the information would have been collected, maintained, used, or disseminated by the DoD Component but for the award of the contract, these contractor activities are subject to this Regulation.

C1.3.1.3. The restriction in subparagraphs C1.3.1.1 and C1.3.1.2 of this Chapter do not apply to records:

C1.3.1.3.1. Established and maintained to assist in making internal contractor management decisions, such as records maintained by the contractor for use in managing the contract;

C1.3.1.3.2. Maintained as internal contractor employee records even when used in conjunction with providing goods and services to the Department of Defense;

C1.3.1.3.3. Maintained as training records by an educational organization contracted by a DoD Component to provide training when the records of the contract students are similar to and commingled with training records of other students (for example, admission forms, transcripts, academic counseling and similar records);

C1.3.1.3.4. Maintained by a consumer reporting agency to which records have been disclosed under contract in accordance with section 3711(e) of 31 U.S.C., the Federal Claims Collection Act of 1966, (Reference (k)); or

C1.3.1.3.5. Maintained by the contractor incident to normal business practices and operations.

C1.3.1.4. The DoD Components shall publish instructions that:

C1.3.1.4.1. Furnish DoD Privacy Program guidance to their personnel who solicit, award, or administer Government contracts;

C1.3.1.4.2. Inform prospective contractors of their responsibilities, and provide training, as appropriate, regarding the DoD Privacy Program; and

C1.3.1.4.3. Establish an internal system of contractor performance review to ensure compliance with the DoD Privacy Program.

C1.3.2. Contracting Procedures. The Defense Acquisition Regulations Council is responsible for developing the specific policies and procedures to be followed when soliciting bids, awarding contracts or administering contracts that are subject to this Regulation.

C1.3.3. Contractor Compliance. Through the various contract surveillance programs, ensure contractors comply with the procedures established in accordance with paragraph C1.3.2 of this Chapter.

C1.3.4. Disclosure of Records to Contractors. Disclosure of records contained in a system of records by a DoD Component to a contractor for use in the performance of a DoD contract is considered a disclosure within the Department of Defense. See paragraph C4.1.2 of Chapter 4. The contractor is considered the agent of the contracting DoD Component and to be maintaining and receiving the records for that Component.

C1.4. SAFEGUARDING PERSONAL INFORMATION

C1.4.1. General Responsibilities. DoD Components shall establish appropriate administrative, technical and physical safeguards to ensure that the records in each system of records are protected from unauthorized access, alteration, or disclosure and that their confidentiality is preserved and protected. Records shall be protected against reasonably anticipated threats or hazards that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual about whom information is kept.

C1.4.2. Minimum Standards

C1.4.2.1. Tailor system safeguards to conform to the type of records in the system, the sensitivity of the personal information stored, the storage medium used and, to a degree, the number of records maintained.

C1.4.2.2. Treat all unclassified records that contain personal information that normally would be withheld from the public under Freedom of Information Exemption Numbers 6 and 7, chapter 3 of Reference (d) as “For Official Use Only (FOUO),” and safeguard them accordingly, in accordance with DoD 5200.1-R (Reference (h)), even if they are not actually marked “FOUO.”

C1.4.2.3. Personal information that does not meet the criteria discussed in paragraph C1.4.2.2 of this Chapter shall be accorded protection commensurate with the nature and type of information involved.

C1.4.2.4. Special administrative, physical, and technical procedures are required to protect data that is stored or processed in an IT system to protect against threats unique to an automated environment. See Appendix 1.

C1.4.2.5. Tailor safeguards specifically to the vulnerabilities of the system.

C1.4.3. Records Disposal

C1.4.3.1. Dispose of records containing personal data so as to prevent inadvertent compromise. Disposal methods are those approved by the Component or the National Institute of Standards and Technology. For paper records, disposal methods, such as tearing, burning, melting, chemical decomposition, pulping, pulverizing, shredding, or mutilation are acceptable. For electronic records and media, disposal methods, such as overwriting, degaussing, disintegration, pulverization, burning, melting, incineration, shredding or sanding are acceptable.

C1.4.3.2. Disposal methods are considered adequate if the personal data is rendered unrecognizable or beyond reconstruction.

C1.5. NOTIFICATION WHEN INFORMATION IS LOST, STOLEN, OR COMPROMISED

C1.5.1. If records containing personal information are lost, stolen, or compromised (see paragraph DL1.1.10), the potential exists that the records may be used for unlawful purposes, such as identity theft, fraud, stalking, etc. The personal impact on the affected individual may be severe if the records are misused. To assist the individual, the Component shall promptly notify the individual of any loss, theft, or compromise. See also, paragraph 10.6.1 of Chapter 10 for reporting of the breach to the Senior Component Official for Privacy and the Defense Privacy Office.

C1.5.1.1. The notification shall be made whenever a breach occurs that involves personal information pertaining to a service member, civilian employee (appropriated or non-appropriated fund), military retiree, family member, DoD contractor, other persons that are affiliated with the Component (e.g., volunteers), and/or any other member of the public on whom information is maintained by the Component or by a contractor on behalf of the Component.

C1.5.1.2. The notification shall be made as soon as possible, but not later than 10 working days after the loss, theft, or compromise is discovered and the identities of the individuals ascertained.

C1.5.1.2.1. The 10-day period begins after the Component is able to determine the identities of the individuals whose records were lost.

C1.5.1.2.2. If the Component is only able to identify some but not all of the affected individuals, notification shall be given to those that can be identified with follow-up notifications made to those subsequently identified.

C1.5.1.2.3. If the Component cannot readily identify the affected individuals or will not be able to identify the individuals, the Component shall provide a generalized notice to the potentially impacted population by whatever means the Component believes is most likely to reach the affected individuals.

C1.5.1.3. When personal information is maintained by a DoD contractor on behalf of the Component, the contractor shall notify the Component immediately upon discovery that a loss, theft, or compromise has occurred.

C1.5.1.3.1. The Component shall determine whether the Component or the contractor shall make the required notification.

C1.5.1.3.2. If the contractor is to notify the impacted population, it shall submit the notification letters to the Component for review and approval. The Component shall coordinate with the contractor to ensure that the letters meet the requirements of subparagraph C1.5.

C1.5.1.4. Subject to subparagraph C1.5.1.2, the Component shall inform the Deputy Secretary of Defense of the reasons why notice was not provided to the individuals or the affected population within the 10-day period.

C1.5.1.4.1. If for good cause (e.g., law enforcement authorities request delayed notification as immediate notification will jeopardize investigative efforts), notice can be delayed, but the delay shall only be for a reasonable period of time. In determining what constitutes a reasonable period of delay, the potential harm to the individual must be weighed against the necessity for delayed notification.

C1.5.1.4.2. The required notification shall be prepared and forwarded to the Senior Component Official for Privacy (Reference (a)) who shall forward it to the Defense Privacy Office. The Defense Privacy Office, in coordination with the Office of the Under Secretary of Defense for Personnel and Readiness, shall forward the notice to the Deputy Secretary.

C1.5.1.5. The notice to the individual, at a minimum, shall include the following:

C1.5.1.5.1. The individuals shall be advised of what specific data was involved. It is insufficient to simply state that personal information has been lost. Where names, Social Security Numbers (SSNs), and dates of birth are involved, it is critical that the individual be advised that these data elements potentially have been compromised.

C1.5.1.5.2. The individual shall be informed of the facts and circumstances surrounding the loss, theft, or compromise. The description of the loss should be sufficiently detailed so that the individual clearly understands how the compromise occurred.

C1.5.1.5.3. The individual shall be informed of what protective actions the Component is taking or the individual can take to mitigate against potential future harm. The Component should refer the individual to the Federal Trade Commission's public web site on identity theft at http://www.consumer.gov/idtheft/con_steps.htm. The site provides valuable information as to what steps individuals can take to protect themselves if their identities potentially have been or are stolen.

C1.5.1.5.4. A sample notification letter is at Appendix 2.

C1.5.2. The notification shall be made whether or not the personal information is contained in a system of records. See subparagraph C1.1.1 of this Chapter.

C2. CHAPTER 2

COLLECTING PERSONAL INFORMATION

C2.1. GENERAL CONSIDERATIONS

C2.1.1. Collect Directly from the Individual. Collect to the greatest extent practicable personal information directly from the individual to whom it pertains, if the information may result in adverse determinations about an individual's rights, privileges, or benefits under any Federal program.

C2.1.2. Collecting SSNs

C2.1.2.1. It is unlawful for any Federal, State, or local governmental agency to deny an individual any right, benefit, or privilege provided by law because the individual refuses to provide his or her SSN. However, if a Federal statute requires that the SSN be furnished, or if the SSN is furnished to a DoD Component maintaining a system of records in existence that was established and in operation before January 1, 1975, and the SSN was required under a statute or regulation adopted prior to this date for purposes of verifying the identity of an individual, this restriction does not apply.

C2.1.2.2. When an individual is requested to provide his or her SSN, he or she must be told:

C2.1.2.2.1. What uses will be made of the SSN;

C2.1.2.2.2. The statute, regulation, or rule authorizing the solicitation of the SSN; and

C2.1.2.2.3. Whether providing the SSN is voluntary or mandatory.

C2.1.2.3. Include in any systems notice for any system of records that contains SSNs a statement indicating the authority for maintaining the SSN.

C2.1.2.4. Executive Order 9397 (Reference (1)) authorizes solicitation and use of SSNs as a numerical identifier for Federal personnel that are identified in most Federal record systems. However, it does not constitute authority for mandatory disclosure of the SSN.

C2.1.2.5. Upon entrance into military service or civilian employment with the Department of Defense, individuals are asked to provide their SSNs. The SSN becomes the service or employment number for the individual and is used to establish personnel, financial, medical, and other official records. The notification in subparagraph C2.1.2.2 of this Chapter shall be provided to the individual when originally soliciting his or her SSN. The notification is not required if an individual is requested to furnish his SSN for identification purposes and the SSN is solely used to verify the SSN that is contained in the records. However, if the SSN is solicited and retained for any purposes other than verifying the existing SSN in the records, the requesting official shall provide the individual the notification required by subparagraph C2.1.2.2 of this Chapter.

C2.1.2.6. Components shall ensure that the SSN is only collected when there is demonstrated need for collection. If collection is not essential for the purposes for which the record or records are being maintained, it should not be solicited.

C2.1.2.7. DoD Components shall continually review their use of the SSN to determine whether such use can be eliminated, restricted, or concealed in Component business processes, systems and paper and electronic forms. While use of the SSN may be essential for program integrity and national security when information about an individual is disclosed outside the DoD, it may not be as critical when the information is being used for internal Departmental purposes.

C2.1.3. Collecting Personal Information from Third Parties. When information being solicited is of an objective nature and is not subject to being altered, the information should first be collected from the individual. But, it may not be practicable to collect personal information first from the individual in all cases. Some examples of this are:

C2.1.3.1. Verification of information through third-party sources for security or employment suitability determinations;

C2.1.3.2. Seeking third-party opinions such as supervisor comments as to job knowledge, duty performance, or other opinion-type evaluations; and

C2.1.3.3. When obtaining information first from the individual may impede rather than advance an investigative inquiry into the actions of the individual.

C2.1.3.4. Contacting a third party at the request of the individual to furnish certain information, such as exact periods of employment, termination dates, copies of records, or similar information.

C2.1.4. Privacy Act Statements

C2.1.4.1. When an individual is requested to furnish personal information about himself or herself for inclusion in a system of records, a Privacy Act statement is required regardless of the medium used to collect the information (paper or electronic forms, personal interviews, telephonic interviews, or other methods). The Privacy Act statement consists of the elements set forth in subparagraph C2.1.4.2 of this Chapter. The statement enables the individual to make an informed decision whether to provide the information requested. If the personal information solicited is not to be incorporated into a system of records, the statement need not be given. However, personal information obtained without a Privacy Act Statement shall not be incorporated into any system of records. When soliciting SSNs for any purpose, see subparagraph C2.1.2.2 of this Chapter.

C2.1.4.2. The Privacy Act statement shall include:

C2.1.4.2.1. The Federal statute or Executive Order that authorizes collection of the requested information. See paragraph C1.1.4 of Chapter 1.

C2.1.4.2.2. The principal purpose or purposes for which the information is to be used;

C2.1.4.2.3. The routine uses that will be made of the information. See paragraph C4.2.3 of Chapter 4;

C2.1.4.2.4. Whether providing the information is voluntary or mandatory. See paragraph C2.1.5. of this Chapter; and

C2.1.4.2.5. The effects on the individual if he or she chooses not to provide the requested information.

C2.1.4.3. The Privacy Act statement shall be concise, current, and easily understood.

C2.1.4.4. The Privacy Act statement may appear as a public notice (sign or poster), conspicuously displayed in the area where the information is collected, such as at check-cashing facilities or identification photograph facilities. See paragraph C2.2.1 of this Chapter.

C2.1.4.5. The individual normally is not required to sign the Privacy Act statement.

C2.1.4.6. The individual shall be provided a written copy of the Privacy Act statement upon request. This must be done regardless of the method chosen to furnish the initial advisement.

C2.1.5. Mandatory as Opposed to Voluntary Disclosures. Include in the Privacy Act statement specifically whether furnishing the requested personal data is mandatory or voluntary. A requirement to furnish personal data is mandatory only when the DoD Component is authorized to impose a penalty on the individual for failure to provide the requested information. If a penalty cannot be imposed, disclosing the information is always voluntary.

C2.2. FORMS

C2.2.1. DoD Forms

C2.2.1.1. DoD Instruction 7750.7 (Reference (m)) provides guidance for preparing Privacy Act statements for use with forms (see also paragraph C2.2.1.2 of this Chapter).

C2.2.1.2. When forms are used to collect personal information, the Privacy Act statement shall appear as follows (listed in the order of preference):

C2.2.1.2.1. In the body of the form, preferably just below the title so that the reader will be advised of the contents of the statement before he or she begins to complete the form.

C2.2.1.2.2. On the reverse side of the form with an appropriate annotation under the title giving its location;

C2.2.1.2.3. On a tear-off sheet attached to the form; or

C2.2.1.2.4. As a separate supplement to the form.

C2.2.2. Forms Issued by Non-DoD Activities

C2.2.2.1. Forms subject to Reference (b) issued by other Federal Agencies must have a Privacy Act statement. Always ensure that the statement prepared by the originating Agency is adequate for the purpose for which the form shall be used by the DoD activity. If the Privacy Act statement provided is inadequate, the DoD Component concerned shall prepare a new statement or a supplement to the existing statement before using the form.

C2.2.2.2. Forms issued by agencies not subject to Reference (b) (State, municipal, and other local agencies) do not contain Privacy Act statements. Before using a form prepared by such agencies to collect personal data subject to this Regulation, an appropriate Privacy Act statement must be added.

C3. CHAPTER 3

ACCESS BY INDIVIDUALS

C3.1. INDIVIDUAL ACCESS TO PERSONAL INFORMATION

C3.1.1. Individual Access

C3.1.1.1. The access provisions of this Regulation are intended for use by individuals who seek access to records about themselves that are maintained in a system of records. Release of personal information to individuals under this Regulation is not considered public release of the information.

C3.1.1.2. Make available to the individual to whom the record pertains all of the personal information contained in the system of records except where access may be denied pursuant to an exemption claimed for the system. See Chapter 5 of this Regulation. However, when the access provisions of this chapter are not available to the individual due to a claimed exemption, the request shall be processed to provide information that is disclosable pursuant to Reference (d).

C3.1.2. Individual Requests for Access. Individuals shall address requests for access to personal information in a system of records to the system manager or to the office designated in the DoD Component procedural rules or the system notice.

C3.1.3. Verification of Identity

C3.1.3.1. Before granting access to personal data, an individual may be required to provide reasonable proof his or her identity.

C3.1.3.2. Identity verification procedures shall not:

C3.1.3.2.1. Be so complicated as to unnecessarily discourage individuals from seeking access to information about themselves; or

C3.1.3.2.2. Be required of an individual seeking access to records that normally would be available under Reference (d).

C3.1.3.3. When an individual seeks personal access to records pertaining to themselves in person, proof of identity is normally provided by documents that an individual ordinarily possesses, such as employee and military identification cards, driver's license, other licenses, permits, or passes used for routine identification purposes.

C3.1.3.4. When access is requested by mail, identity verification may consist of the individual providing certain minimum identifying data, such as full name, date and place of birth, or such other personal information necessary to locate the record sought and information that is ordinarily only known to the individual. If the information sought is of a sensitive nature,

additional identifying data may be required. An unsworn declaration under penalty of perjury in accordance with section 1746 of 28 U.S.C. (Reference (n)) or notarized signatures are acceptable as a means of proving the identity of the individual.

C3.1.3.4.1. If an unsworn declaration is executed within the United States, its territories, possessions, or commonwealths, it shall read “I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).”

C3.1.3.4.2. If an unsworn declaration is executed outside the United States, it shall read “I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).”

C3.1.3.5. If an individual wishes to be accompanied by a third party when seeking access to his or her records or to have the records released directly to a third party, the individual may be required to furnish a signed access authorization granting the third-party access.

C3.1.3.6. An individual shall not be refused access to his or her record solely because he or she refuses to provide his or her SSN, unless the SSN is the only method by which retrieval can be made. See paragraph C2.1.2 of Chapter 2.

C3.1.3.7. The individual is not required to explain or justify his or her need for access to any record under this Regulation.

C3.1.3.8. Only a denial authority may deny access, and the denial must be in writing and contain the information required by paragraph C3.2.2 of this Chapter.

C3.1.4. Granting Individual Access to Records

C3.1.4.1. Grant the individual access to the original record or an exact copy of the original record without any changes or deletions, except when deletions have been made in accordance with paragraph C3.1.5 of this Chapter. For the purpose of granting access, a record that has been amended under paragraph C3.3.2 of this Chapter is considered to be the original. See paragraph C3.1.5 of this Chapter for the policy regarding the use of summaries and extracts.

C3.1.4.2. Provide exact copies of the records when furnishing the individual copies of records under this Regulation.

C3.1.4.3. Explain in terms understood by the requestor any record or portion of a record that is not clear.

C3.1.5. Illegible, Incomplete, or Partially Exempt Records

C3.1.5.1. Do not deny an individual access to a record or a copy of a record solely because the physical condition or format of the record does not make it readily available (deteriorated state or on magnetic tape). Either prepare an extract, or recopy the document exactly.

C3.1.5.2. If a portion of the record contains information that is exempt from access, an extract or summary containing all of the information in the record that is releasable shall be prepared.

C3.1.5.3. When the physical condition of the record or its state makes it necessary to prepare an extract for release, ensure that the extract can be understood by the requester.

C3.1.5.4. Explain to the requester all deletions or changes to the records.

C3.1.6. Access to Medical Records

C3.1.6.1. Access to medical records is not only governed by the access provisions of this Regulation, but also by the access provisions of DoD 6025.18-R (Reference (o)). The Privacy Act (Reference (b)), as implemented by this regulation, however, provides greater access to an individual's medical records than that authorized by Reference (o).

C3.1.6.2. Medical records in a system of records shall be disclosed to the individual to whom they pertain, even if a minor; but, when it is believed that access to such records could have an adverse effect on the mental or physical health of the individual or may result in harm to a third party, the following special procedures apply:

C3.1.6.2.1. If a determination is made in consultation with a medical doctor that release of the medical information may be harmful to the mental or physical health of the individual, or to a third party, the Component shall:

C3.1.6.2.1.1. Send the record to a physician named by the individual; and

C3.1.6.2.1.2. In the transmittal letter to the physician, explain why access by the individual without proper professional supervision could be harmful (unless it is obvious from the record).

C3.1.6.2.2. The Component shall not require the physician to request the records for the individual.

C3.1.6.3. If the individual refuses or fails to designate a physician, the record shall not be provided. Such refusal of access is not considered a denial under the Privacy Act. See paragraph C3.2.1 and C3.2.2 of this Chapter.

C3.1.6.4. If records are provided to the designated physician, but the physician declines or refuses to provide the records to the individual, the DoD Component is under an affirmative duty to take action to deliver the records to the individual by whatever means deemed appropriate. Such action should be taken expeditiously, especially if there has been a significant delay between the time the records were furnished the physician and the decision by the physician not to release the records.

C3.1.6.5. Access to a minor's medical records may be granted to his or her parents or legal guardians. However, access is subject to the restrictions as set forth at paragraph C9.7.3 of Reference (o).

C3.1.6.6. Members of the Military Services and all married persons are not considered minors regardless of age, and the parents of these individual do not have access to their medical records without written consent of the individual.

C3.1.7. Access to Information Compiled in Anticipation of a Civil Action. (See Chapter 5 of this Regulation).

C3.1.8. Non-Agency Records

C3.1.8.1. Certain documents under the physical control of DoD personnel and used to assist them in performing official functions, are not considered "Agency records" within the meaning of this Regulation. Uncirculated personal notes and records that are not disseminated or circulated to any person or organization (for example, personal telephone lists or memory aids) that are retained or discarded at the author's discretion and over which the Component exercises no direct control are not considered Agency records. However, if personnel are officially directed or encouraged, either in writing or orally, to maintain such records, they may become "Agency records" and may be subject to this Regulation.

C3.1.8.2. The personal uncirculated handwritten notes of unit leaders, office supervisors, or military supervisory personnel concerning subordinates are not systems of records within the meaning of this Regulation. Such notes are an extension of the individual's memory. These notes, however, must be maintained and discarded at the discretion of the individual's supervisor and not circulated to others. Any established requirement to maintain such notes (such as, written or oral directives, regulations, or command policy) may transform these notes into "Agency records," and they then must be made a part of a system of records. If the notes are circulated, they must be made a part of a system of records. Any action that gives personal notes the appearance of official Agency records is prohibited, unless the notes have been incorporated into a system of records.

C3.1.9. Relationship between the Privacy Act (Reference (b)) and section 552 of 5 U.S.C., the Freedom of Information Act (Reference (p)). Not all requesters are knowledgeable of the appropriate statutory authority to cite when requesting records. In some instances, they may cite neither Act, but will imply one or both Acts. The below guidelines are provided to ensure that requesters are given the maximum amount of information as authorized under both statutes.

C3.1.9.1. Process requests for individual access as follows:

C3.1.9.1.1. If the records are required to be released under the Privacy Act, FOIA does not bar release even if a FOIA exemption could be invoked if the request had been processed solely under FOIA. Conversely, if the records are required to be released under FOIA, the Privacy Act does not bar disclosure.

C3.1.9.1.2. Requesters who seek records about themselves contained in a Privacy Act system of records, and who cite or imply only the Privacy Act, will have their records processed under the provisions of this Regulation and Reference (d). If the system of records is exempt from the access provisions of this Regulation, and if the records, or any portion thereof, are exempt under FOIA, the requester shall be advised and informed of the appropriate Privacy and FOIA exemptions. Only if the records can be denied under both statutes may the Department of Defense withhold the records from the individual. Appeals shall be processed under both Acts.

C3.1.9.1.3. Requesters who seek records about themselves that are not contained in a Privacy Act system of records, and who cite or imply only the Privacy Act, will have their requests processed under the provisions of Reference (d)), since the access provisions of this Regulation do not apply. Appeals shall be processed under the FOIA.

C3.1.9.1.4. Requesters who seek records about themselves that are contained in a Privacy Act system of records, and who cite or imply FOIA or both Acts, will have their requests processed under the provisions of this Regulation and Reference (d). If the system of records is exempt from the access provisions of this Regulation, and if the records, or any portion thereof, are exempt under FOIA, the requester shall be advised and informed of the appropriate Privacy and FOIA exemptions. Appeals shall be processed under both Acts.

C3.1.9.1.5. Requesters who seek records about themselves that are not contained in a Privacy Act system of records, and who cite or imply the Privacy Act and FOIA, will have their requests processed under Reference (d), since the access provisions of this Regulation do not apply. Appeals shall be processed under FOIA.

C3.1.9.2. Do not deny individuals' access to personal information concerning them that would otherwise be releasable to them under either Act solely because they fail to cite or imply either Act or cite the wrong Act, Regulation, or Instruction.

C3.1.9.3. Explain to the requester which Act(s) was(were) used when granting or denying access under either Act.

C3.1.10. Time Limits. DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response.

C3.1.11. Privacy Act Case File. Establish a Privacy Act case file, when required. See paragraph C3.3.16 of this Chapter.

