

Rule claiming these exemptions is published in today's **Federal Register**.

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## DEPARTMENT OF JUSTICE

[AAG/A Order No. 016-2005]

### Privacy Act of 1974; System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Federal Bureau of Prisons (Bureau or BOP), Department of Justice, proposes to create a new system of records entitled "Inmate Electronic Message Record System, JUSTICE/BOP-013." The system notice will become effective sixty (60) days from the date of publication in the **Federal Register**.

The Bureau is creating this new program as a pilot project at selected sites. Once the pilot is completed and evaluated, the Bureau may expand the program to all individuals placed under the custody of the Bureau pursuant to 18 U.S.C. 3621 and 5003 (state inmates).

Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be provided a 30-day period in which to comment. The Office of Management and Budget (OMB), which has oversight responsibilities under the Privacy Act, requires that it be given a 40-day period in which to review the system. Therefore, please submit any comments by December 27, 2005. The public, OMB, and the Congress are invited to send written comments to Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (1400 National Place Building).

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

Dated: November 7, 2005.

**Paul R. Corts,**

*Assistant Attorney General for Administration.*

### JUSTICE/BOP-013

#### SYSTEM NAME:

Inmate Electronic Message Record System.

#### SECURITY CLASSIFICATION:

Not classified.

#### SYSTEM LOCATION:

For the pilot program, records will be retained only at selected sites. Once the pilot is completed and evaluated, records may be retained at any of the Federal Bureau of Prisons (Bureau)

facilities nationwide, or at any location operated by a contractor authorized to provide computer and/or electronic message service to Bureau inmates. A list of Bureau facilities may be found at 28 CFR part 503 and on the Internet at <http://www.bop.gov>.

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

Current and former inmates, including pre-trial detainees, under the custody of the Attorney General and/or the Director of the Bureau of Prisons; recipients of electronic messages from current and former inmates; individuals on the approved electronic message correspondent lists of current or former inmates; individuals who request, in writing through either traditional mail or through electronic message, that the Bureau delete their name and electronic address from inmate electronic message correspondent lists.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include: (1) Personal identification data; (2) time usage data; (3) electronic message data, including date and time of each electronic message; the name and register number of the inmate who sent the electronic message; and the electronic address of the message recipient and his/her relationship to the inmate; digital and compact disc recordings of electronic messages; and (4) investigatory data developed internally as well as any related data collected from federal, state, local, tribal and foreign law enforcement agencies, and from federal and state probation and judicial officers.

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 3621, 4042, and 5003.

#### PURPOSE(S):

This system of records is maintained to manage records relating to inmate electronic messages and to ensure that inmates exercise their electronic message privileges in a manner consistent with correctional goals. The Bureau of Prisons encourages inmates to maintain contact with members of the community, including contact through the exchange of electronic messages directed to socially useful goals. The related uses for which the Bureau will maintain the system include (1) recording of time used by inmates writing, receiving, and reviewing electronic messages; (2) maintaining inmate electronic message correspondent lists; (3) monitoring of inmate electronic message activity; and (4) conducting investigations, e.g., investigation of inmate activity related to electronic message usage, and/or

illegal activities or suspected illegal activities being conducted, coordinated, or directed from within a federal correctional institution.

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

Relevant data from this system will be disclosed as follows:

(a) To any criminal, civil, or regulatory law enforcement authority (whether federal, state, local, territorial, tribal or foreign) where the information is relevant to the recipient entity's law enforcement responsibilities, including possible criminal violations discovered as part of electronic message monitoring done for the safety, security and good order of penal institutions.

(b) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records;

(c) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the record subject;

(d) To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy;

(e) To the National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906;

(f) To affected non-inmate record subjects to the extent necessary to provide such persons with information concerning placement and/or removal from an inmate's electronic message correspondent list;

(g) To an individual, organization, or governmental entity in order to notify them of a serious terrorist threat for the purpose of guarding against or responding to such a threat;

(h) In an appropriate proceeding before a court, or administrative or adjudicative body when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before a court, or administrative or adjudicative body, when the adjudicator determines the records to be relevant to the proceeding;

(i) The Department of Justice may disclose relevant and necessary

information to a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility; and

(j) To federal, state, local, tribal, foreign or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Not Applicable.

