

[Federal Register: January 16, 2007 (Volume 72, Number 9)]
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Notices]
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[DOCID:fr16ja07-63]

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2006-0081]

Privacy Act; Alien File (A-File) and Central Index System (CIS)
Systems of Records

AGENCY: Department of Homeland Security (DHS).

ACTION: System of records notice.

SUMMARY: As part of its ongoing effort to review and update legacy system of records notices, the Department of Homeland Security is publishing a revision to the previously established Privacy Act system of records notice published by the former Immigration and Naturalization Service for hardcopy and digitized A-Files; and the Central Index System. The Department of Homeland Security is also updating the routine uses that were previously published for this system of records.

DATES: Written comments must be submitted on or before February 15, 2007.

ADDRESSES: You may submit comments, identified by Docket Number DHS-2006-0081 by one of the following methods:

Federal e-Rulemaking portal: <http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.regulations.gov>.

Follow the instructions for submitting comments via docket number DHS 2006-0081.

Fax: (202-572-8727) (not a toll-free number).

Mail: Hugo Teufel III, DHS Chief Privacy Officer,
Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted

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without change to <http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.regulations.gov>, including any personal

information provided.

Docket: For access to the docket to read background documents or comments received go to

<http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Elizabeth Gaffin, 20 Massachusetts Avenue, NW., Washington, DC 20529, by telephone (202) 272-1400. For privacy issues, please contact: Hugo Teufel III (571-227-3813), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION: The Department of Homeland Security (DHS), implements United States immigration law and policy through the United States Citizenship and Immigration Services' (USCIS) processing and adjudication of applications and petitions submitted for citizenship, 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. United States Immigration policy and law is also implemented through Immigration and Customs Enforcement's (ICE) law enforcement activities and Customs and Border Protection's (CBP) inspection process and protection of our borders.

The A-File is the record that contains copies of information regarding all transactions involving an individual as he/she passes through the U.S. immigration and inspection process. Previously, legacy Immigration and Naturalization Services (INS) handled all of these transactions. Since the formation of DHS, however, these 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.

DHS, in its ongoing effort to update its legacy systems, is issuing the A-File and CIS system of records notice, DHS-USCIS 001. A notice detailing this system of records was last published in the Federal Register on September 7, 2001, as the INS Alien File (A-File) and Central Index System (CIS), JUSTICE/INS-001A (66 FR 46812). Until now, pursuant to the savings clause in the Homeland Security Act of 2002, Public Law 107-296, sec. 1512, 116 Stat. 2310 (Nov. 25, 2002) (6 U.S.C. 552), the USCIS has been relying on legacy Privacy Act systems.

Digitization of the A-File

To support current immigration operations, USCIS, ICE and CBP assemble paper-based A-Files that contain official record documents and attachments pertaining to individuals. These hardcopy A-Files are routed to authorized DHS employees who need access to them for immigration benefits processing, law enforcement, and protection of national security. USCIS is embarking on an enterprise-wide ``Transformation Program'' that will transition the agency from a fragmented, paper-based operational environment to a centralized and consolidated electronic environment. The new operational environment will employ the types of online customer accounts used in the private sector. This ``person-centric'' model will link information related to an individual in a single account in order to facilitate customer

friendly transactions, track activities, and reduce identity fraud.

USCIS, as custodian of the A-File and part of the Transformation Program, has developed the Integrated Digitization Document Management Program (IDDMP) to provide electronic creation of, and access to, A-Files. The IDDMP manages the scanning of hard copy A-Files, the storage of the digitized A-Files, and electronic access to digitized A-Files.

Scanning is performed at a contractor owned and operated facility called the Records Digitization Facility (RDF). The digitized A-Files produced by the RDF are sent to USCIS' Quality Assurance (QA) system. After QA is performed, they are stored centrally, and images within the A-File are accessed and updated using the Electronic Data Management System (EDMS). For the purpose of this document, the RDF, QA system, and EDMS will be collectively referred to as the IDDMP. Access to the digitized A-Files is provided to DHS and other Federal, state, tribal, local or foreign government agencies responsible for providing benefits, investigating or prosecuting violations of civil or criminal laws, or protecting our national security.

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 personally identifiable information. 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 from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. Individuals may request 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 5.21.

The Privacy Act requires that each agency publish in the Federal Register a description denoting the type and character of each system of records in order to make agency recordkeeping practices transparent, to notify individuals about the use to which personally identifiable information is put, and to assist the individual to more easily find files within the agency.

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.

DHS-USCIS-001

System name:

The Department of Homeland Security (DHS), Alien File (A-File--hardcopy or digitized copy) and Central Index System (CIS)

System location:

The database housing the digitized A-Files is located within USCIS' data center in the Washington, DC metropolitan area. Hard copies are 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://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.USCIS.gov>. Authorized USCIS, ICE,

and CBP personnel may request and view the paper A-File. Paper A-Files are sent and received by file control offices. USCIS will directly access digitized A-Files using the IDDMP. ICE and CBP access to the digitized A-File via the IDDMP will be provided through the Law

Enforcement Service Center (LESC). CIS is available in USCIS offices. Remote access terminals for CIS will also be located in other components of the DHS on a limited basis.

Categories of individuals covered by the system:

A. Individuals covered by provisions of the Immigration and Nationality Act of the United States.

B. Individuals who are under investigation (including those who are possible national security threats or threats to the public safety), or who were investigated by the DHS in the past, or who are suspected of violating immigration-related criminal or civil provisions of treaties, statutes, regulations, Executive Orders, and Presidential proclamations administered

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by DHS, and witnesses and informants having knowledge of such violations.

Categories of records in the system:

A. The hardcopy paper A-File (which, prior to 1940, was called Citizenship File (C-File) contains all the individual's official record material such as: naturalization certificates; various forms and attachments (e.g., photographs); applications and petitions for benefits under the immigration and nationality laws; reports of investigations; statements; reports; correspondence; and memoranda on each individual for whom DHS has created a record under the Immigration and Nationality Act. Subsets of information may be used to determine eligibility for citizenship under Section 320 of the Immigration and Nationality Act.

B. The electronic copy of the A-File provided by IDDMP's digital repository contains scanned images of the paper A-File searchable using identical index fields as CIS.

C. CIS contains personal identification data such as A-File number, date and place of birth, date and port of entry, as well as the location of each official hardcopy paper A-File.

Authority of maintenance for the system:

Sections 103 and 290 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1360), and the regulations issued pursuant thereto; and section 451 of the Homeland Security Act of 2002 (Pub. L. 107-296).

Purpose(s):

A-File data is collected on individuals covered by provisions of the Immigration and Nationality Act of the United States and individuals who are under investigation, who were investigated by the DHS in the past, who are suspected of violating the immigration-related laws administered by DHS, or are witnesses and informants having knowledge of such violations. The A-File is the record that contains all transactions involving an individual as he/she passes through the U.S. immigration and inspection process, and chronicles interactions with the U.S. Government. Previously, legacy INS performed all of these functions.

Since the formation of DHS, these immigration-related functions have been divided among the following three components: (1) CBP, which performs the border and inspection processes; (2) USCIS, which performs

the immigration benefit adjudication process; and (3) ICE, which performs the investigatory, deportation, and immigration court functions. Although USCIS is the custodian of the A-File, all three components create and use A-Files. Once the A-File is digitized, information will be accessed by USCIS, ICE, and CBP so that they may perform their mission requirements. Information contained within the A-File may also be shared with other components within DHS responsible for law enforcement and national security intelligence activities.

The CIS system is used primarily by DHS employees for immigration benefits processing, protection of national security, and to administer and enforce immigration and nationality laws, and related statutes. These uses include: Assisting the Department with processing applications for benefits under applicable immigration laws; detecting violations of these laws; the referral of such violations for prosecution; law enforcement; the inspection process; and protection of our borders.

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

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

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

B. 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.

C. To appropriate Federal, state, tribal, and local government law enforcement and regulatory agencies, foreign governments, and international organizations, for example: the Department of Defense; the Department of State; the Department of the Treasury; the Central Intelligence Agency; the Selective Service System; the United Nations; and INTERPOL; 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.

D. To an appropriate Federal, state, tribal, 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 appropriate to the proper performance of the official duties of the person receiving the disclosure.

E. To the United States Department of Justice (DOJ) (including United States Attorneys' offices) or other Federal agency conducting litigation or in proceedings before any court, adjudicative or

administrative body, or to the court or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation: (1) Any employee of DHS in his/her official capacity; (2) any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent said employee; or (3) the United States or any agency thereof.

F. 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 and when disclosure is appropriate to the proper performance of the official duties of the person making the request.

G. 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.

H. 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 or the Executive Office for Immigration Review.

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I. To a Federal, state, tribal, or local government agency 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 USCIS in collecting debts owed to the United States Government; to a foreign government to assist such government in collecting the repayment of loans, or fraudulently or erroneously secured benefits, grants, or other debts owed to it provided that the foreign government in question:

- (1) Provides sufficient documentation to establish the validity of the stated purpose of its request; and
- (2) Provides similar information to the United States upon request.

J. To student volunteers whose services are accepted pursuant to 5 U.S.C. 3111 or to students enrolled in a college work-study program pursuant to 42 U.S.C. 2751 et seq.

K. To a Congressional office from the record of an individual in response to an inquiry from that Congressional office made at the request of that individual.

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

M. To an obligor who has posted a bond with USCIS for the subject. USCIS may provide only such information as either may:

- (1) Aid the obligor in locating the subject to insure his or her presence when required by DHS; or
- (2) Assist the obligor in evaluating the propriety of the following actions by DHS: either the issuance of an appearance demand or notice of a breach of bond--i.e., notice to the obligor that the subject of the bond has failed to appear which would render the full amount of the

bond due and payable.

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

O. Consistent with the requirements of the Immigration and Nationality Act, 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) To ensure that all health issues potentially affecting public health and safety in the United States are being or have been, adequately addressed.

P. To a Federal, state or local 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.

Q. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Those provided information under this routine use are subject to the same Privacy Act limitations as are applicable to DHS officers and employees.

R. To the appropriate Federal, state, local, tribal, territorial, or foreign, or international agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where DHS becomes aware of, or in conjunction with other information determines, that a violation or potential violation of civil or criminal law has occurred.

S. To the Social Security Administration (SSA) for the purpose of issuing a Social Security number and card to an alien who has made a request for a Social Security number 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.

T. 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.

U. To an individual's prospective or current employer to the extent necessary to determine employment eligibility.

V. 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 assist in anti-terrorism efforts and disclosure is appropriate to the proper performance of the official duties of the person making the disclosure;

W. To appropriate agencies, entities, and persons when:

(1) It is suspected or confirmed that the security or confidentiality of information in the system of records has been

compromised;

(2) It is determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and

(3) The disclosure is made to such agencies, entities, and persons when reasonably necessary to assist in connection with efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

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

Storage:

Paper A-File and C-File records are stored in file folders. The digitized A-Files are stored in an electronic repository housed in USCIS' data center. CIS data is also stored in USCIS data center.

Retrievability:

The location of paper A-Files can be searched in CIS on the following metadata: A-Number; C-File number; name; and date of birth. Digitized A-Files can be searched and retrieved by metadata, which at a minimum includes: primary A-Number; first name; last name; date of birth; and country of birth. Full-text searches can also be performed on the digitized A-Files.

