



## **DEPARTMENT OF VETERANS AFFAIRS**

### **PRIVACY ACT OF 1974; SYSTEM OF RECORDS**

**AGENCY:** Department of Veterans Affairs (VA).

**ACTION:** Notice of a Modified System of Records.

**SUMMARY:** As required by the Privacy Act of 1974, notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records entitled, “Investigative Database-OMI–VA” (162VA10MI) as set forth in the Federal Register 75 FR 26847. VA is amending the system of records by revising the System Number; System Location; System Manager; Categories of Records in the System; Record Source Categories and Routine Uses of Records Maintained in the System and Policies. VA is republishing the system notice in its entirety.

**DATES:** Comments on the amendment of this system of records must be received no later than **[Insert date 30 days after date of publication in the Federal Register]**. If no public comment is received during the period allowed for comment or unless otherwise published in the Federal Register by VA, the amended system will become effective **[Insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Written comments may be submitted through [www.Regulations.gov](http://www.Regulations.gov); by mail or hand-delivery to Director, Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW, Room 1064, Washington, DC 20420; or by fax to (202) 273-9026 (not a toll-free number). Comments should

indicate that they are submitted in response to “Investigative Database-OMI–VA”.

Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free number.) In addition, comments may be viewed online at [www.Regulations.gov](http://www.Regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Veterans Health Administration (VHA) Privacy Officer, Department of Veterans Affairs, 810 Vermont Ave. NW, Washington, DC 20420, (704) 245-2492. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** The System Number is being changed from (162VA10MI to 162VA10E1B) to reflect the current organizational alignment.

The System Location is being amended to change the Austin Automation Center to the Austin Information Technology Center.

The System Manager is being amended to remove “Official responsible for policies and procedures; Chief Information Officer (OIT), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420.” OMI (10MI) is being changed to OMI (10E1B).

The Categories of Records in the System is being amended to change 24VA19 to 24VA10P2 in section 1. In section 6, “VHA Directive 2006-04 of June 27, 2006, Cooperation with the Office of the Medical Inspector, Paragraph 4a.”, is being replaced

with VHA Directive 1038 of August 2, 2017, Role of the Office of the Medical Inspector, Paragraph 4f.

The Record Source Categories is being amended to change 24VA19 to 24VA10P2, and “Healthcare Eligibility Records-VA” (89VA16) is being changed to “Income Verification Records-VA” (89VA10NB). The Austin Automation Center is being changed to the Austin Information Technology Center.

The Routine Uses of Records Maintained in the System has been amended by amending the language in Routine Use #3 which states that disclosure of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. This routine use will now state that release of the records to the DoJ is limited to circumstances where relevant and necessary to the litigation. VA may disclose records in this system of records in legal proceedings before a court or administrative body after determining that release of the records to the court or administrative body is limited to circumstances where relevant and necessary to the litigation.

Routine Use #10 is being amended from stating that any information in this system of records may be disclosed, in the course of presenting evidence in or to a court, magistrate, administrative tribunal, or grand jury, including disclosures to opposing counsel in the course of such proceedings or in settlement negotiations. This

routine use will now state that any relevant and necessary information in this system of records may be disclosed to support the litigation, in the course of presenting evidence in or to a court, magistrate, administrative tribunal, or grand jury, including disclosures to opposing counsel in the course of such proceedings or in settlement negotiations.

Routine Use #14 is clarifying the language to state, “VA may disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records; (2) VA has determined that as a result of the suspected or confirmed breach there is a risk to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, or persons is reasonably necessary to assist in connection with VA efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.”

Routine use #15 is being added to state, “VA may disclose information from this system of records to another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach. VA needs this routine use for the data breach response and remedial efforts with another Federal agency.

Routine use #16 is being added to state VA may disclose information from this

system to the Office of the Special Counsel for investigation and inquires of alleged or possible prohibited personnel practices. VA needs this routine use to insist in informal inquires as required by statute and regulation.

**Signing Authority:** The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. James P. Gfrerer, Assistant Secretary for Information and Technology and Chief Information Officer, Department of Veterans Affairs, approved this document on May 13, 2019 for publication.

Dated: February 4, 2020.

Amy L. Rose,  
Program Analyst,  
VA Privacy Service,  
Department of Veterans Affairs.

**SYSTEM NAME AND NUMBER:** "Investigative Database-OMI-VA" (162VA10E1B)

**SECURITY CLASSIFICATION:** Unclassified.

**SYSTEM LOCATION:** The main Office of the Medical Inspector (OMI) records are maintained in secure files within the OMI and indexed on a secure document management server within the Department of Veterans Affairs (VA) Central Office firewall. Additional records are maintained by the Austin Information Technology Center, 1615 Woodward Street, Austin, Texas 78772, and subject to their security control.

