

Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

#### Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and the FHWA has determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism assessment. The FHWA has also determined that this action will not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

#### Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

#### Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this action does not contain collection of information requirements for the purposes of the PRA.

#### National Environmental Policy Act

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action will not have any effect on the quality of the environment.

#### Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that it will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

#### Executive Order 13211 (Energy Effects)

We have analyzed this rule under Executive Order 13211, Actions

Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

#### Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

#### List of Subjects in 23 CFR Part 655

Design standards, Grant programs-transportation, Highways and roads, Incorporation by reference, Signs, Traffic regulations.

Issued on: November 12, 2002.

Mary E. Peters,

*Federal Highway Administrator.*

In consideration of the foregoing, the FHWA is amending title 23, Code of Federal Regulations, part 655, as follows:

#### PART 655—[AMENDED]

1. The authority citation for part 655 continues to read as follows:

**Authority:** 23 U.S.C. 101(a), 104, 109(d), 114(a), 217, 315, and 402(a); 23 CFR 1.32; and 49 CFR 1.48(b).

#### Appendix to Subpart F of Part 655—[AMENDED]

2. Amend paragraph number 6 by removing the second sentence.

3. Amend table 2 by correcting the first value for the color "blue" to read "0.033".

[FR Doc. 02-29443 Filed 11-20-02; 8:45 am]

**BILLING CODE 4910-22-P**

## DEPARTMENT OF JUSTICE

### 28 CFR part 16

[AAG/A Order No. 297-2002]

#### Privacy Act of 1974; Implementation

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** The Department of Justice is exempting a Privacy Act system of records entitled "Personnel Investigation and Security Clearance Records for the Department of Justice (DOJ), DOJ-006," from 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (5) and (8); and (g). The exemptions will be applied only to the extent that information in a record is subject to exemption pursuant to 5 U.S.C. 552a(j) and (k). The Department also will delete as obsolete provisions exempting two former Justice Management Division systems of records entitled "Security Clearance Information System (SCIS) (JUSTICE/JMD-008)," and "Freedom of Information/Privacy Act Records System (JUSTICE/JMD-019)." The records in JMD-019 are now covered by DOJ-004.

**EFFECTIVE DATE:** This final rule is effective November 21, 2002.

**FOR FURTHER INFORMATION CONTACT:** Mary Cahill at 202-307-1823.

**SUPPLEMENTARY INFORMATION:** On September 24, 2002 (67 FR 59798) a proposed rule was published in the **Federal Register** with an invitation to comment. No comments were received.

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

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

Administrative Practices and Procedures, Courts, Freedom of Information, Privacy, Sunshine Act.

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

#### PART 16—[AMENDED]

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

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

#### § 16.76 [Amended]

2. Section 16.76 is amended by removing paragraphs (c), (d), (e), (f), (g) and (h).

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

3. Section 16.132 is added to subpart E to read as follows:

**§ 16.132 Exemption of Department of Justice System—Personnel Investigation and Security Clearance Records for the Department of Justice (DOJ), DOJ-006.**

(a) The following Department of Justice system of records is exempted from subsections (c)(3) and (4); (d)(1), (2), (3) and (4); (e)(1),(2),(3),(5) and (8); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j) and (k): Personnel Investigation and Security Clearance Records for the Department of Justice (DOJ), DOJ-006. These exemptions apply only to the extent that information in a record is subject to exemption pursuant to 5 U.S.C. 552a(j) and (k).

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

(1) *Subsection (c)(3)*. To provide the subject with an accounting of disclosures of records in this system could inform that individual of the existence, nature, or scope of an actual or potential law enforcement or counterintelligence investigation, and thereby seriously impede law enforcement or counterintelligence efforts by permitting the record subject and other persons to whom he might disclose the records to avoid criminal penalties, civil remedies, or counterintelligence measures.

(2) *Subsection (c)(4)*. This subsection is inapplicable to the extent that an exemption is being claimed for subsection (d).

(3) *Subsection (d)(1)*. Disclosure of records in the system could reveal the identity of confidential sources and result in an unwarranted invasion of the privacy of others. Disclosure may also reveal information relating to actual or potential criminal investigations. Disclosure of classified national security information would cause damage to the national security of the United States.