Safeguards:

USCIS offices are located in buildings under security guard or authorized contractors for the Federal government, and access to premises is by official identification. Information in this system is also safeguarded in accordance with applicable laws, rules and policies including the DHS Information Technology Security Programs Handbook. All records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards including restricting access to authorized personnel who require information in the records for the performance of their official authorized duties, using locks, and password

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protection identification features. The system will not have classified information.

Outside agencies will not have direct access to the IDDMP. They will follow the current practice for accessing physical A-Files, which is to appear in person at the local USCIS office. They are required per the USCIS Records Operations Handbook, to work with their local USCIS office to view A-File information. After showing proper credentials and demonstrating a need to know the specific information requested in the performance of their official duties, the representative will work directly with USCIS records personnel to view the relevant portions of the A-File.

Retention and Disposal:

The A-File records are retained for 75 years from the date the file is retired to the Federal Records Center or date of last action (whichever is earlier) and then destroyed. C-File records are to be

destroyed 100 years from March 31, 1956. Automated master index records are permanent and are scheduled to be transferred to NARA in 2006. When a paper A-File is digitized, the digitized A-File becomes the official record and maintains the same retention schedule as the original paper A-File. Options for disposition of paper A-Files that have been digitized are currently under review.

System manager(s) and address:

The Service-wide system manager is the Director, Office of Records Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., Second Floor, Washington, DC 20529.

Notification procedure:

To determine whether this system contains records relating to you, provide a written request containing the following information:

1. Identification of the record system;
2. Identification of the category and types of records sought; and
3. The requesting individual's signature and verification of identity pursuant to 28 U.S.C. 1746, which permits statements to be made under penalty of perjury. Alternatively, a notarized statement may be provided.

Address inquiries to the system manager at: Director, Office of Records Services, Department of Homeland Security, 111 Massachusetts Avenue, NW, Second Floor, Washington, DC 20529 or to the Freedom of Information/Privacy Act Office at: Freedom of Information/Privacy Act Office, USCIS, National Records Center, P.O. Box 648010, Lee Summit, MO 64064-8010.

Record access procedures:

All requests for access must be made in writing and addressed to the Freedom of Information Act/Privacy Act (FOIA/PA) officer at USCIS. Requesters are directed to clearly mark the envelope and letter ``Privacy Act Request.'' Within the text of the request, provide the A-File number and/or the full name, date and place of birth, and either a notarized signature of the individual who is the subject of the record or a statement requesting individual's signature and verification of identity pursuant to 28 U.S.C. 1746, which permits statements to be made under penalty of perjury, and any other information which may assist in identifying and locating the record, and a return address. For convenience, Form G-639, FOIA/PA Request, may be obtained from the nearest DHS office or online at <http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.uscis.gov> and used to submit

a request for access. The procedures for making a request for access to one's records can also be found on the USCIS Web site, located at <http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.uscis.gov>.

Contesting records procedures:

Redress procedures are established and operated by the program through which the data was originally collected. In the case of redress requests pertaining to records held by DHS organizations, an individual who is not satisfied with the response can appeal his or her case to the DHS Chief Privacy Officer, who will conduct a review and provide final adjudication on the matter.

Record source categories:

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

Exemptions claimed for the system:

Pursuant to 6 CFR Appendix C to Part 5, pertaining to the Immigration and Naturalization Service (INS) Alien File (A-File) and Central Index System (CIS), JUSTICE/INS-001A (66 FR 46812) system of records notice, the records and information in this system are exempt from 5 U.S.C. 552a (c) (3) and (4), (d), (e) (1), (2), and (3), (e)(4) (G) and (H), (e) (5) and (8), and (g) of the Privacy Act. These exemptions apply only to the extent that records in the system are subject to exemption pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). DHS intends to review these exemptions and, if warranted, issue a new set of exemptions within ninety (90) days of this publication.

Dated: January 5, 2007.
Hugo Teufel III,
Chief Privacy Officer.
[FR Doc. E7-375 Filed 1-12-07; 8:45 am]

BILLING CODE 4410-10-P