

**EFFECTIVE DATE:** June 10, 1998.

**FOR FURTHER INFORMATION CONTACT:** Pamela A. Posch, Office of General Counsel, 5550 Friendship Blvd., Chevy Chase, MD 20815. Telephone: (301) 492-5959.

**SUPPLEMENTARY INFORMATION:** The Commission has determined that cases of confusion over whether a warrant should be executed or placed as a detainer (if the alleged parole violator is already in custody on another charge) can be readily avoided if the Commission adopts a procedure designed to expedite the receipt of warrants by the U.S. Marshals Service. Other possibilities for delay and confusion prior to the receipt of a signed warrant can also be avoided. The only legal obligation under which the Commission operates with respect to the issuance of valid warrants is that a warrant must be issued prior to the expiration of the parolee's sentence. Issuance and delivery of a warrant are separate events. 18 U.S.C. 4213(d) (1976).

The term "issue" means to send out officially. *Hervey v. Secretary of Health and Human Services*, 88 F.3d 1001, 1002 (Fed. Cir. 1996). The long-accepted definition of the term "issue" has never been specific as to means of issuance. Accordingly, the Parole Commission may, by regulation, define the issuance of a warrant as being the electronic transmission of the signed warrant to the arresting authorities. The date and time of "issuance" of a warrant will be the date and time it is transmitted electronically. The signed original, having been thus issued, will remain in the Commission's file.

#### **Executive Order 12866 and Regulatory Flexibility Statement**

The U.S. Parole Commission has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866, and the rule has, accordingly, not been reviewed by the Office of Management and Budget. The rule will not have a significant economic impact upon a substantial number of small entities, within the meaning of the Regulatory Flexibility Act, U.S.C. 605(b).

#### **List of Subjects in 28 CFR Part 2**

Administrative practice and procedure, Prisoners, Probation and parole.

#### **The Final Rule**

Accordingly, the U.S. Parole Commission makes the following changes to 28 CFR Part 2.

### **PART 2—[AMENDED]**

1. The authority citation for 28 CFR Part 2 continues to read as follows:

**Authority:** 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR Part 2, § 2.44 (c) is revised to read as follows:

#### **§ 2.44 Summons to appear or warrant for retaking of parolee.**

\* \* \* \* \*

(c) A summons or warrant may be issued only within the prisoner's maximum term or terms except that in the case of a prisoner released as if on parole pursuant to 18 U.S.C. 4164, such summons or warrant may be issued only within the maximum term or terms, less one hundred eighty days. A summons or warrant shall be considered issued when signed and either—

(1) Placed in the mail or

(2) Sent by electronic transmission to the intended authorities.

\* \* \* \* \*

Dated: May 5, 1998.

**Michael J. Gaines,**  
*Chairman, U.S. Parole Commission.*

[FR Doc. 98-12387 Filed 5-8-98; 8:45 am]

BILLING CODE 4410-01-P

### **DEPARTMENT OF JUSTICE**

#### **Parole Commission**

#### **28 CFR Part 2**

#### **Paroling, Recommitting, and Supervising Federal Prisoners: Release of Information to the Public**

**AGENCY:** Parole Commission, Justice.

**ACTION:** Final rule.

**SUMMARY:** The Commission's regulation concerning the disclosure of information about offenders under its jurisdiction currently addresses only those situations where disclosure is necessary to give notice to potential victims of individuals on parole, or to assist law enforcement authorities. No provision is made for the general disclosure of information about prisoners and parolees when such information is considered to be "public sector" information that may be disclosed without the consent of the subject. At 28 CFR 540.65(b), the Bureau of Prisons defines the information that is considered "a matter of public record" for disclosure to representatives of the media. The Parole Commission is now amending its regulation to define the information that it gives to the media and to the public generally.

**EFFECTIVE DATE:** Effective June 10, 1998.

#### **FOR FURTHER INFORMATION CONTACT:**

Pamela A. Posch, Office of General Counsel, 5550 Friendship Blvd., Chevy Chase, Maryland 20815. Telephone: (301) 492-5959.

**SUPPLEMENTARY INFORMATION:** The information defined as "public sector" information is consistent with the information defined in § 540.65(b), and with the current practice of the U.S. Parole Commission. The same policy will be followed for both U.S. and D.C. Code offenders.

It should be noted that, although Commission decisions may be disclosed, this does not necessarily include the statement of reasons provided by the Commission in support of each decision. Pursuant to its routine use exemptions from the Privacy Act of 1974 (published at 53 FR 7813, March 10, 1988), public disclosure of the full Notice of Action issued by the Parole Commission is only available if the Commission has determined that disclosure is appropriate " \* \* \* to further understanding of the criminal justice system by the public" and has transmitted the Notice of Action to the Office of Public Affairs of the Department of Justice.

