

552a(j)(2), the Department of the Treasury proposes to exempt the following systems of records from various provisions of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2):

- DO .303—TIGTA General Correspondence;
- DO .307—TIGTA Employee Relations Matters, Appeals, Grievances, and Complaint Files;
- DO .308—TIGTA Data Extracts;
- DO .309—TIGTA Chief Counsel Case Files, and
- DO .310—TIGTA Chief Counsel Disclosure Section Records.

The proposed exemption under 5 U.S.C. 552a(j)(2) for the above-referenced systems of records is from provisions 5 U.S.C. 552a(c)(3), (c)(4), (d), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g).

The following are the reasons why the investigative material contained in the above-referenced systems of records maintained by TIGTA are exempt from various provisions of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2).

(1) 5 U.S.C. 552a(e)(4)(G) and (f)(I) enable individuals to inquire whether a system of records contains records pertaining to themselves. Disclosure of this information to the subjects of investigations would provide individuals with information concerning the nature and scope of any current investigation. Further, providing information as required by this provision would alert the individual to the existence of an investigation and afford the individual an opportunity to attempt to conceal his/her criminal activities so as to avoid apprehension and may enable the individual to avoid detection or apprehension, enable the destruction or alteration of evidence of the criminal conduct that would form the basis for an arrest, and could impede or impair TIGTA's ability to investigate the matter. In addition, to provide this type of information would give individuals an opportunity to learn whether they have been identified as subjects of investigation.

(2) 5 U.S.C. 552a(d)(1), (e)(4)(H) and (f)(2), (3) and (5) grant individuals access to records pertaining to themselves. Disclosure of this information to the subjects of an investigation would provide them with information concerning the nature and scope of any current investigation and may enable them to avoid detection or apprehension, enable them to destroy or alter evidence of criminal conduct that would form the basis for their arrest, and could impede or impair TIGTA's ability to investigate the matter. In

addition, permitting access to investigative files and records could disclose the identity of confidential sources and the nature of the information supplied by the informant as well as endanger the physical safety of those sources by exposing them to possible reprisal for having provided the information. Confidential sources and informers might refuse to provide TIGTA with valuable information unless they believed that their identities would not be revealed through disclosure of their names or the nature of the information they supplied. Loss of access to such sources would seriously impair TIGTA's ability to perform its law enforcement responsibilities. Furthermore, providing access to records contained in the systems of records could reveal the identities of undercover law enforcement officers who compiled information regarding the individual's criminal activities, and thereby endanger the physical safety of those undercover officers by exposing them to possible reprisals. Permitting access in keeping with these provisions would also discourage other law enforcement and regulatory agencies from freely sharing information with TIGTA and thus would restrict its access to information necessary to accomplish its mission most effectively.

(3) 5 U.S.C. 552a(d)(2), (3) and (4), (e)(4)(H), and (f)(4) permit an individual to request amendment of a record pertaining to the individual and require the agency either to amend the record, or to note the disputed portion of the record, and to provide a copy of the individual's statement of disagreement with the agency's refusal to amend a record to persons or other agencies to whom the record is thereafter disclosed. Since these provisions depend upon the individual having access to his or her records, and since these rules exempt the systems of records from the provisions of 5 U.S.C. 552a relating to access to records, for the reasons set out in the preceding paragraph of this section, these provisions should not apply to the above-listed systems of records.

(4) 5 U.S.C. 552a(c)(3) requires an agency to make accountings of disclosures of a record available to the individual named in the record upon his or her request. Making accountings of disclosures available to the subjects of investigations would alert them to the fact that TIGTA is conducting an investigation into their activities as well as identify the nature, scope, and purpose of that investigation. Providing accountings to the subjects of investigations would alert them to the fact that the TIGTA has information

regarding their activities and could inform them of the general nature of that information. The subjects of the investigations, if provided an accounting of disclosures would be able to take measures to avoid detection or apprehension by altering their operations or by destroying or concealing evidence that would form the basis for detection or apprehension.

(5) 5 U.S.C. 552a(c)(4) requires an agency to inform any person or other agency about any correction or notation of dispute that the agency made in accordance with 5 U.S.C. 552a(d) to any record that the agency disclosed to the person or agency if an accounting of the disclosure was made. Since this provision depends on an individual's having access to and an opportunity to request amendment of records pertaining to the individual, and since these rules exempt the systems of records from the provisions of 5 U.S.C. 552a relating to access to, and amendment of, records, for the reasons set out in paragraph (2) of this section, this provision should not apply to these systems of records.

(6) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a general notice listing the categories of sources for information contained in a system of records. Revealing sources of information could disclose investigative techniques and procedures, result in threats or reprisals against confidential informants by the subjects of investigations, and cause confidential informants to refuse to give full information to criminal investigators for fear of having their identities as sources disclosed.

(7) 5 U.S.C. 552a(e)(1) requires an agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term "maintain," as defined in 5 U.S.C. 552a(a)(3), includes "collect" and "disseminate." The application of this provision could impair TIGTA's ability to collect and disseminate valuable law enforcement information. In the early stages of an investigation, it may be impossible to determine whether information collected is relevant and necessary, and information that initially appears irrelevant and unnecessary often may, upon further evaluation or upon review of information developed subsequently, prove particularly relevant to a law enforcement program. Compliance with the records maintenance criteria listed in the foregoing provision would require TIGTA to periodically up-date the investigatory material it collects and