

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

Office of the National Counterintelligence Executive

Privacy Act of 1974; System of Records

Agency: Office of the National Counterintelligence Executive, Office of the Director of National Intelligence

Action: Notice to establish systems of records.

SUMMARY: The Office of the National Counterintelligence Executive (ONCIX) is establishing a system of records subject to the Privacy Act of 1974, as amended, 5 U.S.C. 552a. This system of records is maintained by ONCIX.

DATES: This action will be effective on [INSERT DATE 40 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless comments are received that result in a contrary determination.

ADDRESSES: You may submit comments, identified by [RIN number], by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>

Mail: Director, Information Management Office, Office of the Director of National Intelligence, Washington, D.C. 20511.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Hackett, Director, Information Management Office, 703-482-3610.

SUPPLEMENTARY INFORMATION: The National Counterintelligence Executive and the Office of the

National Counterintelligence Executive (ONCIX) were established in statute by the Counterintelligence Enhancement Act of 2002 and codified as an element of the Office of the Director of National Intelligence (ODNI) in the Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004.

The mission of the ONCIX is to serve as the head of national counterintelligence for the United States Government. The counterintelligence components of the United States Government are responsible for identifying, assessing, prioritizing, and countering the intelligence threats to the United States. The ONCIX is charged with fostering integration of these components to best address threats presented by the intelligence services of foreign states and similar organizations of non-state actors, such as transnational terrorist groups.

The National Counterintelligence Executive serves as the principal advisor to the Director of National Intelligence (DNI) on issues relating to the overall strategy and performance of the Intelligence Community relating to counterintelligence. Under the direction of the National Counterintelligence Executive, ONCIX develops an annual integrated national counterintelligence strategy, sets priorities for counterintelligence collection, investigations and operations, and ensures that budget and staffing recommendations conform to established programmatic

priorities. The ONCIX produces annual foreign intelligence threat assessments and other analytic counterintelligence products, including in-depth espionage damage assessments. The DNI has designated the National Counterintelligence Executive as the Mission Manager for Counterintelligence. As Mission Manager, the National Counterintelligence Executive works through the National Counterintelligence Policy Board to meet the goals of the nation's strategic counterintelligence mission. Partner organizations on the Board include, but are not limited to: Central Intelligence Agency; Department of Defense/Joint Chiefs of Staff; Department of Energy; Department of Homeland Security; Department of Justice/ Federal Bureau of Investigation and Department of State.

The system of records published herewith contains information about acts of espionage or other intelligence-related crimes. Accordingly, to protect classified and sensitive law enforcement information and to prevent the compromise of counterintelligence investigations and methods, the DNI is proposing to exempt this system of records from certain portions of the Privacy Act and to continue to exempt from certain portions of the Privacy Act those records for which the source agency claimed exemption. As required by the Privacy Act, a proposed rule is being published concurrently with this notice to seek public comment on the proposal to exempt this system.

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

Dated: 2007

John F. Hackett,

Director, Information Management Office

System name: Damage Assessment Records (ONCIX/ODNI-001).

Security classification: The classification of records in this system can range from UNCLASSIFIED to CLASSIFIED.

System location: Office of the National Counterintelligence Executive (ONCIX), Office of the Director of National Intelligence (ODNI), Washington, D.C.

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Categories of individuals covered by the system:

Individuals convicted of or indicted for espionage or other intelligence-related crimes; individuals whose identities and government affiliation are known or believed to have been compromised as a result of unauthorized disclosures; individuals interviewed in response to significant and particular unauthorized disclosures of classified information or individuals mentioned in such interviews, including colleagues of individuals convicted of or indicted for espionage or intelligence-related crimes or individuals with any knowledge of the facts surrounding the unauthorized disclosure; individuals who may have

knowledge of facts surrounding significant and particular unauthorized disclosures of classified information.

Categories of records in the system: Final damage assessments; records about unauthorized disclosures of classified material including law enforcement records (e.g., convictions, subpoenae, rap sheets) and records of investigations conducted by the FBI or other law enforcement elements; transcripts of ONCIX debriefings/interviews with individuals charged with or convicted of intelligence crimes, and with associates potentially knowledgeable of the disclosure or the resulting damage to national security; publicly available information about and psychological evaluations/profiles of the individuals charged/convicted of espionage or intelligence crimes; personal information and personally identifiable information (such as address, phone number, social security number (SSN), date of birth (DOB)) belonging to individuals charged or convicted or other individuals interviewed in connection with an investigation of the disclosure or assessment of the damage.

