

Dated: December 10, 2008.

**Hugo Teufel III,**

*Chief Privacy Officer, Department of Homeland Security.*

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## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

[Docket No. DHS-2008-0166]

### Privacy Act of 1974; United States Secret Service—004 Protection Information System System of Records

**AGENCY:** Privacy Office; DHS.

**ACTION:** Notice of Privacy Act system of records.

**SUMMARY:** In accordance with the Privacy Act of 1974 and as part of the Department of Homeland Security's ongoing effort to review and update legacy system of record notices, the Department of Homeland Security proposes to update and reissue USSS.007 Protection Information System. Categories of individuals, categories of records, and the routine uses of this legacy system of records notice have been reviewed updated to better reflect the Department of Homeland Security United States Secret Service Criminal Investigation Information Record system. Additionally, DHS is issuing a Notice of Proposed Rulemaking (NPRM) concurrent with this SORN elsewhere in the **Federal Register**. The exemptions for the legacy system of records notices will continue to be applicable until the final rule for this SORN has been completed.

**DATES:** Written comments must be submitted on or before January 20, 2009.

**ADDRESSES:** You may submit comments, identified by docket number DHS-2008-0166 by one of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 1-866-466-5370.

- *Mail:* Hugo Teufel III, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

- *Docket:* For access to the docket, to read background documents, or

comments received go to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For general questions please contact: Latita Huff (202-406-6370), Privacy Point of Contact, United States Secret Service, 950 H St., NW., Washington, DC 20223. For privacy issues please contact: Hugo Teufel III (703-235-0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

### SUPPLEMENTARY INFORMATION:

#### I. Background

Pursuant to the savings clause in the Homeland Security Act of 2002, the Department of Homeland Security (DHS) and United States Secret Service (USSS) have relied on preexisting Privacy Act systems of records notices for the collection and maintenance of records that concern DHS/USSS protection records.

As part of its efforts to streamline and consolidate its Privacy Act record systems, DHS/USSS is updating and reissuing a DHS/USSS system of records under the Privacy Act (5 U.S.C. 552a) for DHS/USSS Protection Information System records. This will ensure that all organizational parts of USSS follow the same privacy rules for collecting and handling records regarding the protections of USSS protectees pursuant to Title 18 Section 3056 and 3056a.

In accordance with the Privacy Act of 1974 and as part of DHS's ongoing effort to review and update legacy system of record notices, DHS/USSS proposes to update and reissue USSS.007 Protection Information System (66 FR 45362 August 28, 2001). Categories of individuals and categories of records have been reviewed, and the routine uses of this legacy system of records notice have been updated to better reflect the DHS/USSS—004 Protection Information System. Additionally, DHS is issuing a Notice of Proposed Rulemaking (NPRM) concurrent with this SORN elsewhere in the **Federal Register**. The exemptions for the legacy system of records notices will continue to be applicable until the final rule for this SORN has been completed. This reissued system will be included in the Department's inventory of record systems.

#### II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that

is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR part 5.

The Privacy Act requires that each agency publish in the **Federal Register** a description denoting the type and character of each system of records in order to make agency recordkeeping practices transparent, to notify individuals about the use of their records, and to assist the individual to more easily find files within the agency. Below is a description of the Protection Information System.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this revised system of records to the Office of Management and Budget and to the Congress.

#### SYSTEM OF RECORDS:

##### DHS/USSS-004.

#### SYSTEM NAME:

United States Secret Service—004 Protection Information System of Records.

#### SECURITY CLASSIFICATION:

Unclassified and Classified.

#### SYSTEM LOCATION:

Records are maintained at the United States Secret Service Headquarters, 950 H St., NW., Washington, DC 20223, other locations in Washington, DC, and field offices.

#### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include:

- Individuals who have been or are currently the subject of a criminal investigation by the USSS or another law enforcement agency for the violation of certain criminal statutes relating to the protection of persons or the security of properties;
- Individuals who are the subjects of investigative records and reports

supplied to the USSS by Federal, State, and local law enforcement agencies, foreign or domestic, other non-law enforcement governmental agencies, or private institutions and individuals;

- Individuals who are the subjects of non-criminal protective and background investigations by the Secret Service and other law enforcement agencies where the evaluation of such individuals, in accordance with criteria established by the USSS, indicates a need for such investigations;

- Certain individuals who are granted or denied ingress and egress to areas secured by the USSS, or to areas in proximity to persons protected by the USSS, including but not limited to invitees; passholders; tradesmen; and law enforcement, maintenance, or service personnel;

- Individuals who have sought an audience or contact with persons protected by the USSS or who have been involved in incidents or events which relate to the protective functions of the USSS; individuals who are witnesses, protectees, suspects, complainants, informants, defendants, fugitives, released prisoners, and correspondents who have been identified by the USSS or from information supplied by other law enforcement agencies, governmental units, private institutions, and members of the general public in connection with the performance by the USSS of its authorized protective functions; and

- Individuals protected by the USSS.