**SYSTEM MANAGER(S):** Official maintaining this system of records: Correspondence Analyst, OMI (10E1B), 810 Vermont Avenue, NW, Washington, DC 20420.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:** Title 38 U.S.C. 501.

**PURPOSE(S) OF THE SYSTEM:** The records and information of this database may be used to document the investigative activities of the OMI; to perform statistical analysis to produce various management and follow-up reports; and to monitor the activities of VA Medical Centers in fulfilling action plans developed in response to OMI reports. The data may be used for VA's extensive quality improvement programs in accordance with VA policy. In addition, the data may be used for law enforcement investigations. Survey data will be collected for the purpose of measuring and monitoring various aspects and outcomes of National, Veterans Integrated Service Network (VISN) and Facility-Level performance. Results of the survey data analysis are shared throughout the Veterans Health Administration (VHA) system.

**CATEGORIES OF INDIVIDUALS COVERED BY THIS SYSTEM:** The records contain information for individuals (1) Receiving health care from the VHA, and (2) VHA providers that are providing the health care. Individuals encompass Veterans and their immediate family members, members of the armed services, current and former employees, trainees, contractors, subcontractors, consultants, volunteers, and other individuals working collaboratively with VA.

**CATEGORIES OF RECORDS IN THE SYSTEM:** The records may include information and health information related to:

1. Patient medical record abstract information including information from Patient Medical Record—VA (24VA10P2);
2. Identifying information (e.g., name, birth date, death date, admission date, discharge date, gender, Social Security number, taxpayer identification number); address information (e.g., home and/or mailing address, home and/or cell telephone number, emergency contact information such as name, address, telephone number, and relationship); prosthetic and sensory aid serial numbers; medical record numbers; integration control numbers; information related to medical examination or treatment (e.g., location of VA medical facility providing examination or treatment, treatment dates, medical conditions treated or noted on examination); information related to military service and status;
3. Medical benefit and eligibility information;

4. Patient aggregate workload data such as admissions, discharges, and outpatient visits; resource utilization such as laboratory tests, x rays, and prescriptions;
5. Patient Satisfaction Survey Data which include questions and responses;
6. Data capture from various VA databases. According to VHA Directive 1038 of August 2, 2017, Role of the Office of the Medical Inspector, Paragraph 4f., “OMI, as a component of VHA, has legal authority under applicable Federal privacy laws and regulations to access and use any information, including health information, maintained in VHA records for the purposes of health care operations and health care oversight.”; and
7. Documents and reports produced and received by OMI in the course of its investigations.

**RECORD SOURCE CATEGORIES:** Information in this system of records is provided by Veterans, VA employees, VA computer systems, Veterans Health Information Systems and Technology Architecture (VistA), VA medical centers, VA Health Eligibility Center, VA program offices, VISNs, Austin Information Technology Center, the Food and Drug Administration, the Department of Defense, Survey of Healthcare Experiences of Patients, External Peer Review Program, and the following Systems Of Records: “Patient Medical Records—VA” (24VA10P2), “National Prosthetics Patient Database—VA” (33VA113), “Income Verification Records-VA” (89VA10NB), VA Veterans Benefits Administration automated record systems (including the Veterans and Beneficiaries Identification and Records Location Subsystem—VA (38VA23), and subsequent iterations of those systems of records.



**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

1. Disclosure may be made to a Congressional office from the record or an individual in response to an inquiry from the Congressional office made at the request of that individual.
2. Disclosure may be made to National Archives and Records Administration in records management inspections conducted under authority of title 44 United States Code.
3. VA may disclose information in this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is limited to circumstances where relevant and necessary to the litigation. VA may disclose records in this system of records in legal proceedings before a court or administrative body after determining that release of the records to the court or administrative body is limited to circumstances where relevant and necessary to the litigation.
4. Any information in this system, except the name and address of a Veteran, may be disclosed to a Federal, State, or local agency maintaining civil or criminal violation records or other pertinent information such as prior employment history, prior Federal employment background investigations, and/or personal or educational

background in order for VA to obtain information relevant to the hiring, transfer, or retention of an employee, the letting of a contract, the granting of a security clearance, or the issuance of a grant or other benefit. The name and address of a Veteran may be disclosed to a Federal agency under this routine use if this information has been requested by the Federal agency in order to respond to the VA inquiry.

