

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2009-0140]

Privacy Act of 1974; Department of Homeland Security Transportation Security Administration—023 Workplace Violence Prevention Program System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974 the Department of Homeland Security proposes to establish a new system of records titled, "Department of Homeland Security/Transportation Security Administration—023 Workplace Violence Prevention Program System of Records." This system will allow the Transportation Security Administration to collect and maintain records on their Workplace Violence Prevention Program. Additionally, the Department of Homeland Security is issuing a Notice of Proposed Rulemaking concurrent with this system of records elsewhere in the **Federal Register**. This newly established system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before March 25, 2010. This new system will be effective March 25, 2010.

ADDRESSES: You may submit comments, identified by docket number DHS-2009-0140 by one of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 703-483-2999.
- *Mail:* Mary Ellen Callahan, 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: Peter Pietra (tsaprivacy@dhs.gov), Director, Privacy Policy & Compliance, TSA-036, Transportation Security Administration,

601 South 12th Street, Arlington, VA 20598-6036. For privacy issues please contact: Mary Ellen Callahan (703-235-0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Homeland Security (DHS) Transportation Security Administration (TSA) is establishing a new system of records under the Privacy Act (5 U.S.C. 552a) titled, DHS/TSA-023 Workplace Violence Prevention Program System of Records. The system will cover records regarding current and former employees and contractors of TSA and members of the public who have been involved in workplace violence at TSA facilities, or while on or because of their official duty, or who are being or have been assisted or counseled by the TSA Workplace Violence Prevention Program. Records include acts, remarks, or gestures that communicate a threat of harm or otherwise cause concern for the safety of any individual at TSA facilities or while on or because of their official duty. These records may include identifying information, information documenting workplace violence, and actions taken by the Workplace Violence Prevention Program or TSA. The program provides oversight and management of potential or actual incidents of violence in the workplace. It provides assistance to affected individuals, guidance on prevention and response to workplace violence, analyzes data as needed, and provides training.

Additionally, DHS is issuing a Notice of Proposed Rulemaking (NPRM) concurrent with this system of records elsewhere in the **Federal Register**. This newly established system will be included in the Department of Homeland Security'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 legal

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/TSA-023 Workplace Violence Prevention Program System of Records.

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

SYSTEM OF RECORDS:

DHS/TSA-023

SYSTEM NAME:

Transportation Security Administration Workplace Violence Prevention Program System of Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at TSA Headquarters in Arlington, Virginia and field locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include: Current and former employees and contractors of TSA and members of the public who have been involved in workplace violence at TSA facilities, or while on or because of their official duty, or who are being or have been assisted or counseled by their Workplace Violence Prevention Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system include:

- Individual's full name;
- Date of birth;
- Social Security number;
- Work and home address;
- Work, home and cell numbers;
- Job title, duty station and work shift;
- Leave and attendance records;

- Performance records;
- Supervisor's name and contact information;
- Investigative reports including:
 - Documentation of alleged inappropriate behavior;
 - Video or audio recordings; or
 - Photographs;
 - Court records;
 - Documentation of management or local assessment and response team actions.
- Medical or mental health records including:
 - Evaluations or reports;
 - Attendance at treatment or counseling programs; or
 - Substance abuse records and prognosis.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101; Aviation and Transportation Security Act, Public Law 107-71; 5 U.S.C. 7361, 7362, 7901, 7904; 42 U.S.C. 290dd-2; Executive Order 9397; and Executive Order 12564.

PURPOSE(S):

This record system will maintain information gathered by and in the possession of the Workplace Violence Prevention Program, an internal TSA program designed to prevent and respond to workplace violence.

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

Note: Records of identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd-2. This statute takes precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The routine uses listed below do not apply to these types of records.

A. To the Department of Justice (including United States Attorney Offices) 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 the

Department of Justice or DHS has agreed to represent the employee; or

4. The United States or any agency thereof, 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 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.

E. To appropriate state and local authorities to report, under state law, incidents of suspected child abuse or neglect to the extent described under 42 CFR 2.12.

F. To any individual or entity, including medical or mental health personnel or law enforcement, when an individual poses a risk of harm to himself/herself or others, or when relevant to medical or mental health counseling, treatment or evaluation.

G. To the 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 designated officers and employees of federal, state, local, or international agencies in connection with the hiring or continued employment of an individual, the conduct of a suitability or security investigation of an individual, the grant, renewal, suspension, or revocation of a security clearance, or the certification of security clearances, to the extent that DHS determines the information is relevant and necessary to the agency's decision.

I. To airport operators, aircraft operators, maritime and surface transportation operators, indirect air carriers, and other facility operators on individuals who are their employees, prospective employees (job applicants), contractors, or persons to whom they issue identification credentials or grant clearances to secured areas in transportation facilities when relevant to such employment, application, contract, or the issuance of such credentials or clearances.

J. To a court, magistrate, or administrative tribunal where a federal agency is a party to the litigation or administrative proceeding 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.

K. 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 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 or a risk to transportation or national security.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

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

Records may be maintained on paper, audio and video recordings, and in computer-accessible storage media. Records may also be stored on microfiche and roll microfilm. Records that are sensitive or classified are safeguarded in accordance with agency procedures, and applicable Executive Orders and statutes.

RETRIEVABILITY:

Data may be retrieved by an individual's name, social security number, date of birth, and/or other personal identifier related to his/her specific case.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable 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:

The Department is proposing to retain records for seven years after administrative action has been taken. Records associated with this system will be maintained until the National Archives and Records Administration has approved the proposed records disposition schedule.

SYSTEM MANAGER AND ADDRESS:

Program Manager, National Workplace Violence Prevention, TSA-18, Transportation Security Administration, 601 S. 12th St., Arlington, VA 20598-6018.

NOTIFICATION PROCEDURE:

The Secretary of Homeland Security has exempted this system from the notification, access, and amendment procedures of the Privacy Act because it is a law enforcement system. However, TSA will consider individual requests to determine whether or not information may be released. 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 TSA FOIA Officer, whose contact information can be found at <http://www.dhs.gov/foia> under "contacts."

When seeking records about yourself from this 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 Chief Privacy Officer and Chief Freedom of Information Act Officer, <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;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created;

- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records; and

- 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 the component(s) 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:

Same as "Notification procedure" above. Provide your full name and a description of information that you seek, including the time frame during which the record(s) may have been generated. Individuals requesting access must comply with the Department of Homeland Security Privacy Act regulations on verification of identity (6 CFR 5.21(d)).

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure" and "Record Access Procedure," above.

RECORD SOURCE CATEGORIES:

Information originates from personnel seeking assistance, TSA and its offices, counselors, treatment facilities, and coworkers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Secretary of Homeland Security has exempted portions of this system from the following provisions of the Privacy Act, subject to the limitations set forth in (c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Dated: January 21, 2010.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2010-3401 Filed 2-22-10; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-3307-EM; Docket ID FEMA-2010-0002]

Arizona; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Arizona (FEMA-3307-DR), dated January 24, 2010, and related determinations.

DATES: *Effective Date:* January 29, 2010.

FOR FURTHER INFORMATION CONTACT:

Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this emergency is closed effective January 29, 2010.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010-3438 Filed 2-22-10; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-1872-DR; Docket ID FEMA-2010-0002]

Arkansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Arkansas (FEMA-1872-DR), dated February 4, 2010, and related determinations.

DATES: *Effective Date:* February 4, 2010.

FOR FURTHER INFORMATION CONTACT:

Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated