

Storage System, (April 6, 2007, 72 FR 17172).

**Jonathan R. Cantor,**

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## DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS-2019-0061]

### Privacy Act of 1974; System of Records

**AGENCY:** Office of Immigration Statistics, Department of Homeland Security.

**ACTION:** Notice of a new system of records.

**SUMMARY:** In accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS) proposes to establish a new DHS system of records titled, “DHS/ALL-045 Statistical Immigration Data Production and Reporting System of Records.” This system of records allows DHS/Office of Immigration Statistics (OIS) to collect and maintain records on members of the public for whom federal agencies have collected information related to individuals’ interactions with the immigration system. Information collected includes that pertaining to the granting of immigration requests, such as nonimmigrant admissions, grants of lawful permanent residence, changes in legal status, and naturalizations, as well as information related to the enforcement of immigration law, from across DHS and other federal immigration agencies. Additionally, DHS is issuing a Notice of Proposed Rulemaking to exempt this system of records from certain provisions of the Privacy Act, elsewhere in the **Federal Register**.

This newly established system will be included in DHS’s inventory of record systems.

**DATES:** Submit comments on or before April 10, 2020. This new system will be effective upon publication. Routine uses will be effective April 10, 2020.

**ADDRESSES:** You may submit comments, identified by docket number DHS-2019-0061 by one of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 202-343-4010.
- *Mail:* Jonathan R. Cantor, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528-0655.

**Instructions:** All submissions received must include the agency name and docket number DHS-2019-0061. All comments received will be posted without change 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://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For general and privacy questions, please contact: Jonathan R. Cantor, (202) 343-1717, [Privacy@hq.dhs.gov](mailto:Privacy@hq.dhs.gov), Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528-0655.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) proposes to establish a new DHS system of records titled, “Department of Homeland Security/ALL-045 Statistical Immigration Data Production and Reporting System of Records.” Federal statutes, including the Immigration and Nationality Act of 1965, as amended, and the Homeland Security Act of 2002, as amended, as well as Executive Orders and congressional mandates, require DHS’s Office of Immigration Statistics (OIS) to regularly prepare an extensive series of analytical and statistical reports on border security, immigration enforcement activities, refugee and asylum claims, and other immigration events. For instance, in December 2015, Congress’s explanatory statement accompanying DHS’s 2016 appropriations legislation specifically directed the DHS Office of Strategy, Policy, and Plans (which includes OIS), to report on the “enforcement lifecycle,” defined as “the full scope of immigration enforcement activities, from encounter to final disposition, including the use of prosecutorial discretion.” Further, Congress directed that “[a]ll data necessary to support a better picture of this lifecycle and the Department’s effectiveness in enforcing immigration laws shall be considered and prioritized, including appropriate data collected by the [Executive Office for Immigration Review (EOIR)] at the Department of Justice [DOJ].”

Fulfilling these mandates requires OIS to collect data related to the granting of immigration requests, such as nonimmigrant admissions, grants of lawful permanent residence, changes in legal status, naturalizations, and information related to the enforcement of immigration law, from across DHS

and other federal immigration agencies. These data contain both personally identifiable information (PII) and sensitive PII (SPII). OIS is establishing this system of records notice (SORN) to inform the public of its collection and use of PII to create its statistical products.

DHS’s immigration Components and other federal immigration agencies initially collect this data for operational purposes in accordance to their own mission and authorities. While the data that are first collected for operations purposes are covered by their respective SORNs, OIS is developing its own SORN to cover the records it creates and has aggregated as they enter OIS’s analytical environment. Once in this environment, OIS processes the records in preparation for use in statistical analysis. Analyses may include merging of records from these distinct data systems to create new records.

Data within this system of records are intended only for analytical and statistical purposes, and are not intended for operational uses. This is reflected in the routine uses, which allow for the use of and sharing of data in this system of records solely for these purposes.

Consistent with DHS’s information sharing mission, information stored in the DHS/ALL-045 Statistical Immigration Data Production and Reporting System of Records may be shared with other DHS Components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions, except for data that the DHS Information Sharing and Safeguarding Governance Board (ISSGB) has granted a waiver from this requirement on behalf of the Secretary of Homeland Security. In addition, DHS/OIS may share information with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this system of records notice.

This newly established system will be included in DHS’s inventory of record systems.

##### II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate 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 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. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Additionally, the Judicial Redress Act (JRA) provides covered persons with a statutory right to make requests for access and amendment to covered records, as defined by the JRA, along with judicial review for denials of such requests. In addition, the JRA prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act.

Below is the description of the DHS/ALL-045 Statistical Immigration Data Production and Reporting System of Records.

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

**SYSTEM NAME AND NUMBER:**

Department of Homeland Security (DHS)/ALL-045 Statistical Immigration Data Production and Reporting.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Records are maintained at the U.S. Citizenship and Immigration Services Headquarters on behalf of the Office of Immigration Statistics and at the Office of Immigration Statistics in Washington, DC.

**SYSTEM MANAGER(S):**

The system manager is the Deputy Assistant Secretary, Office of Immigration Statistics, U.S. Department of Homeland Security, 2707 Martin Luther King Jr. Avenue SE, Washington, DC 20528.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Section 103 of the Immigration and Nationality Act of 1965, as amended (8 U.S.C. 1103); Section 709 of the Homeland Security Act of 2002, as amended (6 U.S.C. 349(f)); Section 1092 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114-328, Title X, Sec. 1092, December 23, 2016); 6 U.S.C. 223(f); Executive Order 13767, Border Security and Immigration Enforcement Improvements; and Executive Order 13768, Enhancing Public Safety in the Interior of the United States.

**PURPOSE(S) OF THE SYSTEM:**

The purpose of this system is to support DHS/OIS in fulfilling its mandate to regularly prepare an

extensive series of analytical and statistical reports on border security, immigration enforcement activities, refugee and asylum claims, and other immigration requests and events.

**CATEGORIES OF INDIVIDUALS COVERED:**

Categories of individuals covered by this system include individuals and their dependents (and individuals acting on their behalf such as attorneys) interacting with the U.S. Government in its role of implementing and enforcing its immigration system and laws, including those who have applied for immigration requests or received immigration benefits, such as adjustment of status to lawful permanent resident, and those who are subject to immigration enforcement actions, including those arrested, detained, or removed from the United States for criminal or administrative violations of the Immigration and Nationality Act.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

- Alien Registration Number(s) (A-Number);
- Receipt file number(s);
- Full name and any aliases used;
- Known or possible addresses;
- United States destination address;
- Phone numbers and email addresses;
- Date of birth;
- Place of birth (city, state, and country);
- Countries of citizenship and nationality(ies);
- Ethnic origin;
- Languages spoken;
- Religion;
- Gender;
- Marital and family status;
- Place of marriage;
- Government-issued identification (e.g., passport information, permanent resident card, Trusted Traveler Program card) and travel document information, such as document type, issuing country or entity, document number, and expiration date;
- Arrival/Departure information (e.g., record number, expiration date, class of admission);
- Federal Bureau of Investigation (FBI) Identification Number;
- Fingerprint Identification Number or other biometric identifying numbers;
- Digital fingerprints (i.e., numerical identification number);
- Other unique identifying numbers (e.g., federal, state, local, and tribal identification numbers);
- Detention data, including: Location, facility, transportation information, identification numbers, book-in/book-out dates and times, custody

recommendation, information about an alien's release from custody on bond, recognizance, or supervision, information related to prosecutorial discretion determinations, and other alerts;

- Immigration enforcement and court case-related data, including: Descriptive information of events involving alleged law violations; arrests and charges; case number; status; record number; case category; proceedings and immigration judge decisions; schedule info; court appointments; bonds; motions; appeals; disposition; case agent; date initiated and completed;
- Immigration status and history (e.g., citizenship/naturalization certificate number, removals, explanations);
- Visa information;
- Travel history;
- Port(s) and clearance processing lane or location of crossing, secondary examination status, date(s) and time(s) of entry, status at entry(ies);
- Carrier-related information, such as airline carrier code, flight number, vessel name and country of registry/flag, individual's status on board the aircraft, and the location where passengers and crew members will undergo customs and immigration clearance by CBP;
- Education history;
- Occupation and employment history;
- Professional accreditation information;
- Criminal history;
- Benefit case processing information, such as date applications were filed or received by USCIS, application/petition status, and fee receipt data;
- Specific benefit eligibility information as required by the benefit being sought;
- Claimed basis of eligibility for benefit(s) sought;
- Notices and communications, including Appointment notices, Receipt notices, Requests for evidence, Notices of Intent to Deny (NOID), Decision notices and assessments, or proofs of benefit;
- Information on preparers, representatives, and interpreters, including name, law firm/recognized organization, and physical and mailing addresses;
- Electronic biographic information on individual applicants for admission to the United States as refugees, Special Immigrant Visa individuals electing resettlement benefits, and U.S.-based relatives, including: A-Number, name, date and place of birth, nationality, U.S. ties, resettlement agency, arrival date, relationship to principal applicant, and destination city and state; and
- One-time person-level identifier created and used by OIS to link records

