

**Version 1.0 October 2002 (the "PRIA License" or the "License")**

This document or software (the "Work") is published by the Property Records Industry Association ("PRIA"). Copyright © 2002 - writers referenced at [www.pria.us](http://www.pria.us) (collectively or individually, a "Licensor"). All rights reserved.

Subject to this License, Licensor hereby grants any user of this document ("Licensee") a worldwide, royalty-free, irrevocable, perpetual, non-exclusive license to reproduce the Work in copies, to prepare proprietary derivative works based upon the Work, to distribute copies of the Work to the public by sale or other transfer of ownership, and to display the Work publicly.

If the Work is software published by PRIA as codes in source and binary form, the License includes the right for Licensee to distribute copies of, and use, the codes in source and binary forms, with or without modification. Any distribution of copies of the Work, or of a derivative work based upon the Work, shall reproduce verbatim the above copyright notice, the entire text of this License and the entire disclaimer below under the following header: "This document includes works developed by PRIA and some of its contributors, subject to PRIA License, Version 1.0 October 2002 published at [www.pria.us](http://www.pria.us) or any subsequent applicable version of such License." Any software application developed by Licensee based upon the Work shall include the following notice in its end user documentation and in its codes: "This software product includes software or other works developed by PRIA and some of its contributors, subject to PRIA License, Version 1.0 October 2002 published at [www.pria.us](http://www.pria.us) or any subsequent applicable version of such License." Upon publication of a derivative work, Licensee shall inform PRIA of such publication and address to PRIA a copy of Licensee's derivative work and any relevant documentation.

"PRIA" is a trade name of the "Property Records Industry Association." No derivative work or altered versions of a Work by Licensee may be trademarked or labeled in reference to PRIA or any of its trademark(s) or service mark(s) without PRIA's prior written approval. No reference to PRIA or any of its trademarks by Licensee shall imply endorsement of Licensee's activities and products.

**DISCLAIMER: THIS WORK IS PROVIDED "AS IS." PRIA, THE COPYRIGHT HOLDER, THE AUTHORS OF THIS WORK AND ANY STANDARD-SETTING BODY CONTRIBUTORS TO THIS WORK MAKE NO REPRESENTATIONS OR WARRANTIES (i) EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT; (ii) THAT THE CONTENTS OF SUCH WORK ARE FREE FROM ERROR OR SUITABLE FOR ANY PURPOSE; NOR THAT IMPLEMENTATION OF SUCH CONTENTS WILL NOT INFRINGE ANY THIRD-PARTY PATENTS, COPYRIGHTS, TRADEMARKS OR OTHER RIGHTS. IN NO EVENT WILL PRIA, THE COPYRIGHT HOLDER, ANY AUTHOR OF THIS WORK, OR THE STANDARD-SETTING BODY CONTRIBUTORS TO THIS WORK BE LIABLE TO ANY PARTY FOR ANY DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES FOR ANY USE OF THIS WORK, INCLUDING,**

**WITHOUT LIMITATION, ANY LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF PROGRAMS OR OTHER DATA ON YOUR INFORMATION HANDLING SYSTEM OR OTHERWISE, EVEN IF PRIA, THE COPYRIGHT HOLDER AND/OR ANY AUTHORS AND/OR ANY STANDARD-SETTING BODY CONTRIBUTORS TO THIS WORK ARE EXPRESSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

# **Addressing The Military Discharge Paper Confidentiality Problem**

**Suggested Statutory Language  
Based on a Review of Current Statutes**

General Purpose Statute section approved by the Executive Board of the Property Records Industry Joint Task Force on February 28, 2003 for immediate distribution in order to assist state legislatures in their 2003 sessions.

Other sections of this paper and the Appendixes have not yet been approved as they are in draft form. They are included as background to the General Purpose Statute. The Workgroup apologizes for any typographical errors in those drafts.

## Table of Contents

<b>1. Introduction.....</b>	<b>3</b>
<b>2. A General Purpose Statute.....</b>	<b>5</b>
<b>3. Components of Military Discharge Papers Safekeeping Legislation.....</b>	<b>8</b>
<b>4. Objections to Making Military Discharge Records Confidential.....</b>	<b>18</b>
<b>5. Obtaining Military Discharge Information from the Federal Government.....</b>	<b>21</b>
<b>6. Request Form Examples.....</b>	<b>23</b>

### Appendixes

Appendixes are contained in separate documents.

#### **1. State Summary Chart.....State Summary.doc**

Each state has enacted laws that apply to the acceptance, recording and access to copies of military discharge papers. This appendix summarizes the laws in those states that have enacted restrictions on access to these papers.

#### **2. State Statutes .....State Summary.doc**

This appendix quotes the enacted and proposed laws in each of the states regarding confidentiality of military discharge papers, summarized in Appendix 1.

### **Web Site with Information about the Military Discharge Laws in Each State**

Information contained in the Appendixes can also be found at the website of the National Association of County Veterans Service Officers at [www.nacvso.org](http://www.nacvso.org)—Click on DD 214 Security in the list on the left.

## **Acknowledgments and Disclaimer**

This paper was prepared by a Workgroup of the Records Access Policy Committee of the Property Records Industry Association. The committee and Workgroup are chaired by Carl R. Ernst and Steve McDonald.

Many participants from the public and private sectors involved in the process of recording real estate transactions were part of the Workgroup that reviewed the information presented in this paper, both by email and in person at the February 2003 meeting of the Task Force. We thank everyone for their participation and input. The National Association of County Veterans Service Officers also participated as a full partner in the review and preparation of this document, and has posted related materials on its web site at [www.nacvso.org](http://www.nacvso.org).

None of the recommendations or opinions stated in this paper should be construed as representing the official position of any individual member, association or company involved in the review process.

## **Permission to Copy and Use**

Although copyrighted as a matter of policy by the Property Records Industry Association (PRIA), copy and use of these materials by any Recorder, Veterans Service Officer, state legislator and others with an interest in the subject is approved and encouraged. PRIA would appreciate acknowledgement that the work of PRIA was helpful in the legislative process.

Last Updated: March 6, 2003

# 1. Introduction

The term the term “military discharge papers” includes all those forms that a veteran receives when he or she retires from military service in the armed forces of the US or a state. Historically, the armed services have—until recently—urged veterans to file or record such papers for safekeeping in a land recording office so that certified copies of the papers would be available at the time many years later when the veteran needs to apply for veterans’ benefits from a state or from the federal government. The original or a certified copy of such papers is typically required to obtain such benefits. In most states, these papers have been recorded with land documents, and, once they are recorded, anyone could obtain copies.

However, as illustrated by the web-based example available by following the instructions below,<sup>1</sup> these papers contain a number of items of sensitive personal information that no veteran would have wanted to make a matter of public record, including:

- (1) Wounds;
- (2) Personal physical characteristics;
- (3) Social security number;
- (4) Parents’ names; and
- (5) Date and place of birth.

It has been reported by a veterans’ organization that information from these papers has been used to commit identity theft. As a result of this report, the armed services no longer recommends how to safekeep these papers. In Washington State, which passed a confidentiality bill effective July 1, 2002, it is reported that as a result of the armed forces no longer recommending filing of discharge papers in county offices for safekeeping, the number of discharge papers filed in 2002 was down almost 40% from the prior year.

The Workgroup believes that making these papers public records was never the intent of veterans or legislatures. Rather, the intent was to assist veterans by safekeeping their papers in a confidential manner. To accomplish this objective of confidentiality, a growing number of states, including a number that has enacted new legislation in 2002 or proposed it in 2003, have restricted access to these papers to relatives and others with a legally approved interest in the document.

