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[Notices]  
[Pages 34233-34240]  
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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2011-0048]

Privacy Act of 1974; U.S. Citizenship and Immigration Services,=20
Immigration and Customs Enforcement, Customs and Border Protection--001=20
Alien File, Index, and National File Tracking System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of Update and Reissuance of Privacy Act System of=20
Records.

SUMMARY: The Department of Homeland Security is updating and re-
publishing the previously established Privacy Act system of records=20
notice published in the Federal Register on January 16, 2007 for the=20
Department of Homeland Security U.S. Citizenship and Immigration=20
Services, Immigration and Customs Enforcement, and the Customs and=20
Border Protection Alien File, Index, and National File Tracking System=20
of Records. This system of records contains information regarding=20
transactions involving an individual as he/she passes through the U.S.=20
immigration and inspection process, some of which may also be covered=20
by separate systems of records notices. This system of records contains=20
personally identifiable information such as the individual's name,=20
Alien Registration Number, receipt file number, date and place of=20
birth, date and port of entry, as well as the location of each official=20
Alien File. It may also contain other personal identifiers such as an=20
individual's social security number. The Department of Homeland=20
Security is updating the Department of Homeland Security United States=20
Citizenship and Immigration Services--001 Alien File and Central Index=20
System to be renamed Department of Homeland Security U.S. Citizenship=20
and Immigration Services, Immigration and Customs Enforcement, Customs=20
and Border Protection--001 Alien File, Index, and National File=20

Tracking System of Records with the following substantive changes: (1) The addition of new routine uses to allow the Department of Homeland Security to share information from the system; (2) an update to the classification level of the system and to provide notice that the system may contain classified records; and (3) a proposed exemption from certain provisions of the Privacy Act for records that are classified. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice and improve the public's understanding of the system. To propose the additional exemption, the Department of Homeland Security is also giving concurrent notice of proposed rulemaking pursuant to the Privacy Act of 1974 for the Department of Homeland Security U.S. Citizenship and Immigration Services, Immigration and Customs Enforcement, Customs and Border Protection--001 Alien File, Index, and National File Tracking System of Records. The legacy final rule exempting the Immigration and Naturalization Service Alien File and Central Index System, JUSTICE/INS-001A legacy system of records from certain portions of the Privacy Act remains in effect until publication of a final rule by the Department of Homeland Security.

DATES: Submit comments on or before July 13, 2011.

ADDRESSES: You may submit comments, identified by DHS-2011-0048 by one of the following methods:

<BULLET> Federal e-Rulemaking Portal: http://www.regulations.gov/. Follow the instructions for submitting comments.

<BULLET> Fax: 703-483-2999.

<BULLET> Mail: Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

<BULLET> Instructions: All submissions received must include Department of Homeland Security as 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 by the submitter.

<BULLET> 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 Donald K. Hawkins (202-272-8000), Privacy Officer, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue, NW., Washington, DC 20529. For privacy issues please contact: Mary Ellen Callahan (703-235-0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Homeland Security (DHS) implements U.S. immigration law and policy through the U.S. Citizenship and Immigration Service's (USCIS) processing and adjudication of applications and petitions submitted for citizenship,

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asylum, and other immigration benefits. USCIS also supports national security by preventing individuals from fraudulently obtaining immigration benefits and by denying applications from individuals who pose national security or public safety threats. U.S. immigration policy and law is also implemented through U.S. Immigration and Customs

Enforcement's (ICE) law enforcement activities and U.S. Customs and Border Protection's (CBP) inspection and border protection processes.

The Alien File (A-File), Index, and National File Tracking System of Records is the official record system that contains information regarding transactions involving an individual as he/she passes through the U.S. immigration and inspection process. The DHS/USCIS-ICE-CBP-001 Alien File, Index, and National File Tracking System of Records contains personally identifiable information (PII) such as the individual's name, Alien Registration Number, receipt file number, date and place of birth, date and port of entry, as well as the location of each official A-File. It may also contain other personal identifiers such as an individual's Social Security Number (SSN), if the individual has one and it is in the A-File. Some records contained in the DHS/USCIS-ICE-CBP-001 A-Files are derived from separate systems of record, in which case the system of records notice pertaining to the originating system would govern the treatment of those records. Previously, the legacy agency Immigration and Naturalization Services (INS) collected and maintained information concerning all of these immigration and inspection interactions. Since the formation of DHS, however, immigration responsibilities have been divided among USCIS, ICE, and CBP. While USCIS is the custodian of the A-File, all three components create and use A-Files, hence this joint System of Records Notice.