Authority for Maintenance of the System: The Intelligence Reform and Terrorism Prevention Act of 2004, Pub.L. 108-458, 118 Stat. 3638 (Dec. 17, 2004); The Counterintelligence Enhancement Act of 2002, as amended, 50

U.S.C. 402b, 402c; The National Security Act of 1947, as amended, 50 U.S.C. 401-442; Exec. Order No. 12,333, 46 Fed. Reg. 59,941 (1981); Exec. Order No. 13,354, 69 Fed. Reg. 53,589 (2004).

Purpose: The ONCIX Counterintelligence Damage Assessment Record System supports the ONCIX's statutory responsibility to evaluate the extent to which the national security or the nation's intelligence activities may have been compromised as a result of the record subject's unauthorized disclosure of classified material.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Final Damage Assessments may be disclosed as set forth in the General Routine Uses Applicable to More Than One ODNI Privacy Act System of Records, Subpart C of the ODNI's Privacy Act Regulation published concurrently with this notice and incorporated by reference (see also <http://www.dni.gov>).

Disclosure to Consumer Reporting Agencies: None.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage: Electronic records are stored in secure file-servers located within secure facilities under the control

of the ODNI. Paper and other hard copy records are stored in secured areas within the control of ONCIX.

Retrievability: The records in this system are retrieved by name, personal identifier, subject matter.

Safeguards: Information in this system is safeguarded in accordance with recommended and/or prescribed administrative, physical, and technical safeguards.

Records are maintained in a secure government facility with access to the facility limited to only authorized personnel or authorized and escorted visitors. Physical security protections include guards and locked facilities requiring badges and passwords for access. Records are accessed only by authorized government personnel and contractors holding an appropriate security clearance and who have a "need to know." Software controls are in place to limit access, and other safeguards exist to monitor and audit access and to detect intrusions. Communications are encrypted where required.

Retention and disposal: Pursuant to 44 U.S.C. 3303a(d) and 36 CFR Chapter 12, Subchapter B, Part 1228-Disposition of Federal Records, records will not be disposed of until such time as the National Archives and Records Administration (NARA) approves an applicable ODNI Records Control Schedule.

System manager(s) and address: ONCIX Damage Assessment
system Manager, c/o

Director, Information Management Office, Office of the
Director of National Intelligence, Washington D.C. 20511.

Notification procedures: As specified below, records in
this system have been exempted from certain notification,
access and amendment procedures. Individuals seeking to
learn if this system contains information about them should
address inquiries to the ONCIX at the address and according
to the requirements set forth below under the
heading "Record Access Procedures."

Record access procedures: As specified below, records in
this system have been exempted from certain notification,
access, and amendment procedures. A request for access to
non-exempt records shall be made in writing with the
envelope and letter clearly marked "Privacy Act Request."
Requesters shall provide their full name and complete
address. The requester must sign the request and have it
verified by a notary public. Alternately, the request may
be submitted under 28 U.S.C. 1746, certifying the
requester's identity and acknowledging that obtaining a
record under false pretenses constitutes a criminal
offense. Requests for access to information must be
addressed to the Director, Information Management Office,
Office of the Director of National Intelligence,

Washington, DC 20511. Regulations for obtaining access to records or for appealing an initial determination concerning access to records are contained in the ODNI Privacy Act regulation, published in this volume of the Federal Register.

Contesting record procedures: As specified below, records in this system have been exempted from certain notification, access and amendment procedures. Individuals seeking to correct or amend non-exempt records should address their requests to the ONCIX at the address and according to the requirements set forth above under the heading "Record Access Procedures." Regulations regarding requests to amend, for disputing the contents of one's record or for appealing initial determinations concerning these matters are contained in the ODNI Privacy Act regulation, published in this volume of the Federal Register.

Record Source Categories: Records derived from human and record sources consulted in the course of investigating disclosure of classified information.

Exemptions: Records contained within this System of Records may be exempted from the requirements of subsections (c) (3); (d) (1), (2), (3), (4); (e) (1) and (e) (4), (G), (H), (I); and (f) of the Privacy Act pursuant to

5 U.S.C. 552a(k)(1) and (k)(2). Records may be exempted from these subsections or, additionally, from the requirements of subsections (c)(4); (e)(2), (3), (5), (8) and (12); and (g) of the Privacy Act consistent with any exemptions claimed under 5 U.S.C. 552a(j) or (k) by the originator of the record, provided the reason for protecting the record from disclosure remains valid and necessary.