(4) *Subsection (d)(2)*. Amendment of the records could interfere with ongoing criminal or civil law enforcement proceedings and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated.

(5) *Subsections (d)(3) and (4)*. These subsections are inapplicable to the extent exemption is claimed from (d)(1) and (2).

(6) *Subsection (e)(1)*. It is often impossible to determine in advance if investigatory records contained in this system are accurate, relevant, timely and complete, but, in the interests of effective law enforcement and counterintelligence, it is necessary to retain this information to aid in establishing patterns of activity and provide investigative leads.

(7) *Subsection (e)(2)*. To collect information from the subject individual could serve notice that he or she is the subject of a criminal investigation and thereby present a serious impediment to such investigations.

(8) *Subsection (e)(3)*. To inform individuals as required by this subsection could reveal the existence of a criminal investigation and compromise investigative efforts.

(9) *Subsection (e)(5)*. It is often impossible to determine in advance if investigatory records contained in this system are accurate, relevant, timely and complete, but, in the interests of effective law enforcement, it is necessary to retain this information to aid in establishing patterns of activity and provide investigative leads.

(10) *Subsection (e)(8)*. To serve notice could give persons sufficient warning to evade investigative efforts.

(11) *Subsection (g)*. This subsection is inapplicable to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: November 14, 2002.

**Robert F. Diegelman,**

*Acting Assistant Attorney General for Administration.*

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**DEPARTMENT OF DEFENSE**

**Department of the Navy**

**32 CFR Part 776**

**RIN 0703-AA70**

**Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General**

**AGENCY:** Department of the Navy, DOD.  
**ACTION:** Final rule.

**SUMMARY:** This final rule amends regulations concerning the professional conduct of attorneys practicing law under the cognizance and supervision of the Judge Advocate General of the Navy by incorporating several changes and revising the regulations. This revision will ensure the professional supervision of judge advocates, military trial and appellate military judges, and other lawyers who practice in Department of the Navy proceedings and other legal programs.

**DATES:** Effective November 21, 2002.

**FOR FURTHER INFORMATION CONTACT:** LCDR Jason Baltimore, Legislation and Regulations Branch, Administrative Law Division (Code 13), Office of the Judge

Advocate General, 1322 Patterson Avenue, SE., Suite 3000, Washington Navy Yard, Washington, DC 20374-5066, (703) 604-8208.

**SUPPLEMENTARY INFORMATION:** This part establishes policy, assigns responsibilities, and prescribes procedures for attorneys practicing law under the supervision of the Judge Advocate General (JAG) for relations with non-DOD civilian counsel, petitions for outside law practice of naval service attorneys, and a description of the complaint processing procedure. This part ensures that attorneys practicing law under the supervision of the JAG will be provided with rules of professional conduct with which they must comply in order to remain in "good standing."

Although the rules of professional conduct do not apply to non-lawyers, they do define the type of ethic conduct that the public and the military community have a right to expect not only of lawyers but also of their non-lawyer employees. It has been determined that invitation of public comment on these changes to the JAG's Instruction prior to adoption would be impractical and unnecessary, and is therefore not required under the public rule-making provisions of 32 CFR parts 336 and 701. However, interested persons are invited to comment in writing. Written comments received will be considered in making amendments or revisions to 32 CFR 776 or the JAG Instruction 5803.1 series upon which it is derived. It has been determined that this final rule is not a major rule within the criteria specified in Executive Order 12291 and does not have substantial impact on the public. This submission is a statement of policy and as such can be effective upon publication in the **Federal Register**.

**Matters of Regulatory Procedure**

*Executive Order 12866, Regulatory Planning and Review*

This rule does not meet the definition of "significant regulatory action" for purposes of E.O. 12866.

*Regulatory Flexibility Act*

This rule will not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act (5 U.S.C. chapter 6).

*Paperwork Reduction Act*

This rule does not impose collection of information requirements for purposes of the Paperwork Reduction Act (44 U.S.C. chapter 35, 5 CFR part 1320).