Legislators in those states where the papers are still public information are currently considering how to deal with two problems:

- (1) How can such papers recorded in the future be protected from public disclosure, and
- (2) Is it possible to protect already-filed papers from further public disclosure, and if so, how can it be done?

The Military Discharge Papers Workgroup has defined the following objectives in order to address these two problems.

---

## <sup>1</sup> Example of Internet-Available DD214’s

To get an idea why people think having these records public, especially on the Internet, is so upsetting, look at an example on the web. Assume you are a young man named Tim Nissen living in Jefferson County, TN.

1. Go to [www.titlesearch.com](http://www.titlesearch.com)
2. Sign up for the 15 day free trial
3. Go to search records in Jefferson County, TN
4. Choose to search by instrument type
5. Enter Type “MD” for military discharges
6. Enter the starting date 01011900
7. Click on the first one; it’s Tim.

1. Bring together information about the issue, including existing legislation protecting the confidentiality of these records in states where such protection exists.
2. Coordinate efforts with other government agencies (e.g., GAO, NACVSO-Veterans Services Officers) that are actively researching this issue.
3. Bring together with government agencies those veteran (consumer) advocacy groups that are concerned with disclosure of individual identifying information and private sector interests (e.g., real estate industry) that are concerned with restrictions that may be placed on access to legitimate public records.
4. Develop consensus among all interested parties about the best ways (rules, legislation, education) to handle military discharge records.
5. Prepare and disseminate a position paper explaining the issue, explaining the practical considerations of recording office operations that affect solutions, and providing one or more solutions to the problem, including possible model legislation.

As a result of the deliberations of the Workgroup, PRIA offers the statutory language in the new two sections for consideration by all state legislatures dealing with these issues.

In the states of Arkansas and Missouri, legislation proposed in 2003 has met with some resistance from organizations representing the press in those states. Section 4 of this paper addresses questions raised by the press, and section 5 contains instructions for the press and others that wish to obtain military discharge papers information from the federal government.

## 2. A General Purpose Statute

The following legislative provisions and statutory language are suggested as a starting point for the deliberations in all states. It provides a template in those states where military discharge papers filed in recording offices are not now considered confidential, and it provides a standard for comparison to the existing statute in states where military papers are already considered confidential.

[Editor's Note: Examples of each provision in current law and a discussion of each provision appear in section 3 of this paper.]

### 1. Purpose

In recognition of the characteristics of military discharge documents, this act provides for confidential safekeeping of, and restricted access to, such documents to the extent practical, to protect the sensitive personal information of veterans who file these documents for safekeeping with [name filing offices] in this state.

### 2. Definitions

A. Authorized party—Three categories of authorized parties are recognized with respect to access to military discharge documents under section 6:

- (1) Subject of the document,
- (2) Agents and representatives of the subject authorized in a writing
  - (a) by the subject,
  - (b) by a court to represent subject, or
  - (c) by the subject's executor acting on behalf of a deceased subject.

Agents may include, but are not limited to, a relative, an attorney, an attorney-in-fact, a conservator, and a guardian.

- (3) Government agencies, including courts, with an interest in assisting the subject or the deceased subject's beneficiaries to obtain a benefit.

B. Filing office—The office where military discharge documents are recorded, registered, or filed in this state is [ ].

C. Military discharge document—Any document that purports to represent a notice of separation from or service in any armed forces of the United States or any state, including but not limited to Department of Defense form DD214.

### 3. Acceptance Policies

A. Subject to provision B, a military discharge document shall be accepted for filing upon presentation in person at the filing office by the individual named in the document.

B. The filing officer may refuse to accept any document

- (1) that is not submitted in person,
- (2) that is submitted by a person who is not a resident of [the state] [the county in which the filing office is located],
- (3) that is not (a) an original, (b) a carbon copy, or (c) a photographic copy certified by an agency of federal or state government, or
- (4) that appears to have erasures or other alterations.

### 4. Maintenance of the Record

A. Images of all military discharge documents filed on or after the effective date of this act will be kept separate from publicly-available document images.

B. For any military discharge document filed on or after the effective date of this act, the filing office will maintain separate from publicly-available information:

- (1) an image of the military discharge document, and
- (2) an index containing only:
  - (a) the name of the subject of the military discharge document; and
  - (b) the location of the image of the document.

C. No other information contained in these documents shall be maintained by the filing office in any database.

## **5. Forms of Access**

A. Each filing office will make available to the public, only in its office, the name of the subject of a military discharge documents on file with that filing office, as specified in section 4(B)(2)(a), but not the location of the image, as specified in section 4(B)(2)(b). The name of the subject will not be made available as part of any remote access system.

B. No copy of a military discharge document or any other information from such document shall be made available other than in accordance with section 6 or section 9.

C. Certified copy of a military discharge document will be made available only in accordance with section 6, and only by individual request. A certified copy shall include a notation: "Not to be used for identification purposes."

D. Uncertified copy of a military discharge document will be made available only in accordance with section 9, and only by individual request.

## **6. Access Restrictions**

Subject to the exception in section 9, a copy of a military discharge document shall only be made available to an authorized party, upon submission of a notarized request form, according to the rules adopted under section 7.

## **7. Request Forms**

A. The [appropriate filing office association of this state] shall adopt before the effective date of this act such request forms and associated rules as are required to implement the provisions of this act. All filing offices shall use the forms and comply with the rules, as adopted.

B. Completed request forms shall be kept for a period of [five] years, and shall be made available only upon a request in accordance with section 6.

## **8. Handling of Prior Records**

A. In the event images of military discharge documents have been commingled with publicly available document images prior to the effective date of this act in a filing office, the filing office shall comply with one of the following options:

(1) if the documents are indexed by subject name on computer as a separately identifiable type of document, the filing office will mark its computerized index in such a manner that the index conforms to the requirements of section 5(A); or

(2) if the documents are not indexed as a separately identifiable type of document, the subject may request the index entry of the subject's record to be marked in the computerized index in such a manner that the index conforms to the requirements of section 5(A).

B. In the event images of and the index to military discharge documents have not been commingled with other publicly available document images and their index prior to the effective date of this act in a filing office, the images and the index will be maintained according to sections 3 and 4, and are subject to all the provisions of this act that apply to newly filed documents.

## **9. Time Limitations on Confidentiality**

Section 6 shall not apply to images of military discharge documents that have been on file for at least [75] years.



## **10. Filing and Copy Fees**

There shall be no fee charged for filing military discharge documents or for providing certified copies of military discharge documents provided to those who have a right to access under section 6. The fee for an uncertified copy of a military discharge document that becomes public record under section 9 is [\$].

## **11. Funding**

Filing offices shall be responsible for the cost of compliance with this act.

## **12. Liability Limitation**

Recording officials shall not be liable for any damages that may result from good faith compliance with the provisions of this act.

## **13. Effective Date**

This act shall be effective on [], 2003.

## 3. Components of Military Discharge Papers Safekeeping Legislation<sup>2</sup>

### Introduction

As of February 2003 Appendix 1,<sup>3</sup> summarizing state statutes, indicates that there are still less than 20 states that restrict public access to military discharge papers filed or recorded for safekeeping in local government offices.

