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which is collected from the arrestee during the arrest.

(3) From subsection (e)(1) to the extent that it is necessary to retain all information in order not to impede, compromise, or interfere with law enforcement efforts, e.g., where the significance of the information may not be readily determined and/or where such information may provide leads or assistance to Federal and other law enforcement agencies in discharging their law enforcement responsibilities.

(4) From subsection (e)(2) because, in some instances, the application of this provision would present a serious impediment to law enforcement since it may be necessary to obtain and verify information from a variety of sources other than the record subject to ensure safekeeping, security, and effective law enforcement. For example, it may be necessary that medical and psychiatric personnel provide information regarding the subject's behavior, physical health, or mental stability, etc. To ensure proper care while in custody, or it may be necessary to obtain information from a case agent or the court to ensure proper disposition of the subject individual.

(5) From subsection (e)(3) because the requirement that agencies inform each individual whom it asks to supply information of such information as is required by subsection (e)(3) may, in some cases, impede the information gathering process or otherwise interfere with or compromise law enforcement efforts, e.g., the subject may deliberately withhold information, or give erroneous information.

(6) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely and complete. With the passage of time, 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 and may prevent the eventual development of the necessary criminal intelligence or otherwise impede effective law enforcement.

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

(u) Consistent with the legislative purpose of the Privacy Act of 1974, the United States Marshals Service will grant access to nonexempt material in records which are maintained by the Service. Disclosure will be governed by the Department's Privacy Regulations, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal, civil or regulatory violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered; the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

[Order No. 645–76, 41 FR 12640, Mar. 26, 1976, as amended by Order No. 8–83, 48 FR 19024, Apr. 27, 1983; Order No. 10–86, 51 FR 20275, June 4, 1986; Order No. 11–86, 51 FR 20277, June 4, 1986; Order No. 61–92, 57 FR 3284, Jan. 29, 1992; Order No. 66–92, 57 FR 20654, May 14, 1992; Order No. 105–95, 60 FR 30467, June 9, 1995]

§ 16.102 Exemption of Drug Enforcement Administration and Immigration and Naturalization Service Joint System of Records.

(a) The following system of records is exempted pursuant to provisions of 5 U.S.C. 552a(j)(2) from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G), (H), and (I), (e)(5) and (8), (f), (g), and (h) of 5 U.S.C. 552a; in addition the following system of records is exempted pursuant to the provisions of 5 U.S.C. 552 (k)(1) and (k)(2) from subsections

(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of 5 U.S.C. 552a.

(1) Automated Intelligence Record System (Pathfinder), JUSTICE/DEA–INS–111.

These exemptions apply to the extent that information in those systems is subject to exemption pursuant to 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2).

(b) The system of records listed under paragraph (a) of this section is exempted, for the reasons set forth from the following provisions of 5 U.S.C. 552a:

(1)(c)(3). The release of the disclosure accounting for disclosures made pursuant to subsection (b) of the Act, including those permitted under the routine uses published for these systems of records, would permit the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to determine whether he is the subject of investigation, or to obtain valuable information concerning the nature of that investigation, and the information obtained, or the identity of witnesses and informants and would therefore present a serious impediment to law enforcement. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record; such notice requirement under subsection (f)(1) is specifically exempted for these systems of records.

(2)(c)(4). Since an exemption is being claimed for subsection (d) of the Act (Access to Records) this subsection is inapplicable to the extent that these systems of records are exempted from subsection (d).

(3)(d). Access to the records contained in these systems would inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation of the existence of that investigation, or the nature and scope of the information and evidence obtained as to his activities, of the identity of witnesses and informants, or would provide information that could enable the subject to avoid detection or apprehension. These factors would present a serious impediment to effective law enforcement because they could prevent the successful completion of the investigation, endanger the physical safety of witnesses or informants, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(4)(e)(1). The notices of these systems of records published in the FEDERAL REGISTER set forth the basic statutory or related authority for maintenance of this system. However, in the course of criminal or other law enforcement investigations, cases, and matters, the Immigration and Naturalization Service or the Drug Enforcement Administration will occasionally obtain information concerning actual or potential violations of law that are not strictly within its statutory or other authority or may compile information in the course of an investigation which may not be relevant to a specific prosecution. In the interests of effective law enforcement, it is necessary to retain such information in these systems of records since it can aid in establishing patterns of criminal activity and can provide valuable leads for federal and other law enforcement agencies.

(5)(e)(2). In a criminal investigation or prosecution, the requirement that information be collected to the greatest extent practicable from the subject individual would present a serious impediment to law enforcement because the subject of the investigation or prosecution would be placed on notice as to the existence of the investigation and would therefore be able to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

(6)(e)(3). The requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(7)(e)(4) (G) and (H). Since an exemption is being claimed for subsections (f) (Agency Rules) and (d) (Access to Records) of the Act these subsections are inapplicable to the extent that these systems of records are exempted from subsections (f) and (d).

(8)(e)(4)(I). The categories of sources of the records in these systems have been published in the FEDERAL REGISTER in broad generic terms in the belief that this is all that subsection

(e)(4)(I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in these systems, exemption from this provision is necessary in order to protect the confidentiality of the sources of criminal and other law enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(9)(e)(5). In the collection of information for criminal law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can often only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators, intelligence analysts, and government attorneys in exercising their judgment in reporting on information and investigations and impede the development of criminal or other intelligence necessary for effective law enforcement.

(10)(e)(8). The individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue warrants or subpoenas and could reveal investigative techniques, procedures, or evidence.

(11)(f). Procedures for notice to an individual pursuant to subsection (f)(1) as to the existence of records pertaining to him dealing with an actual or potential criminal, civil, or regulatory investigation or prosecution must be exempted because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation or prosecution pending or future. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

Since an exemption is being claimed for subsection (d) of the Act (Access to Records) the rules required pursuant to subsections (f) (2) through (5) are inapplicable to these systems of records to the extent that these systems of records are exempted from subsection (d).

(12)(g). Since an exemption is being claimed for subsections (d) (Access to Records) and (f) (Agency Rules) this section is inapplicable, and is exempted for the reasons set forth for those subsections, to the extent that these systems of records are exempted from subsections (d) and (f).

(13)(h). Since an exemption is being claimed for subsection (d) (Access to Records) and (f) (Agency Rules) this section is inapplicable, and is exempted for the reasons set forth for those subsections, to the extent that these systems of records are exempted from subsections (d) and (f).

(14) In addition, exemption is claimed for these systems of records from compliance with the following provisions of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to the provisions of 5 U.S.C. 552a(k)(1): subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) to the extent that the records contained in these systems are specifically authorized to be kept secret in the interests of national defense and foreign policy.

[Order No. 742–77, 42 FR 40907, Aug. 12, 1977]

§ 16.103 Exemption of the INTERPOL-United States National Central Bureau (INTERPOL-USNCB) System.

(a) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4), (d), (e) (1), (2), and (3), (e)(4) (G) and (H), (e)(5) and (8), (f) and (g):

(1) The INTERPOL-United States National Central Bureau (INTERPOL-USNCB) (Department of Justice) INTERPOL-USNCB Records System (JUSTICE/INTERPOL–001).

This exemption applies only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2), (k)(2), and (k)(5).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the release of accounting disclosures would