#### **Executive Order 12866 and Regulatory Flexibility Statement**

The U.S. Parole Commission has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866, and the rule has, accordingly, not been reviewed by the Office of Management and Budget. The rule will not have a significant economic impact upon a substantial number of small entities, within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

#### **List of Subjects in 28 CFR Part 2**

Administrative practice and procedure, Prisoners, Probation and parole.

#### **The Final Rule**

Accordingly, the U.S. Parole Commission makes the following changes to 28 CFR Part 2:

### **PART 2—[AMENDED]**

1. The authority citation for 28 CFR Part 2 continues to read as follows:

**Authority:** 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR Part 2, § 2.37 is amended by adding the following new paragraph (c):

#### **§ 2.37 Disclosure of information concerning parolees; Statement of policy.**

\* \* \* \* \*

(c) Information deemed to be "public sector" information may be disclosed to third parties without the consent of the file subject. Public sector information encompasses the following:

- (1) Name;
- (2) Register number;
- (3) Offense of conviction;
- (4) Past and current places of incarceration;
- (5) Age;
- (6) Sentence data on the Bureau of Prisons sentence computation record (BP-5);
- (7) Date(s) of parole and parole revocation hearings; and
- (8) The decision(s) rendered by the Commission following a parole or parole revocation proceeding, including the dates of continuances and parole dates. An inmate's designated future place of incarceration is not public information.

Dated: May 5, 1998.

**Michael J. Gaines,**

*Chairman, U.S. Parole Commission.*

[FR Doc. 98-12386 Filed 5-8-98; 8:45 am]

BILLING CODE 4410-01-P

## DEPARTMENT OF DEFENSE

### Defense Logistics Agency

#### 32 CFR Part 323

[Defense Logistics Agency Reg. 5400.21]

#### Privacy Act; Implementation

**AGENCY:** Defense Logistics Agency, DoD.  
**ACTION:** Final rule.

**SUMMARY:** The Defense Logistics Agency is exempting a system of records identified as S500.60 CA, entitled 'DLA Complaint Program Records' from certain provisions of the Privacy Act. The exemptions are intended to increase the value of the system of records for law enforcement purposes, to comply with prohibitions against the disclosure of certain kinds of information, and to protect the privacy of individuals identified in the system of records.  
**EFFECTIVE DATE:** May 5, 1998.

**ADDRESSES:** Send comments to the Privacy Act Officer, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Salus at (703) 767-6183.

#### SUPPLEMENTARY INFORMATION:

**Executive Order 12866.** It has been determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of \$100 million or more; does

not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

**Regulatory Flexibility Act.** It has been determined that this Privacy Act rule for the Department of Defense does 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.

**Paperwork Reduction Act.** It has been determined that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act, and 44 U.S.C. Chapter 35.

This rule adds an exempt Privacy Act system of records to the DLA inventory of systems of records. DLA operates a complaint system whereby individuals may report instances of suspected fraud, waste, or abuse; mismanagement; contract deviations, noncompliance, or improprieties; administrative misconduct; or adverse treatment under the complaint program. Allegations are investigated and appropriate corrections are instituted. The exempt system reflects recognition that certain records in the system may be deemed to require protection from disclosure in order to protect confidential sources mentioned in the files and avoid compromising, impeding, or interfering with investigative and enforcement proceedings. The proposed rule was previously published on March 6, 1998, at 63 FR 11198. No comments were received, therefore, the Director is adopting the exemptions for the reasons provided.

#### List of subjects in 32 CFR part 323

Privacy.

Accordingly, 32 CFR part 323 is amended as follows:

#### Part 323 – Defense Logistics Agency Privacy Program.

1. The authority citation for 32 CFR Part 323 continues to read as follows:

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

2. Appendix H to Part 323 is to be amended by adding paragraph e. as follows:

#### Appendix H to Part 323-DLA Exemption Rules.

\* \* \* \* \*

e. *ID: S500.60 CA (Specific exemption).*

1. *System name:* DLA Complaint Program Records.

2. *Exemption:* (i) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source.

(ii) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

3. *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5), subsections (c)(3), (d)(1) through (d)(4), (e)(1), (e)(4)(G), (H), and (I), and (f).

4. *Reasons:* (i) From subsection (c)(3) because to grant access to an accounting of disclosures as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation or prosecutive interest by DLA or other agencies. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(ii) From subsections (d)(1) through (d)(4), and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence;