

## SUPPORTING STATEMENT

### Certification and Release of Records (Form EOIR-59)

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#### Part A. Justification

1. Necessity of Information – Regulations prescribe how to make a request for access to Department of Justice records under the Privacy Act of 1974, 5 U.S.C. § 552a. Generally, one may make a request for access to his or her own records by appearing in person or writing to the Privacy Act Office of the Department component that maintains the records. 28 C.F.R. §16.41(a). The regulations require that the requestor describe the records in enough detail to enable Department personnel to locate the applicable system of records containing the information with a reasonable amount of effort. 28 C.F.R. §16.41(b). The request should include, whenever possible, a description of the records sought, the time periods they were compiled, and the name or identifying number of each system of records where they are kept. *Id.* Privacy Act requests are subject to applicable fees. 28 C.F.R. §16.41(c). Furthermore, the request must contain a verification of identity, including the requestor's full name, current address, and date and place of birth, and be signed under penalty of perjury or notarized. 28 C.F.R. §16.41(d).

The Executive Office for Immigration Review (EOIR) has created the Form EOIR-59, Certification and Release of Records, to standardize and streamline Privacy Act requests for records related to cases or proceedings before EOIR. The form allows parties who are, or were, in cases or immigration proceedings before EOIR to disclose or release their

records to an attorney, accredited representative, qualified organization, or other third party.

In order to prevent unauthorized disclosure of records of individuals maintained by the Department of Justice, the Form EOIR-59 collects personal, identifying data about the requestor as required under the Privacy Act of 1974, 5 U.S.C. § 552a, and its implementing regulations. The form also collects personal data in order to identify the recipient of the records.

2. Needs and Uses - The certification and release of records form (Form EOIR-59) is optional and voluntary. Careful review of the information provided in the form is necessary to prevent wrongful disclosure of Department of Justice records.

3. Use of Technology - The use of this form will provide the most efficient means for collecting and processing the required data. The Form EOIR-59 will be available as a fillable pdf on EOIR's website. Information can be typed into the online form, which is then printed out for submission to EOIR either by electronic or physical mail, where appropriate. In addition, an applicant may print the form in its entirety for completion by typing or printing legibly.

4. Efforts to Identify Duplication – There is no EOIR form for release of records. The only method for an individual to request release of their own records is by submitting a

DOJ-360 Form, Certification of Identity. The DOJ-360 includes a field for social security numbers, which EOIR does not need to collect in order to locate and identify a requestor's records. Rather, EOIR propose to make the EOIR-59 available to requestors to avoid any further inadvertent collection of social security numbers. Rather, the EOIR-59 provides a field for the alien registration number (a field the DOJ-361 does not have), that will enable EOIR to accurately and efficiently locate the requestor's records, without having to unnecessarily collect social security numbers. A review of EOIR's forms revealed no duplication of effort, and there is no other similar information currently available that can be used for this purpose.

5. Impact on Small Businesses - This collection does not have an impact on small businesses or other small entities. The form is optional and voluntary, and may be used at the discretion of individuals who are, or have been, parties in cases or proceedings before EOIR. When used, this collection does not impose an undue burden on the requesting individuals or the recipients of the records, as the requested information is necessary to identify the subject of the records and the records recipient, and to prevent wrongful disclosure of Department of Justice records. Rather, the use of this form should make it easier for individuals to request records and to more quickly process those requests, as it is intended to collect all the information needed to process the request, and to avoid having to follow up with individuals to provide any missing information. EOIR estimates that it will take approximately ten (10) minutes to complete the form.

6. Consequences of Less Frequent Collection - Failure to collect this information would deprive an individual of an efficient method to request the release of their records specific to his or her case or immigration proceedings before EOIR.

7. Special Circumstances Influencing Collection - None of the eight special circumstances identified in OMB instruction number 7 apply to this collection.

8. Federal Register Publication and Consultation – A 60-day notice covering this collection was published in the Federal Register on July 17, 2020 at 85 FR 43604. A 30-day notice covering this collection will be published in the Federal Register. Copies of these notices are attached. If comments are received, they will be considered and incorporated where appropriate.

9. Payment or Gift to Claimants - EOIR does not provide any payment or gifts to parties in cases or immigration proceedings, attorneys, accredited representatives, qualified organizations, or other third parties.

10. Assurance of Confidentiality – The EOIR component processing the request will maintain the original application. For example, requests received by the immigration court for records from an alien’s removal proceedings will maintain the request in the administrative portion of the file associated with that individual record of proceedings. Those EOIR staff members processing the application may access the Form EOIR-59.

EOIR protects the confidentiality of the contents of the Form EOIR-59, to the extent permitted by law, including the Privacy Act and the Freedom of Information Act.

11. Justification for Sensitive Questions - There are no questions of a sensitive nature.

12. Estimate of Hour Burden

a. Number of Respondents	50,596
b. Number of Responses per Respondent	1 each
c. Total Annual Responses	50,596
d. Hours per Response	10 minutes
e. Total Annual Hourly Reporting Burden	8,433 hours

50,596 respondents x 1 response per respondent x 10 minutes per response = 8,433 burden hours.

13. Estimate of Cost Burden - There are no capital or start-up costs associated with this information collection. The estimated public cost is zero.

For informational purposes only, there may be additional costs to respondents should they elect to use this optional form. Respondents may incur a cost if they hire an attorney to assist them with completing the Form EOIR-59. The Bureau of Labor Statistics reports that the median hourly wage for lawyers is \$57.68. For those respondents who proceed without an attorney, there is an estimated cost of \$10 per hour for completing the

form (the individuals' time and supplies) in lieu of the practitioner cost. There are also no fees associated with filing the Form EOIR-59.

14. Estimated Cost to the Federal Government – It is estimated that the annual government cost for printing, distributing, stocking, processing and maintaining the Form EOIR-59 will be \$155,958. This amount includes printing costs of \$5,059, which was derived by multiplying the 1 page of the Form EOIR-59 by an estimated \$.10 per copy by the estimated 50,596 respondents per year. This amount also includes stocking, processing and maintenance costs of \$150,898, which was derived by calculating the personnel and overhead costs to EOIR for processing the form.

15. Plans for Publication - The information from this collection will be used internally to locate and release records of individuals who are, or were, in cases or immigration proceedings before EOIR.

16. Exceptions to the Certification Statement - EOIR does not request an exception to the certification of this information collection.

**Part B. Collection of Information Employing Statistical Methods**

This collection does not employ statistical methods.

**PAPERWORK CERTIFICATION**

In submitting this request for Office of Management and Budget (OMB) approval, I certify that the requirements of the Privacy Act and OMB directives have been complied with, including paperwork regulations, any applicable statistical standards or directives, and any other information policy directives promulgated under 5 C.F.R. § 1320.

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Christina Baptista  
Senior Counsel  
Executive Office for Immigration Review

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Date