C3.2. DENIAL OF INDIVIDUAL ACCESS

C3.2.1. Denying Individual Access

C3.2.1.1. An individual may be denied access to a record pertaining to him or her only if the record:

C3.2.1.1.1. Was compiled in reasonable anticipation of a civil action or proceeding. See paragraph C5.2 of Chapter 5.

C3.2.1.1.2. Is in a system of records that has been exempted from the access provisions of this Regulation under one of the permitted exemptions. See paragraphs 5.3 and 5.4 of Chapter 5.

C3.2.1.1.3. Contains classified information that has been exempted from the access provisions of this Regulation under the blanket exemption for such material claimed for all DoD records systems. See paragraph C5.1.3. of Chapter 5.

C3.2.1.1.4. Is contained in a system of records for which access may be denied under some other Federal statute that excludes the record from coverage of Reference (b).

C3.2.1.2. Where a basis for denial exists, do not deny the record, or portions of the record, if denial does not serve a legitimate governmental purpose.

C3.2.2. Other Reasons to Refuse Access

C3.2.2.1. An individual may be refused access if:

C3.2.2.1.1. The record is not described well enough to enable it to be located with a reasonable amount of effort on the part of an employee familiar with the file; or

C3.2.2.1.2. Access is sought by an individual who fails or refuses to comply with the established procedural requirements, including refusing to name a physician to receive medical records, when required, (see paragraph C3.1.6 of this Chapter), or to pay fees (see section C3.4 of this Chapter).

C3.2.2.2. Always explain to the individual the specific reason access has been refused and how he or she may obtain access.

C3.2.3. Notifying the Individual. Formal denials of access must be in writing and include at a minimum:

C3.2.3.1. The name, title or position, and signature of a designated Component denial authority;

C3.2.3.2. The date of the denial;

C3.2.3.3. The specific reason for the denial, including specific citations to the appropriate sections of the Privacy Act or other statutes, this Regulation, DoD Component instructions, or Code of Federal Regulations (CFR) authorizing the denial;

C3.2.3.4. Notice to the individual of his or her right to appeal the denial through the Component appeal procedure within 60 calendar days; and

C3.2.3.5. The title or position and address of the Privacy Act appeals official for the Component.

C3.2.4. DoD Component Appeal Procedures. Establish internal appeal procedures that, at a minimum, provide for:

C3.2.4.1. Review by the Head of the Component, or his or her designee, of any appeals by an individual from a denial of access to Component records.

C3.2.4.2. Formal written notification to the individual by the appeal authority that shall:

C3.2.4.2.1. Include, at a minimum, the following, if the denial is sustained totally or in part:

C3.2.4.2.1.1. The exact reason for denying the appeal, to include specific citations to the provisions of the Act or other statutes, this Regulation, Component instructions, or the CFR upon which the determination is based;

C3.2.4.2.1.2. The date of the appeal determination;

C3.2.4.2.1.3. The name, title, and signature of the appeal authority; and

C3.2.4.2.1.4. A statement informing the applicant of his or her right to seek judicial relief.

C3.2.4.2.2. If the appeal is granted, notify the individual and provide access to the material to which access has been granted.

C3.2.4.3. The written appeal notification granting or denying access is the final Component action regarding access.

C3.2.4.4. The individual shall file any appeal from denial of access within no less than 60 calendar days of receipt of the denial notification.

C3.2.4.5. Process all appeals within 30 days of receipt, unless the appeal authority determines that a fair and equitable review cannot be made within that period. Notify the applicant in writing if additional time is required for the appellate review. The notification must include the reasons for the delay and state when the individual may expect an answer to the appeal.

C3.2.5. Denial of Appeals by Failure to Act. A requester may consider his or her appeal formally denied if the appeal authority fails:

C3.2.5.1. To act on the appeal within 30 days;

C3.2.5.2. To provide the requester with a notice of extension within 30 days; or

C3.2.5.3. To act within the time limits established in the Component's notice of extension. See paragraph C3.2.4.5 of this Chapter.

C3.2.6. Denying Access to OPM Records Held by the DoD Components

C3.2.6.1. The records in all systems of records maintained in accordance with the OPM Government-wide system notices are technically only in the temporary custody of the Department of Defense.

C3.2.6.2. All requests for access to these records must be processed in accordance with part 297 of Reference (e) as well as applicable Component procedures.

C3.2.6.3. When a DoD Component refuses to grant access to a record in an OPM system, the Component shall advise the individual that his or her appeal must be directed to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, in accordance with the procedures of part 297 of Reference (e).

C3.3. AMENDMENT OF RECORDS

C3.3.1. Individual Review and Correction. Individuals are encouraged to periodically review the personal information being maintained about them by the DoD Components and to avail themselves of the procedures established by this Regulation and other Regulations to update their records.

C3.3.2. Amending Records

C3.3.2.1. An individual may request the amendment of any record contained in a system of records pertaining to him or her unless the system of record has been exempted specifically from the amendment procedures of this Regulation under paragraph C5.1.2 of Chapter 5. Normally, amendments under this Regulation are limited to correcting factual matters and not matters of official judgment, such as performance ratings, promotion potential, and job performance appraisals.

C3.3.2.2. While a Component may require that the request for amendment be in writing, this requirement shall not be used to discourage individuals from requesting valid amendments, or to unnecessarily delay the amendment process.

C3.3.2.3. A request for amendment must include:

C3.3.2.3.1. A description of the item or items to be amended;

C3.3.2.3.2. The specific reason for the amendment;

C3.3.2.3.3. The type of amendment action sought (deletion, correction, or addition);

and

C3.3.2.3.4. Copies of available documentary evidence supporting the request.

C3.3.3. Burden of Proof. The applicant must adequately support his or her claim.

C3.3.4. Identification of Requesters

C3.3.4.1. Individuals may be required to provide identification to ensure that they are indeed seeking to amend a record pertaining to themselves and not, inadvertently or intentionally, the records of others.

C3.3.4.2. The identification procedures shall not be used to discourage legitimate requests or to needlessly burden or delay the amendment process. (See paragraph C3.1.3. of this Chapter.)

C3.3.5. Limits on Attacking Evidence Previously Submitted

C3.3.5.1. The amendment process is not intended to permit the alteration of records presented in the course of judicial or quasi-judicial proceedings. Any amendments or changes to these records are typically made through the specific procedures established for the amendment of such records.

C3.3.5.2. Nothing in the amendment process is intended or designed to permit a collateral attack upon what has already been the subject of a judicial or quasi-judicial determination. However, while the individual may not attack the accuracy of the judicial or quasi-judicial determination under this Regulation, he or she may challenge the accuracy of the recording of that action.

C3.3.6. Sufficiency of a Request to Amend. Consider the following factors when evaluating the sufficiency of a request to amend:

C3.3.6.1. The accuracy of the information itself; and

C3.3.6.2. The relevancy, timeliness, completeness, and necessity of the recorded information.

C3.3.7. Time Limits

C3.3.7.1. Provide written acknowledgment of a request to amend within 10 working days of its receipt by the appropriate systems manager. If the action is completed within 10 working days and the individual is so informed, the request does not need to be acknowledged.

C3.3.7.2. The letter of acknowledgment shall clearly identify the request and advise the individual when he or she may expect to be notified of the completed action.

C3.3.7.3. Only under the most exceptional circumstances shall more than 30 days be required to reach a decision on a request to amend. Document fully and explain in the Privacy Act case file (see paragraph C3.3.16 of this Chapter) any such decision that takes more than 30 days to resolve.

C3.3.8. Agreement to Amend. If the decision is made to grant all or part of the request for amendment, amend the record accordingly and notify the requester.

C3.3.9. Notification of Previous Recipients

C3.3.9.1. Notify all previous recipients of the record, as reflected in the disclosure accounting records, that an amendment has been made and the substance of the amendment. Recipients who are known to be no longer retaining the information need not be advised of the amendment. All DoD Components and Federal Agencies known to be retaining the record or information, even if not reflected in a disclosure record, shall be notified of the amendment. Advise the requester of these notifications.

C3.3.9.2. Honor all requests by the requester to notify specific Federal Agencies of the amendment action.

C3.3.10. Denying Amendment. If the request for amendment is denied in whole or in part, promptly advise the individual, in writing, of the decision, to include:

C3.3.10.1. The specific reason and authority for not amending;

C3.3.10.2. Notification that he or she may seek further independent review of the decision by the Head of the DoD Component or his or her designee;

C3.3.10.3. The procedures for appealing the decision citing the position and address of the official to whom the appeal shall be addressed; and

C3.3.10.4. Where he or she can receive assistance in filing the appeal.

C3.3.11. DoD Component Appeal Procedures. Establish procedures to ensure the prompt, complete, and independent review of each amendment denial upon appeal by the individual. These procedures must ensure that:

C3.3.11.1. The appeal with all supporting materials both that furnished the individual and that are contained in Component records is provided to the reviewing official; and

C3.3.11.2. If the appeal is denied completely or in part, the individual is notified, in writing, by the reviewing official that:

C3.3.11.2.1. The appeal has been denied and the specific reason and authority for the denial;

C3.3.11.2.2. The individual may file a statement of disagreement with the appropriate authority and the procedures for filing a statement;

C3.3.11.2.3. If filed properly, the statement of disagreement shall be included in the records, furnished to all future recipients of the records, and provided to all prior recipients of the disputed records who are known to hold the record; and

C3.3.11.2.4. The individual may seek a judicial review of the decision not to amend.

C3.3.11.3. If the record is amended, ensure that:

C3.3.11.3.1. The requester is promptly notified of the decision;

C3.3.11.3.2. All prior known recipients of the records who are known to be retaining the record are notified of the decision and the specific nature of the amendment (see paragraph C3.3.9 of this Chapter); and

C3.3.11.3.3. The requester is notified which DoD Components and Federal Agencies have been told of the amendment.

C3.3.11.4. Process all appeals within 30 days unless the appeal authority determines that a fair review cannot be made within this time limit. If additional time is required for the appeal, notify the requester, in writing, of the delay, the reason for the delay, and when he or she may expect a final decision on the appeal. Document fully all requirements for additional time in the Privacy Act case file. See paragraph C3.3.16. of this Chapter.

C3.3.12. Denying Amendment of OPM Records Held by the DoD Components

C3.3.12.1. The records in all systems of records controlled by the OPM Government-wide system notices are technically only temporarily in the custody of the Department of Defense.

C3.3.12.2. All requests for amendment of these records must be processed in accordance with Part 297 of Reference (e). The Component denial authority may deny a request. However, when an amendment request is denied, the DoD Component shall advise the individual that his or her appeal must be directed to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, 1900 E Street N.W., Washington, DC 20415, in accordance with the procedures of 297 (Reference (e)).

C3.3.13. Statements of Disagreement Submitted by Individuals

C3.3.13.1. If the appellate authority refuses to amend the record as requested, the individual may submit a concise statement of disagreement setting forth his or her reasons for disagreeing with the decision not to amend.

C3.3.13.2. If an individual chooses to file a statement of disagreement, annotate the record to indicate that the statement has been filed. See paragraph C3.3.14. of this Chapter.

C3.3.13.3. Furnish copies of the statement of disagreement to all DoD Components and Federal Agencies that have been provided copies of the disputed information and who may be maintaining the information.

C3.3.14. Maintaining Statements of Disagreement

C3.3.14.1. When possible, incorporate the statement of disagreement into the record.

C3.3.14.2. If the statement cannot be made a part of the record, establish procedures to ensure that it is apparent from the records that a statement of disagreement has been filed and maintain the statement so that it can be obtained readily when the disputed information is used or disclosed.

C3.3.14.3. Automated record systems that are not programmed to accept statements of disagreement shall be annotated or coded so that they clearly indicate that a statement of disagreement is on file, and clearly identify the statement with the disputed information in the system.

C3.3.14.4. Provide a copy of the statement of disagreement whenever the disputed information is disclosed for any purpose.

C3.3.15. The DoD Component Statement of Reasons for Refusing to Amend

C3.3.15.1. A statement of reasons for refusing to amend may be included with any record for which a statement of disagreement is filed.

C3.3.15.2. Include in this statement only the reasons furnished to the individual for not amending the record. Do not comment on or respond to comments contained in the statement of disagreement. Normally, both statements are filed together.

C3.3.15.3. When disclosing information for which a statement of reasons has been filed, a copy of the statement may be released whenever the record and the statement of disagreement are disclosed.

C3.3.16. Privacy Case Files

C3.3.16.1. Establish a separate Privacy Case File to retain the documentation received and generated during the amendment or access process.

C3.3.16.2. The Privacy Case File shall contain as a minimum:

C3.3.16.2.1. The request for amendment and access;

C3.3.16.2.2. Copies of the DoD Component's reply granting or denying the request;

C3.3.16.2.3. Any appeals from the individual;

C3.3.16.2.4. Copies of the action regarding the appeal with supporting documentation that is not in the basic file; and

C3.3.16.2.5. Any other correspondence generated in processing the appeal, to include coordination documentation.

C3.3.16.3. Only the items listed in subparagraphs C3.3.16.4. and C3.3.16.5. of this Chapter may be included in the system of records challenged for amendment or for which access is sought. Do not retain copies of the original record in the basic record system if the request for amendment is granted and the record has been amended.

C3.3.16.4. The following items relating to an amendment request may be included in the disputed record system:

C3.3.16.4.1. Copies of the amended record.

C3.3.16.4.2. Copies of the individual's statement of disagreement. See paragraph C3.3.13. of this Chapter.

C3.3.16.4.3. Copies of the Component's statement of reasons for refusing to amend. See paragraph C3.3.15. of this Chapter.

C3.3.16.4.4. Supporting documentation submitted by the individual.

C3.3.16.5. The following items relating to an access request may be included in the basic records system:

C3.3.16.5.1. Copies of the request;

C3.3.16.5.2. Copies of the Component's action granting total or partial access (a separate Privacy case file need not be created in such cases);

C3.3.16.5.3. Copies of the Component's action denying access;

C3.3.16.5.4. Copies of any appeals filed; and

C3.3.16.5.5. Copies of the reply to the appeal.

C3.3.16.6. Privacy case files shall not be furnished or disclosed to anyone for use in making any determination about the individual other than determinations made under this Regulation.

C3.4. REPRODUCTION FEES

C3.4.1. Assessing Fees

C3.4.1.1. Charge the individual only the direct cost of reproduction.

C3.4.1.2. Do not charge reproduction fees if copying is:

C3.4.1.2.1. The only means to make the record available to the individual (for example, a copy of the record must be made to delete classified information).

C3.4.1.2.2. For the convenience of the DoD Component (for example, the Component has no reading room where an individual may review the record, or reproduction is done to keep the original in the Component's file).

C3.4.1.2.3. No fees shall be charged when the record may be obtained without charge under any other Regulation, Directive, or statute.

C3.4.1.2.4. Do not use fees to discourage requests.

C3.4.2. No Minimum Fees Authorized. Use fees only to recoup direct reproduction costs associated with granting access. Minimum fees for duplication are not authorized and there is no automatic charge for processing a request.

C3.4.3. Prohibited Fees. Do not charge or collect fees for:

C3.4.3.1. Search and retrieval of records;

C3.4.3.2. Review of records to determine releasability;

C3.4.3.3. Copying records for the DoD Component convenience, or when the individual has not specifically requested a copy;

C3.4.3.4. Transportation of records and personnel; or

C3.4.3.5. Normal postage.

C3.4.4. Waiver of Fees

C3.4.4.1. Normally, fees are waived automatically if the direct costs of a given request are less than \$30. This fee waiver provision does not apply when a waiver has been granted to the individual before, and later requests appear to be an extension or duplication of that original request. A DoD Component may, however, set aside this automatic fee waiver provision when, on the basis of good evidence, it determines that the waiver of fees is not in the public interest.

C3.4.4.2. Decisions to waive or reduce fees that exceed the automatic waiver threshold shall be made on a case-by-case basis.

C3.4.5. Fees for Members of Congress. Do not charge members of Congress for copying records furnished, even when the records are requested under the Privacy Act on behalf of a constituent. See paragraph C4.2.11 of Chapter 4. When replying to a constituent inquiry and the fees involved are substantial, consider suggesting to the Congressman that the constituent can obtain the information directly by writing to the appropriate offices and paying the costs. When practical, suggest to the Congressman that the record can be examined at no cost if the constituent wishes to visit the custodian of the record.

C3.4.6. Reproduction Fees Computation. Compute fees using the appropriate portions of the fee schedule in Reference (d).

C4. CHAPTER 4

DISCLOSURE OF PERSONAL INFORMATION
TO OTHER AGENCIES AND THIRD PARTIES

C4.1. CONDITIONS OF DISCLOSURE

C4.1.1. Disclosures to Third Parties

C4.1.1.1. The Privacy Act only compels disclosure of records from a system of records to the individuals to whom they pertain unless the records are contained in a system for which an exemption to the access provisions of this Regulation has been claimed.

C4.1.1.2. Requests by other individuals (third parties) for the records of individuals that are contained in a system of records shall be processed under Reference (d), except for requests by the parents of a minor, or the legal guardian of an individual, for access to the records pertaining to the minor or individual.

C4.1.2. Disclosures among the DoD Components. For the purposes of disclosure and disclosure accounting, the Department of Defense is considered a single agency. See paragraph C4.2.1. of this Chapter.

C4.1.3. Disclosures outside the Department of Defense. Do not disclose personal information from a system of records outside the Department of Defense unless:

C4.1.3.1. The record has been requested by the individual to whom it pertains;

C4.1.3.2. The written consent of the individual to whom the record pertains has been obtained for release of the record to the requesting Agency, activity, or individual; or

C4.1.3.3. The release is authorized pursuant to one of the specific non-consensual conditions of disclosure as set forth in section C4.2. of this Chapter.

C4.1.4. Validation before Disclosure. Except for releases made in accordance with Reference (d), the following steps shall be taken before disclosing any records to any recipient outside the Department of Defense, other than a Federal Agency or the individual to whom it pertains:

C4.1.4.1. Ensure that the records are accurate, timely, complete, and relevant for agency purposes;

C4.1.4.2. Contact the individual, if reasonably available, to verify the accuracy, timeliness, completeness, and relevancy of the information, if this cannot be determined from the record; or

C4.1.4.3. If the information is not current and the individual is not reasonably available, advise the recipient that the information is believed accurate as of a specific date and any other known factors bearing on its accuracy and relevancy.

C4.2. NON-CONSENSUAL CONDITIONS OF DISCLOSURES

C4.2.1. Disclosures within the Department of Defense

C4.2.1.1. Records pertaining to an individual may be disclosed to a DoD official or employee provided:

C4.2.1.1.1. The requester has a need for the record in the performance of his or her assigned duties. The requester shall articulate in sufficient detail why the records are required so that the custodian of the records may make an informed decision regarding their release;

C4.2.1.1.2. The intended use of the record generally relates to the purpose for which the record is maintained; and

C4.2.1.1.3. Only those records as are minimally required to accomplish the intended use are disclosed. The entire record is not released if only a part of the record will be responsive to the request.

C4.2.1.2. Rank, position, or title alone does not authorize access to personal information about others.

C4.2.2. Disclosures Required by FOIA (Reference (p))

C4.2.2.1. All records must be disclosed if their release is required by Reference (p), as implemented by Reference (d). The FOIA requires that records be made available to the public unless withholding is authorized pursuant to one of nine exemptions or one of three law enforcement exclusions under the Act.

C4.2.2.1.1. The DoD Component must be in receipt of a FOIA request and a determination made that the records are not withholdable pursuant to a FOIA exemption or exclusion before the records may be disclosed.

C4.2.2.1.2. Records that have traditionally been held to be in the public domain or which are required to be disclosed to the public, such as press releases, may be disclosed whether or not a FOIA request has been received.

C4.2.2.2. The standard for exempting most personal records, such as personnel, medical, and similar records, is FOIA Exemption 6 (paragraph C3.2.1.6. of Reference (d)). Under that exemption, records can be withheld when disclosure, if other than to the individual about whom the information pertains, would result in a clearly unwarranted invasion of the individual's personal privacy.

C4.2.2.3. The standard for exempting personal records compiled for law enforcement purposes, including personnel security investigation records, is FOIA Exemption 7(C) (C3.2.1.7.1.3. of Reference (d)). Under that exemption, records can be withheld when disclosure, if other than to the individual about whom the information pertains, would result in an unwarranted invasion of the individual's personal privacy.

C4.2.2.4. If records or information are exempt from disclosure pursuant to the standards set forth in subparagraphs C4.2.2.2. and/or C4.2.2.3., and the records are contained in a system of records (See Chapter 1 of this Regulation), Reference (b) prohibits release.

C4.2.2.5. Personal Information That Is Normally Releasable

C4.2.2.5.1. DoD Civilian Employees

C4.2.2.5.1.1. Some examples of personal information regarding DoD civilian employees that normally may be released without a clearly unwarranted invasion of personal privacy include:

C4.2.2.5.1.1.1. Name.

C4.2.2.5.1.1.2 Present and past position titles.

C4.2.2.5.1.1.3. Present and past grades.

C4.2.2.5.1.1.4. Present and past annual salary rates.

C4.2.2.5.1.1.5. Present and past duty stations.

C4.2.2.5.1.1.6. Office and duty telephone numbers.

C4.2.2.5.1.1.7. Position Descriptions.

C4.2.2.5.1.2. All disclosures of personal information regarding Federal civilian employees shall be made in accordance with OPM release policies. See Part 293.311 of Reference (e).

C4.2.2.5.2. Military Members

C4.2.2.5.2.1. While it is not possible to identify categorically information that must be released or withheld from military personnel records in every instance, the following items of personal information regarding individual military members normally may be disclosed without a clearly unwarranted invasion of their personal privacy:

C4.2.2.5.2.1.1. Full name.

C4.2.2.5.2.1.2. Rank.

C4.2.2.5.2.1.3 Date of rank.

C4.2.2.5.2.1.4. Gross salary.

C4.2.2.5.2.1.5. Past duty assignments.

C4.2.2.5.2.1.6. Present duty assignment.

C4.2.2.5.2.1.7. Future assignments that are officially established.

C4.2.2.5.2.1.8. Office or duty telephone numbers.

C4.2.2.5.2.1.9. Source of commission.

C4.2.2.5.2.1.10. Promotion sequence number.

C4.2.2.5.2.1.11. Awards and decorations.

C4.2.2.5.2.1.12. Attendance at professional military schools.

C4.2.2.5.2.1.13. Duty status at any given time.

C4.2.2.5.2.1.14. Home of record (identification of the state only).

C4.2.2.5.2.1.15. Length of military service

C4.2.2.5.2.1.16. Basic Pay Entry Date

C4.2.2.5.2.1.17. Official Photo

C4.2.2.5.2.2 All disclosures of personal information regarding military members shall be made in accordance with Reference (d).

C4.2.2.5.3. Civilian Employees Not Under the Authority of OPM

C4.2.2.5.3.1. While it is not possible to identify categorically those items of personal information that must be released regarding civilian employees not subject to Reference (e), such as nonappropriated fund employees, normally the following items may be released without a clearly unwarranted invasion of personal privacy:

C4.2.2.5.3.1.1. Full name.

C4.2.2.5.3.1.2. Grade or position.

C4.2.2.5.3.1.3. Date of grade.

C4.2.2.5.3.1.4. Gross salary.

C4.2.2.5.3.1.5. Present and past assignments.

C4.2.2.5.3.1.6. Future assignments, if officially established.

C4.2.2.5.3.1.7. Office or duty telephone numbers.

C4.2.2.5.3.2. All releases of personal information regarding civilian personnel in this category shall be made in accordance with Reference (d).

C4.2.2.6. When military or civilian personnel are assigned, detailed, or employed by the National Security Agency, the Defense Intelligence Agency, the National Reconnaissance Office, or the National Geospatial-Intelligence agency, information about such personnel may only be disclosed as authorized by Public Law 86-36 (1959) (Reference (q)) and Section 424 of 10 U.S.C. (Reference (r)). When military and civilian personnel are assigned, detailed or employed by an overseas unit, a sensitive unit, or to a routinely deployable unit, information about such personnel may only be disclosed as authorized by section 130b of Reference (r).

C4.2.2.7. Information about military or civilian personnel that otherwise may be disclosable consistent with subparagraph C4.2.2.5. may not be releasable if a requester seeks listings of personnel currently or recently assigned/detailed/employed within a particular component, unit, organization, or office with the Department of Defense, if the disclosure of such a list would pose a privacy or security threat.

C4.2.3. Disclosures for Established Routine Uses

C4.2.3.1. Records may be disclosed outside the Department of Defense pursuant to a routine use that has been established for the system of records that contains the records.

C4.2.3.2. A routine use shall:

C4.2.3.2.1. Be compatible with the purpose for which the record was collected;

C4.2.3.2.2. Identify the persons or organizations to whom the record may be released;

C4.2.3.2.3. Identify specifically the intended uses of the information by the persons or organization; and

C4.2.3.2.4. Have been published in the Federal Register. See paragraph C6.3.9 of Chapter 6.

C4.2.3.3. If a Federal statute or an Executive Order of the President directs that records contained in a system of records be disclosed outside the Department of Defense, the statute or Executive Order serves as authority for the establishment of a routine use.

C4.2.3.4. New or altered routine uses must be published in the Federal Register at least 30 days before any records may be disclosed pursuant to the terms of the routine use (see Chapter 6).

C4.2.3.5. In addition to the specific routine uses established for each of the individual system notices, blanket routine uses have been established (see Appendix 3) that are applicable to all DoD system of records. However, in order for the blanket routine uses to apply to a specific system of records, the system notice shall expressly state that the blanket routine uses apply. These blanket routine uses are published only at the beginning of the listing of system notices for each Component in the Federal Register.

C4.2.4. Disclosures to the Bureau of the Census. Records in DoD systems of records may be disclosed without the consent of the individuals to whom they pertain to the Bureau of the Census for purposes of planning or carrying out a census survey or related activities pursuant to the provisions of section 6 of 13 U.S.C. (Reference (s)).

C4.2.5. Disclosures for Statistical Research or Reporting

C4.2.5.1. Records may be disclosed for statistical research or reporting but only after the intended recipient provides, in writing, the purpose for which the records are sought and assurances that the records will be used only for statistical research or reporting purposes.

C4.2.5.2. The records shall be transferred to the requester in a form that is not individually identifiable. DoD Components disclosing records under this provision are required to assure that information being disclosed cannot reasonably be used in any way to make determinations about individuals.

C4.2.5.3. The records will not be used, in whole or in part, to make any determination about the rights, benefits, or entitlements of specific individuals.

C4.2.5.4. The written statement by the requester shall be made part of the Component's accounting of disclosures. See paragraph C4.5.1 of this Chapter.

C4.2.6. Disclosures to the National Archives and Records Administration (NARA), General Services Administration (GSA).

C4.2.6.1. Records may be disclosed to the NARA:

C4.2.6.1.1. If they have historical or other value to warrant continued preservation; or

C4.2.6.1.2. For evaluation by the Archivist of the United States, or his or her designee, to determine if a record has such historical or other value.

C4.2.6.2. Records transferred to a Federal Records Center (FRC) for safekeeping and storage do not fall within this category. These records are owned by the Component and remain under the control of the transferring Component. FRC personnel are considered agents of the

Component that retains control over the records. No disclosure accounting is required for the transfer of records to the FRCs.

C4.2.7. Disclosures for Law Enforcement Purposes

C4.2.7.1. Records may be disclosed to another Agency or an instrumentality of any Governmental jurisdiction within or under control of the United States for a civil or criminal law enforcement activity, provided:

C4.2.7.1.1. The civil or criminal law enforcement activity is authorized by law.

C4.2.7.1.2. The head of the law enforcement activity or a designee has made a written request specifying the particular records desired and the law enforcement purpose (such as criminal investigations, enforcement of a civil law, or a similar purpose) for which the record is sought; and.

C4.2.7.1.3. There is no Federal statute that prohibits the disclosure of the records.

C4.2.7.2. Blanket requests for any and all records pertaining to an individual shall not be honored absent justification.

C4.2.7.3. When a record is released to a law enforcement activity under this subparagraph, the disclosure accounting (See paragraph C4.5 of this chapter) for the release shall not be made available to the individual to whom the record pertains if the law enforcement activity requests that the disclosure not be disclosed.

C4.2.7.4. The blanket routine use for law enforcement (Appendix 3, section AP3.1.) applies to all DoD Component systems notices. See paragraph C4.2.3.5. of this Chapter. This permits Components, on their own initiative, to report indications of violations of law found in a system of records to a law enforcement activity

C4.2.7.5. Disclosures may be made to Federal, State, or local but not foreign law enforcement agencies. Disclosures to Foreign law enforcement agencies may be made if a routine use has been established for the system of records from which the records are to be released.

C4.2.8. Emergency Disclosures

C4.2.8.1. Records may be disclosed if disclosure is made under compelling circumstances affecting the health or safety of any individual. The affected individual need not be the subject of the record disclosed.

C4.2.8.2. When such a disclosure is made, the Component shall notify the individual who is the subject of the record. Notification sent to the last known address of the individual as known to the Component is sufficient.

C4.2.8.3. The specific data to be disclosed is at the discretion of the Component.

C4.2.8.4. Emergency medical information may be released by telephone.

C4.2.9. Disclosures to Congress

C4.2.9.1. Records may be disclosed to either House of the Congress or to any committee, joint committee or subcommittee of Congress if the release pertains to a matter within the jurisdiction of the committee. Disclosure is only authorized when in response to an official request on behalf of either House, committee, subcommittee, or joint committee.

C4.2.9.2. Requests from members of Congress who are seeking records in their individual capacity or on behalf of a constituent .

C4.2.9.2.1. Requests made in their individual capacity. Request for records shall be processed under the provisions of Reference (d).

C4.2.9.2.2. Requests made on behalf of constituents.

C4.2.9.2.2.1. The blanket routine use for “Congressional Inquiries” (see Appendix 3, section AP3.4.) applies to all systems. When an individual requests the assistance of the Congressional member, the blanket routine use permits the disclosure of records pertaining to the individual without the express written consent of the individual.

C4.2.9.2.2.2. If necessary, accept constituent letters requesting a member of Congress to investigate a matter pertaining to the individual as written authorization to provide access to the records to the congressional member or his or her staff.

C4.2.9.2.2.3. When a Congressional inquiry indicates that the request is being made on the basis of a request from the individual to whom the record pertains, consent can be inferred, even if the constituent request is not provided the Component. The verbal statement by a Congressional staff member is acceptable to establish that a request has been received by the Member of Congress from the person to whom the records pertain.

C4.2.9.2.2.4. If the constituent inquiry is being made on behalf of someone other than the individual to whom the record pertains, the Member of Congress shall be provided only that information releasable under Reference (d). Advise the Congressional member that the written consent of the individual to whom the record pertains is required before any additional information may be disclosed. Do not contact individuals to obtain their consents for release to Congressional members unless a Congressional office specifically requests that this be done.

C4.2.9.2.2.5. Nothing in subparagraph C4.2.9.2.2.1. of this Chapter prohibits a Component, when appropriate, from providing the record directly to the individual and notifying the Congressional office that this has been done without providing the record to the Congressional member.

C4.2.9.3. See paragraph C3.4.5. of Chapter 3 for the policy on assessing fees for Members of Congress.

C4.2.9.4. Make a disclosure accounting each time a record is disclosed to either House of Congress, to any committee, joint committee, or subcommittee of Congress, or to any congressional member.

C4.2.10. Disclosures to the General Accountability Office. Records may be disclosed to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accountability Office.

C4.2.11. Disclosures under Court Orders

C4.2.11.1. Records may be disclosed without the consent of the person to whom they pertain under a court order signed by a judge of a court of competent jurisdiction.

C4.2.11.2. When a record is disclosed under this provision, make reasonable efforts to notify the individual to whom the record pertains, if the legal process is a matter of public record.

C4.2.11.3. If the process is not a matter of public record at the time it is issued, seek information as to when the process is to be made public and make reasonable efforts to notify the individual at that time.

C4.2.11.4. Notification sent to the last known address of the individual as reflected in the records is considered a reasonable effort to notify.

C4.2.11.5. Make a disclosure accounting each time a record is disclosed under a court order or compulsory legal process.

C4.2.12. Disclosures to Consumer Reporting Agencies

C4.2.12.1. Certain personal information may be disclosed to consumer reporting agencies, as provided by Reference (k).

C4.2.12.2. Upon compliance with the requirements of Reference (k), the following information may be disclosed to a consumer reporting agency:

C4.2.12.2.1. Name, address, taxpayer identification number (SSN), and other information necessary to establish the identity of the individual.

C4.2.12.2.2. The amount, status, and history of the claim.

C4.2.12.2.3. The Agency or program under which the claim arose.

C4.2.12.3. Reference (k) requires that the system notice for the system of records from which the information will be disclosed indicate that the information may be disclosed to a consumer reporting agency.

C4.3. DISCLOSURES TO COMMERCIAL ENTERPRISES

C4.3.1. General Policy

C4.3.1.1. Make releases of personal information as authorized under the criteria established by Reference (d).

C4.3.1.2. The relationship of commercial enterprises to their clients or customers and to the Department of Defense is not changed by this Regulation.

C4.3.1.3. The DoD policy on personal indebtedness for military personnel is contained in DoD Directive 1344.9 (Reference (t)) and for civilian employees in Part 735 of Reference (e).

C4.3.2. Release of Personal Information

C4.3.2.1. Any information that must be released under Reference (d) may be released to a commercial enterprise without the individual's consent. See paragraph C4.2.2. of this Chapter.

C4.3.2.2. Commercial enterprises may present a signed consent statement setting forth specific conditions for release of personal information. Statements such as the following, if signed by the individual, are considered valid:

“I hereby authorize the Department of Defense to verify my Social Security Number or other identifying information, and to disclose my home address and telephone number to authorized representatives of [name of commercial enterprise], so that they may use this information in connection with my commercial dealings with that enterprise. All information furnished shall be used in connection with my financial relationship with [name of commercial enterprise].”

C4.3.2.3. When a statement of consent as outlined in paragraph C4.3.2.2. of this Chapter is presented, provide the requested information, if its release is not prohibited by some other regulation or statute.

C4.3.2.4. Blanket statements of consent that do not identify the Department of Defense or any of its Components, or that do not specify exactly the type of information to be released, may be honored if it is clear that the individual in signing the consent statement intended to obtain a personal benefit (for example, a loan to buy a house) and was aware of the type information that would be sought. Care should be exercised in these situations to release only the minimum amount of personal information essential to obtain the benefit sought.

C4.3.2.5. Do not honor requests from commercial enterprises for official evaluation of personal characteristics, such as evaluation of personal financial habits.

C4.4. DISCLOSURES TO THE PUBLIC FROM MEDICAL RECORDS

C4.4.1. Disclosures from medical records are not only governed by the requirement of this regulation but also by the disclosure provisions of Reference (o).

C4.4.2. Any medical records that are subject to both this regulation and Reference (o) may only be disclosed if disclosure is authorized under both regulations. If disclosure is permitted under this Regulation (e.g., pursuant to a routine use), but the disclosure is not authorized under Reference (o), disclosure is not authorized. If a disclosure is authorized under Reference (o) (e.g., releases outside the Department of Defense), but the disclosure is not authorized under this regulation, disclosure is not authorized.

C4.5. DISCLOSURE ACCOUNTING

C4.5.1. Disclosure Accountings

C4.5.1.1. Keep an accurate record of all disclosures made from any system of records except disclosures:

C4.5.1.1.1. To DoD personnel for use in the performance of their official duties; or

C4.5.1.1.2. Under Reference (p).

C4.5.1.2. In all other cases, a disclosure accounting is required, even if the individual has consented to the disclosure of the information.

C4.5.1.3. Disclosure accountings:

C4.5.1.3.1. Permit individuals to determine to whom information has been disclosed;

C4.5.1.3.2. Enable the activity to notify past recipients of disputed or corrected information (paragraphs C3.3.9. of Chapter 3); and

C4.5.1.3.3. Provide a method of determining compliance with paragraph C4.1.3. of this Chapter.

C4.5.2. Contents of Disclosure Accounts. At a minimum, disclosure accounting shall contain:

C4.5.2.1. The date of the disclosure;

C4.5.2.2. A description of the information released;

C4.5.2.3. The purpose of the disclosure; and

C4.5.2.4. The name and address of the person or Agency to whom the disclosure was made.

C4.5.3. Methods of Disclosure Accounting. Use any system of disclosure accounting that shall provide readily the necessary disclosure information. See paragraph C4.5.1.3. of this Chapter.

C4.5.4. Accounting for Mass Disclosures. When numerous similar records are released, identify the category of records disclosed and include the data required by paragraph C4.5.2. of this Chapter in a form that can be used to construct an accounting disclosure record for individual records if required. See subparagraph C4.5.1.3. of this Chapter.

C4.5.5. Disposition of Disclosure Accounting Records. Retain disclosure accounting records for 5 years after the disclosure or the life of the record, whichever is longer.

C4.5.6. Furnishing Disclosure Accountings to the Individual

C4.5.6.1. Make available to the individual to whom the record pertains all disclosure accountings except when:

C4.5.6.1.1. The disclosure has been made to a law enforcement activity under paragraph C4.2.7. of this Chapter and the law enforcement activity has requested that disclosure not be made; or

C4.5.6.1.2. The system of records has been exempted from the requirement to furnish the disclosure accounting under the provisions of paragraph C5.1.2. of Chapter 5.

C4.5.6.2. If disclosure accountings are not maintained with the record and the individual requests access to the accounting, prepare a listing of all disclosures. See paragraph C4.5.2. this Chapter, and provide this to the individual upon request.

C5. CHAPTER 5

EXEMPTIONS

C5.1. USE AND ESTABLISHMENT OF EXEMPTIONS

C5.1.1. Types of Exemptions

C5.1.1.1. There are three types of exemptions permitted by Reference (b).

C5.1.1.1.1. An access exemption (section 552a(d)(5) of (Reference (b)) that exempts records compiled in reasonable anticipation of a civil action or proceeding from the access provisions of the Act.

C5.1.1.1.2. General exemptions (section 552a(j) of Reference (b)) that authorize the exemption of a system of records from all but certain specifically identified provisions of the Act See Appendix 4.

C5.1.1.1.3. Specific exemptions (section 552(k) of Reference (b)) that allow a system of records to be exempted only from certain designated provisions of the Act. See Appendix 4.

C5.1.1.2. Nothing in the Act permits exemption of any system of records from all provisions of the Act.

C5.1.2. Establishing Exemptions

C5.1.2.1. The access exemption is self-executing. It does not require an implementing rule to be effective.

C5.1.2.2. Neither a general nor a specific exemption is established automatically for any system of records. The Heads of the DoD Components maintaining the system of records must make a determination whether the system is one for which an exemption properly may be claimed and then propose and establish an exemption rule for the system. No system of records within the Department of Defense shall be considered exempted until the Head of the Component has approved the exemption and an exemption rule has been published as a final rule in the Federal Register. See paragraph C6.1.5. of Chapter 6.

C5.1.2.3. Only the Head of the DoD Component or an authorized designee may claim an exemption for a system of records.

C5.1.2.4. A system of records is considered exempt only from those provision of Reference (b) that are identified specifically in the Component exemption rule for the system and that are authorized by Reference (b).

C5.1.2.5. To establish an exemption rule, see paragraph C6.2.1. of Chapter 6.

C5.1.3. Blanket Exemption for Classified Material

C5.1.3.1. Component rules shall include a blanket exemption under section 552a(k)(1) (Reference (b)) from the access provisions (section 552a(d) of Reference (b)), and the notification of access procedures (section 552a(e)(4)(H) of Reference (b)) for all classified material in any systems of records maintained.

C5.1.3.2. Do not claim specifically an exemption under section 552a(k)(1) (Reference (b)) for any system of records. The blanket exemption affords protection to all classified material in all system of records maintained.

C5.1.4. Provisions From Which Exemptions May Be Claimed. The Head of a DoD Component may claim an exemption from any provision of the Act from which an exemption is allowed. See Appendix 4.

C5.1.5. Use of Exemptions

C5.1.5.1. Use exemptions only for the specific purposes set forth in the exemption rules. See paragraph C6.2.2. of Chapter 6.

C5.1.5.2. Use exemptions only when they are in the best interest of the Government, and limit them to the specific portions of the records requiring protection.

C5.1.5.3. Do not use an exemption to deny an individual access to any record to which he or she would have access under (Reference (d)).

C5.1.6. Exempt Records in Non-Exempt Systems

C5.1.6.1. Exempt records temporarily in the custody of another Component are considered the property of the originating Component. Access to these records is controlled by the system notices and rules of the originating Component.

C5.1.6.2. Exempt records that have been incorporated into a non-exempt system of records are still exempt, but only to the extent to which the provisions of the Act for which an exemption has been claimed are identified and an exemption claimed for the system of records from which the record is obtained and only when the purposes underlying the exemption for the record are still valid and necessary to protect the contents of the record.

C5.1.6.3. If a record is accidentally misfiled into a system of records, the system notice and rules for the system in which it should actually be filed shall govern.

C5.2. ACCESS EXEMPTION

C5.2.1. An individual is not entitled to access information that is compiled in reasonable anticipation of a civil action or proceeding.

C5.2.2. The term “civil action or proceeding” is intended to include court proceedings, preliminary judicial steps, and quasi-judicial administrative hearings or proceedings (i.e., adversarial proceedings that are subject to rules of evidence).

C5.2.3. Any information prepared in anticipation of such actions or proceedings, to include information prepared to advise the DoD Component officials of the possible legal or other consequences of a given course of action, is protected.

C5.2.4. The exemption is similar to the attorney work-product privilege, except that it applies even when the information is prepared by non-attorneys.

C5.2.5. The exemption does not apply to information compiled in anticipation of criminal actions or proceedings.

C5.3. GENERAL EXEMPTIONS

C5.3.1. A DoD Component is not authorized to claim the exemption for records maintained by the Central Intelligence Agency established by section 552a(j)(1) of Reference (b).

C5.3.2. The general exemption established by section 552a(j)(2) of Reference (b) may be claimed to protect investigative records created and maintained by law-enforcement activities of a DoD Component.

C5.3.3. To qualify for the (j)(2) exemption, the system of records must be maintained by a DoD Component, or element thereof, that performs as its principal function any activity pertaining to the enforcement of criminal laws, such as the U.S. Army Criminal Investigation Command, the Naval Criminal Investigative Service, the Air Force Office of Special Investigations, and military police activities. However, where DoD offices perform multiple functions, but have an investigative Component in which law enforcement is the principal function, such as the DoD Inspector General Defense Criminal Investigative Service, or Criminal Law Divisions of Staff Judge Advocates Offices, the exemption may be claimed. Law enforcement includes police efforts to detect, prevent, control, or reduce crime; to apprehend or identify criminals; and the activities of military trial counsel, correction, probation, pardon, or parole authorities.

C5.3.4. Information that may be protected under the (j)(2) exemption includes:

C5.3.4.1. Records compiled for the purpose of identifying criminal offenders and alleged offenders consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, parole, and probation status (so-called criminal history records).

C5.3.4.2. Reports and other records compiled during criminal investigations, to include supporting documentation.

C5.3.4.3. Other records compiled at any stage of the criminal law enforcement process from arrest or indictment through the final release from parole supervision, such as pre-sentence and parole reports.

C5.3.5. The (j)(2) exemption does not apply to:

C5.3.5.1. Investigative records prepared or maintained by activities without primary law-enforcement missions. It may not be claimed by any activity that does not have law enforcement as its principal function except as indicated in subparagraph C5.3.3.

C5.3.5.2. Investigative records compiled by any activity concerning employee suitability, eligibility, qualification, or for individual access to classified material regardless of the principal mission of the compiling DoD Component.

C5.4. SPECIFIC EXEMPTIONS

C5.4.1. The specific exemption established by section 552a(k) of Reference (b) may be claimed to protect records that meet the following criteria (parenthetical References are to the appropriate subsection of Reference (b)):

C5.4.1.1. (k)(1). Information that is subject to section 552(b)(1) of Reference (p). (See also paragraph C5.1.3 of this Chapter.)

C5.4.1.2. (k)(2). Investigatory information compiled for law enforcement purposes, other than information that is covered by the general exemption (subparagraph C5.3. of this Chapter). If an individual is denied any right, privilege, or benefit that he or she is otherwise entitled by Federal law, or for which he or she would otherwise be eligible as a result of the maintenance of the information, the individual shall be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source. This exemption provides limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

C5.4.1.2.1. The information must be compiled for some investigative law enforcement purpose, such as a criminal investigation by a DoD office, whose principal function is not law enforcement, or a civil investigation.

C5.4.1.2.2. The exemption does not apply to investigations conducted solely for the purpose of a routine background investigation (see subparagraph C5.4.1.5. of this Chapter), but will apply if the investigation is for the purpose of investigating DoD personnel who are suspected of violating statutory or regulatory authority.

C5.4.1.2.3. The exemption can continue to be claimed even after the investigation has concluded and there is no future likelihood of further enforcement proceedings.

C5.4.1.3 (k)(3). Records maintained in connection with providing protective services to the President and other individuals under section 3056 of 18 U.S.C. (Reference (u)).

C5.4.1.4. (k)(4). Records maintained solely for statistical research or program evaluation purposes and that are not used to make decisions on the rights, benefits, or entitlement of an individual except for census records that may be disclosed under Reference (s).

C5.4.1.5. (k)(5). Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent such material would reveal the identity of a confidential source.

C5.4.1.5.1. This exemption permits protection of confidential sources used in background investigations, employment inquiries, and similar inquiries that are for personnel screening to determine suitability, eligibility, or qualifications.

C5.4.1.5.2. This exemption is applicable not only to investigations conducted prior to the hiring of an employee, but it also applies to investigations conducted to determine continued employment suitability or eligibility.

C5.4.1.6. (k)(6). Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal or military service, if the disclosure would compromise the objectivity or fairness of the test or examination process.

C5.4.1.7. (k)(7). Evaluation material used to determine potential for promotion in the Military Services, but only to the extent that the disclosure of such material would reveal the identity of a confidential source.

C5.4.2. Promises of Confidentiality

C5.4.2.1. Only the identity of sources that have been given an express promise of confidentiality may be protected from disclosure under paragraphs C5.4.1.2., C5.4.1.5., and C5.4.1.7. However, the identity of sources who were given implied promises of confidentiality in inquiries conducted before September 27, 1975, also may be protected from disclosure.

C5.4.2.2. Ensure that promises of confidentiality are not automatically given but are used sparingly. Establish appropriate procedures and identify fully categories of individuals who may make such promises. Promises of confidentiality shall be made only when they are essential to obtain the information sought (see Part 736 of Reference (e)).

C5.4.3. Access to Records for which Specific Exemptions are Claimed. Deny the individual access only to those portions of the records for which the claimed exemption applies.

C6. CHAPTER 6

PUBLICATION REQUIREMENTS

C6.1. FEDERAL REGISTER PUBLICATION

C6.1.1. What Must Be Published in the Federal Register?

C6.1.1.1. Four types of documents relating to the Privacy Program must be published in the Federal Register:

C6.1.1.1.1. DoD Component Privacy Procedural rules.

C6.1.1.1.2. DoD Component exemption rules.

C6.1.1.1.3. System notices.

C6.1.1.1.4. Match notices (see Chapter 11).

C6.1.1.2. See DoD 5025.1-M (Reference (v)) and Administrative Instruction No. 102 (Reference (w)) for information pertaining to the preparation of documents for publication in the Federal Register.

C6.1.2. The Effect of Publication in the Federal Register. Publication of a document in the Federal Register constitutes official public notice of the existence and content of the document.

C6.1.3. DoD Component Rules

C6.1.3.1. Component Privacy Program procedures and Component exemption rules are subject to the rulemaking procedures prescribed in Reference (w).

C6.1.3.2. System notices are not subject to formal rulemaking and are published in the Federal Register as “Notices,” not rules.

C6.1.3.3. Privacy procedural and exemption rules are incorporated automatically into the CFR. System notices are not published in the CFR.

C6.1.4. Submission of Rules for Publication

C6.1.4.1. Submit to the Defense Privacy Office, Office of the Director of Administration and Management, all proposed rules implementing this Regulation in proper format. See References (v) and (w) for publication in the Federal Register.

C6.1.4.2. This Regulation has been published as a final rule in the Federal Register (32 CFR part 310). Therefore, incorporate it into your Component rules by reference, rather than by re-publication (see Reference (w)).

C6.1.4.3. DoD Component procedural rules that simply implement this Regulation need only be published as final rules in the Federal Register (see References (v) and (w)). But, if the Component procedural rule supplements the Regulation in any manner, they must be published as proposed rule before being published as a final rule.

C6.1.4.4. Amendments to Component rules are submitted like the basic rules.

C6.1.4.5. The Defense Privacy Office submits the rules and amendments thereto to the Federal Register for publication.

C6.1.5. Submission of Exemption Rules for Publication

C6.1.5.1. No system of records within the Department of Defense shall be considered exempt from any provision of this Regulation until the exemption and the exemption rule for the system has been published as a final rule in the Federal Register.

C6.1.5.2. Submit exemption rules in proper format to the Defense Privacy Office. All exemption rules are coordinated with the Office of General Counsel of the Department of Defense. After coordination, the Defense Privacy Office shall submit the rules to the Federal Register for publication.

C6.1.5.3. Exemption rules require publication both as proposed rules and final rules. See Reference (w).

C6.1.5.4. Section C6.2.2. of this Chapter discusses the content of an exemption rule.

C6.1.5.5. Submit amendments to exemption rules in the same manner used for establishing these rules.

C6.1.6. Submission of System Notices for Publication

C6.1.6.1. System notices are not subject to formal rulemaking procedures. However, Reference (b) requires that a system notice be published in the Federal Register of the existence and character of a new or altered system of records. Until publication of the notice, DoD Components shall not begin to operate the system of records (i.e., collect and use the information). The notice procedures require that:

C6.1.6.1.1. The system notice describes what kinds of records are in the system, on whom they are maintained, what uses are made of the records, and how an individual may access, or contest, the records contained in the system.

C6.1.6.1.2. The public be given 30 days to comment on any proposed routine uses before any disclosures are made pursuant to the routine use; and

C6.1.6.1.3. The notice contain the date on which the system shall become effective.

C6.1.6.2. Submit system notices to the Defense Privacy Office in the Federal Register format (see Reference (w) and Appendix 5). The Defense Privacy Office transmits the notices to the Federal Register for publication.

C6.1.6.3. Section C6.3. of this Chapter discusses the specific elements required in a system notice.

C6.2. EXEMPTION RULES

C6.2.1. General Procedures. Chapter 5 provides the general guidance for establishing exemptions for systems of records.

C6.2.2. Contents of Exemption Rules

C6.2.2.1. Each exemption rule submitted for publication must contain the following:

C6.2.2.1.1. The record system identifier and system name of the system for which the exemption is claimed. (See paragraphs C6.3.2 and C6.3.3 of this Chapter.)

C6.2.2.1.2. The specific sections of Reference (b) under which the exemption for the system is claimed (for example, sections 552a(j)(2), 552a(k)(3), or 552a(k)(7) of Reference (b)).

C6.2.2.1.3. The specific sections of Reference (b) from which the system is to be exempted (for example, sections 552a(c)(3) or 552a(d)(1)-(5) of Reference (b)) (see Appendix 4)).

C6.2.2.1.4. The specific reasons why an exemption is being claimed from each section of the Act identified.

C6.2.2.2. Do not claim an exemption for classified material for individual systems of records. The blanket exemption applies. (See paragraph C5.1.3 of Chapter 5.)

C6.3. SYSTEM NOTICES

C6.3.1. Contents of the System Notices

C6.3.1.1. The following data captions are included in each system notice:

C6.3.1.1.1. Systems identifier. (See paragraph C6.3.2. of this Chapter.)

C6.3.1.1.2. System name. (See paragraph C6.3.3. of this Chapter.)

C6.3.1.1.3. System location. (See paragraph C6.3.4 of this Chapter.)

C6.3.1.1.4. Categories of individuals covered by the system. (See paragraph C6.3.5. of this Chapter.)

C6.3.1.1.5. Categories of records in the system. (See paragraph C6.3.6. of this Chapter.)

C6.3.1.1.6. Authority for maintenance of the system. (See paragraph C6.3.7. of this Chapter.)

C6.3.1.1.7. Purpose(s). (See paragraph C6.3.8. of this Chapter.)

C6.3.1.1.8. Routine uses of records maintained in the system, including categories of users and the purposes of such uses. (See paragraph C6.3.9. of this Chapter.)

C6.3.1.1.9. Disclosure to Consumer Reporting Agencies. This element is optional but required when disclosing to consumer reporting agencies. (See paragraph C4.2.12 of Chapter 4.)

C6.3.1.1.10. Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system. (See paragraph C6.3.10. of this Chapter.)

C6.3.1.1.11. Systems manager(s) and address. (See paragraph C6.3.11. of this Chapter.)

C6.3.1.1.12. Notification procedure. (See paragraph C6.3.12. of this Chapter.)

C6.3.1.1.13. Record access procedures. (See paragraph C6.3.13. of this Chapter.)

C6.3.1.1.14. Contesting records procedures. (See paragraph C6.3.14. of this Chapter.)

C6.3.1.1.15. Record source categories. (See paragraph C6.3.15. of this Chapter.)

C6.3.1.1.16. Exemptions claimed for the system. (See paragraph C6.3.16. of this Chapter.)

C6.3.1.2. The captions listed in subparagraph C6.3.1.1. of this Chapter have been mandated by the Office of the Federal Register and must be used exactly as presented.

C6.3.1.3. A sample system notice is shown in Appendix 5.

C6.3.2. System Identifier. The system identifier must appear on all system notices and is limited to 120 positions, unless an exception is granted by the Defense Privacy Office, including Component code, file number and symbols, punctuation, and spacing.

C6.3.3. System Name

C6.3.3.1. The name of the system reasonably identifies the general purpose of the system and, if possible, the general categories of individuals involved.

C6.3.3.2. Use acronyms only parenthetically following the title or any portion thereof, such as, “Defense Civilian Payroll System (DCPS).” Do not use acronyms that are not commonly known unless they are preceded by an explanation.

C6.3.3.3. The system name may not exceed 55 character positions, unless an exception is granted by the Defense Privacy Office, including punctuation and spacing.

C6.3.3.4. The system name should not be the name of the database or the IT system if the name does not meet the criteria in subparagraph C6.3.3.1.

C6.3.4. System Location

C6.3.4.1. For systems maintained in a single location provide the exact office name, organizational identity, and address.

C6.3.4.2. For geographically or organizationally decentralized systems, specify each level of organization or element that maintains a segment of the system, to include their mailing address, or indicate that the official mailing addresses are published as an Appendix to the Component’s compilation of system of records notices, or provide an address where a complete listing of locations can be obtained.

C6.3.4.3. Use the standard U.S. Postal Service two-letter State abbreviation symbols and 9-digit Zip Codes for all domestic addresses.

C6.3.5. Categories of Individuals Covered by the System

C6.3.5.1. Set forth the specific categories of individuals to whom records in the system pertain in clear, easily understood, non-technical terms.

C6.3.5.2. Avoid the use of broad over-general descriptions, such as “all Army personnel” or “all military personnel” unless this actually reflects the category of individuals involved.

C6.3.6. Categories of Records in the System

C6.3.6.1. Describe in clear, non-technical terms the types of records maintained in the system.

C6.3.6.2. Only documents actually maintained in the system of records shall be described, not source documents that are used only to collect data and then destroyed.

C6.3.7. Authority for Maintenance of System

C6.3.7.1. Cite the specific provision of the Federal statute or Executive Order that authorizes the maintenance of the system.

C6.3.7.2. Include with citations for statutes the popular names, when appropriate (for example, Section 2103 of title 51, United States Code, “Tea-Tasters Licensing Act”), and for Executive Orders, the official title (for example, Executive Order No. 9397, “Numbering System for Federal Accounts Relating to Individual Persons”).

C6.3.7.3. If direct statutory authority or an Executive Order does not exist, indirect statutory authority may be cited if the authority requires the operation or administration of a program, the execution of which will require the collection and maintenance of a system of records.

C6.3.7.4. If direct or indirect authority does not exist, the DoD, as well as the Army, Navy, and Air Force general “housekeeping” statutes (e.g., section 301 of 5 U.S.C. (Reference (x)) and Sections 3013, 5013, and 8013 of Reference (r)) may be cited if the Secretary, or those offices to which responsibility has been delegated, are required to collect and maintain systems of records in order to discharge assigned responsibilities. If the housekeeping statute is cited, the regulatory authority implementing the statute within the Department of Defense or Component also shall be identified.

C6.3.7.5. If the SSN is being collected and maintained, Executive Order 9397 (Reference (l)) shall be cited.

C6.3.8. Purpose or Purposes

C6.3.8.1. List the specific purposes for maintaining the system of records by the Component.

C6.3.8.2. All internal uses of the information within the Department or Component shall be identified. Such uses are the so-called “internal routine uses.”

C6.3.9. Routine Uses

C6.3.9.1. Except as otherwise authorized by Chapter 4 of this Regulation, disclosure of information from a system of records to any person or entity outside the Department of Defense (See subparagraph C4.1.2) may only be made pursuant to a routine use that has been established for the specific system of records.

C6.3.9.2. Each routine use shall include to whom the information is being disclosed and what use and purpose the information will be used. Routine uses shall be written as follows:

C6.3.9.2.1. “To...[person or entity outside of DoD that will receive the information] to...[what will be done with the information] for the purpose(s) of ...[what objective is sought to be achieved].”

C6.3.9.2.2. To the extent practicable, general statements, such as “to other Federal agencies as required,” or “to any other appropriate Federal agency” shall be avoided.

C6.3.9.3. Blanket routine uses (Appendix 3) have been adopted that apply to all Component system notices. The blanket routine uses appear at the beginning of each Component’s compilation of its system notices.

C6.3.9.3.1. Each system notice shall contain a statement whether or not the blanket routine uses apply to the system.

C6.3.9.3.2. Each notice may state that none of the blanket routine uses apply or that one or more do not apply.

C6.3.10. Policies and Practices For Storing, Retiring, Accessing, Retaining, and Disposing of Records. This caption is subdivided into four parts:

C6.3.10.1. Storage. Indicate the medium in which the records are maintained. For example, a system may be “automated, maintained on compact disks, diskettes,” “manual, maintained in paper files,” or “hybrid, maintained in a combination of paper and automated form.” Storage does not refer to the container or facility in which the records are kept.

C6.3.10.2. Retrievability. Specify how the records are retrieved (for example, name, SSN, or some other unique personal identifier assigned the individual).

C6.3.10.3. Safeguards. Identify the system safeguards, such as storage in safes, vaults, locked cabinets or rooms, use of guards, visitor registers, personnel screening, or password protected IT systems, encrypted IT systems. Also identify personnel who have access to the systems. Do not describe safeguards in such detail as to compromise system security.

C6.3.10.4. Retention and Disposal. Indicate how long the record is retained. When appropriate, also state the length of time the records are maintained by the Component, when they are transferred to a Federal Records Center, time of retention at the Records Center and when they are transferred to the National Archivist or are destroyed. A Reference to a Component regulation without further detailed information is insufficient. If records are eventually destroyed instead of retired, identify the method of destruction (e.g., shredding, burning, pulping).

C6.3.11. System Manager(s) and Address

C6.3.11.1. List the title and address of the official responsible for the management of the system.

C6.3.11.2. If the title of the specific official is unknown, such as for a local system, specify the local commander or office head as the systems manager.

C6.3.11.3. For geographically separated or organizationally-decentralized activities for which individuals may deal directly with officials at each location in exercising their rights, list the position or duty title of each category of officials responsible for the system or a segment thereof.

C6.3.11.4. Do not include business or duty addresses if they are listed in the Component address directory.

C6.3.12. Notification Procedures

C6.3.12.1. Describe how an individual may determine if there are records pertaining to him or her in the system. The procedural rules may be cited, but include a brief procedural description of the needed data. Provide sufficient information in the notice to allow an individual to exercise his or her rights without referral to the formal rules.

C6.3.12.2. As a minimum, the caption shall include:

C6.3.12.2.1. The official title (normally the system manager) and official address to which the request is to be directed;

C6.3.12.2.2. The specific information required to determine if there is a record of the individual in the system;

C6.3.12.2.3. Identification of the offices through which the individual may obtain notification; and

C6.3.12.2.4. A description of any proof of identity required. See paragraph C3.1.3. of Chapter 3.

C6.3.12.3. When appropriate, the individual may be referred to a Component official, who shall provide this information to him or her.

C6.3.13. Record Access Procedures

C6.3.13.1. Describe how an individual can gain access to the records pertaining to him or her in the system. The procedural rules may be cited, but include a brief procedural description of the needed data. Provide sufficient information in the notice to allow an individual to exercise his or her rights without referral to the formal rules.

C6.3.13.2. As a minimum, the caption shall include:

C6.3.13.2.1. The official title (normally the system manager) and official address to which the request is to be directed;

C6.3.13.2.2. A description of any proof of identity required. (See paragraph C3.1.3. of Chapter 3); and

C6.3.13.3. When appropriate, the individual may be referred to a Component official, who shall provide the records to him or her.

C6.3.14. Contesting Record Procedures

C6.3.14.1. Describe how an individual may contest the content of a record pertaining to him or her in the system.

C6.3.14.2. The detailed procedures for contesting a record need not be identified if the Component procedural rules are readily available to the public. (For example, “The Office of the Secretary of Defense” rules for contesting contents are contained in 32 CFR 311.) All Component procedural rules are set forth at a Departmental public Web site (see <http://www.defenselink.mil/privacy/cfr-rules.html>).

C6.3.14.3. The individual may also be referred to the system manager to determine these procedures.

C6.3.15. Record Source Categories

C6.3.15.1. Describe where (the individual, other Component documentation, other Federal agencies, etc.) the information contained in the system was obtained.

C6.3.15.2. Specific individuals or institutions need not be identified by name, particularly if these sources have been granted confidentiality. See paragraph C5.4.2. of Chapter 5.

C6.3.16. Exemptions Claimed for the System

C6.3.16.1. If no exemption has been claimed for the system, indicate “None.”

C6.3.16.2. If an exemption is claimed, cite the exemption as well as identifying the CFR section containing the exemption rule for the system.

C6.3.17. Maintaining the Master DoD System Notice Registry

C6.3.17.1. The Defense Privacy Office maintains a master registry of all DoD record systems notices.

C6.3.17.2. The Defense Privacy Office also posts all DoD system notices to a public Web site (see <http://www.defenselink.mil/privacy/notices>).

C6.4. NEW AND ALTERED RECORD SYSTEMS

C6.4.1. Criteria for a New Record System

C6.4.1.1. If a Component is maintaining a system of records as contemplated by paragraph C1.1.1., and a system notice has not been published for it in the Federal Register, the Component shall establish a system notice consistent with the requirements of this Chapter.

C6.4.1.2. If a notice for a system of records has been canceled or deleted, but a determination is subsequently made that the system will be reinstated or reused, the system may not be operated (information collected or used) until a new notice is published in the Federal Register.

C6.4.2. Criteria for an Altered Record System. A system is considered altered whenever one of the following actions occurs or is proposed:

C6.4.2.1. A significant increase or change in the number or type of individuals about whom records are maintained.

C6.4.2.1.1. Only changes that alter significantly the character and purpose of the record system are considered alterations.

C6.4.2.1.2. Increases in numbers of individuals due to normal growth are not considered alterations unless they truly alter the character and purpose of the system.

C6.4.2.1.3. Increases that change significantly the scope of population covered (for example, expansion of a system of records covering a single command's enlisted personnel to include all of the Component's enlisted personnel would be considered an alteration).

C6.4.2.1.4. A reduction in the number of individuals covered is not an alteration, but only an amendment. See paragraph C6.5.1. of this Chapter.

C6.4.2.1.5. All changes that add new categories of individuals to system coverage require a change to the "Categories of individuals covered by the system" caption of the notice (see paragraph C6.3.5. of this Chapter) and may require changes to the "Purpose(s)" caption (see paragraph C6.3.8. of this Chapter).

C6.4.2.2. An expansion in the types or categories of information maintained.

C6.4.2.2.1. The addition of any new category of records not described under the "Categories of Records in the System" caption is considered an alteration.

C6.4.2.2.2. Adding a new data element that is clearly within the scope of the categories of records described in the existing notice is an amendment. (See paragraph C6.5.1. of this Chapter.) An amended notice may not be required if the data element is clearly covered by the record category identified in the existing system notice.

C6.4.2.2.3. All changes under this criterion require a change to the "Categories of Records in the System" caption of the notice. (See paragraph C6.3.6. of this Chapter.)

C6.4.2.3. An alteration of how the records are organized or the manner in which the records are indexed and retrieved.

C6.4.2.3.1. The change must alter the nature of use or scope of the records involved (for example, combining records systems in a reorganization).

C6.4.2.3.2. Any change under this criterion requires a change in the “Retrievability” caption of the system notice. (See paragraph C6.3.10.2. of this Chapter.)

C6.4.2.3.3. If the records are no longer retrieved by name or personal identifier cancel the system notice. (See paragraph C1.1.2. of Chapter 1.)

C6.4.2.4. A change in the purpose for which the information in the system is used.

C6.4.2.4.1. The new purpose must not be compatible with the existing purposes for which the system is maintained.

C6.4.2.4.2. If the use is compatible and reasonably expected, there is no change in purpose and no alteration occurs.

C6.4.2.4.3. Any change under this criterion requires a change in the “Purpose(s)” caption (see paragraph C6.3.8. of this Chapter) and may require a change in the “Authority for maintenance of the system” caption (see paragraph C6.3.7. of this Chapter).

C6.4.2.5. Changes that alter the computer environment (such as changes to equipment configuration, software, or procedures) so as to create the potential for greater or easier access.

C6.4.2.5.1. Increasing the number of offices with direct access is an alteration.

C6.4.2.5.2. Software applications, such as operating systems and system utilities, which provide for easier access are considered alterations.

C6.4.2.5.3. The addition of an on-line capability to a previously batch-oriented system is an alteration.

C6.4.2.5.4. The addition of peripheral devices such as tape devices, disk devices, card readers, printers, and similar devices to an existing IT system constitute an amendment if system security is preserved. (See paragraph C6.5.1. of this Chapter.)

C6.4.2.5.5. Changes to existing equipment configuration with on-line capability need not be considered alterations to the system if:

C6.4.2.5.5.1. The change does not alter the present security posture; or

C6.4.2.5.5.2. The addition of terminals does not extend the capacity of the current operating system and existing security is preserved.

C6.4.2.5.6. The connecting of two or more formerly independent automated systems or networks together creating a potential for greater access is an alteration.

C6.4.2.5.7. Any change under this caption requires a change to the “Storage” caption element of the systems notice. (See paragraph C6.3.10.1. of this Chapter.)

C6.4.3. Reports of New and Altered Systems

C6.4.3.1. Components shall submit a report for all new or altered systems to the Defense Privacy Office consistent with the requirements of this chapter and in the format prescribed at Appendix 6.

C6.4.3.1.1. Components shall include the following when submitting an alteration for a system notice for publication in the Federal Register:

C6.4.3.1.1.1. The system identifier and name. (See paragraphs C6.3.2. and C6.3.3. of this Chapter.)

C6.4.3.1.1.2. A description of the nature and specific changes proposed.

C6.4.3.1.2. The full text of the system notice need not be submitted if the master registry contains a current system notice for the system. (See paragraph C6.3.17. of this Chapter.)

C6.4.3.2. The Defense Privacy Office coordinates all Congressional and OMB reports of new and altered systems with the Office of the Assistant Secretary of Defense (Legislative Affairs), Department of Defense.

C6.4.3.3. The Defense Privacy Office prepares and sends a transmittal letter that forwards the report, as well as the new or altered system notice, to OMB and Congress.

C6.4.3.4. The Defense Privacy Office shall publish in the Federal Register a system notice for new or altered systems.

C6.4.4. Time Restrictions on the Operation of a New or Altered System

C6.4.4.1. The reports, and the new or altered system notice, must be provided OMB and Congress at least 40 days prior to the operation of the new or altered system. The 40-day review period begins to run on the date that the transmittal letters are signed and dated.

C6.4.4.2. The system notice must be published in the Federal Register before a Component begins to operate the system (i.e., collect and use the information). If the new system has routine uses or the altered system adds a new routine use, no records may be disclosed pursuant to the routine use until the public has had 30 days to comment on the proposed use.

C6.4.4.3. The time periods run concurrently.

C6.4.5. Exemptions for New Systems. See paragraph C6.1.5. of this Chapter for the procedures to follow in submitting exemption rules for a new system of records or for submitting an exemption rule for an existing system of records.

C6.5. AMENDMENT AND DELETION OF SYSTEMS NOTICES

C6.5.1. Criteria for an Amended System Notice

C6.5.1.1. Certain minor changes to published systems notices are considered amendments and not alterations. See paragraph C6.4.2. of this Chapter.

C6.5.1.2. Amendments do not require a report of an altered system (see paragraph C6.4.3. of this Chapter), but must be published in the Federal Register.

C6.5.2. System Notices for Amended Systems. Components shall include the following when submitting an amendment for a system notice for publication in the Federal Register:

C6.5.2.1. The system identifier and name. (See paragraphs C6.3.2. and C6.3.3. of this Chapter.)

C6.5.2.2. A description of the nature and specific changes proposed.

C6.5.2.3. The full text of the system notice need not be submitted if the master registry contains a current system notice for the system. (See paragraph C6.3.17. of this Chapter.)

C6.5.3. Deletion of System Notices

C6.5.3.1. Whenever a system is discontinued, combined into another system, or determined no longer to be subject to this Regulation, a deletion notice is required.

C6.5.3.2. The notice of deletion shall include:

C6.5.3.2.1. The system identification and name.

C6.5.3.2.2. The reason for the deletion.

C6.5.3.3. When the system is eliminated through combination or merger, identify the successor system or systems in the deletion notice.

C6.5.4. Submission of Amendments and Deletions for Publication

C6.5.4.1. Submit amendments and deletions to the Defense Privacy Office for transmittal to the Federal Register for publication.

C6.5.4.2. Multiple deletions and amendments may be combined into a single submission.

C7. CHAPTER 7

TRAINING REQUIREMENTS

C7.1. STATUTORY TRAINING REQUIREMENTS

The Privacy Act (Reference (b)) requires each Agency to establish rules of conduct for all persons involved in the design, development, operation, and maintenance of any system of record and to train these persons with respect to these rules.

C7.2. OMB TRAINING GUIDELINES

The OMB guidelines (Reference (y)) require all Agencies additionally to:

C7.2.1. Instruct their personnel in their rules of conduct and other rules and procedures adopted in implementing the Act, to ensure that they are reminded of their specific responsibilities for safeguarding personally identifiable information, the rules for acquiring and using such information, and the penalties for non-compliance.

C7.2.2. Incorporate training on the special requirements of the Act into both formal and informal (on-the-job) training programs.

C7.3. DoD TRAINING PROGRAMS

C7.3.1. The training shall include information regarding information privacy laws, regulations, policies and procedures governing the Department's collection, maintenance, use, or dissemination of personal information. The objective is to establish a culture of sensitivity to, and knowledge about, privacy issues involving individuals throughout the Department.

C7.3.2. To meet these training requirements, Components may establish three general levels of training for those persons, to include contractor personnel, who are involved in any way with the design, development, operation, or maintenance of privacy protected systems of records. These are:

C7.3.2.1. Orientation. Training that provides basic understanding of this Regulation as it applies to the individual's job performance. This training shall be provided to personnel, as appropriate, and should be a prerequisite to all other levels of training.

C7.3.2.2. Specialized Training. Training that provides information as to the application of specific provisions of this Regulation to specialized areas of job performance. Personnel of particular concern include, but are not limited to medical personnel, intelligence specialists, finance officers, DoD personnel who may be expected to deal with the news media or the public, special investigators, paperwork managers, and other specialists (reports, forms, records, and related functions), computer systems development personnel, computer systems operations personnel,

statisticians dealing with personal data and program evaluations, contractors that will either operate systems of records on behalf of the Component or will have access to such systems incident to performing the contract, and anyone responsible for implementing or carrying out functions under this Regulation.

C7.3.2.3. Management. Training designed to identify for responsible managers (such as, senior system managers, denial authorities, and decision makers) considerations that they should take into account when making management decisions regarding operational programs and activities having privacy implications.

