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Chief Privacy Officer, Department of Homeland Security.

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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2008-0165]

Privacy Act of 1974; United States Secret Service—003 Non-Criminal Investigation 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 retire portions of USSS.006 Non-Criminal Investigation Information System (August 28, 2001) into DHS/All 020 Internal Affairs, DHS/All-013 Claims, and DHS/OS-1 Office of Security Files and reissue the remaining portions of this system of records as DHS/USSS-003 Non-Criminal Investigation 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—003 Non-Criminal Investigation 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.

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

ADDRESSES: You may submit comments, identified by docket number DHS-2008-0165 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) 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 Non-Criminal Investigation Information System 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 USSS records that concern individuals involved in non-criminal statutory investigations and/or requirements. Information related to investigations into employee activities is retired into DHS/All-020 Internal Affairs published in the **Federal Register** on November 14, 2008 at 73 FR 67529; information related to claims against USSS is retired into DHS/All-013 Claims published in the **Federal Register** on October 28, 2008 at 73 FR 63987; and information related to employment and security clearance suitability is retired in DHS/OS1 Office of Security Files, published September 12, 2006 at 71 FR 53700. This will ensure that all organizational parts of USSS follow the same privacy rules for collecting and handling the USSS-003 Non-Criminal Investigation records.

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/USSS proposes to update and reissue USSS.006 Non-Criminal Investigation Information System (66 FR 45362 August 28, 2001). Categories of individuals, categories of

records, and the routine uses of this legacy system of records notice have been updated to better reflect the DHS/USSS Non-Criminal Investigation 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 DHS/USSS-003 Non-Criminal Investigation 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-003.****SYSTEM NAME:**

United States Secret Service-003
Non-Criminal Investigation Information
System 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 and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include individuals who are applicants for employment with the USSS and have taken a polygraph;

Qualified USSS law enforcement officers and qualified USSS retired law enforcement officers who carry concealed firearms;

Individuals who have admitted to the Secret Service that they viewed, have taken an interest in, or have engaged in prior activity regarding child pornography, the touching of a child for sexual gratification, or child abuse.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system include:

- Individual's name;
- Social Security number;
- Address;
- Date of birth;
- Case number;
- Applicant Polygraph Examination Reports and Files;
- DHS Polygraph Examination Reports and Files;
- Records containing investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or access to classified information; and
- Any group of records which have been created by the Law Enforcement Officer Safety Act of 2004, Public Law 108.277, § 1, codified at 18 U.S.C. 926B and 926C.
- Child Abuse reporting records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; the Federal Records Act, 44 U.S.C. 3101; 42 U.S.C. 13031; 18 U.S.C. 3056, Executive Order 10450; and Treasury Order 170-04.

PURPOSE(S):

The purpose of this system is to record and maintain files of individuals involved in non-criminal statutory investigations and/or requirements.

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 Federal, State, or local government agencies for the purpose of developing a relevant ongoing civil, criminal.

I. To private institutions and individuals for the purpose of confirming and/or determining suitability, eligibility, or qualification for Federal civilian employment or access to classified information, and for the purposes of furthering the efforts of the USSS to investigate the activities of individuals related to or involved in non-criminal civil and administrative investigations.

J. To another Federal agency or to an instrumentality of any government jurisdiction within or under the control of the United States for the purpose of determining suitability, eligibility, or qualifications for employment with or access to classified information in such other agency or instrumentality.

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 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 decision concerning the hiring or retention 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.

M. To State and local school boards, private and public schools, daycare facilities, children's camps, and childcare transportation providers, information concerning one of their employees, or applicants for employment, when such an individual has admitted to the United States Secret Service that they viewed, have taken an interest in, or have engaged in prior activity regarding child pornography, the touching of a child for sexual gratification, or child abuse.

N. 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 and/or behind locked doors. Electronic records media, such as magnetic tape, magnetic disk, digital media, and CD ROM are stored in proper environmental controls.

RETRIEVABILITY:

Records are indexed by name on file at Headquarters, the Office of Inspection, and in field offices and are retrieved through a manual search of index cards and/or through computer search of magnetic media. Access to the physical files is by case number obtained from the name indices.

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 case records are retained for 30 years. Applicant security and background investigation records of USSS employees are retained for 20 years after retirement or separation of the employee. All other records, the disposition of which is not otherwise specified, are retained and destruction is not authorized. Magnetic media indices are retained for an indefinite period of time.

SYSTEM MANAGER AND ADDRESS:

Assistant Director, Human Resources and Training, and Assistant Director, Office of Investigation, 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:

Employees, Former Employees, and Applicants for employment with the United States Secret Service, Federal, State, and local governmental agencies, court systems, executive entities both foreign and domestic, educational institutions, private business, and members of the general public.

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), (k)(3), (k)(5), and (k)(6), 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.

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