



Billing Code: BAC 4410-PB

DEPARTMENT OF JUSTICE

[CPCLO Order No. 005-2020]

Privacy Act of 1974; Systems of Records

AGENCY: Office of Attorney Recruitment and Management, Justice Management Division, United States Department of Justice.

ACTION: Notice of a Modified System of Records.

SUMMARY: Pursuant to the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A-108, notice is hereby given that the Office of Attorney Recruitment and Management (OARM), a component within the United States Department of Justice (DOJ or Department), proposes to modify a system of records notice titled “Federal Bureau of Investigation Whistleblower Case Files, JMD-023.” The component proposes to make modifications in the “System Location,” “Categories of Individuals Covered by the System,” “Categories of Records in the System,” “Authority for Maintenance of the System,” “Purposes,” and “System Manager(s) and Address” sections of the notice.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this notice is effective upon publication, subject to a 30-day period in which to comment on the routine uses, described below. Therefore, please submit any comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The public, OMB, and Congress are invited to submit any comments: by mail to the United States Department of Justice, Office of Privacy and Civil Liberties, ATTN: Privacy Analyst, 2 Constitution Square, 145 N Street NE, Washington, DC

20002; by facsimile at 202-307-0693; or by email at privacy.compliance@usdoj.gov. To ensure proper handling, please reference the above CPCLLO Order Number on your correspondence.

FOR FURTHER INFORMATION CONTACT: Hilary S. Delaney, Assistant Director, OARM, 450 5th Street NW, Suite 10200, Washington, DC 20530, Hilary.S.Delaney@usdoj.gov.

SUPPLEMENTARY INFORMATION: Under 28 CFR Part 27, an FBI employee or applicant who believes he or she has suffered a reprisal for making a protected disclosure may report the reprisal in writing to the Department's Office of Professional Responsibility (OPR) or Office of the Inspector General (OIG). The office that investigates the whistleblower reprisal complaint is known as the "Conducting Office." If the Conducting Office investigates the complaint and determines that there are reasonable grounds to believe that there has been a reprisal for a protected disclosure, the Conducting Office reports its conclusion to OARM, along with any findings and recommendations for corrective action. Alternatively, a complainant may file a request for corrective action with OARM within 60 calendar days upon notification by the Conducting Office that the investigation has been concluded. If the Conducting Office fails to notify the complainant, the complainant may seek corrective action with OARM any time after 120 calendar days from the filing of a complaint. Within 30 calendar days of a final determination or corrective action order by OARM, either party (*i.e.*, the complainant, and/or his or her designated representative, if any; and the FBI's Office of General Counsel (FBI OGC)) may request review by the Deputy Attorney General (DAG).

A complainant may pursue mediation through the Department's FBI Whistleblower Mediation Program any time during the processing of a complaint (whether at the Conducting Office level or before OARM or the DAG). OARM is responsible for adjudicating any claim involving an alleged breach of a settlement agreement reached by the parties during their participation in the FBI Whistleblower Mediation Program, and OARM's decision on a claim of any such alleged breach may be appealed to the DAG within 30 calendar days of OARM's decision.

On September 7, 2005, pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), OARM published a notice of a new system of records entitled "Federal Bureau of Investigation, Whistleblower Case Files, JMD-023" (70 FR 53253). The system maintains all documents and evidence submitted to OARM and the DAG filed in FBI whistleblower reprisal claims. The records are used by OARM and the DAG in their respective authorities to adjudicate claims of whistleblower reprisal brought by former or current employees of, or applicants for employment with, the FBI, pursuant to 28 CFR Part 27. The purpose of this notice of modification is to update administrative details that have changed since the 2005 publication of 70 FR 53253, including the recently adopted procedures involving reviews by OARM and the DAG of a party's claim of a breach of a settlement agreement reached by the parties during their participation in the Department's FBI Whistleblower Mediation Program.

Privacy Act exemptions are claimed for this system pursuant to 28 CFR § 16.76, however the exemptions are unchanged from the original publication of this SORN.