A notice detailing this system of records was last published in the Federal Register on January 16, 2007, as the DHS/USCIS-001 Alien File and Central Index System (CIS), (72 FR 1755).

DHS is updating the DHS/USCIS-001 Alien File and Central Index System of Records to be renamed DHS/USCIS-ICE-CBP-001 Alien File, Index, and National File Tracking System of Records to include the following substantive changes: (1) The addition of thirteen routine uses and updates to other routine uses to allow DHS to share information from the system; (2) an update to the classification level of the system and to provide notice that the system may contain classified records; and (3) a proposed exemption from certain provisions of the Privacy Act for records that are classified.

DHS is renaming this system in order to provide a better description of the types of records that are maintained in this system of records. These records may be maintained in paper or electronic format, but the uses and protections outlined in the notice do not change because of the format or the specific IT system in which they are maintained. DHS has provided more explicit notice on the specific IT systems where these types of records may exist under "Location."

Below is a summary of the thirteen routine use additions or modifications with the letter in parentheses corresponding to the routine use impacted:

- (A) Updated: To include DHS as an additional party for litigation in the release of information to the Department of Justice (DOJ);
- (D) New: To an agency, organization, or individuals for the purpose of performing audits or oversight as authorized by law;
- (F) Updated: To include interns and students working on assignments for DHS;
- (I) New: To courts for immigration, civil, or criminal proceedings;
- (K) New: To DOJ or other federal agencies when conducting litigation to assist in development of the agency's legal and/or policy position;
- (L) Updated: To include sharing with international organizations about an alien or an enforcement operation with transnational implications;
- (P) New: To a government organization in regards to hiring or retention of an individual where failure to disclose the information on an individual is likely to create a security risk;
- (Q) Updated: Rewritten to provide better clarification on when information is released to current or prospective employers;
- (T) New: To Congress during the private immigration relief

legislation process;

(U) Updated: To government agencies to assist in the collection of=20 debts;

(V) Updated: To third parties posting immigration bonds;

(BB) New: To third parties when an individual will be released from=20 DHS custody to assist with arranging housing or medical care;

(CC) New: To domestic government agencies when an individual will=20 be released from DHS custody and there are concerns related to health=20 and safety;

(DD) New: To foreign governments to coordinate removal of=20 individuals;

(EE) New: To law enforcement agencies for de-conflicting=20 investigations and other coordination of law enforcement activities;

(FF) New: To custodial agencies to place an immigration detainer on=20 an individual or to facilitate the transfer of custody of the=20 individual from DHS to that agency;

(GG) New: To government agencies to confirm the location, custodial=20 status, removal or voluntary departure of an alien in order to=20 facilitate the custody, care and/or legal rights of the individual's=20 minor children;

(HH) New: To government agencies to assist in making determinations=20 of redress;

(II) New: To share information from the system on a case-by-case=20 basis with the news media or public.

The latter sharing, to the news media or public, would be done only=20 with the approval of the DHS Chief Privacy Officer, who will weigh the=20 public interest in receiving the information against the privacy=20 interests of the individual to whom the information pertains, when the=20 disclosure is necessary to preserve confidence in the integrity of DHS=20 or demonstrate the accountability of DHS personnel.

Classification level: DHS has updated the SORN to indicate that=20 both classified and unclassified information may be maintained in the=20 A-File, as such DHS is providing a concurrent notice of proposed=20 rulemaking pursuant to the Privacy Act of 1974 for the DHS/USCIS-ICE-
CBP--001 Alien File, Index, and National File Tracking System of=20 Records to include an exemption for classified information in addition=20 to the existing law enforcement information exemption. The proposed=20 rule extends the Privacy Act exemption to classified information and=20 then re-publishes the existing exemptions claimed for the legacy=20 JUSTICE/INS-001A A-File and CIS, (66 FR 46812). Generally, USCIS, ICE,=20 and CBP are not the originators of the classified materials maintained=20 in some A-Files. DHS therefore, would rely upon the Privacy Act=20 exemptions claimed by the system of records from which the classified=20 material originated. By issuing this particular exemption, DHS is=20 providing further transparency about the existence of classified=20 material in this system of records. All of the exemptions DHS is=20 proposing are standard law enforcement and national security exemptions=20 exercised by a large number of federal law enforcement and intelligence=20 agencies. Until DHS

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publishes a final rule exempting the system from certain portions of=20 the Privacy Act, the legacy final rule exempting the JUSTICE/INS-001A=20 A-File and CIS, (66 FR 46812) legacy system of records from certain=20 portions of the Privacy Act remains in effect for this system of=20 records.