#### **CATEGORIES OF RECORDS IN THE SYSTEM:**

Categories of records in this system include:

- Individual's name;
- Address;
- Date of Birth;
- Case number;
- Arrest record;
- Nature and disposition of criminal charges, sentencing, confinement, release, and parole or probation status;
- Records containing information compiled for the purpose of a criminal investigation, including reports of informants and investigators, which are associated with an identifiable individual;
- Informant's name;
- Informant information;
- Informant's contact information (e.g. address, phone number);
- Records containing reports relative to an individual compiled at various stages of the process of enforcement of certain criminal laws from arrest or indictment through release from supervision;
- Records containing information supplied by other Federal, State, and

local law enforcement agencies, foreign or domestic, other non-law enforcement governmental agencies, private institutions and persons concerning individuals who, because of their activities, personality traits, criminal or mental history, or history of social deviancy, may be of interest to the USSS in connection with the performance by that agency of its protective functions;

- Records containing information compiled for the purpose of identifying and evaluating individuals who may constitute a threat to the safety of persons or security of areas protected by the USSS;

- Records containing information compiled for the purpose of background investigations of individuals, including but not limited to, passholders, tradesmen, maintenance or service personnel who have access and/or have been denied access to areas secured by or who may be in proximity to persons protected by the USSS; and

- Records concerning agency activities associated with protectee movements.

#### **AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301; the Federal Records Act, 44 U.S.C. 3101; The protective authority is contained in 18 U.S.C. 3056 and 3056A and Section 1 of Public Law 90-331, (18 U.S.C. 871; 18 U.S.C. 1751).

#### **PURPOSE(S):**

The purpose of this system is to assist the USSS in protecting its protectees by recording individuals who may come into proximity to a protectee, including individuals who have been involved in incidents or events which relate to the protective functions of the USSS, and individuals who have sought to make contact with a protectee.

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

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the Department of Homeland Security (DHS) as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee of DHS in his/her official capacity;

3. Any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or other Federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual who relies upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate Federal, State, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or

prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To the Department of Justice and other Federal, State, and local governmental agencies having a prosecution function for the use of attorneys, magistrates, and judges; and the parole and probation authorities for the purpose of prosecuting, sentencing, and determining the parole and probation status of criminal offenders or suspected criminal offenders; and for civil and other proceedings involving the USSS protective functions.

I. To Federal, State, and local law enforcement agencies, foreign and domestic, for the purpose of developing information on subjects involved in USSS protective investigations and evaluation and for the purpose of protective functions.

J. To Federal, State, and local government agencies, foreign and domestic, where such disclosures are considered reasonably necessary for the purpose of furthering USSS efforts to investigate the activities of those persons considered to be of protective interest.

K. To Federal, State, and local law enforcement agencies and other governmental agencies, foreign and domestic, where there is a showing of a reasonable need to accomplish a valid enforcement purpose.

L. To private institutions and private individuals of identifying information pertaining to actual or suspected criminal offenders or other individuals considered to be of protective interest for the purpose of furthering USSS efforts to evaluate the danger such individuals pose to persons protected by that agency.

M. To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction.

N. To an appropriate Federal, State, local, tribal, foreign, or international agency, if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or the issuance of a security clearance, license,

contract, grant, or other benefit, or if the information is relevant and necessary to a DHS decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, the issuance of a license, grant or other benefit and when disclosure is appropriate to the proper performance of the official duties of the person making the request.

O. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

#### **DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

#### **POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

##### **STORAGE:**

Paper and electronic records in this system are stored in secure facilities behind locked doors. Electronic records media, such as magnetic tape, magnetic disk, digital media, and CD ROM are stored in proper environmental controls.

##### **RETRIEVABILITY:**

This system is indexed by case number, name, and other identifying data and other case related data, in master and magnetic media indices. Access to the physical files is located at field offices, Headquarters, and other Washington, DC locations.

##### **SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

#### **RETENTION AND DISPOSAL:**

All judicial records are retained for a period of 20 years from the date of last action. All other protective intelligence case records including protective surveys and non-judicial protective intelligence cases are routinely retained for a period of up to 10 years from the date of last action or otherwise required to be held permanently for transfer to the National Archives and Records Administration. Case files relating to the issuance of White House Complex passes for employees of the White House, Secret Service Employees, press representatives accredited at the White House, and other authorized individuals are retained for a period of 8 years from the date the file is closed. Records pertaining to the administration and operations of Secret Service protective program, shift reports, survey files, and special event files are retained for a period of 3 to 5 years from the end of the event. Records pertaining to trip files for domestic travel are retained for 5 years, and trip files for foreign travel are retained for 10 years from the end of the event. Campaign related files are retained for a period of 30 years after the end of the campaign and subsequently transferred to the National Archives and Records Administration.

#### **SYSTEM MANAGER AND ADDRESS:**

Assistant Director, Office of Protective Research and Assistant Director, Office of Protective Operations, U.S. Secret Service, 950 H St., NW., Washington, DC 20223.

#### **NOTIFICATION PROCEDURE:**

Pursuant to 5 U.S.C. 522a(j) and (k), this system of records generally may not be accessed by members of the public for purposes of determining if the system contains a record pertaining to a particular individual. Nonetheless individual requests will be reviewed on a case by case basis. Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the USSS's FOIA Officer, Freedom of Information and Privacy Acts Branch, 245 Murray Drive, Building 410, Washington, DC 20223.

When seeking records about yourself from this system of records or any other USSS system of records your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28

U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Director, Disclosure and FOIA, <http://www.dhs.gov> or 1-866-431-0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you,
- Specify when you believe the records would have been created,
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information USSS may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

#### RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

#### CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

#### RECORD SOURCE CATEGORIES:

In accordance with the provisions of 5 U.S.C. 552a (j) and (k) the Secretary of Homeland Security has exempted this System from compliance with the provisions of 5 U.S.C. 552a(e)(4)(I).

#### EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to exemption 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5) and (e)(8); (f), and (g). Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(3) this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f). In addition, to the extent a record contains information from other exempt systems of records, USSS will rely on the exemptions claimed for those systems.

Dated: December 10, 2008.

**Hugo Teufel III,**

*Chief Privacy Officer, Department of Homeland Security.*

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## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

[Docket No. DHS-2008-0142]

### Privacy Act of 1974; United States Coast Guard—018 Exchange System and Morale Well-Being and Recreation System Files System of Records

**AGENCY:** Privacy Office; DHS.

**ACTION:** Notice of Privacy Act system of records.

**SUMMARY:** In accordance with the Privacy Act of 1974 and as part of the Department of Homeland Security's ongoing effort to review and update legacy system of records notices, the Department of Homeland Security is giving notice that it proposes to update and reissue the following legacy record system DOT/CG 535 Coast Guard Exchange System (CGES) and Morale, Welfare and Recreation (MWR) System (April 11, 2000) as a Department of Homeland Security/United States Coast Guard system of records notice titled, Coast Guard Exchange System (CGES) and Morale, Well-being and Recreation (MWR) Program. Categories of individuals, categories of records, and the routine uses of this legacy system of records notice have been reviewed and updated to better reflect the Department of Homeland Security and the United States Coast Guard's Coast Guard Exchange System (CGES) and Morale, Well-being and Recreation (MWR) Program record system. This new system will be included in the Department of Homeland Security's inventory of record systems.

**DATES:** Written comments must be submitted on or before January 20, 2009.

**ADDRESSES:** You may submit comments, identified by docket number DHS-2008-0142 by one of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 1-866-466-5370.
- *Mail:* Hugo Teufel III, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change and may be read at <http://www.regulations.gov>, including any personal information provided.

• *Docket:* For access to the docket, to read background documents, or comments received, go to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For general questions please contact: David Roberts (202-475-3521), United States Coast Guard Privacy Officer, United States Coast Guard. For privacy issues please contact: Hugo Teufel III (703-235-0780), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Pursuant to the savings clause in the Homeland Security Act of 2002, Public Law 107-296, section 1512, 116 Stat. 2310 (November 25, 2002), the Department of Homeland Security (DHS) and its components and offices have relied on preexisting Privacy Act systems of records notices for the collection and maintenance of records that concern the Coast Guard Exchange System (CGES), and Morale, Well-being and Recreation (MWR) Program.

As part of its efforts to streamline and consolidate its record systems, DHS is updating and reissuing a USCG system of records under the Privacy Act (5 U.S.C. 552a) that deals with the CGES and MWR Program. CGES and MWR programs are nonpay compensation programs that provide for the mission readiness and retention of military personnel, their families, and other eligible patron groups. CGES provides high quality goods and services at price savings to its patrons with a return to support MWR programs. MWR offers a wide range of programs, facilities, and services such as fitness centers, picnic areas, child development centers, food and beverage operations, and golf courses to name a few. A complete list of MWR activities may be found in the Coast Guard Morale, Well-Being, and Recreation Manual, COMDTINST M1710.13 (series). This record system will allow DHS/USCG to collect and preserve the records regarding the CGES and MWR Program. The collection and maintenance of this information will assist DHS/USCG in meeting its obligation to administer the CGES and MWR Program.

In accordance with the Privacy Act of 1974 and as part of DHS's ongoing effort to review and update legacy system of records notices, DHS is giving notice that it proposes to update and reissue the following legacy record system DOT/CG 535 Coast Guard Exchange System (CGES) and Morale, Welfare and Recreation (MWR) System (65 FR 19475 April 11, 2000) as a DHS/USCG system of records notice titled, Coast Guard Exchange System (CGES) and Morale, Well-being and Recreation (MWR) Program. Categories of individuals and categories of records have been