At the same time, there is a growing collection of statutes that have attempted to legislate a solution to the problem. Based on the statutes reprinted in Appendix 2,<sup>3</sup> this section analyzes how states have drafted their statutes. Thirteen component provisions of a comprehensive law are identified through this analysis. (Where a reference to a state is given in the following analysis, an example of the component wording may be found in the reprints in Appendix 2.<sup>3</sup>)

A comprehensive general purpose statute should address the following subject matter:

- (1) Purpose
- (2) Definitions
- (3) Acceptance Policies
- (4) Maintenance of the Record
- (5) Forms of Access
- (6) Access Restrictions
- (7) Request Forms
- (8) Handling of Prior Records
- (9) Time Limitations on Confidentiality
- (10) Filing and Copy Fees
- (11) Funding
- (12) Liability Limitation
- (13) Effective Date

Section 2 above is an example of a general purpose statute that contains the kinds of characteristics found in this analysis.

### 1. Purpose

A purpose component is a heading that explains the reason for the legislation. It may or may not be part of the body of the legislation, but summarizes what the legislation is trying to accomplish. The purpose of new legislation on this subject is to reduce the public availability of military discharge papers in order to discourage identity theft and other criminal activity based on information contained in these papers. However, there is a broader purpose that is more in line with the original intent of the laws that allowed recording of these papers, that is, to provide a place where veterans can safely store their military discharge papers (like a safe deposit box) so that the papers will be available decades later when necessary to obtain veterans' benefits that require presentation of an original or certified copy.

---

<sup>2</sup> [Editor's Note: This section contains descriptions of existing legislation and discussion of suggested legislation with respect to the handling of military discharge papers that have traditionally been filed for safekeeping with local county offices. This draft is only part of a position paper being developed jointly by the Property Records Industry Association (PRIA) and the National Association of County Veterans Services Officers (NACVSO) to provide guidance to state legislatures considering how to safeguard sensitive personal information contained in these filed military discharge papers. Nothing herein represents the official positions of PRIA or NACVSO, of the workgroup, or of any individual. Only position papers formally approved by the members of PRIA represent work product of PRIA.]

<sup>3</sup> Appendixes 1 and 2 are in a separate document. The first contains a summary by state of the provisions of statutes that deal with the filing, indexing and confidentiality of filed military discharge papers; the second contains reprints of actual state statutes. The content of these documents can also be accessed at [www.nacvso.org](http://www.nacvso.org).

Examples:

AN ACT relating to excepting military discharge records from required public disclosure and limiting the persons to whom the information may be disclosed. (TX proposed)

NOT A PUBLIC RECORD AND IS NOT SUBJECT TO INSPECTION OR DISCLOSURE; TO MAKE IT UNLAWFUL TO DISCLOSE INFORMATION CONTAINED IN THE RECORD; TO MAKE IT UNLAWFUL TO DISCLOSE INFORMATION CONTAINED IN THE RECORD; TO ENUMERATE WHO MAY EXAMINE OR OBTAIN A COPY OF SUCH RECORD; TO PROHIBIT THESE RECORDS FROM BEING USED FOR COMMERCIAL PURPOSES; AND TO PROHIBIT A PERSON WHO IS AUTHORIZED TO OBTAIN THIS INFORMATION FROM DISSEMINATING OR DISCLOSING SUCH INFORMATION” (SC)

The protection from identity theft for veterans who choose to file their **discharge papers** with the county auditor is a matter of gravest concern. At the same time, the integrity of the public record of each county is a matter of utmost importance to the economic life of this state and to the right of each citizen to be secure in his or her ownership of real property and other rights and obligations of our citizens that rely upon the public record for their proof. Likewise the integrity of the public record is essential for the establishment of ancestral ties that may be of interest to this and future generations. While the public record as now kept by the county auditors is sufficient by itself for the accomplishment of these and many other public and private purposes, the proposed use of the public record for purposes that in their nature and intent are not public, so as to keep the veterans' discharge papers from disclosure to those of ill intent, causes concern among many segments of the population of this state. In order to voice these concerns effectively and thoroughly, a working group may be convened by the joint committee on veterans' and military affairs to develop a means to preserve the integrity of the public record while protecting those veterans from identity theft. (WA)

Some states that confuse purpose with method include:

permit a discharged member of the armed forces to expunge specified items from the county recorder's record of discharge and other service-related documents (OH).

## 2. Definitions

Definition of terms is important to clarifying the subject matter of a statute. These are terms that have been defined in one or more of the statutes reviewed.

Following are terms that have been defined in one or more statutes:

### **Armed forces**

Do not make the mistake of defining this to exclude state militia (CT).

### **Disclosure**

Probably this term should not be used at all. What does this term mean? To say that records “shall not be disclosed” is overly vague. Does it mean “release the form” (TX proposed)?

### **Filing/Recording Office**

The statute should indicate where military discharge papers are filed. We have assumed for the purposes of this position paper that this office will be the same one where these documents are filed today. However the filing offices in North Carolina are proposing changing the filing location to another agency, the state vital records office, where vital records are housed and access is restricted in some of the same ways military discharge papers should be.

### **Military Discharge Papers**

This is a crucial term to properly define. These papers, which include all of the types of separation papers issued by federal and state military organizations to those who have served in them, are the subject of the legislation. We are using the term “Military Discharge Papers” in our deliberations as shorthand. This term is not a legal one. The law needs to contain a workable definition.

Examples:

Department of Defense Form DD-214 or other military discharge record (TX proposed)

MILITARY SERVICE RECORD DD-214 OR ITS EQUIVALENT (AZ proposed)

Long list of document types (GA)

discharge certificates and reports of separation from active duty (VA)

All discharge papers, given, executed or delivered to any person in the military or naval service of the United States, which evidence his discharge from the service of the United States and show the unit or part of the department to which he was attached (KY).

Official certificate in lieu of discharge for if killed while in service (IA)

United States Department of Defense form, including, but not limited to, a **DD 214** form, or any valid paper that evidences the service, discharge or retirement of a veteran from the armed forces that contains personal information such as a service number or Social Security number (CT)

Some statutes include documents that are not really in the same category as discharge papers, eg: the commissions and warrants of veteran officers and noncommissioned officers, orders citing a veteran for bravery and meritorious action, and citations and bestowals of medals from the state, federal or foreign governments (IA)

**Person** (CT)

**Public Agency** (CT)

**Record/Register/File**

We use the word “recording” in the normal sense of storing a document or its certifiable image for the purpose of public disclosure. However, it is necessary in this statute to define exactly how papers are to be handled, as discussed below.

**Tangible Interest**

Discussed below under item 6.

**Veteran** (CT)

### **3. Acceptance Policies**

#### **Limiting Fraud**

The statute may either implicitly allow county officials to accept any military discharge paper at face value, or may allow officials in their role as gatekeepers to restrict acceptance based on rules specified in the statute. Our suggested language takes the second approach in order to limit the possibility of the safekeeping system being abused with criminal intent. While some states have dealt with the confidentiality problem, none of them have dealt with another aspect of the filing system, that it is susceptible to identity fabrication and fact falsification:

- (1) Identity Fabrication—A person may file a fake DD214 in order to make up a service history that does not exist, for various illegal purposes, including identity creation or theft and puffing up a résumé for employment or political purposes.
- (2) Fact Falsification—A person may alter a real DD214 in order to delete derogatory information or to add false, positive information.

In this respect, possible misuses of military discharge papers are like birth certificates (and unlike deeds and mortgages) because certified copies of these papers are being accepted as proof of identity, including (we are told) even by the Social Security Administration. Yet without the type of language we suggest, there is no check whatsoever to stop anyone from fabricating an identity and obtaining a social security card with a false DD214!