across datasets each time the data are matched.

#### RECORD SOURCE CATEGORIES:

Records are obtained from operational immigration Components within DHS, including U.S. Citizenship and Immigration Services (USCIS), U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), as well as the Executive Office for Immigration Review (EOIR), within the Department of Justice (DOJ), and the Department of State (DOS). Source systems SORNs that cover these records in their native form include:

- DHS/USCIS/ICE/CBP–001 Alien File, Index, and National File Tracking System of Records, 82 FR 43556 (September 18, 2017);
- DHS/USCIS–010 Asylum Information and Pre-Screening System of Records, 80 FR 74781 (November 30, 2015);
- DHS/USCIS–007 Benefits Information System, 84 FR 54622 (October 10, 2019);
- DHS/CBP–007 Border Crossing Information, 81 FR 89957 (December 13, 2016);
- DHS/CBP–023 Border Patrol Enforcement Records (BPER), 81 FR 72601 (October 20, 2016);
- DHS/CBP–011 TECS, 73 FR 77778 (December 19, 2008);
- DHS/ICE–011 Criminal Arrest Records and Immigration Enforcement Records (CARIER) System of Records, 81 FR 72080 (October 19, 2016);
- EOIR–001 Records and Management Information System, 69 FR 26179 (May 11, 2004), and as amended by 82 FR 24147 (May 25, 2017); and
- State-59 Refugee Case Records, 77 FR 5865 (February 6, 2012).

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND 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 outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including the U.S. Attorneys Offices, or other federal agencies conducting litigation or proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee or former employee of DHS in his/her official capacity;

3. Any employee or former employee of DHS in his/her individual capacity, only when DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof.

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

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. secs. 2904 and 2906.

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

E. To appropriate agencies, entities, and persons when (1) DHS suspects or has confirmed that there has been a breach of the system of records; (2) DHS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DHS (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

F. To another Federal agency or Federal entity, when DHS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

G. 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. 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.

H. To appropriate Federal Governmental agencies, with the approval of the Chief Privacy Officer, when OIS is aware of a need to use relevant data for purposes of testing new technology related to its own mission.

I. To the Departments of Health and Human Services, Justice, Labor, and State, to support analytical, reporting, and statistical needs and mission related to immigration enforcement and benefits processing, provided that the records support DHS programs and activities that relate to the purpose(s) stated in this SORN, and that they will not be used in whole or in part in making any determination regarding an individual's rights, benefits, or privileges under federal programs, and are not published publicly in any manner that identifies an individual.

#### POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

DHS/OIS stores records in this system electronically in secure facilities. The records may be stored on magnetic disc, tape, and digital media.

#### POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

OIS does not retrieve records by personal identifier for the purpose of making decisions about individuals. However, records are retrieved by a one-time person-level identifier created and used by OIS to link records across datasets each time the data are matched to ensure the data are correctly attributed to one individual across multiple datasets. The purpose of this is to enable OIS to examine large trends in groups or cohorts of those who interact with the immigration system. While these analyses will inform high-level strategic operational planning, data OIS possesses are not used directly for operational purposes, such as the vetting of an individual or the adjudication of a benefit. OIS data are strictly used for statistical analysis and reporting. However, records may be retrieved by any value or range of values of any field, including personal identifiers. Please see the categories of records section of this SORN for fields within this system of records.

#### POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

OIS has an established NARA-approved retention schedule, N1–563–09–3 (January 1, 2009), which classifies OIS records into several categories of records. Records containing PII that OIS uses to complete its statistical analyses and reporting fall into Section 6: “Research and background material used to produce the Yearbook of Immigration Statistics.” The scheduled

disposition provides for the data to be evaluated for remaining business need or destruction three years following the end of the fiscal year in which the yearbook is produced. However, the schedule authorizes longer retention periods if records are needed for business use beyond this period. Due to many tables in the Yearbook of Immigration Statistics and accompanying reports containing tabulations of ten years, the need in some cases for OIS to compare new records with records going back several decades, and the unknown nature of future requests and necessary future comparisons, a large portion of the data OIS maintains is kept for longer than three years.

#### **ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

DHS/OIS safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. OIS has imposed strict controls to minimize the risk of compromising the information that is being stored. Access to the computer system 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.

#### **RECORD ACCESS PROCEDURES:**

The Secretary of Homeland Security has exempted portions of this system from the notification, access, and amendment procedures of the Privacy Act, and the Judicial Redress Act if applicable. These exemptions apply to the extent that information in this system of records is recompiled or is created from information contained in other systems of records with appropriate exemptions in place. However, DHS/OIS will consider individual requests with the original data owner to determine whether or not information may be released. Individuals seeking access to and notification of any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Chief Privacy Officer and Chief Freedom of Information Act (FOIA) Officer, whose contact information can be found at <http://www.dhs.gov/foia> under "Contact Information." If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland

Security, Washington, DC 20528–0655. Even if neither the Privacy Act nor the Judicial Redress Act provide a right of access, certain records about an individual may be available under the Freedom of Information Act.

When an individual is seeking records about himself or herself from this system of records or any other Departmental system of records, the individual's request must conform with the Privacy Act regulations set forth in 6 CFR part 5. The individual must first verify his/her identity, meaning that the individual must provide his/her full name, current address, and date and place of birth. The individual must sign the request, and the individual's signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, an individual may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, <http://www.dhs.gov/foia> or 1–866–431–0486. In addition, the individual should:

- Explain why he or she believes the Department would have information being requested;
- Identify which component(s) of DHS he or she believes may have the information;
- Specify when the individual believes the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records;

If an individual's request is seeking records pertaining to another living individual, the first individual must include a statement from the second individual certifying his/her agreement for the first individual to access his/her records.

Without the above information, the component(s) may not be able to conduct an effective search, and the individual's request may be denied due to lack of specificity or lack of compliance with applicable regulations.

#### **CONTESTING RECORD PROCEDURES:**

For records covered by the Privacy Act or covered JRA records, see "Record Access Procedures" above.

#### **NOTIFICATION PROCEDURES:**

See "Record Access Procedures" above.

#### **EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

Pursuant to 6 CFR part 5, Appendix C, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(4), has

exempted records created and aggregated by OIS in this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f). When this system receives a record from another system exempted in that source system under 5 U.S.C. 552a(j)(2) and (k)(2), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions set forth here.

#### **HISTORY:**

None.

**Jonathan R. Cantor,**

*Acting Chief Privacy Officer, Department of Homeland Security.*

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## **DEPARTMENT OF HOMELAND SECURITY**

**[Docket No. DHS–2019–0059]**

### **Privacy Act of 1974; System of Records**

**AGENCY:** Department of Homeland Security.

**ACTION:** Notice of a New System of Records.

**SUMMARY:** In accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS) proposes to establish a new DHS system of records titled, "Department of Homeland Security/ALL–044 DHS eRulemaking System of Records." DHS eRulemaking allows the public to search, view, download, and comment on all DHS rulemaking and notice documents in one central online system. It consists of a public facing interface, [www.regulations.gov](http://www.regulations.gov), and a portal visible to DHS, called the Federal Docket Management System (FDMS). This system of records notice covers the various records maintained by the Department of Homeland Security and its Components pertaining to written data, views, or arguments submitted to the Department. This newly established system will be included in DHS's inventory of record systems.

**DATES:** Submit comments on or before April 10, 2020. This new system will be effective upon publication. New or modified routine uses will be effective April 10, 2020.

**ADDRESSES:** You may submit comments, identified by docket number DHS–2019–0059 by one of the following methods: