

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 the USCG 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:

USCG investigating officers, military, and civilian personnel. Individual service records from proceedings conducted. Trial proceedings and subsequent statutory reviews—Court of Military Review, Court of Appeals for the Armed Services, and Chief Counsel of the USCG.

#### 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) and (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: October 22, 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-2008-0137]

### Privacy Act of 1974; United States Coast Guard Employee Assistance Program Records 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 DOT/CG 636 Personal Affairs Record System Coast Guard Military Personnel. This system will allow the United States Coast Guard to administer the United States Coast Guard Employee Assistance Program for military personnel. Categories of individuals, categories of records, and the routine uses of this legacy system of records notice has been updated to better reflect the United States Coast Guard's Employee Assistance Program record systems. This new system titled United States Coast Guard Employee Assistance Program, will be included in the Department's inventory of record systems.

**DATES:** Written comments must be submitted on or before December 1, 2008. This new system will be effective December 1, 2008.

**ADDRESSES:** You may submit comments, identified by docket number DHS-2008-0137 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: 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)/United States Coast Guard (USCG) have relied on preexisting Privacy Act systems of records notices for the collection and maintenance of records that concern the USCG Employee Assistance Program.

As part of its efforts to streamline and consolidate its record systems, DHS/USCG is establishing a DHS/USCG system of records under the Privacy Act (5 U.S.C. 552a) for the USCG. The system will consist of records regarding the issue(s) giving rise to counseling, action taken by USCG Employee Assistance Program, and general information regarding the individual seeking counseling.

In accordance with the Privacy Act of 1974, and as part of the DHS's ongoing effort to review and update legacy system of records notices, the DHS is updating and reissuing DOT/CG 636 Personal Affairs Record System Coast Guard Military Personnel (65 FR 19476 4/11/2000). This system will allow USCG to administer the USCG Employee Assistance Program for military personnel. Categories of individuals, categories of records, and the routine uses of these legacy system of records notices have been consolidated and updated to better reflect the USCG's Employee Assistance Program record systems. This new system, titled United States Coast Guard Employee Assistance Program, 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 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 from which information is stored and retrieved by the name of the individual or by some identifying number such as property address, or mailing address symbol, assigned to the individual. In

the Privacy Act, an individual is defined to encompass United States citizens and legal permanent residents. DHS extends administrative Privacy Act protections to all individuals where information is maintained on both U.S. citizens, lawful permanent residents, and visitors. Individuals may request 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 each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses of their records, and to assist individuals to more easily find such records within the agency. Below is the description of the USCG Employee Assistance 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 Congress.

**SYSTEM OF RECORDS:**

DHS/USCG-002.

**SYSTEM NAME:**

United States Coast Guard Employee Assistance Program Records.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Employee Assistance Program case records are maintained by the USCG's vendor for the Employee Assistance Program. USCG Headquarters (CG-1112) is the point of contact for access to these records. Reports of USCG active duty suicidal behavior, work place violence incidents, critical incidents, and sexual assault reports are maintained at USCG Headquarters by the Office of Work-Life (CG-1112). Reports of sexual assaults received by USCG Headquarters (CG-1112) do not contain personally identifiable information. All other USCG records under this system are located at Work-Life Offices in Washington, DC and field locations. USCG Headquarters (CG-1112) is the point of contact for access to these records.

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

All USCG active duty, reserve, and retired active duty and reserve military personnel and their eligible dependants/individuals who have been referred for

assistance or counseling, are being assisted or counseled, or have been assisted or counseled by the USCG Employee Assistance Program. Eligibility will vary based on status.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Categories of records in this system include:

- Military personnel's name;
- Eligible dependent/individual's name, if applicable;
- Social Security number;
- Employee identification number;
- Date of birth;
- Addresses;
- E-mail address;
- Telephone numbers;
- Job-related information including: Job title, rank, duty station, supervisor's name and telephone number, documents received from supervisors or personnel regarding workplace problems or performance, leave and attendance records, and workplace-related recommendations made to supervisors as a result of a team meeting;
- Counseling and intervention-related information including: Notes and documentation of Employee Assistance Program counselors; records of treatment, including non-clinical educational interventions; counseling referrals; team reports; records of employee attendance at treatment and counseling programs; prognosis of individuals in treatment or counseling programs; insurance data; addresses and contact information of treatment facilities; name and address of individuals providing treatment or counseling or intervention; and Privacy Act notification forms and written consent forms;
- USCG Workplace Violence and related Critical Incident Team records of the Workplace Violence Prevention Program, maintained by USCG Work-Life personnel. These records may include written reports and recommendations to leadership personnel regarding alleged workplace violence incidents;
- USCG Critical Incident Stress Management-related records which may include descriptions of incidents, consultations, interventions, and may contain personally-identifying information (for the purpose of follow-on contacts with those thought to be impacted by the critical incident);
- USCG Sexual Assault Prevention and Response Program case records maintained by USCG Work-Life personnel. These records are used to facilitate services for victims and their family members as appropriate. In addition to information cited above

these records may contain Victim Reporting Preference Statement, case notes and safety plan. Record may also contain descriptions of alleged assaults;