Pursuant to Pub. L. No. 107-296, Homeland Security Act of 2002,=20 Section 804 Savings Provisions, and by reference 28 CFR Appendix C to=20 Part 16, Subpart E, pertaining to the JUSTICE/INS-001A A-File and CIS,=20 (66 FR 46812) system of records notice, the records and information in=20 this system are exempt from 5 U.S.C. 552a (c)(3) and (4), (d), (e)(1),=20 (2), and (3), (e)(4)(G) and (H), (e)(5) and (8), and (g) of the Privacy=20 Act. These exemptions apply only to the extent that records in the=20

system are subject to exemption pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

Administrative changes: In addition to the above mentioned substantive changes to this system of records notice, DHS has updated the categories of individuals and categories of records so that they are more clearly defined.

Consistent with DHS's statutory information sharing mission, information stored in the DHS/USCIS-ICE-CBP--001 Alien File, Index, and National File Tracking System of Records may be shared with other DHS components, as well as appropriate federal, state, local, tribal, foreign, or international government agencies. This sharing will take place only after DHS determines that the receiving component or agency has a need to know the information to carry out national security, law enforcement, immigration, intelligence, or other functions consistent with the purposes of this system of records and the routine uses set forth in this system of records notice.

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 for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors, and aliens. Individuals may request access to 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 to which their records are put, and to assist individuals to more easily find such files within the agency. Below is the description of the DHS/USCIS-ICE-CBP--001 A-File, Index, and National File Tracking system of records.

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

System of Records:

DHS/USCIS-ICE-CBP--001.

System name:

Department of Homeland Security U.S. Citizenship and Immigration Services, Immigration and Customs Enforcement, Customs and Border Protection--001 Alien File, Index, and National File Tracking System of Records.

Security classification:

Unclassified, sensitive, for official use only, and classified.

System location:

Alien Files (A-Files) are maintained in electronic and paper format throughout DHS. Digitized A-Files are located in the Enterprise Document Management System (EDMS). The Central Index System (CIS)

maintains an index of the key personally identifiable information (PII) in the A-File which can be used to retrieve additional information through such applications as Enterprise Citizenship and Immigration Services Centralized Operational Repository (eCISCOR), the Person Centric Query Service (PCQS) and the Micofilm Digitization Application System (MiDAS). The National File Tracking System (NFTS) provides a tracking system of where the A-Files are physically located, including whether the file has been digitized.

The databases maintaining the above information are located within the DHS data center in the Washington, D.C. metropolitan area as well as throughout the country. Computer terminals providing electronic access are located at U.S. Citizenship and Immigration Services (USCIS) sites at Headquarters and in the Field throughout the United States at appropriate facilities under the jurisdiction of the U.S. Department of Homeland Security (DHS) and other locations at which officers of DHS component agencies may be posted or operate to facilitate DHS's mission of homeland security. Hard copies of the A-Files are primarily located at the records centers in Lee Summit, Missouri; Suitland, Maryland; San Bruno, California; Seattle, Washington; and Dayton, Ohio. Hard copies may also be located at Headquarters, Regional, District, and other USCIS file control offices in the United States and foreign countries as detailed on the agency's Web site, <http://www.uscis.gov/>. Hard copies may also be located at the offices and facilities of U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP).

Categories of individuals covered by the system:

Categories of individuals covered by this system include:

- <BULLET> Lawful Permanent Residents;
- <BULLET> Naturalized United States Citizens;
- <BULLET> United States Citizens when petitioning for benefits under the Immigration and Nationality Act (INA) on behalf of another individual;
- <BULLET> Individuals who received or petition for benefits under the INA;
- <BULLET> Individuals who are subject to the enforcement provisions of the INA;
- <BULLET> Individuals who are subject to the INA and:
 - [cir] Are under investigation by DHS for possible national security threats or threats to the public safety,
 - [cir] Were investigated by the DHS in the past,
 - [cir] Are suspected of violating immigration-related criminal or civil provisions of treaties, statutes, regulations, Executive Orders, and Presidential proclamations administered by DHS, or
 - [cir] Are witnesses and informants having knowledge of such violations;
- <BULLET> Relatives and associates of those individuals list above who are subject to the INA;
- <BULLET> Individuals who have renounced their U.S. Citizenship; or
- <BULLET> Preparers, Attorneys, and Representatives who assist individuals during benefit and enforcement proceedings under the INA.

Note: Individuals may fall within one or more of these categories.

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Categories of records in the system:

Categories of records in this system include:

- A. The hardcopy paper A-File, which contains the official record material about each individual for whom DHS has created a record under the Immigration and Nationality Act such as: Naturalization certificates; various documents and attachments (e.g., birth and marriage certificates); applications and petitions for benefits under the immigration and nationality laws; reports of arrests and

investigations; statements; other reports; records of proceedings=20
before or filings made with the U.S. immigration courts and any=20
administrative or federal district court or court of appeal;=20
correspondence; and memoranda. Specific data elements may include:

- <BULLETT> Alien Registration Number(s) (A-Numbers);
- <BULLETT> Receipt file number(s);
- <BULLETT> Full name and any aliases used;
- <BULLETT> Physical and mailing addresses;
- <BULLETT> Phone numbers and email addresses;
- <BULLETT> Social Security Number;
- <BULLETT> Date of birth;
- <BULLETT> Place of birth (city, state, and country);
- <BULLETT> Countries of citizenship;
- <BULLETT> Gender;
- <BULLETT> Physical characteristics (height, weight, race, eye and=20
hair color, photographs, fingerprints);
- <BULLETT> Government-issued identification information (i.e.,=20
passport, driver's license):
 - [cir] Document type,
 - [cir] Issuing organization,
 - [cir] Document number, and
 - [cir] Expiration date;
- <BULLETT> Military membership;
- <BULLETT> Arrival/Departure information (record number, expiration=20
date, class of admission, etc.);
- <BULLETT> FBI Identification Number;
- <BULLETT> Fingerprint Identification Number;
- <BULLETT> Immigration enforcement history, including arrests and=20
charges, immigration proceedings and appeals, and dispositions=20
including removals or voluntary departures;
- <BULLETT> Immigration status;
- <BULLETT> Family history;
- <BULLETT> Travel history;
- <BULLETT> Education history;
- <BULLETT> Employment history;
- <BULLETT> Criminal history;
- <BULLETT> Professional accreditation information;
- <BULLETT> Medical information relevant to an individual's=20
application for benefits under the Immigration and Nationality Act=20
before the Department or the immigration court, an individual's=20
removability from and/or admissibility to the United States, or an=20
individual's competency before the immigration court;
- <BULLETT> Specific benefit eligibility information as required by=20
the benefit being sought; and
- <BULLETT> Video or transcript of immigration interview.

B. EDMS maintains the electronic copy of the A-File (same=20
information as above with the exception of material that cannot be=20
scanned such as cassette tapes, CDs, or DVDs) if it was scanned from=20
the paper file.

C. CIS contains information on those individuals who during their=20
interactions with DHS have been assigned an A-Number. The system=20
contains biographic information on those individuals allowing DHS=20
employees to quickly review the individual's immigration status. The=20
information in the system can then be used to retrieve additional=20
information on the individual from other systems. The information in=20
the system can be used to request the hard copy A-File from the DHS=20
File Control Office that has custody of the file. Specific data=20
elements may include:

- <BULLETT> A-Number(s);
- <BULLETT> Full name and any aliases used;
- <BULLETT> Social Security Number;
- <BULLETT> Date of birth;
- <BULLETT> Place of birth (city, state, and country);
- <BULLETT> Country of citizenship;

<BULLET> Gender;
<BULLET> Government issued identification information (i.e.,=20 passport, driver's license):
[cir] Document type;
[cir] Issuing organization;
[cir] Document number; and
[cir] Expiration date;
<BULLET> Arrival/Departure information (record number, expiration=20 date, class of admission etc.);
<BULLET> Immigration status;
<BULLET> Father and Mother's first name;
<BULLET> FBI Identification Number;
<BULLET> Fingerprint Identification Number;
<BULLET> Immigration enforcement history, including arrests and=20 charges, immigration proceedings and appeals, and dispositions=20 including removals or voluntary departures; and
<BULLET> File Control Office location of the paper or electronic A-File.

