

of this section, whichever is applicable, with respect to such a payment if, after the date the filer is notified that the account of the payee contains an incorrect TIN and on or before the date by which the applicable requirement must be satisfied, the filer solicits the payee's correct TIN in a manner that satisfies the applicable requirement or receives from the QPCA a TIN that the filer believes in good faith to be the payee's correct TIN.

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David A. Mader,

*Assistant Deputy Commissioner of Internal Revenue.*

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## DEPARTMENT OF JUSTICE

### 28 CFR Part 16

[FBI 109P; AAG/A ORDER No. 006-2003]

RIN 1110-AA08

### Privacy Act of 1974; Implementation

**AGENCY:** Department of Justice.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), proposes to exempt the FBI's National Crime Information Center (NCIC) (JUSTICE/FBI-001), Central Records System (CRS) (JUSTICE/FBI-002), and National Center for the Analysis of Violent Crime (NCAVC) (JUSTICE/FBI-015) systems of records from the Privacy Act. The exemption is necessary to avoid interference with law enforcement functions and responsibilities of the FBI.

**DATES:** Written comments must be received on or before March 3, 2003.

**ADDRESSES:** All comments concerning this proposed rule should be mailed to: Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (1400 National Place Building).

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

**SUPPLEMENTARY INFORMATION:** The FBI proposes to exempt the FBI's National Crime Information Center, Central Records System and National Center for the Analysis of Violent Crime systems of records from subsection (e)(5) of the Privacy Act, 5 U.S.C. 552a. Also, the FBI proposes to correct a typographical error by moving the title of the National Crime Information Center to the correct subsection. Except for these amendments, the proposed rule changes

do not alter practices and procedures that are currently in effect. However, the FBI is currently reviewing additional changes to this regulation for possible promulgation in future rulemaking.

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

### List of Subjects in 28 CFR Part 16

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

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 793-78, it is proposed to amend 28 CFR part 16 as follows:

### PART 16—[AMENDED]

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

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

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

2. Section 16.96 is amended as follows:

(a) By revising the introductory text of paragraph (a);

(b) By redesignating paragraph (b)(6) as (b)(7) and adding a new paragraph (b)(6);

(c) By revising the introductory text of paragraph (g) and adding new paragraph (g)(1);

(d) By redesignating paragraph (h)(5) as (h)(6) and adding new paragraph (h)(5);

(e) By revising the introductory text of paragraph (j);

(f) By adding a new paragraph (k)(5);

(g) By removing "National Crime Information Center (NOIC) [sic] (JUSTICE/FBI-001)." from paragraph (k)(4).

The revisions and additions read as follows.

#### § 16.96 Exemption of Federal Bureau of Investigation Systems—limited access.

(a) The following system of records is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G) and (H), (e)(5), (e)(8), (f) and (g):

\* \* \* \* \*

(b) \* \* \*

(6) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information

is accurate, relevant, timely and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. The restrictions imposed by subsection (e)(5) would limit the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement. In addition, because many of these records come from other federal, state, local, joint, foreign, tribal, and international agencies, it is administratively impossible to ensure compliance with this provision.

\* \* \* \* \*

(g) The following system of records is exempt from 5 U.S.C. 552a (c)(3) and (4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G) and (H), (e)(5), (e)(8), (f), and (g):

(1) National Crime Information Center (NCIC) (JUSTICE/FBI-001). These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2) and (k)(3).

\* \* \* \* \*

(h) \* \* \*

(5) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. The restrictions imposed by subsection (e)(5) would limit the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement. In addition, the vast majority of these records come from other federal, state, local, joint, foreign, tribal, and international agencies and it is administratively impossible to ensure that the records comply with this provision. Submitting agencies are, however, urged on a continuing basis to ensure that their records are accurate and include all dispositions.

\* \* \* \* \*

(j) The following system of records is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G) and (H), (e)(5), (f) and (g):

\* \* \* \* \*

(k) \* \* \*

(5) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to