



## **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:** Pursuant to the Privacy Act of 1974, notice is hereby given that the Department of Veterans Affairs (VA) is modifying the system of records titled, “Litigation Files—VA” (16VA026). This system contains records pertaining to legal advice, services, and representation by the VA Office of General Counsel (OGC) in all cases, controversies, claims, and administrative investigations involving the Department.

**DATES:** Comments on the amended 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, these revisions will become effective a minimum of 30 days after date of publication in the Federal Register. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary.

**ADDRESSES:** Comments may be submitted through [www.Regulations.gov](http://www.Regulations.gov) or mailed to VA Privacy Service, 810 Vermont Avenue, NW, (005X6F) Washington, DC 20420. Comments should indicate that they are submitted in response to “Office of General Counsel (OGC) Legal and Litigation Files-VA” (16VA026). Comments received will be available at [regulations.gov](http://regulations.gov) for public viewing, inspection, or copies.

**FOR FURTHER INFORMATION CONTACT:** OGC Management, Planning, and Analysis (MPA), Knowledge Management (KM) at: [OGCMPAKM@va.gov](mailto:OGCMPAKM@va.gov); OGC MPA, 810 Vermont Ave, NW, Washington DC 20420; telephone (202) 461-7624 (This is not a toll-free number).

## **SUPPLEMENTARY INFORMATION:**

VA is amending the system of records by revising the System Name, System Location, System Manager, Purpose, Categories of Records, Records Source Categories, Routine Uses of Records Maintained in the System, Policies and Practices for Retention and Disposal of Records, and Policies and Practices for Retrieval of Records. VA is republishing the system notice in its entirety.

The System Name is being updated from “Litigation Files—VA” to “Office of General Counsel (OGC) Legal and Litigation Files-VA” to more accurately reflect the files included in the system.

The Security Classification of “unclassified” is being added.

The System Location is being updated to more accurately reflect OGC’s current organization and records management practices.

The System Manager is being updated to reflect OGC’s current organizational structure and responsibilities. The new System Manager is “Executive Director, OGC Management, Planning, and Analysis (MPA)(026), at: OGC026Management@va.gov; 810 Vermont Ave NW, Washington DC, 20420; telephone (202) 461-7624 (This is not a toll-free number).”

The Purpose is being updated to reflect that the records included in the system are the legal and litigation case files used by OGC to provide legal and litigation services to VA.

The Categories of Records in the System are being updated to more accurately describe the records maintained in the system.

The Records Source Categories are being updated to include VA employees, VA contractors, and prospective VA contractors and others seeking to enter into agreements with or obtain resources from VA.

VA is replacing the Routine Uses with the following:

1. Congress: To a Member of Congress or staff acting upon the Member’s behalf when

the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

2. Data Breach Response and Remediation, for VA: 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 of harm 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, and persons is reasonably necessary to assist in connection with VA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
3. Data Breach Response and Remediation, for Another Federal Agency: 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.
4. Law Enforcement Authorities, for Reporting Violations of Law: To a Federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility of investigating or prosecuting a violation or potential violation of law, whether civil, criminal, or regulatory in nature, or charged with enforcing or implementing such law, provided that the disclosure is limited to information that, either alone or in conjunction with other information, indicates such a violation or potential violation. A disclosure of information about veterans or their beneficiaries from VA claims files under this routine use must also comply with the provisions of 38 U.S.C. 5701(f).

5. Department of Justice (DoJ): To DoJ when any of the following is a party to pending or reasonably anticipated litigation before any court, adjudicative, or administrative body or has an interest in such litigation, and VA determines that the use of the records by DoJ is relevant and necessary to the litigation:
  - (a) VA or any component thereof;
  - (b) A VA employee in their official capacity;
  - (c) A VA employee in their individual capacity where DoJ has agreed to represent the employee; or
  - (d) The United States, where VA determines that litigation is likely to affect VA or any of its components.
6. Contractors: To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for VA, when reasonably necessary to accomplish an agency function related to the records.
7. Equal Employment Opportunity Commission (EEOC): To the EEOC in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law.
8. Federal Labor Relations Authority (FLRA): To the FLRA in connection with the investigation and resolution of allegations of unfair labor practices, the resolution of exceptions to arbitration awards when a question of material fact is raised, matters before the Federal Service Impasses Panel, and the investigation of representation petitions and the conduct or supervision of representation elections.
9. Merit Systems Protection Board (MSPB): To the MSPB 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 authorized by law.

10. National Archives and Records Administration (NARA): To NARA in records management inspections conducted under 44 U.S.C. 2904 and 2906, or other functions authorized by laws and policies governing NARA operations and VA records management responsibilities.
11. Office of Personnel Management (OPM), for Civil Service Matters: To OPM in connection with the application or effect of civil service laws, rules, regulations, or OPM guidelines in particular situations.
12. Federal Agencies, for Fraud or Abuse: To other Federal agencies to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.
13. Former Employee or Contractor, Representative, for Litigation Involving VA: To a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in defense of or in reasonable anticipation of a tort claim, litigation, or other administrative or judicial proceeding involving VA when the Department requires information or consultation assistance from the current or former employee or contractor in connection with their employment or contract with VA.
14. Federal Agencies, Courts, Litigants, for Litigation or Administrative Proceedings: In a pending or reasonably anticipated proceeding before any court, adjudicative, or administrative body, when VA determines that the records are relevant and necessary to the proceeding in accordance with applicable laws, rules, and agency policies.
15. Domestic and Foreign Agencies for Reimbursement of VA and Debt Collection: To a Federal, State, local, or foreign agency, insurance carriers, other individuals from

whom the VA is seeking reimbursement and other parties litigant or having an interest in administrative, prelitigation, litigation and post-litigation phases of a case or controversy, provided, that the name and address of a veteran can only be disclosed under this routine use if the release is for a VA debt collection proceeding, or if the name and address has been provided to the VA by the party seeking the information.

16. Former Employee or Contractor, Representative, for EEOC: To a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in connection with investigations by the EEOC pertaining to alleged or possible discrimination practices, examinations of Federal affirmative employment programs, or other functions of the Commission as authorized by law or regulation.
17. Treasury, for Withholding: To the Department of the Treasury for the collection of title 38 benefit overpayments, overdue indebtedness, or costs of services provided to an individual not entitled to such services, by the withholding of all or a portion of the person's Federal income tax refund, provided that the disclosure is limited to information concerning an individual's indebtedness by virtue of a person's participation in a benefits program administered by VA.
18. Consumer Reporting Agencies: To a consumer reporting agency for the purpose of locating the individual, obtaining a consumer report to determine the ability of the individual to repay an indebtedness to the United States, or assisting in the collection of such indebtedness, provided that the provisions of 38 U.S.C. 5701(g)(2) and (4) have been met, provided that the disclosure is limited to information that is reasonably necessary to identify such individual or concerning that individual's indebtedness to the United States by virtue of the person's participation in a benefits program administered by the Department.

Policies and Practices for Storage of Records is being modified to reflect, "Records in

this system are stored on a secured server under the control of VA Office of Information and Technology (OIT).”

Policies and Practices for Retention and Disposal of Records is being modified to identify the records control schedule that governs the retention and disposition of records in this system.

Records Access Procedures, Contesting Records Procedures, and Notification Procedures are being modified to address the exemption of this system of records pursuant to subsection (d)(5) of the Privacy Act.

### **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. Eddie Pool, Deputy Chief Information Officer, Connectivity and Collaboration Services, Performing the Delegable Duties of the Assistant Secretary for Information and Technology and Chief Information Officer, approved this document on April 17, 2025 for publication.

Dated: 8/13/2025.

**Saurav Devkota,**

*Government Information Specialist,*

*VA Privacy Service,*

*Office of Compliance, Risk and Remediation,*

*Office of Information and Technology,*

*Department of Veterans Affairs.*

**SYSTEM NAME AND NUMBER:** "Office of General Counsel (OGC) Legal and Litigation Files-VA" (16VA026).

**SECURITY CLASSIFICATION:** Unclassified.

**SYSTEM LOCATION:** The system of records is located in the Office of the General Counsel (OGC), Department of Veterans Affairs (VA), 810 Vermont Avenue, NW, Washington, DC 20420 and in other OGC offices in various locations. Records are stored on secured servers under the control of the VA Office of Information and Technology (OIT).

