

testimony, and/or flight of the subject; could identify a confidential source or disclose information which would constitute an unwarranted invasion of another's personal privacy; reveal a sensitive investigative or constitute a potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses. Amendment of these records would interfere with ongoing law enforcement investigations and analysis activities and impose an excessive administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised.

(C) From subsections (e)(1) through (e)(3) because it is not always possible to determine what information is relevant and necessary at an early stage in a given investigation. Also, because DoD and other agencies may not always know what information about a known or suspected offender may be relevant to law enforcement for the purpose of conducting an operational response.

(D) From subsections (e)(4)(G) through (I) (Agency Requirements) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(E) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the criminal investigative process. It is the nature of criminal law enforcement for investigations to uncover the commission of illegal acts at diverse stages. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significant as further investigation brings new details to light.

(F) From subsection (e)(8) because the requirement to serve notice on an individual when a record is disclosed under compulsory legal process could unfairly hamper law enforcement processes. It is the nature of law enforcement that there are instances where compliance with these provisions could alert the subject of an investigation of the fact and nature of the investigation, and/or the investigative interest of intelligence or law enforcement agencies; compromise sensitive information related to national security; interfere with the overall law enforcement process by leading to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; reveal a sensitive investigative or intelligence technique; or constitute a

potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses.

(G) From subsection (f) because requiring the Agency to grant access to records and establishing agency rules for amendment of records would compromise the existence of any criminal, civil, or administrative enforcement activity. To require the confirmation or denial of the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to the existence of an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of the record, disclosure of the record to the subject, and record amendment procedures.

(H) From subsection (g) for compatibility with the exemption claimed from subsection (f), the civil remedies provisions of subsection (g) must be suspended for this record system. Because of the nature of criminal investigations, standards of accuracy, relevance, timeliness and completeness cannot apply to this record system. Information gathered in criminal investigations if often fragmentary and leads relating to an individual in the context of one investigation may instead pertain to a second investigation.

Dated: October 27, 2014.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 316

**[Docket ID: DoD-2014-OS-0128]**

#### Privacy Act of 1974; Implementation

**AGENCY:** Defense Information Systems Agency, DoD.

**ACTION:** Direct final rule with request for comments.

**SUMMARY:** The Defense Information Systems Agency is proposing to exempt a new system of records, K890.23, entitled "DISA Inspector General Investigative Tracker (DIGit)" from 5 U.S.C. 552a(j)(2), (k)(2), and (k)(5), subsections (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) of the Privacy Act of 1974, as amended.

**DATES:** This rule will be effective on January 8, 2015 unless adverse

comments are received by December 29, 2014. If adverse comment is received, the Department of Defense will publish a timely withdrawal of the rule in the **Federal Register**.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

\* Federal Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

\* Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350-3100.

**Instructions:** All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jeanette Weathers-Jenkins, DISA Privacy Officer, Chief Information Office, 6916 Cooper Avenue, Fort Meade, MD 20755-7901, or by phone at (301) 225-8158.

**SUPPLEMENTARY INFORMATION:** This direct final rule makes no substantive changes to the Defense Information Systems Agency Privacy Program rules. These changes will allow the Office to add an exemption rule to the Defense Information Systems Agency Privacy Program rules that will exempt applicable records and/or material from certain portions of the Privacy Act. This will improve the efficiency and effectiveness of DoD's program by preserving the exempt status of the applicable records and/or material when the purposes underlying the exemption(s) are valid and necessary. This rule is being published as a direct final rule as the Department of Defense does not expect to receive any adverse comments, and so a proposed rule is unnecessary.

#### Direct Final Rule and Significant Adverse Comments

DoD has determined this rulemaking meets the criteria for a direct final rule because it involves nonsubstantive changes dealing with DoD's management of its Privacy Programs. DoD expects no opposition to the changes and no significant adverse comments. However, if DoD receives a significant adverse comment, the Department will withdraw this direct final rule by publishing a notice in the

**Federal Register.** A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, DoD will consider whether it warrants a substantive response in a notice and comment process.

**Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"**

It has been determined that this rule is not a significant rule. This rule does not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive orders.

**Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)**

It has been certified that this rule will not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense. A Regulatory Flexibility Analysis is not required.

**Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)**

It has been determined that this rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

**Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"**

It has been determined that this rule does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that it will not significantly or uniquely affect small governments.

**Executive Order 13132, "Federalism"**

It has been determined that this rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no Federalism assessment is required.

**List of Subjects in 32 CFR Part 316**

Privacy.

Accordingly, 32 CFR part 316 is amended as follows:

**PART 316—DEFENSE INFORMATION SYSTEMS AGENCY PRIVACY PROGRAM**

■ 1. The authority citation for 32 CFR part 316 continues to read as follows:

**Authority:** Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

■ 2. In § 316.8, add paragraph (a), and add and reserve paragraph (b), to read as follows:

**§ 316.8 Exemptions.**

\* \* \* \* \*

(a) *System identifier and name:* K890.23, DISA Inspector General Investigative Tracker (DIGit).

(1) Exemptions: Any portion of this record system which falls within the provisions of 5 U.S.C. 552a(j)(2), (k)(2) and (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I).

(2) Authority: 5 U.S.C. 552a(j)(2), (k)(2), and (k)(5).

(3) Reasons: To ensure the integrity of the privacy and civil liberties process. The execution requires that information be provided in a free and open manner without fear of retribution or harassment in order to facilitate a just, thorough, and timely resolution of the complaint or inquiry. Disclosures from this system can enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying, or fabricating evidence or documents. In addition, disclosures can subject sources and witnesses to harassment or intimidation which may cause individuals not to seek redress for wrongs through privacy and civil liberties channels for fear of retribution or harassment.

(b) [Reserved]

Dated: October 27, 2014.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

[Docket No. USCG-2014-0885]

**Special Local Regulation; Southern California Annual Marine Events for the San Diego Captain of the Port Zone**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the San Diego Bay Parade of Lights special local regulations on Sunday, December 14, 2014 and Sunday, December 21, 2014. This event occurs in north San Diego Bay in San Diego, CA. These special local regulations are necessary to provide for the safety of the participants, crew, spectators, sponsor safety vessels, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative.

**DATES:** The regulations for the marine event listed in 33 CFR 100.1101, Table 1, Item 5, will be enforced from 5:30 p.m. to 8:30 p.m. on Sunday, December 14, 2014 and Sunday, December 21, 2014.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or email Petty Officer Giacomo Terrizzi, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278-7656, email *D11-PF-MarineEventsSanDiego@uscg.mil*.

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the special local regulations in 33 CFR 100.1101 in support of the San Diego Bay Parade of Lights (Item 5 on Table 1 of 33 CFR 100.1101). The Coast Guard will enforce the special local regulations in the San Diego Bay in San Diego, CA from 5:30 p.m. to 8:30 p.m. on Sunday, December 14, 2014 and Sunday, December 21, 2014.

Under the provisions of 33 CFR 100.1101, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in patrol and notification of this regulation.