



July 31, 2017

VIA E-MAIL (FISFormsComments@opm.gov)

National Background Investigation Bureau
U.S. Office of Personnel Management
Attn: Ms. Donna McLeod
1900 E Street, N.W.
Washington, D.C. 20415-1000

RE: Proposed Standard Form-85 Revisions

Dear Ms. McLeod:

The National Treasury Employees Union (NTEU) submits these comments in response to the Office of Personnel Management's (OPM) Federal Register notice published on June 30, 2017 (82 Fed. Reg. 29948). In that notice, OPM proposes revisions to its Standard Form 85, Questionnaire for Non-Sensitive Positions. NTEU has serious concerns about some of OPM's proposed revisions and objects to the issuance of the proposed form.

NTEU's concerns pertain to a new section that OPM proposes to include in its revised form: Section 17 – Police Record. This section covers one of five areas addressed in Optional Form 306, Declaration for Federal Employment, which OPM proposes to import into its SF-85 "[i]n an effort to streamline information collection." See 82 Fed. Reg. 29949.

While NTEU does not object to OPM collecting some "police record" information in its SF-85, NTEU believes that OPM requests information in this proposed section without sufficient justification. In direct contrast to the current OF-306, the proposed "Police Record" section would require individuals to report convictions that were expunged under federal or state law or otherwise stricken from court records. It would also, in direct contrast to the current OF-306, require individuals to report charges that were dismissed. The information that the section would require, moreover, includes information about charges and proceedings (regardless of the outcome) that occurred when an individual was a minor, even if the record in the matter is under seal.

Each of these things is objectionable. OPM gives no basis for seeking information on dismissed or expunged criminal charges. Absent a sufficient basis, employees should not have to give this sensitive information to OPM. It is, moreover, exceedingly difficult to see the probative value of this information. A dismissed charge or expunged violation, by its very

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nature, shows nothing and would thus be of no value in determining one's fitness for the federal civil service. The same is true for information pertaining to conduct alleged to have occurred when the individual was a minor that is under seal. OPM's proposed "Police Record" section should be stricken or, alternatively, modified to mirror the corresponding section in the current OF-306.

Thank you for the opportunity to submit these comments. Please do not hesitate to contact NTEU for elaboration of these views.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony M. Reardon". The signature is fluid and cursive, with the first name "Anthony" being more prominent and the last name "Reardon" following in a similar style.

Anthony M. Reardon
National President