**SYSTEM MANAGER(S):** Executive Director, OGC Management, Planning, and Analysis (MPA)(026), at: OGC026Management@va.gov; 810 Vermont Ave NW, Washington DC, 20420; telephone (202) 461-7624 (This is not a toll-free number).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:** 38 U.S.C. 501; and 38 U.S.C. 311.

**PURPOSE(S) OF THE SYSTEM:** The purpose of this system is to maintain records pertaining to legal advice, services, and representation by OGC in all cases, controversies, claims, and administrative investigations involving the Department.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:** The record includes information concerning Veterans and their beneficiaries, current and former employees, current and former contractors employed by VA, medical service providers, veterans' claims representatives, veterans' service organizations, litigants and their attorneys, Federal and state agencies, insurance carriers, witnesses, or any other interested parties to VA operations and proceedings.

**CATEGORIES OF RECORDS IN THE SYSTEM:** Records in the system include the name of an individual or business entity, and may contain Social Security Number, partial address (city, state, and zip code), date of birth, Veterans' claim number, financial records, and medical records. Records also include correspondence, legal

analysis, legal and government ethics opinions, legal reviews, pleadings, motions, contracting documents, agreements, and other case notes and documents relevant to the matters contained therein.

**RECORD SOURCE CATEGORIES:** Record sources include VA employees, VA contractors and prospective VA contractors and others seeking to enter into agreements with or obtain resources from VA, courts, Veterans, beneficiaries and dependents of Veterans, litigants and their attorneys, Federal and state agencies, insurance carriers, witnesses, and other interested parties to VA operations and proceedings.

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

**1. Congress**

To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

**2. Data Breach Response and Remediation, for VA**

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 of harm 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, and persons is reasonably necessary to assist in connection with VA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

**3. Data Breach Response and Remediation, for Another Federal Agency**

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.

**4. Law Enforcement Authorities, for Reporting Violations of Law**

To a Federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility of investigating or prosecuting a violation or potential violation of law, whether civil, criminal, or regulatory in nature, or charged with enforcing or implementing such law, provided that the disclosure is limited to information that, either alone or in conjunction with other information, indicates such a violation or potential violation. A disclosure of information about veterans or their dependents from VA claims files under this routine use must also comply with the provisions of 38 U.S.C. 5701(f).

**5. Department of Justice (DoJ)**

To DoJ when any of the following is a party to pending or reasonably anticipated litigation before any court, adjudicative, or administrative body or has an interest in such litigation, and VA determines that the use of the records by DoJ is relevant and necessary to the litigation:

- (a) VA or any component thereof;
- (b) Any VA employee in their official capacity;
- (c) Any VA employee in their individual capacity where DoJ has agreed to represent the employee; or
- (d) The United States, where VA determines that litigation is likely to affect VA or any of its components.

**6. Contractors**

To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for

VA, when reasonably necessary to accomplish an agency function related to the records.

**7. Equal Employment Opportunity Commission (EEOC)**

To the EEOC in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law.

**8. Federal Labor Relations Authority (FLRA)**

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

**9. Merit Systems Protection Board (MSPB)**

To the MSPB 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 authorized by law.

**10. National Archives and Records Administration (NARA)**

To NARA in records management inspections conducted under 44 U.S.C. 2904 and 2906, or other functions authorized by laws and policies governing NARA operations and VA records management responsibilities.

**11. Office of Personnel Management (OPM), for Civil Service Matters**

To OPM in connection with the application or effect of civil service laws, rules, regulations, or OPM guidelines in particular situations.

**12. Federal Agencies, for Fraud or Abuse**

To other Federal agencies to assist such agencies in preventing and detecting possible

fraud or abuse by individuals in their operations and programs.

**13. Former Employee or Contractor, Representative, for Litigation Involving VA**

To a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in defense of or in reasonable anticipation of a tort claim, litigation, or other administrative or judicial proceeding involving VA when the Department requires information or consultation assistance from the current or former employee or contractor in connection with their employment or contract with VA.

**14. Federal Agencies, Courts, Litigants, for Litigation or Administrative Proceedings**

In a pending or reasonable anticipated proceeding before any court, adjudicative, or administrative body, when VA determines that the records are relevant and necessary to the proceeding in accordance with applicable laws, rules, and agency policies.