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and Congress on this notice of a modified system of records.

Dated: September 23, 2020.

Peter A. Winn,
Acting Chief Privacy and Civil Liberties Officer,
United States Department of Justice.

JUSTICE/JMD-023

SYSTEM NAME AND NUMBER:

Federal Bureau of Investigation Whistleblower Case Files, Justice/JMD-023.

SECURITY CLASSIFICATION:

The records in the system are generally sensitive but unclassified, although there may be situations when national security/foreign policy classified information is included in a specific matter.

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SYSTEM LOCATION:

[Delete existing paragraph and replace with the following:]

Records in this system are located at the Department of Justice, OARM, 450 5th Street NW, Suite 10200, Washington, DC 20530.

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CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

[Delete existing paragraph and replace with the following:]

The system of records covers any former or current employee of, or applicant for employment with, the FBI who has filed a request for corrective action with OARM pursuant to 28 CFR Part 27, or for whom the Conducting Office (*i.e.*, either OIG or OPR) has presented a Report of Investigation finding that there are reasonable grounds to believe a reprisal has or will be taken, and/or made a recommendation for corrective action to OARM. The system of records also covers any former or current employee of the FBI who has participated in the Department's FBI Whistleblower Mediation Program and filed a claim of a breach of a settlement agreement with OARM.

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CATEGORIES OF RECORDS IN THE SYSTEM:

[Delete existing paragraph and replace with the following:]

The records in the system relate to OARM’s adjudication of FBI whistleblower reprisal claims under 28 CFR Part 27 and customarily include: (1) the complainant’s request for corrective action; (2) OIG/OPR Reports of Investigation and any recommendation for corrective action; (3) the parties’ pleadings and evidentiary submissions (*e.g.*, affidavits, depositions, audio/visual DVDs, electronic communications, etc.); (4) correspondence between OARM and the parties and OARM and OIG/OPR; (5) OARM Orders and Opinions; and/or (6) settlement agreements.

The records in the system also include: (1) the parties’ pleadings and evidentiary submissions presented to OARM for adjudication of any claim of a breach of a settlement agreement reached through the parties’ participation in the Department’s FBI Whistleblower Mediation Program; (2) OARM’s decisional or procedural issuances in breach of settlement agreement cases; and (3) appellate materials presented to, and used by, the DAG in adjudicating a party’s request for review of OARM’s final determinations and corrective action orders brought under 28 CFR 27.5, as well as any request for review of a decision by OARM in a breach of settlement agreement case.

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AUTHORITY FOR MAINTENANCE IN THE SYSTEM:

[Delete existing paragraph and replace with the following:]

5 U.S.C. 301; 44 U.S.C. 3101; 5 U.S.C. 2303; 28 CFR Part 27.

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PURPOSE(S):

[Delete existing paragraph and replace with the following:]

The records in the system are used: (1) by OARM to determine whether the complainant made a protected disclosure that was a contributing factor in the FBI's decision to take or fail to take, or threaten to take or fail to take, a covered personnel action against the complainant, and, if so, what, if any corrective action can and should be appropriately ordered; (2) by OARM to determine whether there has been a breach by a party of a settlement agreement reached through the parties' participation in the Department's FBI Whistleblower Mediation Program, and, if so, whether the agreement shall be set aside or enforced; and (3) by the DAG in adjudicating requests for review of OARM's final determinations and/or corrective action orders in reprisal cases, as well as OARM's decisions in cases involving a claim of a breach of settlement agreement.

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SYSTEM MANAGER(S) AND ADDRESS:

[Delete existing paragraph and replace with the following:]

Assistant Director, OARM, 450 5th Street NW, Suite 10200, Washington, DC
20530.

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HISTORY:

70 FR 53253 (Sept. 7, 2005), 72 FR 15906 (April 3, 2007), 72 FR 30631 (June 1, 2007); 82 FR 24147 (May 25, 2017).

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