C7.3.3. Include Privacy Act training in other courses of training when appropriate. Stress individual responsibilities and advise individuals of their rights and responsibilities under this Regulation to ensure that it is understood that, where personally identifiable information is involved, individuals should handle and treat the information as if it was their information.

C7.4. TRAINING METHODOLOGY AND PROCEDURES

C7.4.1. Each DoD Component is responsible for the development of training procedures and methodology.

C7.4.2. The Defense Privacy Office shall assist the Components in developing these training programs and may develop privacy training programs for use by all DoD Components.

C7.4.3. Components shall conduct training as frequently as believed necessary so that personnel who are responsible for or are in receipt of information protected by Reference (b) are sensitive to the requirements of this regulation, especially the access, use, and dissemination restrictions. Components shall give consideration to whether annual training and/or annual certification should be mandated for all or specified personnel whose duties and responsibilities require daily interaction with personally identifiable information.

C7.4.4. Components shall conduct training that reaches the widest possible audience. Web-based training and video conferencing have been effective means to provide such training.

C7.5. FUNDING FOR TRAINING

Each DoD Component shall fund its own privacy training program.

C8. CHAPTER 8

REPORTS

C8.1. REQUIREMENT FOR REPORTS

The Defense Privacy Office shall establish requirements for DoD Privacy Reports and the DoD Components shall be required to provide data.

C8.2. SUSPENSE FOR SUBMISSION OF REPORTS

The suspenses for submission of all reports shall be established by the Defense Privacy Office.

C8.3. REPORTS CONTROL SYMBOL

Any report established by this Chapter in support of the Privacy Program shall be assigned Report Control Symbol DD-COMP(A)1379.

C9. CHAPTER 9

INSPECTIONS

C9.1. PRIVACY ACT INSPECTIONS

During internal inspections, Component inspectors shall be alert for compliance with this Regulation and for managerial, administrative, and operational problems associated with the implementation of the Defense Privacy Program. Programs shall be reviewed as frequently as considered necessary by Components, or the Component Inspector General.

C9.2. INSPECTION REPORTING

C9.2.1. Document the findings of the inspectors in official reports that are furnished to the responsible Component officials. These reports, when appropriate, shall reflect overall assets of the Component Privacy Program inspected, or portion thereof, identify deficiencies, irregularities, and significant problems. Also document remedial actions taken to correct problems identified.

C9.2.2. Retain inspections reports and later follow-up reports in accordance with established records disposition standards. These reports shall be made available to the Privacy Program officials concerned upon request.

C10. CHAPTER 10

PRIVACY ACT VIOLATIONS

C10.1. ADMINISTRATIVE REMEDIES

Any individual who believes he or she has a legitimate complaint or grievance against the Department of Defense or any DoD employee concerning any right granted by this Regulation shall be permitted to seek relief through appropriate administrative channels.

C10.2. CIVIL ACTIONS

An individual may file a civil suit against a DoD Component, if the individual believes his or her rights under the Act have been violated (See Section 552a(g) of Reference (b)).

C10.3. CIVIL REMEDIES

In addition to specific remedial actions, Reference (b) provides for the payment of damages, court costs, and attorney fees in some cases.

C10.4. CRIMINAL PENALTIES

C10.4.1. The Act also provides for criminal penalties (see section 552a(i) of Reference (b)). Any official or employee may be found guilty of a misdemeanor and fined not more than \$5,000 if he or she willfully:

C10.4.1.1. Discloses information from a system of records, knowing that dissemination is prohibited, to anyone not entitled to receive the information (see Chapter 4); or

C10.4.1.2. Maintains a system of records without publishing the required public notice in the Federal Register. (See Chapter 6.)

C10.4.2. Any person who knowingly and willfully requests or obtains access to any record concerning another individual under false pretenses may be found guilty of misdemeanor and fined up to \$5,000.

C10.5. LITIGATION STATUS SHEET

Whenever a complaint citing the Privacy Act is filed in a U.S. District Court against the Department of Defense, a DoD Component, or any DoD employee, the responsible system manager shall notify the Defense Privacy Office. The litigation status sheet at Appendix 8 provides a standard format for this notification. The initial litigation status sheet forwarded shall, as a

minimum, provide the information required by items 1 through 6. A revised litigation status sheet shall be provided at each stage of the litigation. When a court renders a formal opinion or judgment, copies of the judgment and opinion shall be provided to the Defense Privacy Office with the litigation status sheet reporting that judgment or opinion.

C10.6. LOST, STOLEN, OR COMPROMISED INFORMATION

C10.6.1. When a loss, theft, or compromise of information occurs (See Chapter 1 of this regulation), the breach shall be reported to:

C10.6.1.1. The United States Computer Emergency Readiness Team (US CERT) within one hour of discovering that a breach of personally identifiable information has occurred. Components shall establish procedures to ensure that US CERT reporting is accomplished in accordance with the guidance set forth at www.us-cert.gov. The underlying incident that led to the loss or suspected loss of PII (e.g., computer incident, theft, loss of material, etc.) shall continue to be reported in accordance with established procedures (e.g., to designated computer Network Defense (CND) Service Providers, Chairman of the Joint Chiefs of Staff Manual 6510.01 (Reference (z)), law enforcement authorities, the chain of command, etc).

C10.6.1.2. The Senior Component Official for Privacy (Reference (a)) within 24 hours of discovering that a breach of personally identifiable information has occurred. The Senior Component Official for Privacy, or their designee, shall notify the Defense Privacy Office of the breach within 48 hours upon being notified that a loss, theft, or compromise has occurred. The notification shall include the following information:

C10.6.1.2.1. Identify the Component/organization involved.

C10.6.1.2.2. Specify the date of the breach and the number of individuals impacted, to include whether they are DoD civilian, military, or contractor personnel; DoD civilian or military retirees; family members; other Federal personnel or members of the public, etc.

C10.6.1.2.3. Briefly describe the facts and circumstances surrounding the loss, theft, or compromise.

C10.6.1.2.4. Briefly describe actions taken in response to the breach, to include whether the incident was investigated and by whom; the preliminary results of the inquiry if then known; actions taken to mitigate any harm that could result from the breach; whether the affected individuals are being notified, and if this will not be accomplished within 10 working days, that action will be initiated to notify the Deputy secretary (See paragraph C1.5.1.4.) ; what remedial actions have been, or will be, taken to prevent a similar such incident in the future, e.g., refresher training conducted, new or revised guidance issued; and any other information considered pertinent as to actions to be taken to ensure that information is properly safeguarded.

C10.6.2. The Component shall determine whether administrative or disciplinary action is warranted and appropriate for those individuals determined to be responsible for the loss, theft, or compromise.

C11. CHAPTER 11

COMPUTER MATCHING PROGRAM PROCEDURES

C11.1. GENERAL

C11.1.1. Computer matches cover two kinds of matching programs, 54 Federal Register 25818, (Reference (aa)). If covered, the matches are subject to the requirements of this chapter. The covered programs are:

C11.1.1.1. Matches using records from Federal personnel or payroll systems of records, or

C11.1.1.2 Matches involving Federal benefits program if:

C11.1.1.2.1. To determine eligibility for a Federal benefit,

C11.1.1.2.2. To determine compliance with benefit program requirements, or

C11.1.1.2.3. To effect recovery of improper payments or delinquent debts under a Federal benefit program. .

C11.1.2. The requirements of this Regulation do not apply if matches are:

C11.1.2.1 Performed solely to produce aggregated statistical data without any personal identifiers. Personally identifying data can be used for purposes of conducting the match. However, the results of the match shall be stripped of any data that would identify an individual. Under no circumstances shall match results be used to take action against specific individuals.

C11.1.2.2. Performed to support research or statistical projects. Personally identifying data can be used for purposes of conducting the match and the match results may contain identifying data about individuals. However, the match results shall not be used to make a decision that affects the rights, benefits, or privileges of specific individuals.

C11.1.2.3. Performed by an agency, or a component thereof, whose principal function is the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named individual or individuals.

C11.1.2.3.1. The match must flow from an investigation already underway which focuses on a named person or persons. "Fishing expeditions" in which the subjects are generically identified, such as "program beneficiaries" are not covered.

C11.1.2.3.2. The match must be for the purpose of gathering evidence against the named individual or individuals.

C11.1.2.4. Performed for tax information-related purposes.

C11.1.2.5. Performed for routine administrative purposes using records relating to Federal personnel.

C11.1.2.5.1. The records to be used in the match must predominantly relate to Federal personnel (i.e., the percentage of records in the system of records that are about Federal personnel must be greater than of any other category).

C11.1.2.5.2. The purpose of the match must not be for purposes of taking any adverse financial, personnel, disciplinary, or other unfavorable action against an individual.

C11.1.2.6. Performed using only records from systems of records maintained by an agency.

C11.1.2.6.1. The purpose of the match must not be for purposes of taking any adverse financial, personnel, disciplinary, or other unfavorable action against an individual.

C11.1.2.6.2. A match of DoD personnel using records in a system of records for purposes of identifying fraud, waste, and abuse is not covered.

C11.1.2.7. Performed to produce background checks for security clearances of Federal or contractor personnel or performed for foreign counter-intelligence purposes.

C11.2. COMPUTER MATCHING PUBLICATION AND REVIEW REQUIREMENTS

C11.2.1. DoD Components shall identify the systems of records that will be used in the match to ensure that the publication requirements of Chapter 6 of this Regulation have been satisfied. If the match will require disclosure of records outside the Department of Defense, Components shall ensure that a routine use has been established, and that the publication and review requirements met, before any disclosures are made (See Chapter 6 of this Regulation).

C11.2.2. If a computer matching program is contemplated, the DoD Component shall contact the Defense Privacy Office and provide information regarding the contemplated match. The DoD Privacy Office (DPO) shall ensure that any proposed computer matching program satisfies the requirements of References (b) and (aa).

C11.2.3. A computer matching agreement (CMA) shall be prepared by the Component, consistent with the requirements of paragraph C11.3. and submitted to the DPO. If the CMA satisfies the requirements of References (b) and (aa), as well as this Regulation, it shall be forwarded to the Defense Data Integrity Board (DIB) for approval or disapproval.

C11.2.3.1. If the CMA is approved by the DIB, the DPO shall prepare and forward a report to both Houses of Congress and to OMB as required by, and consistent with, OMB Circular A-130 (Reference (ab)). Congress and OMB shall have 40 days to review and comment on the proposed match. Any comments received must be resolved before matching can take place.

C11.2.3.2. If the CMA is approved by the DIB, the DPO shall prepare and forward a match notice as required by Reference (ab) for publication in the Federal Register. The public shall be given 30 days to comment on the proposed match. Any comments received must be resolved before matching can take place.

C11.3. COMPUTER MATCHING AGREEMENTS (CMA)

C11.3.1. If a match is to be conducted internally within the Department of Defense, a memorandum of understanding (MOU) shall be prepared. It shall contain the same elements as a CMA, except as otherwise indicated in C11.3.2.4.2.

C11.3.2. A CMA shall contain the following elements:

C11.3.2.1. Purpose. Why the match is being proposed and what will be achieved by conducting the match.

C11.3.2.2. Legal Authority. What is the Federal or state statutory or regulatory basis for conducting the match. The Privacy Act does not constitute independent authority for matching. Other legal authority shall be identified.

C11.3.2.3. Justification and Expected Results. Explain why computer matching as opposed to some other administrative means is being proposed and what the expected results will be, including a specific estimate of any savings (see paragraph C11.3.2.13 of this Chapter.)

C11.3.2.4. Records Description. Identify:

C11.3.2.4.1. The system of records or non-Federal records. For DoD systems of records, provide the Federal Register citation for the system notice;

C11.3.2.4.2. The specific routine use in the system notice if records are to be disclosed outside the Department of Defense (see paragraph 4.2.3 of Chapter 4). If records are disclosed within the Department of Defense for an internal match, disclosures are permitted pursuant to paragraph 4.2.1 of Chapter 4.

C11.3.2.4.3 The number of records involved;

C11.3.2.4.4. The data elements to be included in the match;

C11.3.2.4.5. The projected start and completion dates of the match. CMAs remain in effect for 18 months, but can be renewed for an additional 12 months provided:

C11.3.2.4.5.1. The match will be conducted without any change, and

C11.3.2.4.5.2. Each party to the match certifies in writing that the program has been conducted in compliance with the CMA or MOU.

C11.3.2.4.6. How frequently will the records be matched.

C11.3.2.5. Records Accuracy Assessment. Provide an assessment by the source and recipient agencies as to the quality of the information that will be used for the match. The poorer the quality, the more likely that the program will not be cost-effective.

C11.3.2.6. Notice Procedures. Identify what direct and indirect means will be used to inform individuals that matching will taken place.

C11.3.2.6.1. Direct Notice. Indicate whether the individual is advised that matching may be conducted when he or she applies for a Federal benefit program. Such an advisory should normally be part of the Privacy Act Statement that is contained in the application for benefits. Individual notice sometimes is provided by a separate notice that is furnished the individual upon receipt of the benefit.

C11.3.2.6.2 Indirect Notice. Indicate whether the individual is advised that matching may be conducted by constructive notice. Indirect or constructive notice is achieved by publication of a routine use in the Federal Register when the matching is between agencies or is achieved by publication of the match notice in the Federal Register.

C11.3.2.7. Verification Procedures. Explain how information produced as a result of the match will be independently verified to ensure that any adverse information obtained is that of the individual identified in the match.

C11.3.2.8. Due Process Procedures. Describe what procedures will be used to notify individuals of any adverse information uncovered as a result of the match and to give such individuals an opportunity to either explain the information or how they may contest the information. No adverse action shall be taken against the individual until the due process procedures have been satisfied.

C11.3.2.8.1. Unless other statutory or regulatory authority provides for a longer period of time, the individual shall be given 30 calendar days from the date of the notice to respond to the notice.

C11.3.2.8.2. If an individual contacts the agency within the notice period and indicates his or her acceptance of the validity of the adverse information, the agency may take final action. If the period expires without a response, the agency may take final action.

C11.3.2.8.3. If the agency determines that there is a potentially significant effect on public health or safety, it may take appropriate action notwithstanding the due process provisions.

C11.3.2.9. Security Procedures. Describe the administrative, technical, and physical safeguards that will be established to preserve and protect the privacy and confidentiality of the records involved in the match. The level of security must be commensurate with the level of the sensitivity of the records.

C11.3.2.10. Records Usage, Duplication, and Redislosure Restrictions. Describe any restrictions imposed by the source agency or by statute or regulation on the collateral uses of the records. Recipient agencies may not use the records obtained for matching purposes for any other purpose absent a specific statutory requirement or where the disclosure is essential to the conduct of the matching program.

C11.3.2.11. Disposition Procedures. Clearly state that the records used in the match will be retained only for the time required for conducting the match. Once the matching purpose has been achieved, the records will be destroyed unless the records must be retained as directed by other legal authority. Unless the source agency requests that the records be returned, identify the means by which destruction will occur, e.g., shredding, burning, electronic erasure.

C11.3.2.12. Comptroller General Access. Include a statement that the Comptroller General may have access to all records of the recipient agency to monitor or verify compliance with the terms of the CMA.

C11.3.2.13. Cost-Benefit Analysis.

C11.3.2.13.1 A cost-benefit analysis shall be conducted for the proposed computer matching program unless:

C11.3.2.13.1.1. The Data Integrity Board waives the requirement in writing, or

C11.3.2.13.1.2. The matching program is required by a specific statute.

C11.3.2.13.2. The analysis must demonstrate that the program is likely to be cost-effective. This analysis is to ensure that agencies are following sound management practices. The analysis provides an opportunity to examine the programs and to reject those that will only produce marginal results.

AP1. APPENDIX 1

SAFEGUARDING PERSONALLY IDENTIFIABLE INFORMATION (PII)

AP1.1. GENERAL

AP1.1.1. The IT environment subjects personal information to special hazards as to unauthorized compromise, alteration, dissemination, and use. Therefore, special considerations must be given to safeguarding personal information in IT systems consistent with the requirements of DoD Directive 8500.1 (Reference (ac)) and (ae).

AP1.1.2. Personally identifiable information must also be protected while it is being processed or accessed in computer environments outside the data processing installation (such as remote job entry stations, terminal stations, minicomputers, microprocessors, and similar activities).

AP1.1.3. IT facilities authorized to process classified material have adequate procedures and security for the purposes of this Regulation. However, all unclassified information subject to this Regulation must be processed following the procedures used to process and access information designated "FOUO." (See Reference (h).)

AP1.2. RISK MANAGEMENT AND SAFEGUARDING STANDARDS

AP1.2.1. Establish administrative, technical, and physical safeguards that are adequate to protect the information against unauthorized disclosure, access, or misuse. (See OMB Circular A-130, Reference (ab) and DoD Instruction 8500.2 (Reference (ae).))

AP1.2.2. Tailor safeguards to the type of system, the nature of the information involved, and the specific threat to be countered.

AP1.3. MINIMUM ADMINISTRATIVE SAFEGUARDS

The minimum safeguarding standards as set forth in paragraph C1.4.2. of Chapter 1 apply to all personal data within any IT system. In addition:

AP1.3.1. Consider the following when establishing IT safeguards:

AP1.3.1.1. The sensitivity of the data being processed, stored and accessed.

AP1.3.1.2. The installation environment.

AP1.3.1.3. The risk of exposure.

AP1.3.1.4. The cost of the safeguard under consideration.

AP1.3.2. Label or designate media products containing personal information that do not contain classified material in such a manner as to alert those using or handling the information of the need for special protection. Designating products “For Official Use Only” in accordance with Reference (h) satisfies this requirement.

AP1.3.3. Mark and protect all computer products containing classified data in accordance with References (h) and (ac).

AP1.3.4. Mark and protect all computer products containing “For Official Use Only” material in accordance with Reference (h).

AP1.3.5. Ensure that safeguards for protected information stored at secondary sites are appropriate.

AP1.3.6. If there is a computer failure, restore all protected information being processed at the time of the failure using proper recovery procedures to ensure data integrity.

AP1.3.7. Train personnel involved in processing information subject to this Regulation in proper safeguarding procedures.

AP1.4. PHYSICAL SAFEGUARDS

AP1.4.1. For all unclassified facilities, areas, and devices that process information subject to this Regulation, establish physical safeguards that protect the information against reasonably identifiable threats that could result in unauthorized access or alteration.

AP1.4.2. Develop access procedures for unclassified computer rooms, tape libraries, micrographic facilities, decollating shops, product distribution areas, or other direct support areas that process or contain personal information subject to this Regulation that control adequately access to these areas.

AP1.4.3. Safeguard on-line devices directly coupled to IT systems that contain or process information from systems of records to prevent unauthorized disclosure, use, or alteration.

AP1.4.4. Dispose of paper records following appropriate record destruction procedures. (See paragraph C1.4.3. and Reference (h).)

AP1.5. TECHNICAL SAFEGUARDS

AP1.5.1. Components are to ensure that all PII not explicitly cleared for public release is protected according to Confidentially Level Sensitive, as established in DoD Instruction 8500.2 (Reference (ae)). In addition, all DoD information and data owners shall conduct risk assessments of compilations of PII and identify those needing more stringent protection for remote access or mobile computing.

AP1.5.2. Encrypt unclassified personal information in accordance with current Information Assurance (IA) policies and procedures, as issued.

AP1.5.3. Remove personal data stored on magnetic storage media by methods that preclude reconstruction of the data.

AP1.5.4. Ensure that personal information is not inadvertently disclosed as residue when transferring magnetic media between activities.

AP1.5.5 Only DoD authorized devices shall be used for remote access. Any remote access, whether for user or privileged functions, must conform to IA controls specified in Reference (ae).

AP1.5.6 Remote access for processing PII should comply with the latest IA policies and procedures.

AP1.5.7. Minimize access to data fields necessary to accomplish an employee's task - normally, access shall be granted only to those data elements (fields) required for the employee to perform his or her job rather than granting access to the entire database.

AP1.5.8. Do not totally rely on proprietary software products to protect personnel data during processing or storage.

AP1.6. SPECIAL PROCEDURES

AP1.6.1. Managers shall:

AP1.6.1.1. Prepare and submit for publication all system notices and amendments and alterations thereto. (See paragraph C6.1.6. of Chapter 6.)

AP1.6.1.2. Identify required controls and individuals authorized access to PII and maintain updates to the access authorizations.

AP1.6.1.3. When required, ensure Privacy Impact Assessments are prepared consistent with the requirements of Section 3501 of title 44, U.S.C. (Reference (ad)) and the DoD Deputy Chief Information Officer Memorandum (Reference (af)).

AP1.6.1.4. Train all personnel whose official duties require access to the system of records in the proper safeguarding and use of the information and ensure that they receive Privacy Act training.

AP1.7. RECORD DISPOSAL

AP1.7.1. Dispose of records subject to this Regulation so as to prevent compromise. (See paragraph C1.4.3. of Chapter 1.) Magnetic tapes or other magnetic medium may be cleared by degaussing, overwriting, or erasing. (See the DoD Memorandum (Reference (ag).))

AP1.7.2. Do not use respliced waste computer products containing personal data.

AP2. APPENDIX 2

SAMPLE NOTIFICATION LETTER

Dear Mr. John Miller:

On January 1, 2006, a DoD laptop computer was stolen from the parked car of a DoD employee in Washington, D.C. after normal duty hours while the employee was running a personal errand. The laptop contained personally identifying information on 100 DoD employees who were participating in the xxx Program. The compromised information is the name, social security number, residential address, date of birth, office and home email address, office, and home telephone numbers of the Program participants.

The theft was immediately reported to local and DoD law enforcement authorities, who are now conducting a joint inquiry into the loss.

We believe that the laptop was the target of the theft as opposed to any information that the laptop might contain. Because the information in the laptop was password protected and encrypted, we also believe that the probability is low that the information will be acquired and used for an unlawful purpose. However, we cannot say with certainty that this might not occur. We therefore believe that you should consider taking such actions as are possible to protect against the potential that someone might use the information to steal your identity.

You should be guided by the actions recommended by the Federal Trade Commission (FTC) at its Web site at http://www.consumer.gov/idtheft/con_steps.htm. The FTC urges that you immediately place an initial fraud alert on your credit file. The Fraud alert is for a period of 90 days, during which, creditors are required to contact you before a new credit card is issued or an existing card changed. The site also provides other valuable information that can be taken now or in the future if problems should develop.

The Department of Defense takes this loss very seriously and is reviewing its current policies and practices with a view of determining what must be changed to preclude a similar occurrence in the future. At a minimum, we will be providing additional training to personnel to ensure that they understand that personally identifiable information must at all times be treated in a manner that preserves and protects the confidentiality of the data.

We deeply regret and apologize for any inconvenience and concern this theft may cause you.

Should you have any questions, please call _____.

Sincerely,

Signature Block
(Directorate level or higher)

AP3. APPENDIX 3

DoD BLANKET ROUTINE USES

AP3.1. ROUTINE USE - LAW ENFORCEMENT

If a system of records maintained by a DoD Component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the agency concerned, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

AP3.2. ROUTINE USE - DISCLOSURE WHEN REQUESTING INFORMATION

A record from a system of records maintained by a Component may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a Component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

AP3.3. ROUTINE USE - DISCLOSURE OF REQUESTED INFORMATION

A record from a system of records maintained by a Component may be disclosed to a Federal Agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

AP3.4. ROUTINE USE - CONGRESSIONAL INQUIRIES

Disclosure from a system of records maintained by a Component may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

AP3.5. ROUTINE USE - PRIVATE RELIEF LEGISLATION

Relevant information contained in all systems of records of the Department of Defense published on or before August 22, 1975, may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular A-19 at any stage of the legislative coordination and clearance process as set forth in that circular.

AP3.6. ROUTINE USE - DISCLOSURES REQUIRED BY INTERNATIONAL AGREEMENTS

A record from a system of records maintained by a Component may be disclosed to foreign law enforcement, security, investigatory, or administrative authorities to comply with requirements imposed by, or to claim rights conferred in, international agreements and arrangements, including those regulating the stationing and status in foreign countries of Department of Defense military and civilian personnel.