- USCG Victim Support Person or Victim Advocate maintained by USCG Work-Life personnel. These are maintained in conjunction with efforts to provide assistance to victims of crime. Record will contain signed Victim Support Person or Victim Advocate Statement of Understanding and Victim Support Person or Victim Advocate Supervisor Statement of Understanding, assignment information, and notes regarding results of screening interview, relevant training received, and any other information relevant to the Victim Support Person's or Victim Advocate's provision of support services to victims;

- USCG Critical Incident Stress Management Peer Volunteers maintained by USCG Work-Life personnel. These records contain statement of understanding, notes regarding screening interview, record of related training received and any other information relevant to the peer's provision of services when deployed after a critical incident;

- Case records maintained by USCG Work-Life personnel on USCG Active Duty members who have demonstrated suicidal behavior. The purpose of these records is to facilitate continuity of care for personnel who have exhibited suicidal behavior. These records will contain reports regarding each incident and follow-up case notes;

- Reports of USCG active duty suicidal behavior incidents, workplace violence incidents, critical incidents, and sexual assaults are maintained by USCG Headquarters (CG-1112). These reports are received from Work-Life Offices who are responsible for providing services for the related programs described above. Their purpose is to ensure continuity of care and to identify any systemic issues found in aggregate data.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The Homeland Security Act of 2002, Public Law 107-296, 6 U.S.C. 121; Federal Records Act, 44 U.S.C. 3101; 6 CFR Part 5; 5 U.S.C. app. 3; 5 U.S.C. 301 and Ch. 41; Executive Order 11348, as amended by Executive Order 12107; and Executive Order 9397. 5 U.S.C. 7361, 7362, 7901, 7904.

**PURPOSE(S):**

The Employee Assistance Program will maintain information gathered by and in the possession of USCG Employee Assistance Program, an internal agency program designed to

assist employees of USCG and, in certain instances, their eligible dependants/individuals, in regard to a variety of personal and/or work-related problems. The program involves counseling, educational, and consultative services provided through the internal and external Employee Assistance Program for alcohol, drug, emotional, or behavioral problems, and addresses mandatory and voluntary counseling following exposure to a traumatic incident, responses to critical incidents that impact employees, and workplace incidents involving actual violence or the threat of violence and necessary follow-up.

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

Disclosure of substance abuse records is limited to the parameters set forth in 42 U.S.C. 290dd, 290ee, and Public Law 100-71, Section 503(e). Accordingly, a Federal employee's substance abuse records may not be disclosed without the prior written consent of the employee, unless the disclosure would be one of the following:

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 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 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 the Department or another agency or entity) or harm to the individual who relies upon the compromised information;

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

C. 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.

D. 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.

E. To any person or entity to the extent necessary to prevent an imminent and potential crime which directly threatens loss of life or serious bodily injury.

F. To report to appropriate authorities when an individual is potentially at risk to harm himself or herself or others.

G. To medical personnel to the extent necessary to meet a bona fide medical emergency.

H. To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation provided that employees are individually identified.

I. To the employee's medical review official.

J. To the administrator of any Employee Assistance Program in which the employee is receiving counseling or treatment or is otherwise participating.

K. To any supervisory or management official within the employee's agency having authority to take adverse personnel action against such employee; or

L. Pursuant to the order of a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action. See 42 U.S.C. 290dd, 290ee, and Public Law 100-71, Section 503(e).

**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 a locked drawer behind a locked door. The records are stored on magnetic disc, tape, digital media, and CD-ROM.

**RETRIEVABILITY:**

Data may be retrieved by a Military personnel's, eligible dependant's/ individual's name. USCG Critical Incident Stress Management-related records are filed by unit name and are not be retrievable by individual name, rather, by unit name.

