

seemingly irrelevant or untimely information may acquire new significance and the accuracy of such information can only be determined in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability to collect information for law enforcement purposes, may prevent the eventual development of the necessary criminal intelligence, or otherwise impede law enforcement or delay trained law enforcement personnel from timely exercising their judgment in managing the arrestee.

(7) From subsection (e)(8) to the extent that such notice may impede, interfere with, or otherwise compromise law enforcement and security efforts.

(8) From subsection 5 U.S.C. 552a(f) to the extent that compliance with the requirement for procedures providing individual access to records, compliance could impede, compromise, or interfere with law enforcement efforts.

(9) From subsection (g) to the extent that this system is exempt from the access and amendment provisions of subsection (d).

[Order No. 242-2001, 66 FR 41445, Aug. 8, 2001; 66 FR 44308, Aug. 17, 2001]

§ 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 seri-

ously 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 re-investigated.

(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

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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.

[Order No. 297-2002, 67 FR 70163, Nov. 21, 2002]

Subpart F—Public Observation of Parole Commission Meetings

SOURCE: 42 FR 14713, Mar. 16, 1977, unless otherwise noted.

§ 16.200 Definitions.

As used in this part:

(a) The term *Commission* means the U.S. Parole Commission and any subdivision thereof authorized to act on its behalf.

(b) The term *meeting* refers to the deliberations of at least the number of Commissioners required to take action on behalf of the Commission where such deliberations determine or result in the joint conduct or disposition of official Commission business.

(c) Specifically included in the term *meeting* are:

(1) Meetings of the Commission required to be held by 18 U.S.C. 4203(a);

(2) Special meetings of the Commission called pursuant to 18 U.S.C. 4204(a)(1);

(3) Meetings of the National Commissioners in original jurisdiction cases pursuant to 28 CFR 2.17(a);

(4) Meetings of the entire Commission to determine original jurisdiction appeal cases pursuant to 28 CFR 2.27; and

(5) Meetings of the National Appeals Board pursuant to 28 CFR 2.26.

(6) Meetings of the Commission to conduct a hearing on the record in conjunction with applications for certificates of exemption under section 504(a) of the Labor-Management Reporting and Disclosure Act of 1959, and section 411 of the Employee Retirement In-

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come Security Act of 1974 (28 CFR 4.1-17 and 28 CFR 4a.1-17).¹

(d) Specifically excluded from the term *meeting* are:

(1) Determination made through independent voting of the Commissioners without the joint deliberation of the number of Commissioners required to take such action, pursuant to § 16.201;

(2) Original jurisdiction cases determined by sequential vote pursuant to 28 CFR 2.17;

(3) Cases determined by sequential vote pursuant to 28 CFR 2.24 and 2.25;

(4) National Appeals Board cases determined by sequential vote pursuant to 28 CFR 2.26;

(5) Meetings of special committees of Commissioners not constituting a quorum of the Commission, which may be established by the Chairman to report and make recommendations to the Commission or the Chairman on any matter.

(6) Determinations required or permitted by these regulations to open or close a meeting, or to withhold or disclose documents or information pertaining to a meeting.

(e) All other terms used in this part shall be deemed to have the same meaning as identical terms used in chapter I, part 2 of this title.

[42 FR 14713, Mar. 16, 1977, as amended at 43 FR 4978, Feb. 7, 1978]

§ 16.201 Voting by the Commissioners without joint deliberation.

(a) Whenever the Commission's Chairman so directs, any matter which (1) does not appear to require joint deliberation among the members of the Commission, or (2) by reason of its urgency, cannot be scheduled for consideration at a Commission meeting, may be disposed of by presentation of the matter separately to each of the members of the Commission. After consideration of the matter each Commission member shall report his vote to the Chairman.

(b) Whenever any member of the Commission so requests, any matter presented to the Commissioners for disposition pursuant to paragraph (a) of

¹Part 4a was removed at 44 FR 6890, Feb. 2, 1979.