5. VA may disclose any information in this system, except the names and home addresses of Veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a State, local or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. VA may also disclose the names and addresses of Veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.
6. To assist attorneys in representing their clients, any information in this system may be disclosed to attorneys representing subjects of investigations, including Veterans, Federal government employees, retirees, volunteers, contractors, subcontractors, or private citizens.
7. Disclosure of information to Federal Labor Relations Authority, including its General Counsel, when requested in connection with the investigation and resolution of

allegations of unfair labor practices, in connection with the resolution of exceptions to arbitrator awards when a question of material fact is raised, in connection with matters before the Federal Service Impasses Panel, and to investigate representation petitions and conduct or supervise representation elections.

8. Information may be disclosed to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, compliance with the Uniform Guidelines of Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.
9. To disclose information to officials of the Merit Systems Protection Board, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.
10. Any relevant and necessary information in this system of records may be disclosed to support the litigation, in the course of presenting evidence in or to a court, magistrate, administrative tribunal, or grand jury, including disclosures to opposing counsel in the course of such proceedings or in settlement negotiations.
11. Any information in this system, except the name and address of a Veteran, may be disclosed to Federal, State, or local professional, regulatory, or disciplinary organizations or associations, including but not limited to bar associations, State licensing boards, and similar professional entities, for use in disciplinary proceedings

and inquiries preparatory thereto, where VA determines that there is good cause to question the legality or ethical propriety of the conduct of a person employed by VA or a person representing a person in a matter before VA.

12. Disclosure may be made to individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor, subcontractor, public or private agency, or other entity or individual with whom VA has an agreement or contract to perform the services of the contract or agreement.
13. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.
14. VA may disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records; (2) VA has determined that as a result of the suspected or confirmed breach there is a risk to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, or persons is reasonably necessary to assist in connection with VA efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
15. VA may disclose information from this system to another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a

suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

16. VA may disclose information from this system to the Office of the Special Counsel for investigation and inquires of alleged or possible prohibited personnel practices.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:** Records are maintained on paper and on electronic storage media, including magnetic tape, disk, encrypted flash memory, and laser optical media.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:** Records are retrieved by name, Social Security number, or other assigned identifiers of the individuals on whom they are maintained.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:** The records are disposed of in accordance with Section XXXV—Office of the Medical Inspector (10E1B) of the Veterans Health Administration Records Control Schedule 10–1 of January 2016, which stipulates that records from investigations not involving site visits will be destroyed 10 years after closure; records from investigations involving site visits will be destroyed 20 years after closure.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

1. Access to and use of national patient databases are limited to those persons whose official duties require such access, and VA has established security procedures to ensure that access is appropriately limited. Information security officers and system data stewards review and authorize data access requests. VA regulates data access with security software that authenticates users and requires individually unique codes and passwords. VA provides information security training to all staff and instructs staff on the responsibility each person has for safeguarding data confidentiality.
2. VA maintains Business Associate Agreements and Non-Disclosure Agreements with contracted resources in order to maintain confidentiality of the information.
3. Physical access to computer rooms housing national patient databases is restricted to authorized staff and protected by a variety of security devices. Unauthorized employees, contractors, and other staff are not allowed in computer rooms. The Federal Protective Service or other security personnel provide physical security for the buildings housing computer rooms and data centers.
4. All materials containing real or scrambled Social Security numbers are kept only on secure, encrypted VHA servers, personal computers, laptops, or media. All Email transmissions of such files use Public Key Infrastructure (PKI) encryption. If a recipient does not have PKI, items are mailed or sent to a secure fax. Paper records containing Social Security numbers are secured in locked cabinets or offices within the OMI area. Access to OMI requires passing a security officer, an elevator card reader for floor access and a separate VHA card reader for access to the office area. All materials, both paper and electronic, that are no longer required are shredded/obliterated in accordance with VHA guidelines. Materials required for case documentation and follow

up are archived in our secure document management server (electronic) and in locked storage (paper).

5. In most cases, copies of back-up computer files are maintained at off-site locations.

**RECORD ACCESS PROCEDURE:** Individuals seeking information regarding access to and contesting of records in this system may write or call Correspondence Analyst, OMI, 810 Vermont Avenue, NW, Washington, DC 20420, 202-461-1030.

**CONTESTING RECORD PROCEDURES:** (See Record Access Procedures).

**NOTIFICATION PROCEDURE:** Individuals who wish to determine whether this system of records contains information about them should contact Correspondence Analyst, OMI, 810 Vermont Avenue, NW, Washington, DC 20420. Inquiries should include the person's full name, Social Security number, location and dates of employment or location and dates of treatment and return address.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:** None.

**HISTORY:** Last full publication provided in 75 FR 26847 dated May 12, 2010.

[FR Doc. 2020-02482 Filed: 2/6/2020 8:45 am; Publication Date: 2/7/2020]