**15. Domestic and Foreign Agencies for Reimbursement of VA and Debt Collection**

To a Federal, State, local, or foreign agency, insurance carriers, other individuals from whom the VA is seeking reimbursement and other parties litigant or having an interest in administrative, prelitigation, litigation and post-litigation phases of a case or controversy, provided, that the name and address of a veteran can only be disclosed under this routine use if the release is for a VA debt collection proceeding, or if the name and address has been provided to the VA by the party seeking the information.

**16. Former Employee or Contractor, Representative, for EEOC**

To a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in connection with investigations by the

EEOC pertaining to alleged or possible discrimination practices, examinations of Federal affirmative employment programs, or other functions of the Commission as authorized by law or regulation.

**17. Treasury, for Withholding**

To the Department of the Treasury for the collection of title 38 benefit overpayments, overdue indebtedness, or costs of services provided to an individual not entitled to such services, by the withholding of all or a portion of the person's Federal income tax refund, provided that the disclosure is limited to information concerning an individual's indebtedness by virtue of a person's participation in a benefits program administered by VA.

**18. Consumer Reporting Agencies**

To a consumer reporting agency for the purpose of locating the individual, obtaining a consumer report to determine the ability of the individual to repay an indebtedness to the United States, or assisting in the collection of such indebtedness, provided that the provisions of 38 U.S.C. 5701(g)(2) and (4) have been met, provided that the disclosure is limited to information that is reasonably necessary to identify such individual or concerning that individual's indebtedness to the United States by virtue of the person's participation in a benefits program administered by the Department.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:** Records in this system are stored on a secured server under the control of VA Office of Information and Technology (OIT).

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:** Records in this system are retrievable by the name of the individual, business or organization involved in the litigation.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:** Records in this system are retained and to be disposed of in accordance with the

schedule approved by the Archivist of the United States, OGC Records Control Schedule N1-15-06-2.

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

OGC will maintain the data in compliance with applicable VA security policy directives that specify the standards that will be applied to protect sensitive personal information. Further, only authorized individuals who have taken annual mandatory data privacy and security training may have access to the data and only when needed to perform their duties.

Access to data storage areas is restricted to authorized VA employees or contract staff who have been cleared to work by the VA Office of Security and Law Enforcement (OSLE). File areas are locked after normal duty hours. VA facilities are protected from outside access by the Federal Protective Service (FPS) and/or other security personnel. Security complies with applicable Federal Information Processing Standards (FIPS) issued by the National Institute of Standards and Technology (NIST). Contractors and their subcontractors who access the data are required to maintain the same level of security as VA staff. Access to electronic files is controlled by using an individually unique password entered in combination with an individually unique user identification code.

**RECORD ACCESS PROCEDURES:** This system of records is exempt pursuant to 5 U.S.C. § 552a(d)(5) from the access, amendment, and contest procedures of the Privacy to the extent that information in this system was compiled in anticipation of litigation. An individual who is the subject of a record in this system may seek access to any records pertaining to them that are not exempt by contacting the system manager in writing as indicated above. A request for access to records must contain the requester's full name, address, telephone number, be signed by the requester, and describe the records sought in sufficient detail to enable VA personnel to locate them

with a reasonable amount of effort. A determination whether a record may be accessed will be made at the time a request is received.

**CONTESTING RECORD PROCEDURES:** This system of records is exempt pursuant to 5 U.S.C. § 552a(d)(5) from the access, amendment, and contest procedures of the Privacy to the extent that information in this system was compiled in anticipation of litigation. An individual who is the subject of a record in this system may seek to contest or amend any records pertaining to them that are not exempt by contacting the system manager in writing as indicated above. A request to contest or amend records must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record. A determination whether a record may be contested or amended will be made at the time a request is received.

**NOTIFICATION PROCEDURES:** Individuals who wish to be notified if a record in this system of records pertains to them should submit the request following the procedures described in "Record Access Procedures," above.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:** Records in this system that were compiled in reasonable anticipation of a civil action or proceeding are exempt pursuant to 5 U.S.C. § 552a(d)(5) from subsections (d)(1), (2), (3), and (4).

**HISTORY:** 47 FR 1463 (January 13, 1982); 48 FR 17687 (April 25, 1983); 74 FR 11182 (March 16, 2009).