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DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD-2016-OS-0094]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, and Office of Management and Budget (OMB) Circular No. A-130, notice is hereby given that the Office of the Secretary of Defense proposes to alter a system of records DUSDP 11, entitled "POW/Missing Personnel Office Files," last published at 62 FR 40051, July 25, 1997. This system of records exists to collect information concerning DoD personnel and U.S. citizens who are known or may be prisoners of war or officially missing in order to provide the fullest possible accounting for our missing personnel to their families and the nation. The data is also used to produce studies and analytical reports for agencies that develop policies with respect to American military members and civilians designated as missing or prisoners of war as a result of campaigns or wars involving the U.S. Military.

This update reflects considerable administrative changes that in sum warrant an alteration to the system of records notice. In this notice, references to specific wars and

conflicts has been removed from the categories of individuals to clarify who may be a subject of these records. The records are no longer retrieved by Social Security Number (SSN), therefore a statement has been added to the category of records and reference to the SSN has been removed from the retrievability section. Additionally, the applicable DoD Routine Uses have been incorporated in the notice to provide clarity for the public. Further, the system name, system location, authorities, storage, purpose, safeguards, retention and disposal, system manager(s) and address, notification procedure, record access procedures, and record source categories were updated to ensure the information is accurate and current. Finally, the exemptions claimed for this system were reviewed and determined to remain applicable and current.

DATES: Comments will be accepted on or before [**INSERT 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

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: Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350-1700.

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: Mrs. Luz D. Ortiz, Chief, Records, Privacy and Declassification Division (RPD2), 1155 Defense Pentagon, Washington, D.C. 20301-1155, or by phone at (571) 372-0478.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address in FOR FURTHER INFORMATION CONTACT or at the Defense Privacy, Civil Liberties, and Transparency Division website at <http://dpclld.defense.gov/>.

The proposed system report, as required by U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on September 13, 2016, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4 of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," revised November 28, 2000 (December 12, 2000 65 FR 77677).

Dated: October 4, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DUSDP 11

System name:

POW/Missing Personnel Office Files (July 25, 1997, 62 FR 40051).

Changes:

* * * * *

System name:

Delete entry and replace with "POW/MIA Personnel Files."

System location:

Delete entry and replace with "Defense POW/MIA Accounting Agency (DPAA), 241 18th Street S., Suite 800, Arlington, VA 22202-3420."

Categories of individuals covered by the system:

Delete entry and replace with "U.S. Military personnel designated by their Service Secretary or U.S. citizens by the U.S. Department of State as prisoners of war or missing in action (POW/MIA). The status applies to those POW or MIA during any campaign or hostile action involving U.S. Military intervention or declared war, and includes private citizens on personal travel that were detained or went missing in current or previous hostile fire/combat zones."

Categories of records in the system:

Delete entry and replace with "Name, date of birth, place of birth, branch of military service, serial/service number or DOD Identification (DoD ID) number, field search case number or source reference number (in the case of a classified source);

next of kin and/or requester name, current address, personal telephone number, and email address. Other records included in the system are operational and information reports, biographic records, physical descriptions, personal statements and correspondence, returnee debriefings, interviews and media reports.

The Social Security Number is no longer collected or used to retrieve records in this system."

Authority for maintenance of the system:

Delete entry and replace with "10 U.S.C. 134, Under Secretary of Defense for Policy; 10 U.S.C. Chapter 76, Missing Persons (sections 1501 through 1513); and DoD Directive 5110.10, Defense Prisoner of War/Missing Personnel Office (DPMO)."

Purpose(s) :

Delete entry and replace with "To develop a detailed and comprehensive body of information concerning Department of Defense personnel and U.S. citizens who are known or may be prisoners of war or officially missing in order to provide the fullest possible accounting for our missing personnel to their families and the nation. Records are used to investigate the

event and account for POW/MIA personnel. Data are also used to produce studies and analytical reports furnished as background material to offices and agencies that enunciate and promulgate National policy with respect to American military members and civilians designated as missing or prisoners of war as a result of campaigns or wars involving the U.S. Military."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b) (3) as follows:

To a domestic or foreign entity that has entered into a public-private partnership with the Defense POW/MIA Accounting Agency (DPAA) as authorized by 10 U.S.C. 1501a, when DPAA determines that such disclosure is necessary to the performance of services DPAA has agreed shall be performed by the partner.

