

Department of Veterans Affairs

§ 1.511

whether the Department of Veterans Affairs has a file on such person. If the file is desired either by the court or by the prosecution or defense, it may be produced only in accord with §§ 1.501 through 1.526.

[21 FR 10375, Dec. 28, 1956, as amended at 32 FR 10848, July 25, 1967; 54 FR 34980, Aug. 23, 1989]

§ 1.509 Disclosure to courts in proceedings in the nature of an inquest.

The Under Secretary for Benefits, Veterans Benefits Administration, Regional Counsels, and facility heads are authorized to make disclosures to courts of competent jurisdiction of such files, records, reports, and other documents as are necessary and proper evidence in proceedings in the nature of an inquest into the mental competency of claimants and other proceedings incident to the appointment and discharge of guardians, curators, or conservators to any court having jurisdiction of such fiduciaries in all matters of appointment, discharge, or accounting in such courts.

[32 FR 10848, July 25, 1967]

§ 1.510 Disclosure to insurance companies cooperating with the Department of Justice in the defense of insurance suits against the United States.

Copies of records from the files of the Department of Veterans Affairs will, in the event of litigation involving commercial insurance policies issued by an insurance company cooperating with the Department of Justice in defense of insurance suits against the United States, be furnished to such companies without charge, provided the claimant or his or her duly authorized representative has authorized the release of the information contained in such records. If the release of information is not authorized in writing by the claimant or his or her duly authorized representative, information contained in the files may be furnished to such company if to withhold same would tend to permit the accomplishment of a fraud or miscarriage of justice. However, before such information may be released without the consent of the claimant, the request therefor must be accompanied by

an affidavit of the representative of the insurance company, setting forth that litigation is pending, the character of the suit, and the purpose for which the information desired is to be used. If such information is to be used adversely to the claimant, the affidavit must set forth facts from which it may be determined by the General Counsel or Regional Counsel whether the furnishing of the information is necessary to prevent the perpetration of a fraud or other injustice. The averments contained in such affidavit should be considered in connection with the facts shown by the claimant's file, and, if such consideration shows the disclosure of the record is necessary and proper to prevent a fraud or other injustice, information as to the contents thereof may be furnished to the insurance company or copies of the records may be furnished to the court, workmen's compensation, or similar board in which the litigation is pending upon receipt of a subpoena duces tecum addressed to the Secretary of Veterans Affairs, or the head of the office in which the records desired are located. In the event the subpoena requires the production of the file, as distinguished from the copies of the records, no expense to the Department of Veterans Affairs may be involved in complying therewith, and arrangements must be made with the representative of the insurance company causing the issuance of the subpoena to insure submission of the file to the court without expense to the Department of Veterans Affairs.

[32 FR 10848, July 25, 1967]

§ 1.511 Disclosure of claimant records in connection with judicial proceedings generally.

(a)(1) Where a suit (or legal proceeding) has been threatened or instituted against the Government, or a prosecution against a claimant has been instituted or is being contemplated, the request of the claimant or his or her duly authorized representative for information, documents, reports, etc., shall be acted upon by the General Counsel in Central Office, or the Regional Counsel for the field facility, who shall determine the action to be taken with respect thereto. Where