

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2008-0158]

Privacy Act of 1974; U.S. Customs and Border Protection—012 Closed Circuit Television 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 the following legacy record system, Treasury/CS.226 Television System, October 18, 2001, as a U.S. Customs and Border Protection system of records notice titled, U.S. Customs and Border Protection—012 Closed Circuit Television System. 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 U.S. Customs and Border Protection—012 Closed Circuit Television System record system. Additionally, elsewhere in today's **Federal Register**, a notice of proposed rulemaking is being issued which will exempt this system of records from certain aspects of the Privacy Act. This reissued 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-2008-0158 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: Laurence E. Castelli (202-572-0280), Chief, Privacy Act Policy and Procedures Branch, U.S. Customs and Border Protection, Office of International Trade, Regulations & Rulings, Mint Annex, 1300 Pennsylvania Ave., NW., Washington, DC 20229. For privacy issues 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, Public Law 107-296, Section 1512, 116 Stat. 2310 (November 25, 2002), the Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP) have relied on preexisting Privacy Act system of records notice, Treasury/CS.226 Television System (66 FR 52984 October 18, 2001), for the collection and maintenance of records that concern the DHS/CBP—012 Closed Circuit Television System.

As part of its efforts to streamline and consolidate its record systems, DHS is updating and reissuing a DHS/CBP system of records notice under the Privacy Act (5 U.S.C. 552a) that concerns people involved in incidents or disturbances related to DHS/CBP inspections while seeking admission into the United States. This record system allows DHS/CBP to videotape persons being escorted within a port of entry. The collection and maintenance of this information assists DHS/CBP in recording individuals who are part of an incident or disturbance during a secondary inspection or individuals who received a secondary inspection due to an incident or disturbance.

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/CBP proposes to update and reissue the following legacy record system, Treasury/CS.226 Television System (66 FR 52984 October 18, 2001), as a DHS/CBP system of records notice titled, U.S. Customs and Border Protection—012 Closed Circuit Television System. 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 DHS/CBP—012 Closed Circuit Television System record system. Additionally, elsewhere in today's **Federal Register**, a notice of proposed rulemaking is being issued which will exempt this system of

records from certain aspects of the Privacy Act. This reissued system will be included in DHS'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 U.S. 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 U.S. 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 Television System record 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/CBP-012.

SYSTEM NAME:

U.S. Customs and Border Protection—012 Closed Circuit Television System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at the U.S. Customs and Border Protection Headquarters in Washington, D.C. and in field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include individuals involved in incidents or disturbances related to a DHS/CBP inspection while attempting to enter the U.S.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system include:

- Individual's name;
- Date of Birth;
- Citizenship;
- Port of entry;
- Method of entry, including vehicle information;
- Date of entry;
- Time of entry;
- Search records, including the incident that required a secondary inspection, and items found during the inspection; and
- Audio-video cassette recording of the persons being escorted into, inside, and out of the secondary areas of the port of entry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; and the Federal Records Act, 44 U.S.C. 3101; 41 CFR Part 102; Homeland Security Act of 2002, Public Law 107-296, Section 1512, 116 Stat. 2310 (November 25, 2002); the immigration laws, including 8 U.S.C. 1222-1225 and 1357; the customs laws, including 19 U.S.C. 2, 482, 1433, 1434, 1459, 1461, 1484, 1499, 1581, 1582; 6 U.S.C 202, 231; the agriculture laws, including 7 U.S.C. 8303, 8304, 8307.

PURPOSE(S):

The purpose of this system is to record individuals who are sent to secondary when attempting to enter the U.S., or who are involved in an incident or disturbance while within CBP controlled space at the border. This record system will allow DHS/CBP to videotape persons being escorted within a port of entry.

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 of information contained in this system may be disclosed outside 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 or any component in his/her official capacity;
3. Any employee of DHS or any component in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or
4. The U.S. or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS or CBP 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 or CBP collected the records.

B. To a congressional office 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 or CBP suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;
2. DHS or CBP 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, CBP, 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 or CBP'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 or CBP, 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/CBP officers and employees.

G. To appropriate Federal, State, local, tribal, or foreign governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, license, or treaty where DHS determines that the information would assist in the enforcement of civil or criminal laws.

H. To a Federal, State, or local agency, or other appropriate entity or individual, or through established liaison channels to selected foreign governments, in order to provide intelligence, counterintelligence, or other information for the purposes of intelligence, counterintelligence, or antiterrorism activities authorized by U.S. law, Executive Order, or other applicable national security directive.

I. To appropriate Federal, State, local, tribal, or foreign governmental agencies or multilateral governmental organizations where DHS is aware of a need to utilize relevant data for purposes of testing new technology and systems designed to enhance national security or identify other violations of law.

J. 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 issuance of a security clearance, license, contract, grant, or other benefit, or if the information is relevant and necessary to a DHS or component 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, or the issuance of a license, grant or other benefit when disclosure is appropriate to the proper performance of the official duties of the person making the request.

K. 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.

L. To third parties during the course of a law enforcement investigation to the extent necessary to obtain information pertinent to the investigation, provided disclosure is appropriate to the proper performance of the official duties of the officer making the disclosure.

M. 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 any component or is necessary to demonstrate the accountability of DHS or a component'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:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, digital media, and CD-ROM.

RETRIEVABILITY:

Records are retrieved by individual's name or date and time of the recording.

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 this 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 recordings with incidents are retained for six months. Those on which some action may be taken are retained for one year or until the close of the case. The electronic media used to make recording can be reused. Therefore, after the above stated retention period, CBP may reuse the electronic media and thus erase the previous recording.

SYSTEM MANAGER AND ADDRESS:

Port Directors, U.S. Customs and Border Protection, U.S. Customs and Border Protection Headquarters, 1300 Pennsylvania Avenue, NW., Mint Annex, Washington, DC 20229.

NOTIFICATION PROCEDURE:

The Secretary of Homeland Security has exempted this system from certain aspects of the notification, access, and amendment requirements of the Privacy Act. CBP will review each request to determine whether or not notification, access, or amendment should be provided. 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 CBP's FOIA Officer, 1300 Pennsylvania Avenue, NW., Mint Annex, Washington, DC 20229.

When seeking records about yourself from this system of records or any other CBP 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 CBP 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 verifying that individual's identity and certifying his/her agreement for you to access his/her records.

Without this bulleted information CBP 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:

Audio-video recording of persons being escorted within the port of entry.

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)(2), 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).

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

Privacy Act of 1974; System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of removal of one Privacy Act system of records notice.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security is giving notice that it will remove four systems of records notices from its inventory of record systems because Customs and Border Protection no longer requires the systems. The four obsolete systems are: Treasury/CS.197 Private Aircraft/Vessel Inspection Reporting System (October 18, 2001), Treasury/CS.252 Valuables Shipped Under the Government Losses in Shipment Act (October 18, 2001), Treasury/CS.171 Pacific Basin Reporting Network (October 18, 2001), and Treasury/CS.050 Community Leader Survey (October 18, 2001).

DATES: *Effective Date:* January 20, 2009.

FOR FURTHER INFORMATION CONTACT:

Hugo Teufel III, Chief Privacy Officer, Department of Homeland Security, Washington, DC 20528, by telephone (703) 235-0780 or facsimile 1-866-466-5370.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, and as part of its ongoing integration and management efforts, the Department of Homeland Security (DHS) is removing four Customs and Border Protection (CBP) system of records notices from its inventory of record systems.

DHS inherited these record systems upon its creation in January of 2003. Upon review of its inventory of systems of records, DHS has determined it no longer needs or uses these system of records and is retiring the following: Treasury/CS.197 Private Aircraft/Vessel Inspection Reporting System (66 FR