#### **Location of Records**

See the comments with respect to the definition of filing office above.

#### **Form of Document**

The document should be an original or a carbon copy of the original. It probably has not been certified by some government agency associated with the armed services; it has been reported that all such genuine

papers are actually carbon copies that have not been certified by the armed service that issued them. The suggested language gives the filing office the opportunity to reject a possibly fake or falsified document if the recording officer has any reason to believe that it is not genuine.

### **File vs. Record**

Most statutes call for military discharge papers to be “recorded,” a term that connotes public availability. A few states use the term “file” in the context of maintaining a separate, non-public set of documents. See discussion of document handling below.

### **Geographic Restriction**

The statute can restrict who can file or record such papers based on residency, content or other factors, such as taking an oath. Examples of geographic restrictions include:

Person or designee if the military discharge document is related to the business of the town or other agency (CT)

[Veteran] may apply for **registration** of his or her discharge in the office of the county clerk where such person resides (NE)

### **Content Restriction**

Iowa enacted a statute making it illegal for documents for recording to contain a Social Security number, but military discharge papers were exempted from the restriction.

### **Oath**

South Carolina requires the person who wishes to register a military discharge to swear that the document has not been altered. There are penalties for forgery.

## **4. Maintenance of the Record**

The statute should specify how the filing office is to maintain the record. If the record is not to be intermingled with publicly available land or other records, then the statute should say something about separating the documents:

Examples:

maintain such military records in a manner that ensures that such records will **not be available to the public for inspection except as provided (CO)**

Specify that an index must be maintained (IA, KY, MI)

keep in a separate book or books (NE)

### **Confidentiality**

Many statutes merely state that the records shall be kept confidential, without specifying the method to be used. This is an important question in drafting the law. Is it the papers that are confidential (TX) or the information in the papers that is confidential (AZ, CT,), or both (NC)? Some states (CO) beg the question by using the term “record” without defining it (CO). The statute should indicate that only information needed to index the record should be included in the database.

### **Expungement/Redaction**

Two states (OH, NC) require the county safekeeping official on the request of the subject to expunge the whole record, or to redact parts of the record like the Social Security number. An application form is included in the Ohio law. More on this below under section 8.

## **5. Forms of Access**

The statute should take into account how military discharge papers were handled by recording and filing offices in the past. These procedures may have varied based on local traditions, the computerization of the office, and other factors. The most crucial fact is whether images of the papers (or the papers themselves in non-computerized offices) were intermingled with other publicly available records in the past.

## **Indexing vs. Record Summary vs. Document**

It is not well recognized that three different types of information about any given document may be available in a local filing or recording office:

- (1) Document location index—In its simplest form, a grantor/grantee index entry in a land recording office, for example, contains a name, a document type designation, and a locator number where the document or its image can be found in the image archives of the filing office.
- (2) Document summary—This is an index on steroids; document content computerized. The obvious example is a court docket record, most of which have by today been computerized. A document summary in a land recording office might contain the addresses of the grantors and grantees, and property identification information. Such summary data can be sensitive personal information. For example, the summary of UCC filings in some state central filing offices contains Social Security numbers.
- (3) The document image itself—All the information in a document appears in the document. This statement is not as silly as it may at first seem. Legislators frequently fail to distinguish between documents and the content of documents, for example, when legislation requires a land recorder to redact a Social Security number from the image of a mortgage already on record, it means that the recorder will have to deface a record already available to the public. More practical legislation could allow a recorder to reject a document that appears to contain a Social Security number to keep it out of the public record in the first place.

Further, it is not well recognized in what forms documents are maintained. They may include:

- (1) Original copies—Records before copy machines may still be books of original papers.
- (2) Microfilm—The image record of choice for decades.
- (3) Microfiche—This is high tech microfilm.
- (4) Computer-based images—This is usually a burned-in digital CD image these days, but in the past may have been bits and bytes on magnetic media.

If images of documents are available, you may be assured that the media—magnetic, microfilm or microfiche—have been provided in bulk to the private sector for many years. In this case, all the military discharge documents that were part of those files are out of the control of the filing office. Legislators as well as veterans need to recognize that these images that have been shared with private industry cannot be somehow made confidential retroactively.

On the other hand, to the extent that the images have been shared with other government agencies, such as libraries, the legislation can reach out and touch them.

Indexes, document summaries, and document images are available in the following ways:

- (1) On Site Access (Public)—The index is typically available at a public-access terminal and the images are available at the terminal or at microfilm readers.
- (2) On Site Access (Behind the Counter)—For confidential records, the index and/or document images may only be available to the filing office staff.
- (3) Remote—In the past, filing offices offered online dial-up systems to search their indexes. These systems have been replaced and new ones designed by filing office using the facilities of the Internet and the World Wide Web. The World Wide Web has made it possible to provide the document images along with the index. (The images can be made kind of invisible by deleting the index entry that points to the image.)
- (4) Bulk—As noted, images, as well as the associated indexes, have traditionally been provided to the private sector, such as real estate information providers.
- (5) Private Sources—Once the images and indexes are in the hands of the private sector, there have traditionally been few constraints on how the information has been used. Notable exceptions to this rule are DPPA (Driver Privacy Protection Act) that makes driver records somewhat confidential and confidentiality laws with respect to the use of voter registration records.

Net, legislation needs to take into account how the filing offices operate, how they maintain records, what their roles have been with respect to confidential vs. public records, etc. to assure that the legislation does not require the filing offices to perform functions that they were not designed to perform or to change the nature of how they handle records when they no longer have control over those records.

Item 5 in the general purpose statute sets the basic rule that the name of a subject will only be disclosed in the index available in the recording office and that it will not be disclosed if the office has an index available on the Internet, and that copies are available only according to certain rules. Further, there are to be no bulk sales of military discharge paper images.

### **Certified Copies**

It is possible for a person with criminal intent to use the military discharge paper, as discussed in Section 3 above. As an additional safeguard against use of the military discharge filing system for criminal purposes, Section 5(C) specifies language for the certifying officer to add to the certified military discharge paper copy to clarify that it is not to be used as a form of identification.

### **Manual System**

The general purpose statute assumes that the index is maintained on computer. If the index is only manual, the papers are pretty well protected because of the difficulty in using the index.

## **6. Access Restrictions**

States legislate various different kinds of access restrictions to otherwise public records, as summarized below. Our suggested language encourages enactment of the “tangible interest” access restriction, as defined in Section 2, so that a veteran filing a discharge in the future can be assured that no one else has access to its details without permission.

Here are the prevalent types of access restrictions that have been applied to military discharge papers:

### **A. Tangible Interest**

A person closely related to the subject or involved in obtaining a benefit for the subject is said to have a tangible interest in the papers. An exhaustive list of 12 kinds of parties that should be granted access is contained in the introduction to Appendix 1. None of the existing statutes names all of these parties. Legislation should be worded so that none of the parties that should be allowed access is inadvertently excluded. This list may be sorted in order of relationship to the subject of the military discharge papers as follows:

- (1) Subject.
- (2) Agent or representative of the subject. This is a relationship documented in writing giving authority to represent, either by the subject or by a court. This could include attorney, attorney in fact, conservator, or guardian. Some statutes list attorney separately, meaning that an attorney’s word that she represents the subject can be trusted without further documentation. [A commentator questioned giving an attorney access to the records without the same level of authorization as any other representative would require.]
- (3) Relatives. This term is vague. There are immediate blood relatives, such as mother, father (parents), sister, brother (siblings), son, daughter (children), and there is the close legal relative, a spouse, which together with adopted children may be called immediate family. There are more remotely related relatives such as grandparents and grandchildren, nieces and nephews, etc. Some states couch this group as the “survivors” of the subject (TX proposed). [A commentator proposed that access by relatives should meet the same standard of authorization as any other representative as this would avoid confusion from competing interests in the family as in the Ted Williams affair.]
- (4) Indirect agents. Funeral directors, for example, are another step removed from the subject, but may be included on the list, along with government agencies with an interest in assisting the subject, such as courts of law and veterans service officers.