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

**STORAGE:**

Information maintained in the system is stored in electronic media via a configuration of personal computer and client/server, and may be accessed by those with a need-to-know at all Bureau and contractor facilities. Some information may be stored in other computerized media, e.g., hard disk, floppy diskettes, magnetic tape, digital recordings, Compact Discs (CDs), and/or optical disks. Documentary records are maintained in manual file folders and/or on index card files.

**RETRIEVABILITY:**

Records may be retrieved by identifying data including name and/or register number of inmate; and/or by name and/or electronic address of message recipient or individual on approved inmate electronic message correspondent list.

**SAFEGUARDS:**

Information is safeguarded in accordance with Bureau rules and policy governing automated information systems security and access. These safeguards include the maintenance of records and technical equipment in restricted areas, and the required use of proper passwords and user identification codes to access the system. Only those Bureau personnel and authorized contractors who require access to perform their official duties may access the system equipment and the information in the system. Bureau inmates will only be able to access their

own sent and received electronic messages.

**RETENTION AND DISPOSAL:**

Electronic messages are maintained ordinarily for six months from the date created, at which time they are overwritten with new data. Other records in this system may be incorporated into another system of records, e.g., JUSTICE/BOP-005, Inmate Central Records System. System-generated reports are retained for as long as they are needed. Computerized records are destroyed by degaussing; documentary records are destroyed by shredding.

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant Director, Administration Division, Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

**NOTIFICATION PROCEDURE:**

Inquiries should be directed to the System Manager listed above.

**RECORD ACCESS PROCEDURES:**

All requests for records may be made by writing to the Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20534. The envelope should be clearly marked "Freedom of Information/Privacy Act Request." The request should include a general description of the records sought, including the approximate dates covered by the record, the requester's full name, current address, and date, and place of birth. Also, if the requester is an inmate who requests documents to be sent to a third party, the inmate must provide with the request an example of his or her signature, which must be verified and dated within three (3) months of the date of request. This system of records is exempted from access pursuant to 5 U.S.C. 552a(j)(2) and/or (k)(2). A determination as to the applicability of the exemption to a particular record(s) shall be made at the time a request for access is received.

**CONTESTING RECORD PROCEDURES:**

Same as above. Requesters may contest record procedures by writing to the Office of Information and Privacy, U.S. Department of Justice, Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20530.

**RECORD SOURCE CATEGORIES:**

Records are generated by: individuals covered by the system; Bureau staff; federal, state, local, tribal, international and foreign law enforcement agencies; and federal/state probation and judicial offices.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

The Attorney General has exempted this system from subsections (c)(3) and (4), (d)(1)-(4), (e)(2), (e)(3), (e)(5), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and/or (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register**.

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**DEPARTMENT OF JUSTICE**

**Antitrust Division**

**Proposed Termination of Final Decree**

Notice is hereby given that Ludowici Roof Tile, Inc. ("Ludowici"), successor in interest to Ludowici-Celadon Company ("Ludowici-Celadon"), a defendant in *United States v. Ludowici-Celadon Co., et al.*, In Equity No. 9022 (N.D. Ill. Mar. 12, 1929), has filed a motion to terminate the final Decree entered in that matter on March 18, 1929 (the "Decree"). The Antitrust Division of the Department of Justice, in a Stipulation also filed with the Court, tentatively has consented to termination of the Decree, but has reserved the right to withdraw its consent pending receipt of public comments.

On March 12, 1929, the United States filed a Petition against Ludowici-Celadon and sixteen individuals, including certain exclusive sales agents, "preferred roofers," and certain Ludowici-Celadon officers, directors, and employees. The Petition alleged that the defendants conspired to restrain interstate trade and commerce in the manufacture and sale of "roofing tile" and to monopolize and attempt to monopolize such trade. The Decree defined "roofing tile" as "tile produced from shale or clay and used as a covering for pitched roofs, cornices and other exposed surfaces of buildings and structures."

The Decree perpetually enjoined the defendants from continuing the conspiracy or entering into any combination similar thereto. The Decree prohibited the defendants from engaging in any exclusionary or otherwise potentially or patently anticompetitive conduct. The Decree also perpetually enjoined Ludowici-Celadon from acquiring ownership or control of any additional plants engaged in the manufacture and sale of roofing tile.

The Department has filed with the Court a memorandum setting forth the reasons the United States believes that termination of the Decree would serve