AP3.7. ROUTINE USE - DISCLOSURE TO STATE AND LOCAL TAXING AUTHORITIES

Any information normally contained in Internal Revenue Service (IRS) Form W-2 which is maintained in a record from a system of records maintained by a Component may be disclosed to State and local taxing authorities with which the Secretary of the Treasury has entered into agreements under sections 5516, 5517, 5520 of 5 U.S.C., and only to those State and local taxing authorities for which an employee or military member is or was subject to tax regardless of whether tax is or was withheld. This routine use is in accordance with Treasury Fiscal Requirements Manual Bulletin No. 76-07.

AP3.8. ROUTINE USE - DISCLOSURE TO THE OFFICE OF PERSONNEL MANAGEMENT

A record from a system of records subject to the Privacy Act and maintained by a Component may be disclosed to the Office of Personnel Management (OPM) concerning information on pay and leave, benefits, retirement deductions, and any other information necessary for the OPM to carry out its legally authorized government-wide personnel management functions and studies.

AP3.9. ROUTINE USE - DISCLOSURE TO THE DEPARTMENT OF JUSTICE FOR LITIGATION

A record from a system of records maintained by a Component may be disclosed as a routine use to any Component of the Department of Justice for the purpose of representing the Department of Defense, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

AP3.10. ROUTINE USE - DISCLOSURE TO MILITARY BANKING FACILITIES

Information as to current military addresses and assignments may be provided to military banking facilities who provide banking services overseas and who are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged, or retired from the Armed Forces, information as to last known residential or home of record address may be provided to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonored check negotiated by the individual or the individual has defaulted on a loan and that if restitution is not made by the individual, the U.S. Government will be liable for the losses the facility may incur.

AP3.11. ROUTINE USE - DISCLOSURE OF INFORMATION TO THE GENERAL SERVICES ADMINISTRATION

A record from a system of records maintained by a Component may be disclosed as a routine use to GSA for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

AP3.12. ROUTINE USE - DISCLOSURE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

A record from a system of records maintained by a Component may be disclosed as a routine use to NARA for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

AP3.13. ROUTINE USE - DISCLOSURE TO THE MERIT SYSTEMS PROTECTION BOARD

A record from a system of records maintained by a Component may be disclosed as a routine use to the Merit Systems Protection Board, including the Office of the Special Counsel, for the purpose of litigation, including administrative proceedings, appeals, special studies of the civil service and other merit systems, review of OPM or Component rules and regulations, investigation of alleged or possible prohibited personnel practices, including administrative proceedings involving any individual subject of a DoD investigation, and such other functions, promulgated in 5 U.S.C. 1205 and 1206 or as may be authorized by law.

AP3.14. ROUTINE USE - COUNTERINTELLIGENCE PURPOSES

A record from a system of records maintained by a Component may be disclosed as a routine use outside the Department of Defense or the U.S. Government for the purpose of counterintelligence activities authorized by U.S. law or Executive Order, or for the purpose of enforcing laws that protect the national security of the United States.

AP4. APPENDIX 4PROVISIONS OF THE PRIVACY ACT FROM WHICH A GENERAL OR A SPECIFIC
EXEMPTION MAY BE CLAIMED

Exemptions		<u>Section of the Privacy Act</u>	
<u>(j)(2)</u>	<u>(k) (1-7)</u>		
No	No	(b)(1)	Disclosures within the Department of Defense.
No	No	(2)	Disclosures to the public.
No	No	(3)	Disclosures for a "Routine Use."
No	No	(4)	Disclosures to the Bureau of Census.
No	No	(5)	Disclosures for statistical research and reporting.
No	No	(6)	Disclosures to the National Archives.
No	No	(7)	Disclosures for law enforcement purposes.
No	No	(8)	Disclosures under emergency circumstances.
No	No	(9)	Disclosures to the Congress.
No	No	(10)	Disclosures to the General Accounting Office.
No	No	(11)	Disclosures pursuant to court orders.
No	No	(12)	Disclosure to consumer reporting agencies.
No	No	(c)(1)	Making disclosure accountings.
No	No	(2)	Retaining disclosure accountings.
Yes	Yes	(c)(3)	Making disclosure accounting available to the individual.
Yes	No	(c)(4)	Informing prior recipients of corrections.
Yes	Yes	(d)(1)	Individual access to records.
Yes	Yes	(2)	Amending records.
Yes	Yes	(3)	Review of the Component's refusal to amend a record.
Yes	Yes	(4)	Disclosure of disputed information.
Yes	Yes	(5)	Access to information compiled in anticipation of civil action.
Yes	Yes	(e)(1)	Restrictions on collecting information.
Yes	No	(e)(2)	Collecting directly from the individual.
Yes	No	(3)	Informing individuals from whom information is requested.
No	No	(e)(4)(A)	Describing the name and location of the system.
No	No	(B)	Describing categories of individuals.
No	No	(C)	Describing categories of records.
No	No	(D)	Describing routine uses.
No	No	(E)	Describing records management policies and practices.
No	No	(F)	Identifying responsible officials.

Exemptions			
<u>(j)(2)</u>	<u>(k) (1-7)</u>	<u>Section of the Privacy Act</u>	
Yes	Yes	(e)(4)(G)	Procedures for determining if a system contains a record on an individual.
Yes	Yes	(H)	Procedures for gaining access.
Yes	Yes	(I)	Describing categories of information sources.
Yes	No	(e)(5)	Standards of accuracy.
No	No	(e)(6)	Validating records before disclosure.
No	No	(e)(7)	Records of First Amendment activities.
No	No	(e)(8)	Notification of disclosure under compulsory legal process.
No	No	(e)(9)	Rules of conduct.
No	No	(e)(10)	Administrative, technical, and physical safeguards.
No	No	(11)	Notice for new and revised routine uses.
Yes	Yes	(f)(1)	Rules for determining if an individual is subject of a record.
Yes	Yes	(f)(2)	Rules for handling access requests.
Yes	Yes	(f)(3)	Rules for granting access.
Yes	Yes	(f)(4)	Rules for amending records.
Yes	Yes	(f)(5)	Rules regarding fees.
Yes	No	(g)(1)	Basis for civil action.
Yes	No	(g)(2)	Basis for judicial review and remedies for refusal to amend.
Yes	No	(g)(3)	Basis for judicial review and remedies for denial of access.
Yes	No	(g)(4)	Basis for judicial review and remedies for other failure to comply.
Yes	No	(g)(5)	Jurisdiction and time limits.
Yes	No	(h)	Rights of legal guardians.
No	No	(i)(1)	Criminal penalties for unauthorized disclosure.
No	No	(2)	Criminal penalties for failure to publish.
No	No	(3)	Criminal penalties for obtaining records under false pretenses.
No	No	(j)	Rulemaking requirement.
N/A	N/A	(j)(1)	General exemption for the Central Intelligence Agency.
N/A	N/A	(j)(2)	General exemption for criminal law enforcement records.
No	No	(k)	Rulemaking requirement.
N/A	N/A	(k)(1)	Exemption for classified material.
N/A	N/A	(k)(2)	Exemption for law enforcement material.
N/A	N/A	(k)(3)	Exemption for records pertaining to Presidential protection.
N/A	N/A	(k)(4)	Exemption for statistical records.
N/A	N/A	(k)(5)	Exemption for investigatory material compiled for determining suitability for employment or service.
N/A	N/A	(k)(6)	Exemption for testing or examination material.
Exemptions			
<u>(j)(2)</u>	<u>(k) (1-7)</u>	<u>Section of the Privacy Act</u>	
N/A	N/A	(k)(7)	Exemption for promotion evaluation materials used by the Armed Forces.
Yes	No	(l)(1)	Records stored in GSA records centers.

Yes	No	(l)(2)	Records archived before September 27, 1975.
Yes	No	(l)(3)	Records archived on or after September 27, 1975.
Yes	No	(m)	Applicability to Government contractors.
Yes	No	(n)	Mailing lists.
N/A	N/A	(o)	Matching Agreements.
N/A	N/A	(p)	Verification and Opportunity to Contest Findings.
N/A	N/A	(q)	Sanctions.
No	No	(r)	Reports on New Systems and Matching Programs.
N/A	N/A	(s)	Biennial Report.
N/A	N/A	(t)	Effect of other laws.
N/A	N/A	(u)	Data Integrity Boards.

AP5. APPENDIX 5

SAMPLE OF NEW OR ALTERED SYSTEM OF RECORDS NOTICE
IN FEDERAL REGISTER FORMAT

New System of Records Notice

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD

ACTION: Notice to Add a System of Records

SUMMARY: The Office of the Secretary of Defense proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on (insert date thirty days after publication in the Federal Register) unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Smith at (703) 000-0000.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records 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 address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on January 20, 2006, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 1, 2006.

John Miller

Alternate OSD Federal Register Liaison Officer, Department of Defense.

NSLRB 01

System name:

The National Security Labor Relations Board (NSLRB).

System location:

National Security Labor Relations Board (NSLRB), 1401 Wilson Boulevard, Arlington, VA 22209-2325.

Categories of individuals covered by the system:

Current and former civilian Federal Government employees who have filed unfair labor practice charges, negotiability disputes, exceptions to arbitration awards, and impasses with the National Security Labor Relations Board (NSLRB) pursuant to the National Security Personnel System (NSPS).

Categories of records in the system:

Documents relating to the proceedings before the Board, including the name of the individual initiating NSLRB action, statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original decision, and related correspondence and exhibits.

Authority for maintenance of the system:

The National Defense Authorization Act for FY 2004, Pub Law 108-136, Section 1101; 5 U.S.C. 9902(m), Labor Management Relations in the Department of Defense; and 5 CFR 9901.907, National Security Labor Relations Board.

Purpose(s):

To establish a system of records that will document adjudication of unfair labor practice charges, negotiability disputes, exceptions to arbitration awards, and impasses filed with the National Security Labor Relations Board.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To The Federal Labor Relations Authority (FLRA) or the Equal Employment Opportunity Commission, when requested, for performance of functions authorized by law.

To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

To provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

The DoD "Blanket Routine Uses" set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained on electronic storage media and paper.

Retrievability:

Records will be retrieved in the system by the following identifiers: assigned case number; individual's name; labor organizations filing the unfair labor practice charges; negotiability disputes; exceptions to arbitration awards; date, month, year or filing; complaint type; and the organizational component from which the complaint arises.

Safeguards:

Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to records is limited to person(s) responsible for servicing the record in performance of their official duties and who are properly screened and cleared for need-to-know. Access to computerized data is restricted by passwords, which are changed periodically.

Retention and disposal:

Records are disposed of 5 years after final resolution of case.

System manager(s) and address:

Executive Director, National Security Personnel System, Program Executive Office, 1401 Wilson Boulevard, Arlington, VA 22209-2325.

Notification procedure:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Executive Director, National Security Personnel System, Program Executive Office, 1401 Wilson Boulevard, Arlington, VA 22209-2325.

Request should contain name; assigned case number; approximate case date (day, month, and year); case type; the names of the individuals and/or labor organizations filed the unfair labor practice charges; negotiability disputes; exceptions to arbitration awards; and impasses.

Record access procedures:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Executive Director, National Security Personnel System, Program Executive Office, 1401 Wilson Boulevard, Arlington, VA 22209-2325.

Request should contain name; assigned case number; approximate case date (day, month, and year); case type; the names of the individuals and/or labor organizations filed the unfair labor practice charges; negotiability disputes; exceptions to arbitration awards; and impasses.

Contesting record procedures:

The OSD's rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction No. 81; 32 CFR part 311; or may be obtained from the system manager.

Record source categories:

Individual; other officials or employees; and departmental and other records containing information pertinent to the NSLRB action.

Exemptions claimed for the system:

None.

Altered System of Record Notice

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency

ACTION: Notice to Alter a System of Records

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The alteration adds two routine uses, revises the purpose category, and makes other administrative changes to the system notice.

DATES: This action will be effective without further notice on (insert date thirty days after publication in the Federal Register) unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS-B, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Smith at (703) 000-0000.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records 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 address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 29, 2004, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 2, 2004.

John Miller

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S253.10 DLA-G

System name:

Invention Disclosure (February 22, 1993, 58 FR 10854).

Changes:

* * * * *

System identifier:

Replace “S253.10 DLA-G” with “S100.70.”

* * * * *

Categories of individuals covered by the system:

Delete “to the DLA General Counsel” at the end of the sentence and replace with “to DLA.”

* * * * *

Categories of records in the system:

Delete entry and replace with Inventor’s name, Social Security Number, address, and telephone numbers; descriptions of inventions; designs or drawings, as appropriate; evaluations of patentability; recommendations for employee awards; licensing documents; and similar records. Where patent protection is pursued by DLA, the file may also contain copies of applications, Letters Patent, and related materials.

* * * * *

Authority for maintenance of the system:

Delete entry and replace with 5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 4502, General provisions; 10 U.S.C. 2320, Rights in technical data; 15 U.S.C. 3710b, Rewards for scientific, engineering, and technical personnel of federal agencies; 15 U.S.C. 3711d, Employee activities; 35 U.S.C. 181-185, Secrecy of Certain Inventions and Filing Applications in Foreign Countries; E.O. 9397 (SSN); and E.O. 10096 (Inventions Made by Government Employees) as amended by E.O. 10930.

* * * * *

Purpose(s):

Delete entry and replace with “Data is maintained for making determinations regarding and recording DLA interest in the acquisition of patents; for documenting the patent process; and for documenting any rights of the inventor. The records may also used in conjunction with the employee award program, where appropriate.”

* * * * *

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Add two new paragraphs “To the U.S. Patent and Trademark Office for use in processing applications and performing related functions and responsibilities under title 35 of the U.S. Code.

To foreign government patent offices for the purpose of securing foreign patent rights.”

* * * * *

Safeguards:

Delete entry and replace with “Access is limited to those individuals who require the records for the performance of their official duties. Paper records are maintained in buildings with controlled or monitored access. During non-duty hours, records are secured in locked or guarded buildings, locked offices, or guarded cabinets. The electronic records systems employ user identification and password or smart card technology protocols.”

* * * * *

Retention and disposal:

Delete entry and replace with “Records maintained by Headquarters and field Offices of Counsel are destroyed 26 years after file is closed. Records maintained by field level Offices of Counsel where patent applications are not prepared are destroyed 7 years after closure.”

* * * * *

Record source categories:

Delete entry and replace with “Inventors, reviewers, evaluators, officials of U.S. and foreign patent offices, and other persons having a direct interest in the file.”

* * * * *

S100.70

System name:

Invention Disclosure.

System location:

Office of the General Counsel, HQ DLA-DG, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060-6221, and the offices of counsel of the DLA field activities. Official mailing addresses are published as an appendix to DLA’s compilation of systems of records notices.

Categories of individuals covered by the system:

Employees and military personnel assigned to DLA who have submitted invention disclosures to DLA.

Categories of records in the system:

Inventor’s name, Social Security Number, address, and telephone numbers; descriptions of inventions; designs or drawings, as appropriate; evaluations of patentability; recommendations for employee awards; licensing documents; and similar records. Where patent protection is pursued by DLA, the file may also contain copies of applications, Letters Patent, and related materials.

Authority for maintenance of the system:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 4502, General provisions; 10 U.S.C. 2320, Rights in technical data; 15 U.S.C. 3710b, Rewards for scientific, engineering, and technical personnel of federal agencies; 15 U.S.C. 3711d, Employee activities; 35 U.S.C. 181-185, Secrecy of Certain Inventions and Filing Applications in Foreign Countries; E.O. 9397 (SSN); and E.O. 10096 (Inventions Made by Government Employees) as amended by E.O. 10930.

Purpose(s):

Data is maintained for making determinations regarding and recording DLA interest in the acquisition of patents, for documenting the patent process, and for documenting any rights of the inventor. The records may also be used in conjunction with the employee award program, where appropriate.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the U.S. Patent and Trademark Office for use in processing applications and performing related functions and responsibilities under Title 35 of the U. S. Code.

To foreign government patent offices for the purpose of securing foreign patent rights.

Information may be referred to other government agencies or to non-government agencies or to non-government personnel (including contractors or prospective contractors) having an identified interest in a particular invention and the Government's rights therein.

The DoD "Blanket Routine Uses" set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained in paper and computerized form.

Retrievability:

Filed by names of inventors.

Safeguards:

Access is limited to those individuals who require the records for the performance of their official duties. Paper records are maintained in buildings with controlled or monitored access. During non-duty hours, records are secured in locked or guarded buildings, locked offices, or guarded cabinets. The electronic records systems employ user identification and password or smart card technology protocols.

Retention and disposal:

Records maintained by the HQ and field Offices of Counsel are destroyed 26 years after file is closed. Records maintained by field level Offices of Counsel where patent applications are not prepared are destroyed 7 years after closure.

System manager(s) and address:

Office of the General Counsel, Headquarters, Defense Logistics Agency, ATTN: DG, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060-6221.

Notification procedure:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Officer, Headquarters, Defense Logistics Agency, ATTN: DSS-B, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060-6221, or the Privacy Officers at DLA field activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Record access procedures:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Officer, Headquarters, Defense Logistics Agency, ATTN: DSS-B, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060-6221, or the Privacy Officers at the DLA field activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Individuals should provide information that contains full name, current address and telephone numbers of requester.

For personal visits, each individual shall provide acceptable identification, e.g., driver's license or identification card.

Contesting record procedures:

The DLA rules for accessing records, contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS-B, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060-6221.

Record source categories:

Inventors, reviewers, evaluators, officials of U.S. and foreign patent offices, and other persons having a direct interest in the file.

Exemptions claimed for the system:

None.

AP6. APPENDIX 6

FORMAT FOR NEW OR ALTERED SYSTEM REPORT

The report on a new or altered system shall consist of a transmittal letter, a narrative statement, and include supporting documentation.

A. TRANSMITTAL LETTER. The transmittal letter shall be prepared by the Defense Privacy Office and shall contain assurances that the new or altered system does not duplicate any existing Component systems, DoD-wide systems or government-wide systems. The narrative statement, and the system notice, shall be attached thereto.

B. NARRATIVE STATEMENT. The statement shall include information on the following:

1. System Identifier and name;
2. Responsible official;
3. Purpose of establishing the system [for a new system only) or Nature of the changes proposed for the system [for altered system only];
4. Authority for maintenance of the System;
5. Probable or potential effects on the privacy of individuals;
6. Is the system, in whole or part, being maintained by a contractor;
7. Steps taken to minimize risk of unauthorized access;
8. Routine use compatibility;
9. OMB information collection requirements; and
10. Supporting documentation.

Attachments - 2

AP6.A1. Format for Narrative Statement

AP6.A2. Sample Narrative Statement

AP6.A1. APPENDIX 6, ATTACHMENT 1

FORMAT FOR NARRATIVE STATEMENT

DEPARTMENT OF DEFENSE

[Component Name]

Narrative Statement on a [New/Altered] system of records

Under the Privacy Act of 1974

1. System Identifier and Name. This caption sets forth the identification and name of the system (see paragraphs C6.3.2. and C6.3.3. of Chapter 6).
2. Responsible Official. The name, title, address, and telephone number of the official responsible for the report and to whom inquiries and comments about the report may be directed by Congress, the Office of Management and Budget, or the Defense Privacy Office.
3. Purpose of establishing the system or nature of the changes proposed for the system: Describe the purpose of the new system or how an existing system is being changed.
4. Authority for maintenance of the system. See paragraph C6.3.7. of Chapter 6.
5. Probable or potential effects on the privacy of individuals. What effect, if any, will the new or altered system impact the personal privacy of the affected individuals.
6. Is the system, in whole or in part, being maintained by a contractor. If yes, Components shall ensure that the contract has incorporated the Federal Acquisition privacy clause (Reference (k)).
7. Steps taken to minimize risk of unauthorized access. Describe actions taken to reduce the vulnerability of the system to potential threats. See Appendix 1 to this regulation.
8. Routine use compatibility. Provide assurances that any records contained in the system that are disclosed outside the DoD shall be for a use that is compatible with the purpose for which the record was collected. Advise whether or not the blanket routine uses apply to this system.
9. OMB collection requirements. If information is to be collected from members of the public, the requirements of Reference (ag) apply and OMB must be advised.
10. Supporting documentation. The following are typical enclosures that may be required:
 - a. An advance copy of the system notice for a new or altered system that is proposed for publication.
 - b. An advance copy of a proposed exemption rule if the new or altered system is to be exempted in accordance with Chapter 5.

c. Any other supporting documentation that may be pertinent or helpful in understanding the need for the system or clarifying its intended use.

AP6.A2. APPENDIX 6, ATTACHMENT 2

SAMPLE NARRATIVE STATEMENT

DEPARTMENT OF DEFENSE
Office of the Secretary
Narrative Statement on a New System of Records
Under the Privacy Act of 1974

1. System identifier and name: NSLRB 01, entitled “The National Security Labor Relations Board (NSLRB).”
2. Responsible official: Mr. John Miller, National Security Labor Relations Board (NSLRB), 0000 Smith Boulevard, Arlington, VA 22209, Telephone (703) 000-0000.
3. Purpose of establishing the system: The Office of the Secretary of Defense is proposing to establish a system of records that will document adjudication of unfair labor practice charges, negotiability disputes, exceptions to arbitration awards, and impasses filed with the National Security Labor Relations Board.
4. Authority for the maintenance of the system: The National Defense Authorization Act for FY 2004, Pub Law 108-136, Section 1101; 5 U.S.C. 9902(m), Labor Management Relations in the Department of Defense; and 5 CFR 9901.907, National Security Labor Relations Board.
5. Probable or potential effects on the privacy of individuals:
None
6. Is the system, in whole or in part, being maintained by a contractor? No
7. Steps taken to minimize risk of unauthorized access: Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to records is limited to person(s) responsible for servicing the record in performance of their official duties and who are properly screened and cleared for need-to-know. Access to computerized data is restricted by passwords, which are changed periodically.
8. Routine use compatibility: Any release of information contained in this system of records outside of the DoD will be compatible with purposes for which the information is collected and maintained. The DoD “Blanket Routine Uses” apply to this system of records.
9. OMB information collection requirements: None.
10. Supporting documentation: None.

AP7. APPENDIX 7

SAMPLE AMENDMENTS OR DELETIONS TO SYSTEMS NOTICES
IN FEDERAL REGISTER FORMAT

Amendment of system notice

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Army is proposing to amend a system of records notice in its existing inventory of records 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 (insert date thirty days after publication in Federal Register) unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information / Privacy Division, U.S. Army Records Management and Declassification Agency, ATTN: AHRC-PDD-FPZ, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325-3905.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Smith at (703) 000-0000.

SUPPLEMENTARY INFORMATION: The Department of the Army 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 address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are 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: February 3, 2006.

John Miller

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0055 USEUCOM

System name:

Europe Command Travel Clearance Records (August 23, 2004, 69 FR 51817).

Changes:

* * * * *

System name:

Delete system identifier and replace with: "A0055 USEUCOM DoD".

* * * * *

A0055 USEUCOM DoD

System name:

Europe Command Travel Clearance Records.

System location:

Headquarters, United States European Command, Computer Network Operations Center, Building 2324, P.O. Box 1000, APO AE 09131-1000.

Categories of individuals covered by the system:

Military, DoD civilians, and non-DoD personnel traveling under DoD sponsorship (e.g., contractors, foreign nationals and dependents) and includes temporary travelers within the United States European Command's (USEUCOM) area of responsibility as define by the DoD Foreign Clearance Guide Program.

Categories of records in the system:

Travel requests, which contain the individual's name; rank/pay grade; Social Security Number; military branch or department; passport number; Visa Number; office address and telephone number, official and personal email address, detailed information on sites to be visited, visitation dates and purpose of visit.

Authority for the maintenance of the system:

10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 8013, Secretary of the Air Force; DoD 4500.54-G, Department of Defense Foreign Clearance Guide; Public Law 99-399, Omnibus Diplomatic Security and Antiterrorism Act of 1986; 22 U.S.C. 4801, 4802, and 4805, Foreign Relations and Intercourse; E.O.12333, United States Intelligence Activities; Army Regulation 55-46, Travel Overseas; and E.O. 9397 (SSN).

Purpose (s):

To provide the DoD with an automated system to clear and audit travel within the United States European Command's area of responsibility and to ensure compliance with the specific clearance requirements outline in the DoD Foreign Clearance Guide; to provide individual travelers with intelligence and travel warnings; and to provide the Defense Attaché and other DoD authorized officials with information necessary to verify official travel by DoD personnel.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of State Regional Security Officer, U.S. Embassy officials, and foreign police for the purpose of coordinating security support for DoD travelers.