D. NFTS contains the location of the A-File to a more detailed=20 level within the DHS File Control Office. Specific data elements=20 include:
<BULLET> A-Number(s);
<BULLET> Receipt File Number; and
<BULLET> Location of the paper or electronic A-File and Receipt=20 File at and within the DHS File Control Office, as well as the history=20 of who has maintained the A-File, including the component, section and=20 employee.

Authority for maintenance of the system:

Authority for maintaining this system is in Sections 103 and 290 of=20 the INA, as amended (8 U.S.C. 1103 and 1360), and the regulations=20 issued pursuant thereto; and Section 451 of the Homeland Security Act=20 of 2002 (Pub. L. 107-296).

Purpose(s):

The purpose of this system of records is to carry out the provision=20 of benefits under and the enforcement of the INA and related statutes.=20 A-Files, EDMS, CIS, and NFTS are used primarily by DHS employees for=20 immigration benefits processing, protection of national security, and=20 administering and enforcing immigration and nationality laws and=20 related statutes.

The purpose of the A-File is to document an individual's benefits=20 and enforcement transactions as he/she passes through the U.S.=20 immigration and inspection process.

The purpose of CIS is to provide a searchable central index of A-Files and to support the location and transfer of A-Files among DHS=20 personnel and offices as needed in support of immigration benefits and=20 enforcement transactions.

The purpose of NFTS is to accurately account for the specific=20 physical location of A-Files and Receipt Files within a DHS File=20 Control Office, and to track the request and transfer of all A-Files=20 and Receipt Files.

These records assist the Department with processing applications=20 for benefits under applicable immigration laws; detecting violations of=20 these laws; supporting the referral of such violations for prosecution=20 or other appropriate enforcement action; supporting law enforcement=20 efforts and the inspection process; and supporting protection of the=20 United States borders.

Routine uses of records maintained in the system, including categories=20 of users and the purposes of such uses:

Note: Even when a valid routine use permits disclosure of=20 information from this system of records to a third party, in some cases=20 such disclosure may not be permissible because of confidentiality laws=20

and policies that limit the sharing of information about the=20 application for or award of certain immigration benefits. For example,=20 information in this system of records contained in or pertaining to=20 applications for asylum or refugee protection, information relating to=20 persons who have pending or approved

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petitions for protection under the Violence Against Women Act (VAWA),=20 Seasonal Agricultural Worker or Legalization claims, the Temporary=20 Protected Status of an individual, and information relating to S, T, or=20 U visas should not be disclosed pursuant to a routine use unless=20 disclosure is otherwise permissible under the confidentiality statutes,=20 regulations, or policies applicable to that information. However, these=20 confidentiality provisions do not prevent DHS from disclosing=20 information to the U.S. Department of Justice and United States=20 Attorneys' Offices as part of an ongoing criminal or civil=20 investigation.

In addition to those disclosures generally permitted under 5 U.S.C.=20 552a(b) of the Privacy Act, all or a portion of the records or=20 information contained in this system may be disclosed outside DHS as a=20 routine use pursuant to 5 U.S.C. 552a(b)(3).

Routine uses, to include disclosures:

A. To the Department of Justice (including United States Attorneys'=20 Offices) or other federal agency conducting litigation or in=20 proceedings before any court, adjudicative or administrative body, when=20 it is necessary to the litigation and one of the following is a party=20 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=20 DHS has agreed to represent the employee; or
4. The United States or any agency thereof, is a party to the=20 litigation or has an interest in such litigation, and DHS determines=20 that the records are both relevant and necessary to the litigation and=20 the use of such records is compatible with the purpose for which DHS=20 collected the records.

B. To a congressional office from the record of an individual in=20 response to an inquiry from that congressional office made at the=20 request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or other=20 federal government agencies pursuant to records management inspections=20 being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of=20 performing audit or oversight operations as authorized by law, but only=20 such information as is necessary and relevant to such audit or=20 oversight function.