Congressional Inquiries Disclosure Routine Use: Disclosure from a system of records maintained by a DoD Component may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosures Required by International Agreements Routine Use: A record from a system of records maintained by a DoD Component may be disclosed to foreign law enforcement, security, investigatory, or administrative authorities to comply with requirements imposed by, or to claim rights conferred in, international agreements and arrangements including those regulating the stationing and status in foreign countries of DoD military and civilian personnel.

Disclosure to the Department of Justice for Litigation Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the Department of Defense, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

Disclosure of Information to the National Archives and Records Administration Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Data Breach Remediation Purposes Routine Use: A record from a system of records maintained by a Component may be disclosed to appropriate agencies, entities, and persons when (1) The Component suspects or has confirmed that the security or confidentiality of the information in the system of records has been compromised; (2) the Component has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Component or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Components efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Delete entry and replace with "Paper records, electronic storage media, microfilm, and microfiche."

Retrievability:

Delete entry and replace with "Retrieved by any or a combination of: individual's name, serial/service number, date of birth, branch of military service, next of kin and/or requester's name, current address, personal telephone number, email address, or source reference number (in the case of a classified source)."

Safeguards:

Delete entry and replace with "Paper records, microfilm, and microfiche are maintained in a controlled access office and are stored in a secure vault work area. Access to electronic records is restricted by Common Access Card (CAC) and/or username/password which are changed periodically. All records are only accessible to authorized personnel with a demonstrated

need for access. Personnel are properly screened, cleared, and trained in the protection of privacy information."

Retention and disposal:

Delete entry and replace with "Permanent. Transfer legal custody to NARA 25 years after closure."

System manager(s) and address:

Delete entry and replace with "Defense Prisoner of War/Missing in Action Accounting Agency (DPAA), 2000 Defense Pentagon, Washington, DC 20301-2000."

Notification procedure:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Defense Prisoner of War/Missing in Action Accounting Agency (DPAA), 2000 Defense Pentagon, Washington, DC 20301-2000."

Signed written requests should include full name, serial/service number as appropriate (if any), and date of birth, branch of military service, if applicable, as well as the requester's current address and telephone number.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).'

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).'

Record access procedures:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system of records should address written inquiries to Office of the Secretary of Defense/Joint Staff, Freedom of Information Requester Service Center, 1155 Defense Pentagon, Washington DC 20301-1155.

Signed written requests should include full name, serial/service number as appropriate (if any), and date of birth, branch of military service, if applicable, as well as the requester's current address, e-mail address, telephone number, and the name and number of this system of records notice.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).'

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).'

* * * * *

Record source categories:

Delete entry and replace with "Department of Defense, Department of State and U.S. Intelligence Agencies, interviews and debriefings of returnees, next of kin, confidential sources, and other individuals; representatives of concerned organizations; resident aliens; foreign sources; and open publications."

* * * * *

DUSDP 11

System name:

POW/MIA Personnel Files.

System location:

Defense POW/MIA Accounting Agency (DPAA), 241 18th Street S.,
Suite 800, Arlington, VA 22202-3420.

Categories of individuals covered by the system:

U.S. Military personnel designated by their Service Secretary or U.S. citizens by the U.S. Department of State as prisoners of war or missing in action (POW/MIA). The status applies to those POW or MIA during any campaign or hostile action involving U.S.

Military intervention or declared war, and includes private citizens on personal travel that were detained or went missing in current or previous hostile fire/combat zones.

Categories of records in the system:

Name, date of birth, place of birth, branch of military service, serial/service number or DOD Identification (DoD ID) number, field search case number or source reference number (in the case of a classified source); next of kin and/or requester name, current address, personal telephone number, and email address.

Other records included in the system are operational and information reports, biographic records, physical descriptions, personal statements and correspondence, returnee debriefings, interviews and media reports.