Although genealogists and genealogical societies are mentioned in some statutes, they do not have a tangible interest. If special access is to be given for genealogical purposes, that would be a use restriction as discussed next.

Some states keep the list real short (TX proposed, NE, ND, PA), leaving it to the safekeeping agencies to interpret, and Other states are very specific (GA). See also MI, TX proposed, SC, VA.

A couple of states have so poorly drafted statutes that they look like tangible interest restrictions to some but not to other offices (MO, NJ).

The general purpose statute takes the position that only the subject, parties either duly authorized by the subject, and government agencies helping the subject have access to copies of the subject's military discharge paper, until the subject is very old or has passed away.

### **Proof**

The statute should specify the form of proof that will be acceptable for access to the papers. Proof may include copy of a power of attorney, showing a drivers' license, or even providing a notarized application. See the discussion of request forms below. It has been suggested that the notarization of such request should be free to the veteran.

### **B. Use or Purpose Restrictions**

Rather than restricting access to otherwise confidential information based on tangible interest, it is possible to try to restrict by statute the purpose for which the information may be used. A use restriction is much weaker than a tangible interest restriction because it deals with intent rather than fact. Effectively, the requesting party promises, usually by signing a request form, only to use the information for stated, lawful purposes, and not for other purposes, either enumerated or in general. A staple of many state voter registration laws is that the voter registration information will not be used "for commercial purposes," whatever that means. Some forms of this restriction in existing statutes are:

Provide a benefit to the subject—

the person **needs the information to provide the benefit** and submits satisfactory evidence of such need (CT)

Genealogical purposes (CT)

### **C. Combined Restrictions**

There is no inherent restriction on the use of military discharge papers by anyone with a tangible interest who obtains a copy of it under a tangible-interest-restriction-based law. However, a few states (AZ proposed) have (unnecessarily?) mixed a tangible interest restriction with a use restriction. In these instances, someone who wants to obtain a copy of a military discharge paper must not only prove she has an interest, but then must promise that the paper will be use for one or only a few purposes.

South Carolina has, in addition to its tangible interest restriction, two use restrictions:

Records kept pursuant to this chapter shall not be reproduced or used in whole or in part for any commercial or speculative purposes (SC)

must not disseminate or disclose this information or any part thereof except as authorized in this subsection (SC).

### **D. Content Restriction**

In a few instances, notably CT, the distinction between information and the paper itself are taken to an extreme in that certain content is defined as public and/or certain content is defined as confidential. In CT, the following information is considered public:

- (1) Name
- (2) Residential address
- (3) Dates of service
- (4) Discharge status



All the information in the document is available based on a use restriction, as discussed above.

In Michigan, the county clerk MAY make certain information public, at her discretion. Otherwise the papers are subject to a tangible interest restriction.

The practicality of this kind of content restriction provision must be contested by anyone familiar with how local recording and filing offices operate. A more practical approach was taken by Oklahoma. The OK statute requires that the names of subjects be made public (which the index entry does), but that the form itself be kept confidential.

### **E. Type of Copy Restriction**

Some states distinguish between types of copies. A commentator properly pointed out that someone who obtains a plain paper copy may then use that copy, with alternations, to create a fake original. The thief then gets the fake recorded, and obtains a certified copy of it for use in obtaining benefits from government agencies.

Example:

Certified copy available only to related parties (IA).

### **F. Notice**

One state took the occasion of amending its military discharge papers statute to require county offices to post the following useful sign:

DOCUMENTS RECORDED IN THE RECORDER'S OFFICE GENERALLY ARE CONSIDERED TO BE PUBLIC RECORDS. OTHER PERSONS HAVE ACCESS TO THE INFORMATION CONTAINED IN RECORDED DOCUMENTS. (OH)

No states require a specific notice that military discharge papers are public record, or are confidential.

### **G. Penalties**

Under a tangible interest statute, the gatekeeper can demand some form of proof before the requester obtains the papers. Under a use restriction statute, there is no effective form of gatekeeping. Sure the statute can require a signed request form, and can even require proof of identity of the signer and even a fingerprint record, but all the subject can count on is the promise of the requester.

Because this restriction is so much more difficult to enforce than the tangible interest provision, it seems reasonable that the statute should contain significant penalties for breaking the promise. For example, misuse of the information might constitute some defined form of fineable misdemeanor:

Tangible interest and \$5,000 fine (GA).

MO has a misdemeanor penalty but the statute is unclear about what it is for.

## **7. Request Forms**

No matter what the restrictions on access may be, the statute needs to deal with the fact that there are anywhere from 3 to hundreds of offices, depending on the state, where these papers are recorded or filed. Therefore, in order to enforce standards of practice, it seems reasonable to have a standard request form designed with instructions designed for use by all the local government offices. Only two states have dealt with this issue:

In Washington State, the new statute requires the county officials to develop two forms, one for exemption from public disclosure of discharge papers and the other for requesting copies of papers. Their forms are illustrated in section 6 of this paper.

One state (CO) appears to have (inadvertently?) enacted use of the National Archives request form SF 180.

Although the holding period suggested above is five years, the actual period should be at least as long as the statute of limitations with respect to claims of identity theft.

## Maintenance of Request Forms

How long must the office hold the request forms? One state requires the request itself to be recorded for posterity:

The clerk shall record the names and addresses of all persons viewing or copying a DD Form 214.  
(OK)

Officials follow informal record retention policies in other states.

## 8. Handling of Prior Records

The statute should deal with the status of military discharge papers recorded or filed prior to the effective date of the restrictive legislation. We discussed above the issue of how filing offices handle records today and in the past above under item 5, Forms of Access. Well-drafted legislation will take into account both the need to understand how the filing offices handled records in the past, and the need to give filing offices guidance about how to differentiate between these older records and new ones to be accepted after the new confidentiality law goes into effect. A commentator summarized this issue as “preventing further proliferation of these documents in the public domain.”

The options we find in existing statutes are:

1. Officials are on their own—Do whatever you wish to restrict access to prior records (CO).

2. No change—Virginia expressly excludes prior records from its new restrictions:

**Acts 2002, c. 299, cl. 2, provides: "That this act shall not be construed to require clerks of circuit courts to redact, or otherwise to alter the form or the recordation medium of discharge certificates or reports of separation recorded on or before the effective date of the act."**

3. Exempt records that have been commingled in the past—Washington State makes prior records “that have not been commingled” subject to the new restrictions, unless the subject files a “request for exemption from public disclosure of discharge papers,” in which case the county official is supposed to uncommingle it.

4. Separate the old records somehow—

A. The county clerk shall keep any Department of Defense Form 214 (DD Form 214) filed with the clerk, **including any DD Form 214 that was filed before the effective date of this act, separate from records available for public inspection** (OK) [We are unclear how such a retroactive provision can be carried out by the county clerk.]