The DoD "Blanket Routine Uses" set forth at the beginning of the Army's compilation of systems of records notices also apply to this system

Policies and practices for storing, retiring, accessing, retaining, and disposing of records.

Storage:

Electronic storage media.

Retrievability:

Retrieved by individual's surname, Social Security Number and/or passport number.

Safeguards:

Electronic records are located in the United States European Command's Theater Requirements Automated Clearance System (TRACS) computer database with built in safeguards. Computerized records are maintained in controlled areas accessible only to authorized personnel with an official need to know access. In addition, automated files are password protected and in compliance with the applicable laws and regulations. Another built in safeguard of the system is records are access to the data through secure network.

Retention and disposal:

Records are destroyed 3 months after travel is completed.

System manager(s) and address:

Special Assistant for Security Matters, Headquarters, United States European Command, Unit 30400, P.O. Box 1000, APO AE 09131-1000.

Notification procedures:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Special Assistant for Security Matters, Headquarters, United States European Command, Unit 30400, P.O. Box 1000, APO AE 09131-1000.

Requests should contain individual's full name, Social Security Number, and/or passport number.

Record access procedures:

Individuals seeking to access information about themselves that is contained in this system of records should address written inquiries to the Special Assistant for Security Matters, Headquarters, United States European Command, Unit 30400, P.O. Box 1000, APO AE 09131-1000.

Requests should contain individual's full name, Social Security Number, and/or passport number.

Contesting record procedures:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340-21; 32 CFR part 505; or may be obtained from the system manager.

Record source categories:

From individuals.

Exemptions claimed for the system:

None.

Deletion of system notice

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to Delete Systems of Records.

SUMMARY: The Office of the Secretary of Defense is deleting a system of records notice from its existing inventory of records 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 (insert date thirty days after publication in Federal Register) unless comments are received which result in a contrary determination.

ADDRESSES: OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Smith at (703) 000-0000.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense 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 address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are 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: April 2, 2006.

John Miller
OSD Federal Register Liaison Officer, Department of Defense.

DODDS 27
System name:
DoD Domestic and Elementary School Employee File (May 9, 2003, 68 FR 24935).

Reason: The records contained in this system of records are covered by OPM/GOVT-1 (General Personnel Records), a government wide system notice.

AP8. APPENDIX 8
LITIGATION STATUS SHEET

1. Case Number¹
2. Requester
3. Document Title or Description²
4. Litigation
 - a. Date Complaint Filed
 - b. Court
 - c. Case File Number¹
5. Defendants (DoD Component and individual)
6. Remarks (brief explanation of what the case is about)
7. Court Action
 - a. Court's Finding
 - b. Disciplinary Action (as appropriate)
8. Appeal (as appropriate)
 - a. Date Complaint Filed
 - b. Court
 - c. Case File Number
 - d. Court's Finding
 - e. Disciplinary Action (as appropriate)

Footnotes:

1. Number used by the Component for Reference purposes.

2. Indicate the nature of the case, such as, "Denial of access," "Refusal to amend," "Incorrect records," or other violations of the Act (specify).



Department of Defense **INSTRUCTION**

NUMBER 5400.14
November 3, 2014

ATSD(PA)

SUBJECT: Procedures for Joint Public Affairs Operations

References: See Enclosure 1

1. **PURPOSE.** In accordance with the authority of DoD Directive (DoDD) 5122.05 (Reference (a)), this instruction reissues DoD Instruction (DoDI) 5400.14 (Reference (b)) to implement policy, assign responsibilities, and prescribe procedures for the conduct of public affairs programs in support of joint, combined, and unilateral military operations.

2. **APPLICABILITY.** This instruction applies to the OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff (CJCS) and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this instruction as the “DoD Components”).

3. **POLICY.** It is DoD policy that:
 - a. In accordance with DoDI 5400.13 (Reference (c)), joint, combined, and unilateral military operations must include planning, resourcing, and conducting public affairs activities to support such operations.

 - b. In accordance with Enclosure 3 of Reference (a), civilian and DoD internal news media will have access to unclassified joint, combined, and unilateral operations, consistent with operations security and prevailing public affairs guidance (PAG).

4. **RESPONSIBILITIES.** See Enclosure 2.

5. **PROCEDURES.** See Enclosure 3.

6. RELEASABILITY. **Cleared for public release.** This instruction is available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

7. EFFECTIVE DATE. This instruction is effective November 3, 2014.



Brent Colburn
Assistant to the Secretary of Defense for
Public Affairs

Enclosures

1. References
2. Responsibilities
3. Procedures

Glossary

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ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5122.05, "Assistant to the Secretary of Defense for Public Affairs (ASD(PA)," September 5, 2008
- (b) DoD Instruction 5400.14, "Procedures for Joint Public Affairs Operations," January 22, 1996 (hereby cancelled)
- (c) DoD Instruction 5400.13, "Public Affairs (PA) Operations," October 15, 2008
- (d) DoD Instruction 5405.3, "Development of Proposed Public Affairs Guidance (PPAG)," April 5, 1991
- (e) DoD Instruction 5040.02, "Visual Information (VI)," October 27, 2011
- (f) DoD Directive 5105.74, "Defense Media Activity (DMA)," December 18, 2007
- (g) DoD Instruction 5120.20, "Armed Forces Radio and Television Service (AFRTS)," October 18, 2010
- (h) DoD Directive 5410.18, "Public Affairs Community Relations Policy," November 20, 2001, as amended
- (i) Joint Publication 1-02, "Department of Defense Dictionary of Military and Associated Terms," current edition

ENCLOSURE 2

RESPONSIBILITIES

1. ASSISTANT TO THE SECRETARY OF DEFENSE FOR PUBLIC AFFAIRS (ATSD(PA)).

The ATSD(PA):

- a. Has primary responsibility for the consistent implementation of DoD information policy according to Reference (a).
- b. Determines who will serve as the initial source of information about joint, combined, and unilateral operations and decides whether to delegate public affairs release authority to the Combatant Commander (CCDR).
- c. Reviews, coordinates, approves, and disseminates public affairs plans and PAG in accordance with DoDI 5405.3 (Reference (d)).
- d. Establishes and exercises procedures for the administrative management, activation, and direction of a DoD media pool when ordered by the Secretary of Defense.
- e. Coordinates public affairs matters within the DoD and with other federal departments and agencies outside the DoD.
- f. Provides policy guidance for the employment of joint combat camera teams and the distribution of their products, as established in DoDI 5040.02 (Reference (e)).
- g. Provides representation to the OSD Crisis Coordination Center and establishes, as necessary, a crisis or wartime public affairs element at the Pentagon to provide continuous public affairs planning, gather and disseminate information, and evaluate public affairs support of the operational mission.
- h. Conducts periodic news briefings on issues and events about ongoing joint, combined, and unilateral operations.

2. DIRECTOR, DMA. Under the authority, direction, and control of the ATSD(PA), and in accordance with DoDD 5105.74 (Reference (f)), the Director, DMA:

- a. Supports Combatant Command plans for the command information mission, including the deployment of broadcast facilities from the AFRTS, in accordance with DoDI 5120.20 (Reference (g)), and distribution of print media.
- b. Directs joint public affairs training at the Defense Information School for entry- and advanced-level military and civilian public affairs personnel of all grades.

c. In coordination with the Defense Information School, the Joint Staff, the Military Departments, and the Combatant Commands, develops, teaches, and maintains public affairs policy.

3. SECRETARIES OF THE MILITARY DEPARTMENTS. The Secretaries of the Military Departments:

a. Coordinate with the Combatant Commanders (CCDRs) to determine the resources (personnel and equipment) needed to conduct successful public affairs activities in joint or single-service environments. Ensure the prompt and sustained availability of Active and Reserve Component public affairs resources needed to support any assigned mission. Ensure that a fully capable public affairs structure, made up of Active and Reserve Component assets, exists to support short-notice deployments.

b. Organize, fund, and equip public affairs personnel and units to conduct public affairs activities in support of CCDRs conducting operations.

c. Conduct Military Service-unique public affairs programs required to support joint and unilateral operations. Included are command information programs that serve deployed service members and their families at home stations, as well as community engagement programs designed to meet the requirements in DoDI 5410.18 (Reference (h)).

d. Provide public affairs training at Service schools and encourage programs that improve understanding and cooperation between the military and the news media.

e. Provide news media training for public affairs personnel, commanders, and key staff who are to be involved in wartime or contingency media relations activities.

f. Support planning and provide resources for contingency and wartime operations of AFRTS.

4. CJCS. The CJCS:

a. Develops and distributes joint public affairs doctrine.

b. Ensures that existing operational public affairs plans comply with published joint public affairs doctrine and guidance.

c. Establishes a CJCS Public Affairs Response Cell within the National Military Command Center to provide public affairs support to the Office of the Assistant to the Secretary of Defense for Public Affairs (OATSD(PA)).

d. Supports the DoD in explaining mission aspects of joint and unilateral operations by making available senior officers with expertise on matters of interest to the news media and the public.

e. In accordance with Reference (e), plans for the employment of combat camera assets in crisis situations, operations, and exercises.

f. Plans for the employment of Reserve Component public affairs assets to support the unique public information and command information requirements of mobilized Reserve Component units.

5. CCDRs. The CCDRs:

a. Include an annex in operations plans that establishes the responsive public affairs organizations and structures for the operation and which identifies the requirement for personnel, facilities, equipment, transportation, and communications assets to support the public affairs mission.

b. Plan to support news media from the earliest, pre-deployment stages of any operation. Ensure that reporters are granted all appropriate access to unclassified activities, including combat operations.

c. In accordance with Reference (d), develop operational public affairs guidance that recommends an active or response to query public affairs posture, proposes holding and public statements as appropriate, and provides responses to anticipated news media questions.

d. Prepare for and assist in the deployment and operation of a DoD media pool, as required.

e. Conduct a full range of public affairs activities consistent with current PAG, public affairs release authority, and operations security requirements.

f. As appropriate, establish, resource, and operate a media operations center (MOC) to serve as an interface between the joint forces and the news media. The Combatant Command MOC will provide direct public affairs support to the joint task force commander. The director of the joint task force MOC will receive public affairs policy guidance and oversight from Combatant Command MOC, and be prepared to participate in Coalition Press Information Centers to support the responsible combined operations with contributing nations.

g. As appropriate, for domestic operations, form a Joint Information Center (JIC), including multiple agencies (civilian and military), under the Emergency Support Function. DoD will support this structure but DoD personnel supporting it remain under military command and control. DoD may create an MOC to support unique or unilateral DoD operations in the domestic environment.

h. Assist news media in gaining access to the full spectrum of U.S. Military units and personnel conducting joint and unilateral operations, subject to special operations restrictions.

i. As needed, provide other information requirements identified by OATSD(PA). Provide daily situation reports to OATSD(PA) during current operations as circumstances require, apprising OATSD(PA) immediately of major operational developments, incidents, or other newsworthy events.

j. Prepare plans to conduct command information programs using, as appropriate, subordinate Service component assets and resources. Plan to employ the capabilities of AFRTS and other internal news media products that convey information to deployed forces, those remaining at the home station, and all family members.

k. Apply ground rules for releasing information equally to civilian reporters and to military reporters assigned command information tasks.

l. Provide public affairs resources (personnel, equipment, transportation, and communications) to the supported CCDR as identified by the CJCS in approved contingency plans. Be prepared to reinforce the supported CCDR to meet unplanned resource requirements.

m. Designate an officer as the combat camera representative to plan for the employment of combat camera assets.

n. In accordance with Reference (e), plan for the employment of combat camera assets in crisis situations, operations, and exercises. Provide the Defense Imagery Management Operations Center appropriate combat camera documentary products for release to the news media.

o. Support the public affairs requirements of Reserve Component units mobilized and deployed in a theater of operations. CCDRs must ensure that Reserve Component family members and hometown news media are provided information to dispel rumors, sustain public awareness, and increase understanding of Reserve Component units and their missions in the theater of operations.

ENCLOSURE 3

PROCEDURES

1. GENERAL

a. Commander's Communication Synchronization. While the supported commander must plan for, resource, and execute public affairs operations, the accomplishment of the overall military strategic and operational public affairs objectives relies on the coordinated responses of supporting Combatant Commands, the Military Departments, the CJCS, and OATSD(PA).

(1) Joint, combined, and unilateral public affairs activities must involve a process of deliberate planning to produce public affairs assessments, assign public affairs activities to support overall mission objectives, develop public affairs employment concepts, establish command relationships, coordinate communication plans and messages across the command and staff, and provide necessary resources.

(2) Public affairs plans, programs, policies, or actions that have operational implications will be coordinated with the CJCS and other appropriate governmental agencies at the national level and approved by the ATSD(PA).

b. Public Affairs Operational Infrastructure. To meet their responsibilities to communicate to the general public, commanders will devote resources necessary for a robust, responsive, and efficient public affairs infrastructure under prevailing DoD PAG. Commanders will ensure adequate, immediately available dedicated personnel, equipment, transportation, and communications resources are able to meet the demands for information.

c. Access to Military Units. Joint force commanders will ensure that the credentialed news media covering their operations are granted access to military units and activities consistent with operations security. The goal is to provide journalists a complete overview of the entire operation, subject to security restrictions, and to assist journalists in reporting about the objectives and accomplishments of joint operations and the complexity of challenges faced by military forces. The personal safety of correspondents, in and of itself, is not a reason for excluding them from such situations. The goal is to treat the news media as members of units, allowing them to accompany the organizations during the conduct of their missions.

d. Operations Security. All commanders will take the steps necessary to balance the parallel responsibilities of allowing open and independent reporting on their forces and ensuring operations security. Each of these responsibilities requires a continuous effort to identify what information is releasable to the news media. While there may be situations when a formal security review of news media products may be necessary, all cases involve the disciplined practice of securing information on operations. While meeting with the news media helps ensure that members of the media are well informed, commanders must also ensure that classified or sensitive but unclassified information whose disclosure could jeopardize an operation or is otherwise restricted for other

reasons, such as the Privacy Act, is not disclosed. In planning coverage of operations, the public affairs officer will develop written ground rules on inadvertent disclosures of classified or sensitive information to ensure the safety of individuals and operations security. These rules should be in an enclosure to the public affairs annex of an order or other planning documents and approved by the commander. News media members who will be covering operations will be provided a copy of these rules and sign them during the credentialing process to ensure informed consent. As special staff to the commander, the public affairs officer will set these and other rules to allow coverage of forces while minimizing the chances of a security lapse.

2. MEDIA RELATIONS

a. Planning for News Media. The primary means of covering U.S. Military operations will be open and independent coverage by properly credentialed news media. There will be situations, especially in the deployment of joint forces or in support of specific missions, in which the formation of a news media pool will be the most appropriate public affairs course of action. Plans for supporting the news media must address:

- (1) Daily, comprehensive, and unclassified operational briefings for news media personnel.
- (2) Access to areas of ongoing combat or exercise operations. The personal safety of the news media, in and of itself, is not a reason for excluding them.
- (3) Reasonable access to key command and staff personnel.
- (4) Requirements to coordinate news media pool. An officer from the supported command in the grade of O-5 or O-6 will coordinate news media pool requirements.
- (5) Itinerary planning that will enable news media pool members to disperse throughout the operational area.
- (6) Cooperation expected from all U.S. forces participating in the operation or exercise on a non-interference basis.
- (7) Logistical support for news media and escort personnel out of existing contingency or exercise funds. Required support may include, but not be limited to, the following:
 - (a) Existing contingency or exercise airlift from the continental United States to the area of operation or exercise and return.
 - (b) Theater ground, sea, and air transportation to allow national media pool coverage of operations.
 - (c) Messing and billeting on a reimbursable basis.

(d) Issuance of equipment considered appropriate to the situation (helmets, canteens, flak vests, etc.).

(e) Access to communications facilities to file stories on an expedited basis.

(f) In cases where open and independent coverage is not possible for selected ongoing operations, planning will address requirements needed to support temporary news media pools.

(8) Provide news media access to properly released DoD visual information products in support of contingency missions as soon as is practical.

b. Resource Requirements. Joint, combined, and unilateral public affairs activities are personnel and resource intensive, and it is likely that no single organization will possess sufficient organic assets to conduct effective wartime or contingency public affairs operations.

(1) Commanders must ensure that the operations planning process includes public affairs assessments that precisely identify resource requirements. Plans must provide for specific measures to reinforce personnel and to procure, lease, or assign other necessary resources. That effort will involve assistance from the supporting Combatant Commands and the Military Departments. It is essential that all materials be immediately deployable and provided on a dedicated basis so that the responsible commander can sustain public affairs operations at required levels.

(2) Each phase of an operation will have unique public affairs implications that require the attention of the commander, the staff, and the PAO. News media interest will vary, and military support packages must be able to accommodate communications programs that include online social media as well as traditional news media and that anticipate surges in news media activities. Public affairs assets should ideally be in place before the beginning of operations. There should be a high priority assigned for the movement of public affairs assets by air and ground transportation to ensure that adequate public affairs support is available to meet news media requirements.

3. OTHER CONSIDERATIONS

a. Exercises. It is essential that public affairs tasks conducted in support of exercises resemble, to the extent possible, the techniques and procedures appropriate to actual contingency operations. Commanders will ensure that the public affairs functions of assessment, policy development, planning, resourcing, media relations, command information, and feedback are brought together in the training environment.

b. Command Information. CCDRs retain responsibility for the public affairs command information mission and should ensure that assets needed to conduct the mission are deployed early. That process requires close coordination with the Military Departments and the supporting CCDRs for reinforcement. It is essential that such programs include timely information about

current national, international, and military events, as well as on DoD and Military Department policy information. Commanders will ensure that their public affairs plans include those steps needed to inform non-deployed military personnel and families about the activities of the forces and their roles in the overall joint mission.

c. Community Engagement. Whether conducting joint operations in the United States or overseas, CCDRs will plan for and execute community engagement programs that support direct communication with local nationals, and resident international publics, as applicable. This effort requires close coordination with the Military Departments in the United States and the civil-military operations personnel or U.S. Embassy country teams when present in host-nations.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

AFRTS	Armed Forces Radio and Television Service
ATSD(PA)	Assistant to the Secretary of Defense for Public Affairs
CCDR	Combatant Commander
CJCS	Chairman of the Joint Chiefs of Staff
DMA	Defense Media Activity
DoDD	DoD Directive
DoDI	DoD Instruction
JIC	Joint Information Center
MOC	Media Operations Center
OATSD(PA)	Office of the Assistant to the Secretary of Defense for Public Affairs
PAG	public affairs guidance

PART II. DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purpose of this instruction.

active public affairs posture. A PA posture that involves using various communication tactics to stimulate public and media interest, such as distributing press releases and inviting media to cover the event, exercise, or operation.

combat camera. The acquisition and use of still and motion imagery in support of combat, information, humanitarian, special force, intelligence, reconnaissance, engineering, legal, public affairs, and other operations involving the Military Services by forces specifically trained, organized, equipped, and tasked to provide such support. Also known as COMCAM.

command information. Defined in Joint Publication 1-02 (Reference (i)).

community engagement. Defined in Reference (i).

public affairs ground rules. Conditions established by a military command to govern the conduct of news gathering and limitations on the release or use of specified operations, intelligence, and personnel information during an operation.

JIC. A central location where personnel with public information responsibilities perform critical emergency information functions, crisis communications, and public affairs functions. JICs may

be established at various levels of government or at incident sites, or can be components of multiple agencies. A single JIC location is preferable, but the system is flexible and adaptable enough to accommodate virtual or multiple JIC locations, as required.

MOC. A facility established by the joint force commander to serve as the focal point for the interface between the military and the media during the conduct of joint operations. Its purpose is to provide the news media with timely and accurate information on a command's activities, events, and operations. It also provides necessary equipment, transportation, and communications assets to support public affairs activities and media coverage efforts. An MOC will be staffed by public affairs personnel from the services represented in the joint force and by support personnel. Participating Military Services may establish their own information bureaus, subordinate to the MOC, to disseminate information about their particular missions. A combined MOC will be staffed by public affairs personnel from those nations participating in the combined operation.

media pool. Defined in Reference (i).

public affairs. Defined in Reference (i).

public affairs assessment. Defined in Reference (i).

PAG. Defined in Reference (i).

public information. That aspect of public affairs that emphasizes communicating with the general public as a mass audience.

response to query public affairs posture. A PA posture that doesn't take action to generate media or public interest beyond responding to media queries. When a response to query posture is in effect, authorities must be prepared to respond to news media inquiries about the issue or activity and to make brief statements to avoid confusion, speculation, misunderstanding, or false information that may prevail if news media queries go unanswered. Also known as RTQ.

visual information products. Various visual media with or without sound. Generally, they include still and motion photography, audio video recording, graphic arts, visual aids, models, displays, and visual presentations.



DoD DIRECTIVE 5122.05

ASSISTANT TO THE SECRETARY OF DEFENSE FOR PUBLIC AFFAIRS (ATSD(PA))

Originating Component: Office of the Deputy Chief Management Officer of the Department of Defense

Effective: August 7, 2017

Releasability: Cleared for public release. This directive is available on the Directives Division Website at <http://www.esd.whs.mil/DD/>.

Reissues: DoD Directive 5122.05, "Assistant Secretary of Defense for Public Affairs (ASD(PA))," September 5, 2008

Incorporates and cancels: Secretary of Defense Memorandum "Assistant to the Secretary of Defense," October 5, 2012

Approved by: Patrick M. Shanahan, Deputy Secretary of Defense

Purpose: This issuance updates the responsibilities and functions, relationships, and authorities of the ATSD(PA) under the authority vested in the Secretary of Defense by Section 113 of Title 10, United States Code (U.S.C.).

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY.

a. This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

b. Nothing in this issuance should be construed as preventing the Inspector General of the Department of Defense from fulfilling his or her duties pursuant to the Inspector General Act of 1978, as amended, Title 5, U.S.C., Appendix.

SECTION 2: RESPONSIBILITIES AND FUNCTIONS

2.1. ATSD(PA). The ATSD(PA) is the Principal Staff Assistant and advisor to the Secretary of Defense and the Deputy Secretary of Defense for DoD news media relations, internal communications, community outreach, public affairs, and audio visual information. In this capacity, the ATSD(PA):

a. Acts as the sole authority for releasing to news media representatives official DoD information, as defined by DoD Directive (DoDD) 5230.09, and visual information materials, including but not limited to, press releases. Evaluates news media requests for DoD support and cooperation, and determines the applicable levels of DoD participation.

b. Acts as the principal spokesperson for the DoD. The ATSD(PA) may designate additional spokespersons, as required.

c. Develops communications policies, plans, and programs in support of DoD objectives and operations.

d. Establishes policy, plans, and programs for:

(1) Conducting installation open houses, DoD aerial demonstrations, official public speaking engagements, presidential wreath laying ceremonies, official musical or ceremonial unit and troop formation activities in the public domain, engagements and public affairs relations with non-DoD organizations, and participation in and support of events organized by non-DoD organizations.

(2) DoD trademark licensing programs that operate in accordance with Section 2260 of Title 10, U.S.C.

(3) Military musical units in accordance with Section 974 of Title 10, U.S.C.

(4) Collaborating with non-DoD entities to develop community and civic events.

(5) DoD assistance to non-government and entertainment-oriented and documentary motion picture, television, and video productions, in accordance with DoD Instruction (DoDI) 5410.16.