E. To appropriate agencies, organizations, and individuals when:

1. DHS suspects or has confirmed that the security or=20 confidentiality of information in the system of records has been=20 compromised;
2. DHS has determined that as a result of the suspected or=20 confirmed compromise there is a risk of harm to economic or property=20 interests, identity theft or fraud, or harm to the security or=20 integrity of this system or other systems or programs (whether=20 maintained by DHS or another agency or entity) or harm to the=20 individuals who rely upon the compromised information; and
3. The disclosure made to such agencies, entities, and persons is=20 reasonably necessary to assist in connection with DHS efforts to=20 respond to the suspected or confirmed compromise and prevent, minimize,=20 or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants,=20 interns, trainees, students, and others performing or working on a=20

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.

G. To appropriate federal, state, tribal, territorial, local, international, or foreign law enforcement agencies or other appropriate authorities charged with investigating or prosecuting a violation enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To clerks and judges of courts exercising jurisdiction for the purpose of filing petitions for naturalization to enable such courts to determine eligibility for naturalization or grounds for revocation of naturalization.

I. To courts, magistrates, administrative tribunals, opposing counsel, parties, and witnesses, in the course of immigration, civil, or criminal proceedings before a court or adjudicative body when:

1. DHS or any component thereof; or
2. Any employee of DHS in his or her official capacity; or
3. Any employee of DHS in his or her individual capacity where the agency has agreed to represent the employee; or
4. The United States, where DHS determines that litigation is likely to affect DHS or any of its components;

Is a party to litigation or has an interest in such litigation, and DHS determines that use of such records is relevant and necessary to the litigation, and that in each case, DHS determines that disclosure of the information to the recipient is a use of the information that is compatible with the purpose for which it was collected.

J. To an attorney or representative (as defined in 8 CFR 1.1(j)) who is acting on behalf of an individual covered by this system of records in connection with any proceeding before USCIS, ICE, or CBP or the Executive Office for Immigration Review.

K. To the Department of Justice (including United States Attorneys' Offices) or other federal agency conducting litigation or proceedings before any court, adjudicative or administrative body, where necessary to assist in the development of such agency's legal and/or policy position.

L. To the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Act, and all other immigration and nationality laws including treaties and reciprocal agreements; or when the Department of State requires information to consider and/or provide an informed response to a request for information from a foreign, international, or intergovernmental agency, authority, or organization about an alien or an enforcement operation with transnational implications.

M. To appropriate federal, state, local, tribal, territorial, or foreign governments, as well as to other individuals and organizations during the course of an investigation by DHS or the processing of a matter under DHS' jurisdiction, or during a proceeding within the purview of the immigration and nationality laws, when DHS deems that such disclosure is necessary to carry out its functions and statutory mandates to elicit information required by DHS to carry out its functions and statutory mandates.

N. To an appropriate federal, state, tribal, territorial, local, or foreign government agency or organization, or international organization, lawfully engaged in collecting law enforcement intelligence, whether civil or criminal, or charged with investigating, prosecuting, enforcing or implementing civil or criminal laws, related rules, regulations or orders, to enable these entities to carry out

their law enforcement responsibilities, including the collection of law enforcement intelligence and the disclosure is

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appropriate to the proper performance of the official duties of the person receiving the information.

O. To an appropriate federal, state, local, tribal, territorial, foreign, or international agency, if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit, or if the information is relevant and necessary to a DHS decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit.

P. To an appropriate federal, state, local, tribal, territorial, foreign, or international agency, if DHS determines (1) The information is relevant and necessary to that agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit, and (2) failure to disclose the information is likely to create a risk to government facilities, equipment, or personnel; sensitive information; critical infrastructure; or the public safety.

Q. To an individual's current employer to the extent necessary to determine employment eligibility or to a prospective employer or government agency to verify an individual is eligible for a government-issued credential that is a condition of employment.

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

S. To the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in the Circular.

T. To the U.S. Senate Committee on the Judiciary or the U.S. House of Representatives Committee on the Judiciary when necessary to inform members of Congress about an alien who is being considered for private immigration relief.

U. To a federal, state, tribal, or local government agency and/or to domestic courts to assist such agencies in collecting the repayment of loans, or fraudulently or erroneously secured benefits, grants, or other debts owed to them or to the United States Government, or to obtain information that may assist DHS in collecting debts owed to the United States Government;

V. To an individual or entity seeking to post or arrange, or who has already posted or arranged, an immigration bond for an alien to aid the individual or entity in (1) Identifying the location of the alien, or (2) posting the bond, obtaining payments related to the bond, or conducting other administrative or financial management activities related to the bond.