5. Remove the document from public access—The North Carolina 2002 amendment allows certain persons to request the recording office to “remove [the document] from the official records,” but not including an archived copy. The index is to contain a notation that the document has been removed. However, an archived copy must be maintained outside the public record. The statute contains no indication of what to do about copies that were sold in bulk prior to enactment of the amendments. The statute contains no provision to safeguard newly filed documents except through this request method. The same procedures apply to copies maintained in the state archives.

6. Redaction of sensitive personal information from prior records—See discussion of Ohio statute above. Also, the North Carolina 2002 amendments require the recording office to continue to provide a copy of the archived documents. However, if the requesting party is not one of the people allowed to file a removal request or the request is not made in person, the recording office must “review the discharge documents” and “redact the personal information” from the copy given out. The statute contains no definition of “personal information.”

### Redaction Ever?

The practical facts about how public records and their indexes are handled in filing offices needs to be considered before drafting legislation that attempts to deal with the status of these prior records needs to take these practical facts into account. Otherwise, the legislation will not be implementable.

A filing office whose primary function is the maintenance of exact copies of records for posterity should not have imposed on it a duty that goes against its reason for being. Corrupting the content of documents is just antithetical to their primary function. If legislate you must, give the job to some other government office that likes to destroy records.

Also, responsibility can be placed on the private sector not to record documents that contain sensitive personal information, and filing offices can be made gatekeepers to reject documents with such content. However, it is best to stay away from the idea of a partially public document. Either the whole document is public or the whole document is confidential.

In the general purpose statute, we take the approach of making existing military discharge papers as difficult as possible for a criminal to find, while at the same time allowing someone with a tangible interest in a document to obtain information and copies from the recording office.

### **Funding Note**

The first sentence in the suggested languages uses the verb “shall” to suggest that each recorder should do something to address the fact that papers already recorded need some protection. This term was used based on the estimate that programming costs to implement item 8A(1) would be minor. However, in the event a state determines that for local reasons the cost of such an option could be significant, the strength of the verb should be reduced to “may” rather than “shall.”

## **9. Time Limit on Confidentiality**

As with birth and death records, at some point there is no particular reason to keep military discharge papers confidential, and there are reasons, eg genealogical research, to make them public. There are various ways to draft such a provision.

Examples:

The contents of such document shall be confidential for at least seventy-five years from the date the document is filed with the public agency (CT)

deceased persons for bona fide genealogical or other research purposes. (VA)

50 Years (GA)

70 years (MI)

75 years (PA)

50 years after death of subject (SC) [Not sure how an official is supposed to calculate this!]

A commentator pointed out that 75 years from filing date may be necessary because most armed forces personnel are relatively young when they leave the service, many as still alive 50 years after the date they file (e.g.,  $25+50=75$  but  $25+75=100$ ).

## **10. Filing and Copy Fees**

Most states do not charge a fee for recording or filing military discharge papers (CO).

Some states make a distinction between the public and interested parties for the purpose of waiving copy and/or certification fees (AK).

A commentator points out that government agencies that provide benefits to veterans usually require proof of service in the form of the original discharge papers or a certified copy, including raised seal, which is probably why some state statutes distinguish between the rules to obtain certified vs. uncertified copies. However, a theft is just as happy with an uncertified copy if she can get hold of it. Based on the comments above about copy access restrictions, a certified copy with a well placed, raised seal may make creating a fake original more difficult.

## **11. Funding**

If the changes required under the statute, such as computer programming, have costs associated with them, the proposers of the statute should determine the estimated cost of such changes, and direct how the changes will be funded if the costs are material. See the Funding Note under item 8 above.

## **12. Liability (Exculpation) Clause**

Unless there is a general provision in state law that protects government officials for liability due to mistakes in executing the laws, there should be specific exemption from liability for officials that handle confidential military discharge records.

The county clerk and recorder and any individual employed by the county clerk and recorder shall not be liable for any damages that may result from good faith compliance with the provisions of this part (CO).

## **13. Effective Date**

Frequently the statute is to take effect immediately upon signature. However, if the terms of the statute require some planning on the part of the safekeeping agencies in the state (such as computer program changes and forms design), they should be given adequate time to make the changes before the law goes into effect.)

## 4. Objections to Making Military Discharge Records Confidential

The press in Arkansas and Missouri had taken issue with proposed legislation in those states that makes military discharge papers confidential in order to protect the personal information therein—including social security number, date of birth, wounds, and other potentially sensitive information—from public scrutiny. The press argued that this initiative may be indicative of a growing trend towards restricting access to traditionally public records. We think this objection, although understandable in the light of other trends, is not appropriate in this instance.

The following six “arguments for leaving these records open” were raised by the press in Arkansas. Our responses to these arguments, based on the proposed legislation in Arkansas, are given below. Of these responses, possibly the most significant reason why the press should not want to rely on copies of these papers, even where they are available at local county offices, is explained in “Response 2” to the sixth argument. In a nutshell, these copies cannot be relied on to be true, complete or accurate!

*1. Veterans file these documents voluntarily in the county courthouses. If they are concerned about confidentiality, they don't have to file them there.*

Response—To say veterans filed these documents “voluntarily” is not quite true. The armed forces have historically urged its members leaving the service to file their separation documents with county recording offices as a good place for safekeeping. Some states, including Connecticut, Georgia, Kansas, Michigan, Nebraska, North Dakota, Oklahoma, Pennsylvania, Virginia and Wisconsin recognized the special nature of these papers, and passed statutes to make them confidential many years ago. In other states, these papers became public record because they were recorded with deeds and mortgages. However, no one particularly noticed the problems of disclosure of veterans very personal information, including wounds received and social security numbers, until the recent issue of identity theft hit veterans over the head when these papers were first reported to have been used for that illegal purpose a couple of years ago. Once the problem surfaced, a number of states, including Colorado, Florida, Iowa, Mississippi, North Carolina, Ohio, South Carolina, and Washington, passed new legislation in 2002 to make such papers confidential henceforth.

*2. If they are filing them because they're worried about protecting a copy of the document for surviving family members, they can use private services or safety deposit boxes to protect their records.*

Response—Until the identity theft using DD214 information came to light, the armed services urged filing their discharge papers with their home county recording office to anyone leaving the services. There was no reason for a veteran to consider other alternatives. The Department of Defense could have urged them to protect their documents in other ways, but the fact is that DOD did not think of it, or alternatively, safekeeping with a county recorder was seen as both the least expensive and the most secure of all ways to safekeep documents. In fact since the armed services stopped recommending this form of safekeeping, the number of discharge papers filed has fallen sharply (for example, 40% from 2001 to 2002 in Washington State).

Further, other federal agencies could have made it easier for veterans to obtain benefits without showing an original or certified copy of their discharge papers, but those agencies have not. The county recorder's office was in the circumstances the best choice for safekeeping because no matter whether the veteran forgot where the documents were located, his representatives could look in the county where he resides to find a certifiable copy. (Of course if the veteran moved, there is a separate problem of determining which county to search in.) In any event, the armed services no longer give veterans any advice about how to protect their papers, even though they can safely file them in the states listed above.