The Social Security Number is no longer collected or used to retrieve records in this system.

Authority for maintenance of the system:

10 U.S.C. 134, Under Secretary of Defense for Policy; 10 U.S.C. Chapter 76, Missing Persons (sections 1501 through 1513); and DoD Directive 5110.10, Defense Prisoner of War/Missing Personnel Office (DPMO).

Purpose(s) :

To develop a detailed and comprehensive body of information concerning Department of Defense personnel and U.S. citizens who are known or may be prisoners of war or officially missing in order to provide the fullest possible accounting for our missing personnel to their families and the nation. Records are used to investigate the event and account for POW/MIA personnel. Data are also used to produce studies and analytical reports furnished as background material to offices and agencies that enunciate and promulgate National policy with respect to American military members and civilians designated as missing or prisoners of war as a result of campaigns or wars involving the U.S. Military.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b) (3) as follows:

To a domestic or foreign entity that has entered into a public-private partnership with the Defense POW/MIA Accounting Agency (DPAA) as authorized by 10 U.S.C. 1501a, when DPAA determines that such disclosure is necessary to the performance of services DPAA has agreed shall be performed by the partner.

Congressional Inquiries Disclosure Routine Use: Disclosure from a system of records maintained by a DoD Component may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosures Required by International Agreements Routine Use: A record from a system of records maintained by a DoD Component may be disclosed to foreign law enforcement, security, investigatory, or administrative authorities to comply with requirements imposed by, or to claim rights conferred in, international agreements and arrangements including those regulating the stationing and status in foreign countries of DoD military and civilian personnel.

Disclosure to the Department of Justice for Litigation Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the Department of Defense, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

Disclosure of Information to the National Archives and Records Administration Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Data Breach Remediation Purposes Routine Use: A record from a system of records maintained by a Component may be disclosed to appropriate agencies, entities, and persons when (1) The Component suspects or has confirmed that the security or confidentiality of the information in the system of records has been compromised; (2) the Component has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or

fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Component or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Components efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records, electronic storage media, microfilm, and microfiche.

Retrievability:

Retrieved by any or a combination of: individual's name, serial/service number, date of birth, branch of military service, next of kin and/or requester's name, current address, personal telephone number, email address, or source reference number (in the case of a classified source).

Safeguards:

Paper records, microfilm, and microfiche are maintained in a controlled access office and are stored in a secure vault work area. Access to electronic records is restricted by Common Access Card (CAC) and/or username/password which are changed periodically. All records are only accessible to authorized personnel with a demonstrated need for access. Personnel are properly screened, cleared, and trained in the protection of privacy information.

Retention and disposal:

Permanent. Transfer legal custody to NARA 25 years after closure.

System manager(s) and address:

Defense Prisoner of War/Missing in Action Accounting Agency (DPAA), 2000 Defense Pentagon, Washington, DC 20301-2000.

Notification procedure:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Defense Prisoner of War/Missing in Action

Accounting Agency (DPAA), 2000 Defense Pentagon, Washington, DC 20301-2000.

Signed written requests should include full name, serial/service number as appropriate (if any), and date of birth, branch of military service, if applicable, as well as the requester's current address and telephone number.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)."

If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

Record access procedures:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to Office of the Secretary of Defense/Joint Staff, Freedom of Information Requester Service Center, 1155 Defense Pentagon, Washington DC 20301-1155.

Signed written requests should include full name, serial/service number as appropriate (if any), and date of birth, branch of military service, if applicable, as well as the requester's current address, e-mail address, telephone number, and the name and number of this system or records notice.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)."

If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify,

verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

Contesting record procedures:

The Office of the Secretary of Defense (OSD) rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

Record source categories:

Department of Defense, Department of State and U.S. Intelligence Agencies, interviews and debriefings of returnees, next of kin, confidential sources, and other individuals; representatives of concerned organizations; resident aliens; foreign sources; and open publications.

Exemptions claimed for the system:

Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1-R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and

(3), (c) and (e) and published in 32 CFR part 311. For additional information contact the system manager.

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