



4191-02U

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 401

[Docket No. SSA-2015-0003]

RIN 0960-AI08

Social Security Administration Violence Evaluation and Reporting System

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are issuing a final rule to exempt a system of records entitled Social Security Administration Violence Evaluation and Reporting System (SSAvers) from certain provisions of the Privacy Act because this system will contain investigatory material compiled for law enforcement purposes.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Pamela J. Carcieri, Supervisory Government Information Specialist, SSA, Office of Privacy and Disclosure, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, Phone: (410) 965-0355, for information about this rule. For information on eligibility or filing for benefits, call our

national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

## SUPPLEMENTARY INFORMATION:

### Background

On June 14, 2018, we published a Notice of Proposed Rulemaking (NPRM)<sup>1</sup> in the *Federal Register* in which we proposed to add SSAvers to the list of SSA systems that are exempt from specific provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). As part of our Workplace and Domestic Violence policy and program, SSAvers houses information regarding alleged incidents of workplace and domestic violence filed by SSA employees and contractors. It also provides a centralized means for us to review and respond to the reported allegations.

This final rule adds SSAvers to the list of SSA systems that are exempt from specific provisions of the Privacy Act due to the investigatory nature of information that is maintained in this system.

### Public Comments and Discussion

In the NPRM, we provided a 30-day comment period, which ended on July 16, 2018. We received four comments.<sup>2</sup> We opted not to post one of these comments because it was submitted by a former SSA employee and it contained sensitive information. The remaining comments were submitted by members of the public.

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<sup>1</sup> 83 FR 27728

<sup>2</sup> The posted public comments are viewable at <https://www.regulations.gov/docket?D=SSA-2015-0003>.

The first commenter indicated that he or she did not understand the comment and review. While we regret that this commenter did not understand the proposal, we did not consider this comment further when determining to adopt this as a final rule.

The second commenter agreed with the new system of records and said it is imperative to have a system, like SSAvers, which will help review and investigate allegations of workplace or domestic violence. She said it would be convenient to make a reporting system that is easy to access and that removes the burden of the long process of reporting an occurrence.

The third commenter objected to our proposal, because, in the commenter's opinion, the proposal is against public policy and defeats the purpose of the Privacy Act and the Freedom of Information Act (FOIA). The commenter said that by making results of investigations inaccessible, it is impossible to know whether the perpetrators of workplace and domestic violence are held accountable. The commenter wrote that by denying everyone access to the information obtained from these investigations, SSA places the cost and burden of conducting the same investigation on others, especially the victims who have a special interest in knowing that the perpetrators of the violence are held accountable.

We carefully considered this comment and the objections presented. In response, we want to emphasize that SSAvers contains information we collect about not just alleged victims of workplace violence, but any employees, contractors, and members of the public who are witnesses of, involved in responding to, or allegedly involved in workplace and domestic violence affecting our employees and contractors. This highly sensitive information may include the name and contact information of individuals

involved; personal information related to alleged behaviors of concern and assessing the risk of violence; and our response and recommendations to mitigate risks of violence.

Due to the investigatory and sensitive nature of the content contained in this system, we continue to believe that exempting this system of records from certain provisions of the Privacy Act based on 5 U.S.C. 552a(k)(2) is appropriate.

Further, we want to clarify that, under the Privacy Act, an individual may request notification of or access to a record in this system, even though SSAvers is listed as an exempt system. We may still grant notification of and access to information contained in a record in an exempt system when the privacy of third parties would not be compromised by such action. In addition, an individual may still request these records under the FOIA, and SSA would release the records as required by law.

After carefully considering the public comments, we are adopting this final rule.

## REGULATORY PROCEDURES

### Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, OMB did not review it.

We also determined that this final rule meets the plain language requirement of Executive Order 12866.

#### Executive Order 13132 (Federalism)

We analyzed this rule in accordance with the principles and criteria established by Executive Order 13132, and we determined that the rule will not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. We also determined that this rule will not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

#### Executive Order 12372 (Intergovernmental Review)

The regulations effectuating Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this rule.

#### Regulatory Flexibility Act

We certify that this rule will not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

#### EO 13771

This rule is not subject to the requirements of Executive Order 13771 because it is administrative in nature and results in no more than de minimis costs.

#### Paperwork Reduction Act

These rules do not create any new or affect any existing collections and, therefore, do not require OMB approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; and 96.006, Supplemental Security Income).

List of Subjects in 20 CFR Part 401

Administrative practice and procedure, Privacy.

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Nancy A. Berryhill,

Acting Commissioner of Social Security.

For the reasons stated in the preamble, we amend part 401 of title 20 of the Code of Federal Regulations as set forth below:

**PART 401—PRIVACY AND DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION**

1. The authority citation for part 401 continues to read as follows:

Authority: Secs. 205, 702(a)(5), 1106, and 1141 of the Social Security Act (42 U.S.C. 405, 902(a)(5), 1306, and 1320b-11); 5 U.S.C. 552 and 552a; 8 U.S.C. 1360; 26 U.S.C. 6103; 30 U.S.C. 923.

2. Amend § 401.85 by adding paragraph (b)(2)(ii)(G) to read as follows:

**§ 401.85 Exempt systems.**

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(b)\*\*\*

(2) \* \* \*

(ii) \* \* \*

(G) Social Security Administration Violence Evaluation and Reporting System, SSA.

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[FR Doc. 2018-26594 Filed: 12/7/2018 8:45 am; Publication Date: 12/10/2018]