(6) Logistical support to non-DoD organizations for community outreach purposes, consistent with DoDI 1000.15. This includes logistical support provided to the national conferences of national military associations in accordance with Section 2558 of Title 10, U.S.C.

e. Ensures a free flow of news and information to the news media, the general public, the internal audiences of the DoD, and other applicable forums, limited only by the security restraints in DoDI 5200.01 and any other applicable statutory and regulatory requirements or exemptions. Public affairs actions involving personally identifiable information must comply with the requirements of DoDD 5400.11 and DoDD 5400.07, as applicable. Sections 5 and 6 of

this issuance guide the DoD regarding principles of and public access to information and media coverage of DoD activities.

f. Ensures comparable access to public information and information technology is provided in compliance with Section 794d of Title 29, U.S.C.

g. Coordinates public affairs activities and plans in support of public diplomacy.

h. Conducts communication, integration, and planning focused on mid- to long-range synchronized communication plans, issues, trends, and objectives of broad scope and importance to DoD Components.

i. Maintains portfolio management expertise for public affairs, communication integration, and visual information to ensure community management and oversight to organize, train, and equip missions across the joint force.

j. Coordinates on deployment orders and advises on the impact of proposed plans and operations.

k. Ensures a consolidated DoD Public Web Program is operated and maintained as the official primary point of access to DoD information on the Internet in accordance with DoDI 8550.01 and other website administration policies and procedures established by the Chief Information Officer of the Department of Defense.

l. Serves as the approval authority for public affairs interactive Internet activities conducted by DoD, consistent with DoDI 8550.01.

m. Conducts formal media analysis to build greater awareness in developing news trends, alert leadership to breaking news, analyze media coverage of DoD policies and views, and compile data on coverage of DoD policies and views.

n. Provides oversight and ensures compliance with DoD visual information policies and procedures.

o. Monitors, evaluates, and develops public affairs systems, standards, and procedures for the administration and management of DoD-approved policies, plans, and programs.

p. Issues public affairs guidance to the DoD Components.

q. Participates with the Under Secretary of Defense for Policy, the Under Secretary of Defense (Comptroller)/Chief Financial Officer, Department of Defense, and the Director of Cost Assessment and Program Evaluation, in Planning, Programming, Budgeting, and Execution activities, as required.

r. Promotes public affairs coordination, cooperation, and mutual understanding between DoD and other government organizations, in areas of assigned responsibility.

s. Serves as liaison to boards, committees, and other groups, and represents the Secretary of Defense outside of the DoD.

t. Prepares speeches, public statements, congressional testimony, articles for publication, and other materials for public release by the Office of the Secretary of Defense.

u. In coordination with the Chief Information Officer of the Department of Defense:

(1) Oversees implementation of policies that ensure the quality of information disseminated to the public by DoD in accordance with Office of Management and Budget Guidelines, pages 8452-8460 of Volume 67, Federal Register, the guidance in the February 10, 2003 Deputy Secretary of Defense Memorandum "Ensuring Quality of Information Disseminated to the Public by the Department of Defense," and DoD's Information Quality Guidelines website.

(2) Receives and resolves complaints concerning information disseminated by the Secretary and Deputy Secretary of Defense.

(3) Compiles the DoD annual Information Quality Report to the Office of Management and Budget.

v. Receives, analyzes, and replies to inquiries on DoD policies, programs, and activities, from the general public. Prepares, and provides to the referring office, replies to inquiries from the general public that are forwarded from Congress and other Executive Branch agencies.

w. Serves as the final policy authority for all public activities of military musical and ceremonial units, troop formations, official speakers and DoD representatives, equipment demonstrations and displays, and aerial and jump team demonstrations for community outreach purposes. This includes support for recruiting operations when support is part of a larger community outreach event. It does not apply to recruiting efforts that are restricted to events such as school assemblies and clinics.

x. Evaluates, coordinates, approves, and provides policy guidance on:

(1) Requests for DoD support and cooperation in programs involving relations with the public, national associations, and non-governmental organizations, consistent with DoDI 5410.19. Such programs include, but are not limited to, those involving DoD participation in national and international events in the United States and U.S. territories, such as Presidential Inaugurations, International Olympics, and other events receiving national media coverage.

(2) Requests for using visual information depicting DoD material, equipment, personnel, and official military-specific uniforms and insignia for non-federal commercial purposes, including, but not limited to, advertising, marketing and promotions.

(3) Requests by news media representatives or other non-DoD personnel for travel in military carriers for public affairs purposes, in accordance with DoDI 5122.08.

(4) All proposed DoD public affairs guidance, plans, and annexes.

y. Provides DoD assistance to non-government and entertainment-oriented and documentary motion picture, television, and video productions, consistent with DoDI 5410.16.

z. Plans and carries out the Secretary of Defense's Joint Civilian Orientation Conference and outreach roundtables and meetings with business and industry organizations, veterans' service organizations, military service organizations, and other organizations that support the mission, goals, and priorities of the DoD.

aa. Reviews major policy speeches before all public engagements by senior Defense officials.

ab. Develops, coordinates, and oversees the implementation of public affairs policy and plans for DoD participation in activities supporting U.S. international public affairs programs, in coordination with appropriate DoD officials.

ac. Ensures that public affairs policies and programs are designed and managed to improve performance standards, economy, and efficiency, and that the Defense Media Activity is attentive and responsive to the requirements of their organizational customers, inside and outside the DoD.

ad. Performs other duties the Secretary or Deputy Secretary of Defense may prescribe.

SECTION 3: RELATIONSHIPS

3.1. ATSD(PA). In performing his or her assigned responsibilities and functions, the ATSD(PA):

- a. Reports directly to the Secretary of Defense.
- b. Exercises authority, direction, and control over the Director, Defense Media Activity, consistent with DoDD 5105.74.
- c. Coordinates and exchanges information with other OSD officials, DoD Component heads, and federal agencies having collateral or related responsibilities and functions.
- d. Uses existing systems, facilities, and services of the DoD and other federal agencies, when possible, to avoid duplication of effort and to achieve maximum efficiency and economy.
- e. Liaises with and assists representatives of the news media, non-government and entertainment-oriented industry, and members of the public seeking information on the responsibilities and functions assigned in this issuance.

3.2. OTHER OSD OFFICIALS AND DOD COMPONENT HEADS. The other OSD officials and DoD Component heads will coordinate with the ATSD(PA) on all matters under their purview related to the authorities, responsibilities, and functions assigned in this issuance.

SECTION 4: AUTHORITIES

4.1. ATSD(PA). Under the authority vested in the Secretary of Defense, and subject to his or her authority, direction, and control, and in accordance with DoD policies and issuances, the ATSD(PA) is hereby delegated authority to exercise, within his or her assigned responsibilities and functions, all authority of the Secretary of Defense derived from statute, Executive order, or interagency agreement, except where specifically limited by statute or Executive order to the Secretary of Defense, and is delegated authority to:

a. Establish DoD policy in DoDIs within the scope of the authorities and responsibilities assigned in this issuance, including authority to identify collateral responsibilities of OSD officials and DoD Component heads. Such instructions will be fully coordinated in accordance with DoDI 5025.01. In areas of assigned responsibilities and functions, the ATSD(PA) has authority to issue other DoDIs, DoD manuals, and one-time directive-type memorandums, consistent with DoDI 5025.01, that implement policies approved by the Secretary of Defense. Instructions to the Military Departments will be issued through the Secretary of the Military Department concerned. Instructions to the Combatant Commands on public affairs matters will be issued directly to the Combatant Commanders. DoDIs that have operational implications must be coordinated with the Chairman of the Joint Chiefs of Staff.

b. Obtain reports and information, consistent with DoDI 8910.01, to carry out assigned responsibilities and functions, as necessary.

c. Communicate directly with the DoD Component heads to perform assigned responsibilities and functions, including requests for advice and assistance, as necessary. Communications to the Military Departments are transmitted through the Secretaries of the Military Departments, as otherwise provided in law, or as the Secretary of Defense directs in other DoD issuances. Communications to the Combatant Commanders will be in accordance with Paragraph 4.b.(3) above the signature of DoDD 5100.01.

d. Communicate with other U.S. Government officials, members of the public, and representatives of foreign governments, as appropriate, in carrying out assigned responsibilities and functions. Communications with representatives of the Legislative Branch must be conducted through the Office of the Assistant Secretary of Defense for Legislative Affairs, except for communications with the Defense Appropriations Committees, which will be coordinated with the Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer, Department of Defense and be consistent with the DoD Legislative Program.

e. Establish arrangements for DoD participation in non DoD governmental programs for which the ATSD(PA) is assigned primary DoD oversight.

f. Be the focal point to foster and further good relations with national-level sports leagues and organizations with oversight authority of individual teams for official DoD outreach activities. Provides oversight of joint service representation and DoD messaging during participation at sporting events that may garner national or international media interest.

g. Act as the DoD's sole agent for the release of official DoD information, as defined by DoDD 5230.09, including, but not limited to press releases, for dissemination through any form of public information media.

h. Serve as the focal point at the seat of government for organizing formal communications with the headquarters offices of the veterans associations, national military organizations, and other associations and entities as defined in DoDI 5410.19.

i. Establish criteria for accrediting media members and serve as the approving and issuing authority for credentials for news gathering media representatives traveling with and providing coverage of official DoD activities.

j. Approve DoD, including the military, participation in community outreach efforts, public exhibitions, demonstrations, and ceremonies of national or international significance.

k. Redelegate these authorities, as appropriate, and in writing, except as otherwise indicated in this issuance or prohibited by law.

SECTION 5: PRINCIPLES OF INFORMATION

5.1. It is the policy of the Department of Defense to make available timely and accurate information so that the public, Congress, and the news media may assess and understand the facts about national security and defense strategy. Requests for information from organizations and private citizens will be answered in a timely manner. In carrying out the policy, the following principles of information will apply:

- a. Information will be made fully and readily available, consistent with the statutory requirements, unless its release is precluded by current and valid security classification. The provisions of Section 552 of Title 5, U.S.C., also known as the “Freedom of Information Act,” will be supported in both letter and spirit.
- b. A free flow of general and military information will be made available, without censorship or propaganda, to the Service members and their dependents.
- c. Information will not be classified or otherwise withheld to protect the U.S. Government from criticism or embarrassment.
- d. Information will be withheld only when disclosure would adversely affect national security, threaten the safety or privacy of Service members, or if otherwise authorized by statute or regulation.
- e. The DoD’s obligation to provide the public with information on its major programs may require detailed public affairs planning and coordination within the DoD and with other government agencies. The sole purpose of such activity is to expedite the flow of information to the public; propaganda has no place in DoD public affairs programs.

SECTION 6: PRINCIPLES FOR NEWS MEDIA COVERAGE OF DOD OPERATIONS

6.1. Open and independent reporting will be the principal means of covering U.S. military operations.

a. Media pools are not the standard means of covering U.S. military operations. Sometimes media pools provide the only means of early access to a military operation. In this case, media pools should be as large as possible and disbanded at the earliest opportunity (within 24 to 36 hours, when possible). The arrival of early-access media pools will not cancel the principle of independent coverage for journalists already in the area.

b. Even under conditions of open coverage, pools may be applicable for specific events, such as those at extremely remote locations or where space is limited.

c. Journalists in a combat zone must be credentialed by the U.S. military and be required to abide by a clear set of military security ground rules that protect U.S. Military Services and their operations. Violation of the ground rules may result in suspension of credentials and expulsion from the combat zone of the journalist involved. News organizations will make their best efforts to assign experienced journalists to combat operations and to make them familiar with U.S. military operations.

d. Journalists will be provided access to all major military units. Special operations restrictions may limit access in some cases.

e. Military public affairs officers should act as liaisons, but should not interfere with the reporting process.

f. Under conditions of open coverage, field commanders should be instructed to permit journalists to ride on military vehicles and aircraft when possible. The military will be responsible for the transportation of media pools.

g. Consistent with its capabilities, the military will supply public affairs officers with facilities to enable timely, secure, compatible transmission of pool material and will make those facilities available, when possible, for filing independent coverage. If U.S. Government facilities are unavailable, journalists must file by any other means available. The military will not ban communications systems operated by news organizations, but electromagnetic operational security in battlefield situations may require limited restrictions on the use of such systems.

GLOSSARY

G.1. ACRONYMS.

ATSD(PA)	Assistant to the Secretary of Defense for Public Affairs
DoDD	DoD directive
DoDI	DoD instruction
U.S.C.	United States Code

G.2. DEFINITIONS.

media pool. For the purposes of this issuance, limited number of news media who represent a larger number of news media organizations for news gatherings and sharing of material during a specified activity.

REFERENCES

- Deputy Secretary of Defense Memorandum, “Ensuring Quality of Information Disseminated to the Public by the Department of Defense,” February 10, 2003
- DoD Directive 5100.01, “Functions of the Department of Defense and Its Major Components,” December 21, 2010
- DoD Directive 5105.74, “Defense Media Activity,” December 18, 2007
- DoD Directive 5230.09, “Clearance of DoD Information for Public Release,” August 22, 2008, as amended
- DoD Directive 5400.07, “DoD Freedom of Information Act (FOIA) Program,” January 2, 2008
- DoD Directive 5400.11, “DoD Privacy Program,” October 29, 2014
- DoD Instruction 1000.15, “Procedures and Support for Non-Federal Entities Authorized to Operate on DoD Installations,” October 24, 2008
- DoD Instruction 5025.01, “DoD Issuances Program,” August 1, 2016, as amended
- DoD Instruction 5122.08, “Use of DoD Transportation Assets for Public Affairs Purposes,” December 17, 2014
- DoD Instruction 5200.01, “DoD Information Security Program and Protection of Sensitive Compartmented Information (SCI),” April 21, 2016
- DoD Instruction 5410.16, “DoD Assistance to Non-Government, Entertainment-Oriented Media,” July 31, 2015
- DoD Instruction 5410.19, “Public Affairs Community Relations Policy Implementation,” November 13, 2001
- DoD Instruction 8550.01, “DoD Internet Services and Internet-Based Capabilities,” September 11, 2012
- DoD Instruction 8910.01, “Information Collection and Reporting,” May 19, 2014
- DoD Information Quality Guidelines, <http://www.defense.gov/Resources/DoD-Information-Quality-Guidelines>
- Federal Register, Volume 67, Pages 8452-8460, February 22, 2002
- United States Code, Title 5
- United States Code, Title 10
- United States Code, Title 29



DoD INSTRUCTION 5230.09

CLEARANCE OF DoD INFORMATION FOR PUBLIC RELEASE

Originating Component: Office of the Chief Management Officer of the Department of Defense

Effective: January 25, 2019

Releasability: Cleared for public release. Available on the Directives Division Website at <http://www.esd.whs.mil/DD/>.

Reissues and Cancels: DoD Directive 5230.09, "Clearance of DoD Information for Public Release," August 22, 2008, as amended

Approved by: Lisa W. Hershman, Acting Chief Management Officer

Purpose: This issuance reissues the 2008 directive as a DoD instruction in accordance with the authority in DoD Directive (DoDD) 5105.82 and the February 1, 2018 Secretary of Defense Memorandum to establish policy and assign responsibilities for the security and policy review process for the clearance of official DoD information proposed for official public release by the DoD and its employee.

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY.

a. This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

b. This issuance does not apply for provisions governing review of:

(1) Prepared statements, transcripts of testimony, questions for the record, inserts for the record, budget documents, and other material provided to congressional committees that may be included in the published records in accordance with DoD Instruction (DoDI) 5400.04.

(2) Information before publication or disclosure by DoD contractors in accordance with DoD 5220.22-M and Volumes 1-4 of DoD Manual (DoDM) 5200.01.

(3) Official information in litigation in accordance with DoDD 5405.2.

(4) Release of official DoD information to media organizations in accordance with DoDD 5122.05.

(5) Release of visual imagery, captured by DoD personnel on personal equipment, to media organizations in accordance with DoDI 5040.02.

(6) Release of information requested pursuant to Section 552 of Title 10, United States Code (U.S.C.) (also known as “the Freedom of Information Act”) and Section 552 of Title 10, U.S.C. (also known as “the Privacy Act”).

1.2. POLICY. It is DoD policy that:

a. Accurate and timely information is made available to the public and the Congress to help with analysis and understanding of defense strategy, defense policy, and national security issues.

b. Any official DoD information intended for public release that pertains to military matters, national security issues, or subjects of significant concern to the DoD will undergo a prepublication review before release.

c. The Office of the Inspector General of the Department of Defense, as an independent and objective component in the DoD, is exempt from the policy review provisions of this issuance. As necessary, information may be submitted for prepublication review before public release.

d. The public release of official DoD information is limited only as necessary to safeguard information requiring protection in the interest of national security or other legitimate

governmental interest, as authorized by DoDDs 5122.05, 5205.02E, 5230.25, 5400.07, 5400.11, 5405.2, and 5500.07; DoDIs 5200.01, 5230.24, and 5230.27; Volumes 1-4 of DoDM 5200.01 and DoDM 5400.07; DoD 5400.11-R; DoD 5500.07-R; Chapter I, Subchapter M, Parts 120 through 130 of Title 22, Code of Federal Regulations; Executive Orders 13526 and 13556; and Section 4353 of Title 22, U.S.C.

e. Information released officially is consistent with established national and DoD policies and programs.

f. To ensure a climate of academic freedom and to encourage intellectual expression, DoD personnel who are students or faculty members of an academy, college, university, or DoD school:

(1) Are not required to submit for prepublication review papers or materials prepared in response to academic requirements when they are not intended for release outside the academic institution. However, these individuals remain obligated to ensure their work contains no classified, sensitive or controlled unclassified sources consistent with their nondisclosure agreements.

(2) Will submit materials for prepublication review if they are intended for public release or will be made available in public libraries. Clearance will be granted if classified information is not disclosed, controlled unclassified information is not disclosed, DoD interests are not jeopardized, and the author accurately portrays official policy, even if the author takes issue with that policy.

g. Retired and separated Service members, former DoD employees and contractors, and non-active duty members of the Reserve Components will use the DoD prepublication review process to ensure that information they intend to release to the public does not compromise national security as required by their nondisclosure agreements. Those who forgo the prepublication review process and inadvertently, negligently, or willfully disclose classified information may be subject to an unauthorized disclosure investigation and legal action.

h. DoD personnel, while acting in a private capacity and not in connection with their official duties, may prepare information for public release through non-DoD venues or media. This information must undergo a prepublication review if it meets the criteria in DoDI 5230.29. Such activity must comply with ethical standards in DoDD 5500.07 and DoD 5500.07-R and may not have an adverse effect on duty performance or the authorized functions of the DoD.

SECTION 2: RESPONSIBILITIES

2.1. DIRECTOR OF ADMINISTRATION OF THE OFFICE OF THE CHIEF MANAGEMENT OFFICER OF THE DEPARTMENT OF DEFENSE (OCMO). Under the authority, direction, and control of the Chief Management Officer of the Department of Defense and in accordance with DoDD 5105.53, DoDD 5105.82, and the July 11, 2014 and February 1, 2018 Deputy Secretary of Defense memorandums, the Director of Administration of the OCMO acts as the appellate authority for the DoD security and policy review process.

2.2. DIRECTOR, WASHINGTON HEADQUARTERS SERVICES (WHS). Under the authority, direction, and control of the Chief Management Officer of the Department of Defense and through the Director of Administration of the OCMO, the Director, WHS:

- a. Monitors compliance with this issuance.
- b. Develops procedures and reviews guidelines for the security and policy review of information intended for public release in coordination with offices of the OSD Principal Staff Assistants.
- c. Implements the DoD prepublication review process through the Defense Office of Prepublication and Security Review in accordance with DoDD 5110.04.

2.3. DOD COMPONENT HEADS. The DoD Component heads:

- a. Provide prompt guidance and assistance to the Director, WHS, when requested, for the security or policy implications of information proposed for public release.
- b. Establish policies and procedures to implement this issuance in their Components. Designate the DoD Component office and point of contact for implementation of this issuance and provide this information to the Defense Office of Prepublication and Security Review.
- c. Forward official DoD information proposed for public release to the Director, WHS, for review, including a recommendation on the releasability of the information in accordance with DoDI 5230.29.

GLOSSARY

G.1. ACRONYMS.

DoDD	DoD directive
DoDI	DoD instruction
DoDM	DoD manual
OCMO	Office of the Chief Management Officer of the Department of Defense
U.S.C.	United States Code
WHS	Washington Headquarters Services

G.2. DEFINITIONS. These terms and their definitions are for the purpose of this issuance.

DoD personnel.

Any DoD civilian officer or employee (including special government employees) of any DoD Component (including any nonappropriated fund activity).

Any individual hired by or for any DoD Component through a contractual arrangement.

Any active duty Regular or Reserve military officer, warrant officer, and active duty enlisted member of the Military Services.

Any Reserve or National Guard member on active duty under orders issued pursuant to Title 10, U.S.C.

Any Reserve or National Guard member performing official duties, including while on inactive duty for training or while earning retirement points, pursuant to Title 10, U.S.C., or while engaged in any activity related to the performance of a federal duty or function.

Any faculty member in a civil service position or hired pursuant to Title 10, U.S.C. and any student (including a cadet or midshipman) of an academy, college, university, or school of the DoD.

Any foreign national working for a DoD Component consistent with labor agreements, international treaties and agreements, and host-country laws.

information. Any communication or representation of knowledge such as facts, data, or opinions in any medium or form.

official DoD information. All information that is in the custody and control of the DoD, relates to information in the custody and control of the DoD, or was acquired by DoD personnel as part of their official duties or because of their official status within DoD.

prepublication review. The process by which information that is proposed for public release is examined by the Defense Office of Prepublication and Security Review for compliance with established national and DoD policies and to determine whether it contains any classified, export-controlled or other protected information. It is the responsibility of the originating office to ensure that this prepublication review is followed and that clearance is granted prior to the release of the information to the public.

REFERENCES

- Code of Federal Regulations, Title 22, Chapter I, Subchapter M, Parts 120 through 130
- Deputy Secretary of Defense Memorandum, “Reorganization of the Office of the Deputy Chief Management Officer,” July 11, 2014
- Deputy Secretary of Defense Memorandum, “Disestablishment of the Deputy Chief Management Officer and Establishment of the Chief Management Officer,” February 1, 2018
- DoD 5220.22-M, “National Industrial Security Program Operating Manual,” February 28, 2006, as amended
- DoD 5400.11-R, “Department of Defense Privacy Program,” May 14, 2007
- DoD 5500.07-R, “Joint Ethics Regulation (JER),” August 30, 1993, as amended
- DoD Directive 5105.53, “Director of Administration and Management (DA&M),” February 26, 2008
- DoD Directive 5105.82, “Deputy Chief Management Officer (DCMO) of the Department of Defense,” October 17, 2008
- DoD Directive 5110.04, “Washington Headquarters Services (WHS),” March 27, 2013
- DoD Directive 5122.05, “Assistant To the Secretary of Defense for Public Affairs (ATSD(PA)),” August 7, 2017
- DoD Directive 5205.02E, “DoD Operations Security (OPSEC) Program,” June 20, 2012
- DoD Directive 5230.25, “Withholding of Unclassified Technical Data from Public Disclosure,” November 6, 1984, as amended
- DoD Directive 5400.07, “DoD Freedom of Information Act (FOIA) Program,” January 2, 2008
- DoD Directive 5400.11, “DoD Privacy Program,” October 29, 2014
- DoD Directive 5405.2, “Release of Official Information in Litigation and Testimony by DoD Personnel as Witnesses,” July 23, 1985
- DoD Directive 5500.07, “Standards of Conduct,” November 29, 2007
- DoD Instruction 5040.02, “Visual Information (VI),” October 27, 2011, as amended
- DoD Instruction 5200.01, “DoD Information Security Program and Protection of Sensitive Compartmented Information (SCI),” April 21, 2016
- DoD Instruction 5230.24, “Distribution Statements on Technical Documents,” August 23, 2012, as amended
- DoD Instruction 5230.27, “Presentation of DoD-Related Scientific and Technical Papers at Meetings,” November 18, 2016, as amended
- DoD Instruction 5230.29, “Security and Policy Review of DoD Information for Public Release,” August 13, 2014, as amended
- DoD Instruction 5400.04, “Provision of Information to Congress,” March 17, 2009
- DoD Manual 5200.01, Volume 1, “DoD Information Security Program: Overview, Classification, and Declassification,” February 24, 2012
- DoD Manual 5200.01, Volume 2, “DoD Information Security Program: DoD Information Security Program: Marking Of Classified Information,” February 24, 2012, as amended

DoD Manual 5200.01, Volume 3, “DoD Information Security Program: Protection Of Classified Information,” February 24, 2012, as amended
DoD Manual 5200.01, Volume 4, “DoD Information Security Program: Controlled Unclassified Information (CUI),” February 24, 2012
DoD Manual 5400.07, “DoD Freedom of Information Act (FOIA) Program,” January 25, 2017
Executive Order 13526, “Classified National Security Information,” December 29, 2009
Executive Order 13556, “Controlled Unclassified Information,” November 4, 2010
Secretary of Defense Memorandum, “Disestablishment of the Deputy Chief Management Officer and Establishment of the Chief Management Officer,” February 1, 2018
United States Code, Title 10
United States Code, Title 22, Section 4353