**SAFEGUARDS:**

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

Records are maintained and disposed in accordance with National Archives and Records Administration approved agency Records Schedule, No. (AUTH: N1-026-07-1, Item 1). With the exception of Employee Assistance Program client records containing Department of Transportation-required Substance Abuse evaluations, and USCG Sexual Abuse Prevention and Response Program client records, records are retained for three years after the client has ceased contact, or for five years after last disclosure of information from the record.

Employee Assistance Program client records containing Department of Transportation-required Substance Abuse evaluations and USCG Sexual Abuse Prevention and Response Program client records are retained until five years after the client has ceased contact or, if later, for five years after last disclosure of information from the record.

All records will be retained beyond their normal maintenance period until any pending litigation is completed. This will be true whether or not the client has terminated employment with DHS/USCG. Individual states may require longer retention. The rules in this system notice should not be

construed to authorize any violation of such state laws that have greater restrictions.

Files will be destroyed only after the required period of maintenance, with a witness present, by either (1) a DHS or USCG Employee Assistance Program Administrator or an Employee Assistance Program Administrator from another organization that contracts with DHS or USCG for Employee Assistance Program services, or (2) by designated staff of a private or governmental organization under contract with DHS or USCG to provide document destruction services. The witness must be trained in the proper handling of records covered by the Privacy Act and 42 CFR Part 2.

Written records will be destroyed by shredding or burning. Records stored on hard drives will be destroyed using software tools which ensure the protection of the confidential information by making reconstruction or compromise by reuse impracticable. Records contained on back-up tapes/diskettes will be disposed by either physically destroying the tapes/diskettes or by deleting them using software tools which ensure the protection of the confidential information by making reconstruction or compromise by reuse impracticable.

Records located away from the destruction site shall be transferred to the destruction site in the confidential manner. The name and case coding number of the destroyed record will be maintained on a list of other destroyed records. No other information about Employee Assistance Program clients may be maintained once these files have been destroyed.

#### SYSTEM MANAGER AND ADDRESS:

Commandant, CG-1112, Office of Work-Life, United States Coast Guard Headquarters, 2100 2nd Street, SW., Washington, DC 20593-0001.

#### NOTIFICATION PROCEDURE:

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 Commandant, CG-1112, Office of Work-Life, United States Coast Guard Headquarters, 2100 2nd Street, SW., Washington, DC 20593-0001.

When seeking records about yourself from this system of records or any other USCG 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 the USCG will 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:

Information in this system is supplied from the following sources:

- USCG Employee Assistance Program: The client, the licensed mental health provider, and collateral sources and resources intended to help the client.
- USCG Workplace Violence and related Critical Incident Team: Investigation records, personnel records, critical incident team assembled to make recommendations to command, subject's supervisors, and the subject.
- USCG Critical Incident Stress Management-related records: Work-Life staff, Peers, Incident commander, command(s) affected, individuals impacted by incident, other support persons who may be mobilized to assist those impacted by the event.
- USCG Sexual Assault Prevention and Response Program: Victim, victim support person, medical personnel assisting victim, criminal investigations and investigators, and other support personnel intended to assist victim.
- USCG Victim Support Persons (VSP): The victim support person, Work-Life staff, VSP's or Victim Advocate's work supervisor, other support persons who may assist in training.
- USCG Critical Incident Stress Management Peer Volunteers: Peer,

Peer's supervisor, Work-Life staff, and other support persons who may assist in training.

- Case records maintained by USCG Work-Life personnel on USCG Duty members who have demonstrated suicidal behavior: The patient, medical personnel, patient's command, and Work-Life staff and other support persons who may assist in helping the patient.

- Reports of USCG active duty suicidal behavior incidents, workplace violence incidents, critical incidents, and sexual assaults maintained by USCG Headquarters (CG-1112): Work-Life staff and others as described above under their related programs.

#### EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: October 22, 2008.

#### Hugo Teufel III

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E8-25967 Filed 10-30-08; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

[Docket No. DHS-2008-0106]

### Privacy Act of 1974; U.S. Immigration and Customs Enforcement Trade Transparency Analysis and Research (TTAR) 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 U.S. Immigration and Customs Enforcement (ICE) Trade Transparency Analysis and Research (TTAR). TTAR contains trade and financial data that is analyzed to generate leads for and otherwise support ICE investigations of trade-based money laundering, contraband smuggling, trade fraud and other financial crimes. The data in TTAR is generally maintained in the ICE Data Analysis and Research Trade Transparency System (DARTTS), a software application and data repository that conducts analysis of trade and financial data to identify statistically anomalous transactions that may warrant investigation for money laundering or other import-export crimes. Additionally, a Privacy Impact Assessment for DARTTS will be posted on the Department's privacy Web site.