*3. The bill would require the county recorder to record the names and addresses of all persons viewing or copying the records. That's a role the recorder shouldn't have to assume. They're busy enough without this added duty. Should they also be recording the names and addresses of people looking at other records they keep?*

Response—County clerks are great record-keepers. In states where like restrictions are placed on access to birth records, for example, the clerks already keep such records. In this particular case, the number of requests will be low enough that a file drawer will probably serve for decades in most county offices. The situation with public records is quite different. The public is usually invited, in person or even by Internet hookup, to peruse the land-related records at will. There are other serious issues of personal information privacy that impact the availability of truly public records. By failing to address the problem of sensitive personal information contained in military discharge papers—which can include the most sensitive of personal information about wounds, for example—your legislature opens up room for arguments that some consumer advocates want to apply to restrict access to truly public records. Why give the privacy lobby additional grist?

*4. The bill also would allow the county recorder to maintain a record book that contains some of the information that would otherwise be available on these military records. Since the provision is permissive and not a requirement, no recorder in her/his right mind will do it; but they shouldn't have to. All they need to do is redact the Social Security numbers from the forms they might provide in response to freedom of information requests (which they should be doing now under federal statutes). Why cut off access to the entire documents if the only part that might result in identity theft is the Social Security number?*

Response—Each county will have to maintain an index to these papers, so the minimum amount of information on the index will be the names of veterans who have filed papers with the county office. The other information mentioned in the act happens to be the list of information available for the federal government (see section 5 of this paper for more details).

There is no precedent in the history of the United States for county clerks redacting information from a document received by them. Unlike the function of maintaining a record of requests, as discussed in question 3 above, such a function is anathema to the principles of land recording in the US: “Thou shalt not alter a document received” could be the recorder’s motto.

*5. If the legislature allows this exemption, how many other documents are they going to restrict access to? Will the county clerks have to keep a list or will they get in the habit of refusing documents that Arkansas residents have a right to see under our freedom of information law?*

Response—In Arkansas, as in many other states, access to driver’s information, birth records and other sensitive personal information has been restricted by law. In all states where such information is maintained at the county level, there are many precedents of state laws that require the county clerk to follow specific procedures before access is allowed. Generally speaking, part of the methodology is to separate these records from those that are available to the general public. There are personal information privacy issues that are being raised today at the federal and state levels about the content of any records maintained by state and county governments, as mentioned in the response to question 3 above. These general personal information privacy issues should not be confused with the military discharge paper problem. It is important for all to distinguish the difference. The only purpose for filing military discharge papers was for safekeeping. There was no intent, voluntary or otherwise, on the part of veterans to tell the world about their wounds or their marksmanship medals. On the other hand, it is the intent of the grantee of a deed to let the world know that that grantee owns the property, and it is the intent of the lender to let the world know that it has a security interest in the property until the mortgage is paid off. What the borrower did not intend, for example, was that the lender would list the borrower’s social security number in the mortgage document although there is no statute calling for such information to be made public (and only in Iowa is it illegal to include the number.)

*6. Why would anyone such as a reporter want to see these documents? One example is that the documents might be used to check a political candidate's claims of military service, or might be used by someone to find a long-lost loved one.*

Response 1—These documents represent official papers of the armed forces. Except for original records that were destroyed by fire, information as to whether a person was a member of the armed forces is

available from the federal government. See section 5 below, “Obtaining Military Information from the Federal Government.”

Among the information available to the general public and reporters from federal sources is the following:

- Name
- Service Number (other than SSN)
- Rank
- Dates of Service
- Awards and decorations
- Place of entrance and separation

As to a “long-lost loved one,” consideration may be that it could be a stalker with a long memory instead. In any event, there are sufficient other public resources to find people using the information the federal government will provide, plus searches on the Internet and other sources.

Response 2—The press, as well as anyone else checking the personal history of an individual who claims to have been in the military, should be aware that **there are no safeguards against filing fake or altered military discharge papers in a local recording office. Copies of military discharge papers maintained in a local recording office, whether or not certified by the filing officer, do not represent an independent record of facts about the named veteran.** They are not identification documents.

Military discharge papers are submitted for recording by individuals, not by the institutions responsible for their completeness and accuracy. The individual may file a totally fake DD214 in order to establish a false identity; or may have altered information on a real DD214 in order to add a few medals or to delete negative information.

A much more reliable way to establish the veracity of the military information of a professed veteran is to contact a federal agency that actually houses the records, as explained in the next section of this paper. It is our understanding that at least some of these agencies will respond to the press concerning the truthfulness of assertions by an individual, even in the confidential portions of a military discharge document.

## 5. Obtaining Military Discharge Information from the Federal Government

[Based on an email by Bob Heinel, National Association of County Veterans Service Officers.]

### National Personnel Records Center (NPRC)

The following webpage addresses information available to the public from the National Personnel Records Center in St Louis, MO where the basic military personnel records are kept on veterans.

[http://www.archives.gov/facilities/mo/st\\_louis/military\\_personnel\\_records/general\\_public.html](http://www.archives.gov/facilities/mo/st_louis/military_personnel_records/general_public.html)

(Some of the content of this site is quoted at the end of Appendix 2 to this paper.)

From there you can either click on "Freedom of Information Act" on that page, or on the following URL to go to the link to it:

[http://www.archives.gov/facilities/mo/st\\_louis/military\\_personnel\\_records/foia\\_info.html#mprfoia](http://www.archives.gov/facilities/mo/st_louis/military_personnel_records/foia_info.html#mprfoia)

The major problem with this information releasable to the public under the FOIA is the "veteran's service number." Until sometime in the 1980s military personnel were assigned a unique service number the release of which would not be a problem, but starting around then the military began using the veteran's social security number as the military service number. So it is unclear if this means the social security number is now releasable to the public or not. [We believe that social security numbers are not released.]

### Changeover to Social Security Numbers

Following are the actual dates of change-over from assigning unique Military Service Numbers to the military branches using social security numbers to identify service members. It seems the assumption by NPRC is that someone who wants information on a veteran "will have" the social security number to help them identify the file, rather than looking at it the other way about NPRC "releasing" the social security number which will provide vulnerability to identity theft crime.

The National Personnel Records Center Web Site states about Service Number (SN) and Social Security Number (SSN):

Service numbers and social security numbers are used at NPRC (MPR) as part of the identifiers used to store and locate records.

“Social Security Number (SSN). **Always include the veteran's social security number on a request.** Service Number (SN). Also include the veteran's service number on a request if service was during the period when service numbers were assigned as personal identifiers. The military services discontinued using the service number as an identifier and began using the social security number on the following dates:

Branch of Service	Date of Changeover
Army and Air Force	July 1, 1969
Navy and Marine Corps	January 1, 1972
Coast Guard	October 1, 1974”

As noted below, the following information about an individual is entered on the Form 180 in order to locate the record of a veteran:

- (1) Exact name
- (2) Social security number
- (3) Date of birth
- (4) Place of birth

Although all the information is not required in order for the office to locate the veteran's information, the requester would need to know at a minimum one of the following items of information in addition to the exact name:

- (1) Social security number if veteran entered service after the late 1930's, or service number if veteran entered service prior to mid-1980's.



(2) Date of birth.

Therefore, the best a criminal could do using a Form 180 would be:

- (1) Knowing the date of birth, to obtain the place of birth and possibly obtain the social security number of a veteran who entered serviced after the mid-1980's (although we doubt the number is disclosed by the office), or
- (2) Knowing the service number or social security number, to obtain the date and place of birth.

There are much easier ways to find dates of birth in any case. We conclude that Form 180 is not a worrisome legal source of any sensitive information about an individual.

However, although not stated in the instructions to Form 180, NPRC requires either the social security number or the service number on the form per the quote given above from the NPRC web site.

## 6. Request Form Examples

The Washington State statute required recording offices to devise forms. Here are answers to questions and forms used in the state.

The statute addressing this issue: RCW 42.17.310 and addresses the following:

What Discharge Papers Are Public?

**Military discharge papers filed at the office of the county auditor before July 1, 2002 and that have been commingled with other recorded documents**

What Discharge Papers Are Not Public?

1. **Military discharge papers filed at the office of the county auditor before July 1, 2002, that have been commingled with other recorded documents that the veteran has recorded a "request for exemption from public disclosure of discharge papers" with the county auditor.**
2. **Military discharge papers filed prior to July 1, 2002 that are not commingled with other recorded documents**
3. **Military discharge papers filed after July 1, 2002**

Who Can Access Records After Filing?

**Upon recording the "REQUEST FOR EXEMPTION FROM PUBLIC DISCLOSURE OF DISCHARGE PAPERS", only the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records. The next of kin of deceased veterans have the same rights to full access to the record.**

Who Is Considered Next Of Kin?

**Next of kin are the veteran's widow or widower who has not remarried, son, daughter, father, mother, brother, and sister.**

What Is The Filing Request Cost?

**RCW 42.17.310 allows the county auditor to charge a basic recording fee and preservation fee that together shall not exceed a total of seven dollars (\$7.00) for the recording of the "request for exemption from public disclosure of discharge papers."**

The County Auditors of Washington State voted in May 2002, to exempt recording fees for all other documents related to this statute:

**Request for Disclosure of Discharge Papers. . . . . no charge  
Revocation and Re-designation of Disclosure of Discharge Papers. . . . . no charge  
Request for Access/Copy of Exempt Discharge Papers. . . . . no charge**

How Is A Designee Assigned?

**A veteran or a duly appointed representative may file a "REQUEST FOR DISCLOSURE OF DISCHARGE PAPERS" designating an individual to have access and/or obtain copies of exempted military discharge papers. This form may be recorded with the County Auditor's office or may be maintained by the veteran.**

**NOTE: *An organization cannot be assigned as a designee***

How Do I Get Access / Copy Of Exempt Discharge Papers?

**A veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or individuals designated, may submit a "REQUEST FOR Access / Copy of Exempt DISCHARGE PAPERS" to the county auditor in order to obtain access / copy of exempt discharge papers.**

How Do I Change A Designee On Record?

**Another "REQUEST FOR DISCLOSURE OF DISCHARGE PAPERS" designating the desired individual(s) to have access and/or obtain copies of exempted military discharge papers must be filed to remove any previously filed designees. This request may be recorded with the County Auditor's office.**

I am attaching the forms developed by a Recording Sub-committee of the Washington State Association of County Auditors. If you have any questions, please do not hesitate to contact me.

Thank you.

# Lisa Goldsworthy

Recording Manager

Snohomish County Auditor

425-388-3713 <<VETForms.doc>>

Name & Return Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Request for Exemption  
from Public Disclosure of  
Discharge Papers**

Please print legibly or type information.

**VETERAN** - I declare that I wish to exempt from public disclosure my discharge papers filed with the County Auditor under the reference number(s) listed below.

\_\_\_\_\_  
**Last Name**                                      **First Name**                                      **MI**

**Signature of Veteran**

In accordance with RCW 42.17.310, discharge papers of a veteran filed at the office of the county auditor prior to June 30, 2002, and commingled with other records may be released only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or individuals designated below. Per RCW 42.17.310, next of kin is defined as widow or widower who has not remarried, son, daughter, father, mother, brother and sister.

**DESIGNEE:**

\_\_\_\_\_  
**Last Name**                                      **First Name**                                      **MI**

\_\_\_\_\_  
**Last Name**                                      **First Name**                                      **MI**

\_\_\_\_\_  
**Last Name**                                      **First Name**                                      **MI**

**AUDITOR'S REFERENCE NUMBER(s)**

\_\_\_\_\_  
\_\_\_\_\_

This form used for discharge papers recorded prior to July 1, 2002 commingled with other records.

**Name & Return Address**

---

---

---

**Request for Disclosure of  
Discharge Papers**

Please print legibly or type information.

**VETERAN** - I declare that in addition to next of kin as defined by RCW 42.17.310, the following individuals may have access and / or obtain copies of the military discharge papers filed with the County Auditor under the reference number(s) listed below:

_____	_____	_____
<b>Last Name</b>	<b>First Name</b>	<b>MI</b>

**Signature of Veteran**

In accordance with RCW 42.17.310, discharge papers of a veteran filed at the office of the county auditor prior to June 30, 2002 not commingled with other records and after July 1, 2002 may be released only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or **individuals designated below**. Per RCW 42.17.310, next of kin is defined as widow or widower who has not remarried, son, daughter, father, mother, brother and sister.

**DESIGNEE**

_____	_____	_____
<b>Last Name</b>	<b>First Name</b>	<b>MI</b>

_____	_____	_____
<b>Last Name</b>	<b>First Name</b>	<b>MI</b>

_____	_____	_____
<b>Last Name</b>	<b>First Name</b>	<b>MI</b>

**AUDITOR'S REFERENCE NUMBER(s)**

---

---

This form used for discharge papers recorded prior to July 1, 2002 not commingled with other records and recorded after July 1, 2002.

**FORM: VET 2 (Recording Fee - 0.00)**

**Name & Return Address**

---

---

---

**Request for Access / Copy  
of Exempt Discharge Papers**

Please print legibly or type information.

**VETERAN**

\_\_\_\_\_  
**Last Name**

\_\_\_\_\_  
**First Name**

\_\_\_\_\_  
**MI**

In accordance with RCW 42.17.310, discharge papers of a veteran filed at the office of the county auditor prior to June 30, 2002, and commingled with other records may be released only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or individuals designated identified with the County Auditor under the reference number(s) listed below. Per RCW 42.17.310, next of kin is defined as widow or widower who has not remarried, son, daughter, father, mother, brother and sister.

**DESIGNEE**

\_\_\_\_\_  
**Last Name**

\_\_\_\_\_  
**First Name**

\_\_\_\_\_  
**MI**

I declare under penalty of perjury under the laws of the United States of America that I am eligible under RCW 42.17.310 to access and / or copy discharge papers of the veteran named above.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Relation to Veteran**

**AUDITOR'S REFERENCE NUMBER(S)**

\_\_\_\_\_  
**AFN Designating Access**

\_\_\_\_\_  
**AFN Accessed Discharge Paper(s)**

**FORM: VET 4 (Recording Fee - 0.00)**

Name & Return Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Revocation and Re-designation  
Of Disclosure of  
Discharge Papers

Please print legibly or type information.

The undersigned veteran of the United States Armed Forces does hereby revoke and terminate the Request for Disclosure of Discharge Papers recorded in \_\_\_\_\_ County under auditor's file number \_\_\_\_\_.

Further, in accordance with RCW 42.17.310, the undersigned designates the individuals listed below to access his / her discharge papers recorded in \_\_\_\_\_ County under auditor's file number(s) \_\_\_\_\_ / \_\_\_\_\_.

**DESIGNEE:**

\_\_\_\_\_  
Last Name First Name MI  
  
\_\_\_\_\_  
Last Name First Name MI  
  
\_\_\_\_\_  
Last Name First Name MI  
  
\_\_\_\_\_  
Last Name First Name MI

\_\_\_\_\_  
Signature of Veteran Date

FORM: VET 3 (Recording Fee 0.00)