W. To a coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

X. Consistent with the requirements of the INA, to the Department of Health and Human Services (HHS), the Centers for Disease Control and Prevention (CDC), or to any state or local health authorities, to:

1. Provide proper medical oversight of DHS-designated civil surgeons who perform medical examinations of both arriving aliens and

of those requesting status as a lawful permanent resident; and

2. Ensure that all health issues potentially affecting public health and safety in the United States are being or have been, adequately addressed.

Y. To a federal, state, local, tribal, or territorial government agency seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law.

Z. To the Social Security Administration (SSA) for the purpose of issuing a SSN and card to an alien who has made a request for a SSN as part of the immigration process and in accordance with any related agreements in effect between the SSA, DHS and the Department of State entered into pursuant to 20 CFR 422.103(b)(3); 422.103(c); and 422.106(a), or other relevant laws and regulations.

AA. To federal and foreign government intelligence or counterterrorism agencies or components where DHS becomes aware of an indication of a threat or potential threat to national or international security, or where such use is to conduct national intelligence security investigations or assist in anti-terrorism efforts.

BB. To third parties to facilitate placement or release of an individual (e.g., at a group home, homeless shelter, etc.) who has been or is about to be released from DHS custody but only such information that is relevant and necessary to arrange housing or continuing medical care for the individual.

CC. To an appropriate domestic government agency or other appropriate authority for the purpose of providing information about an individual who has been or is about to be released from DHS custody who, due to a condition such as mental illness, may pose a health or safety risk to himself/herself or to the community. ICE will only disclose information about the individual that is relevant to the health or safety risk they may pose and/or the means to mitigate that risk (e.g., the individual's need to remain on certain medication for a serious mental health condition).

DD. To foreign governments for the purpose of coordinating conducting the removal of individuals to other nations under the INA, and to international, foreign, and intergovernmental agencies, authorities, and organizations in accordance with law and formal or informal international arrangements.

EE. To a federal, state, local, territorial, tribal, international, or foreign criminal, civil, or regulatory law enforcement authority when the information is necessary for collaboration, coordination and de-confliction of investigative matters, prosecutions, and/or other law enforcement actions to avoid duplicative or disruptive efforts and to ensure the safety of law enforcement officers who may be working on related law enforcement matters.

FF. To the DOJ Federal Bureau of Prisons and other federal, state, local, territorial, tribal and foreign law enforcement or custodial agencies for the purpose of placing an immigration detainer on an individual in that agency's custody, or to facilitate the transfer of custody of an individual from DHS to the other agency. This will include the transfer of information about unaccompanied minor children to HHS to facilitate the custodial transfer of such children from DHS to HHS.

GG. To federal, state, local, tribal, territorial, or foreign governmental or quasi-governmental agencies or courts to confirm the location, custodial status, removal or voluntary departure of an alien from the United States, in order to facilitate the recipients' exercise of responsibilities pertaining to the custody, care, or legal rights (including issuance of a U.S. passport) of the removed individual's minor children, or the adjudication or collection of child

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support payments or other debts owed by the removed individual.

HH. To a federal, state, tribal, territorial, local, international, or foreign government agency or entity for the purpose of consulting with that agency or entity: (1) To assist in making a determination regarding redress for an individual in connection with the operations of a DHS component or program; (2) for the purpose of verifying the identity of an individual seeking redress in connection with the operations of a DHS component or program; or (3) for the purpose of verifying the accuracy of information submitted by an individual who has requested such redress on behalf of another individual.

II. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

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 secure facilities in a locked drawer behind a locked door. The records are stored on paper, magnetic disc, tape, CD-ROM, DVD, and other digital media.

Retrievability:

Digitized A-Files maintained in EDMS can be searched and retrieved by any of the following fields alone or in any combination:

<BULLET> A-Number;

<BULLET> Last name;

<BULLET> First name;

<BULLET> Middle name;

<BULLET> Aliases;

<BULLET> Date of birth;

<BULLET> Country of birth;

<BULLET> Gender; and

<BULLET> Through a full text-based search of records contained in the digitized A-File (based on optical character recognition of the scanned images).

The location of the paper record from which the digitized A-Files was produced can be searched in CIS using the following data:

<BULLET> A-Number; or

<BULLET> Full name; or

<BULLET> Alias; or

<BULLET> Sounds-like name with or without date of birth; or

<BULLET> Certificate of Citizenship or Naturalization Certificate number; or

<BULLET> Driver's License Number; or

<BULLET> FBI Identification Number; or

<BULLET> Fingerprint Identification Number; or

<BULLET> I-94 admission number; or

<BULLET> Passport number; or

<BULLET> Social Security Number; or

<BULLET> Travel document number.

The location of the paper or digitized record A-Files and Receipt Files can be searched in NFTS using the following data:

<BULLET> A-Number; or

<BULLET> Receipt File Number.

Safeguards:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict physical and technical controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the hard copy records and computer systems 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:

The A-File records are permanent whether hard copy or electronic. A-Files are transferred to the custody of the National Archives 100 years after the individual's date of birth. Newly-eligible files are transferred to the National Archives every five years. When a paper A-File is digitized, the digitized A-File maintained in EDMS becomes the official record and maintains the same retention schedule as the original paper A-File. The hard copy files are sent to the records center once the records have been digitized.

CIS records are permanently retained on-site because they are the index of where the physical A-File is and whether it has been transferred to the National Archives.

NFTS records are temporary and deleted when they are no longer needed for agency business. The records exist only as a reference to a physical or digital file, and exist for as long as the referenced file exists. NFTS records associated with an A-File will be retained on a permanent basis even after the A-File has been retired to NARA to retain accurate recordkeeping. Receipt Files with a shorter retention period will have the associated NFTS record destroyed or deleted once the file has been destroyed.

System manager and address:

The DHS system manager is the Chief, Records Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue, NW., Washington, DC 20529.

Notification procedure:

The Secretary of Homeland Security has exempted this system from the notification, access, and amendment procedures of the Privacy Act because it contains classified and sensitive unclassified information related to intelligence, counterterrorism, homeland security, and law enforcement programs. These exemptions apply only to the extent that records in the system are subject to exemption. However, USCIS will consider individual requests to determine whether or not information may be released. Individuals must request access to their information by submitting a Freedom of Information (FOIA) or Privacy Act request to USCIS in writing clearly marked "Privacy Act Request" or "FOIA Request" to the following address: National Records Center, U.S. Citizenship and Immigration Services, FOIA/PA Office, P.O. Box 64064-8010, Lee's Summit, MO 64064-8010.

When seeking records about yourself from this system of records or any other Departmental 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, which 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 Chief FOIA Officer, <http://www.dhs.gov/FOIA> or 1-866-431-0486. In addition you should provide the following:

<BULLET> An explanation of why you believe the Department would=20
have information on you;
<BULLET> Identify which component(s) of the Department you believe=20
may have the information about you;

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<BULLET> Specify when you believe the records would have been=20
created;
<BULLET> Provide any other information that will help the FOIA=20
staff determine which DHS component agency may have responsive records;=20
and

<BULLET> If your request is seeking records pertaining to another=20
living individual, you must include a statement from that individual=20
certifying his/her agreement for you to access his/her records.

Without this bulleted information, USCIS may not be able to conduct=20
an effective search, and your request may be denied due to lack of=20
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:

Basic information contained in DHS records is supplied by=20
individuals on Department of State and DHS applications and forms.=20
Other information comes from inquiries or complaints from members of=20
the general public and members of Congress; referrals of inquiries or=20
complaints directed to the President or Secretary of Homeland Security;=20
reports of investigations, sworn statements, correspondence, official=20
reports, memoranda, and written referrals from other entities,=20
including federal, state, and local governments, various courts and=20
regulatory agencies, foreign government agencies and international=20
organizations.

Exemptions claimed for the system:

The Secretary of Homeland Security has exempted this system from=20
the following provisions of the Privacy Act, subject to the limitations=20
set forth in 5 U.S.C. 552a(c)(3) and (c)(4): (d); (e)(1), (e)(2),=20
(e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (e)(12); (f);=20
(g)(1); and (h) pursuant to 5 U.S.C. 552a(j)(2). Additionally, the=20
Secretary of Homeland Security has exempted this system from the=20
following provisions of the Privacy Act, subject to the limitation set=20
forth in 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H),=20
(e)(4)(I); and (f) pursuant to 5 U.S.C. 552a(k)(1) and (k)(2).

Dated: May 27, 2011.

Mary Ellen Callahan,
Chief Privacy Officer, Department of Homeland Security.
[FR Doc. 2011-14489 Filed 6-10-11; 8:45 am]
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