

SYSTEM MANAGER AND ADDRESS:

Deputy Assistant Director,
Investigative Services Division, Office of
Investigations, ICE Headquarters,
Potomac Center North, 500 12th St.,
SW., Washington, DC 20024.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the component's FOIA Officer, whose contact information can be found at <http://www.dhs.gov/foia> under "contacts." 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, Department of Homeland Security, 245 Murray Drive, SW., Building 410, STOP-0550, Washington, DC 20528.

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, a law that 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 Director, Disclosure and FOIA, <http://www.dhs.gov> or 1-866-431-0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you,
- Identify which component(s) of the Department you believe may have the information about you,
- Specify when you believe the records would have been created,
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records,
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) will not be able to conduct an effective search, and your request may be denied due to lack of 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:

Other Federal, State, local, and tribal law enforcement agencies, confidential sources, any other sources of information including members of the public.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to exemption 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5) and (e)(8); (f), and (g). Pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f). In addition, to the extent a record contains information from other exempt systems of records, ICE will rely on the exemptions claimed for those systems.

Dated: November 28, 2008.

Hugo Teufel III,

Chief Privacy Officer, Department of
Homeland Security.

[FR Doc. E8-29054 Filed 12-8-08; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY**Office of the Secretary**

[Docket No. DHS-2008-0130]

Privacy Act of 1974; United States Immigration and Customs Enforcement—008 Search, Arrest, and Seizure Records System of Records

AGENCY: Privacy Office; DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security is giving notice that it proposes to consolidate two legacy record systems: Treasury/CS.212 Search/Arrest/Seizure Report and Treasury/CS.214 Seizure File into a Immigration and Customs Enforcement system of records notice titled Search, Arrest, and Seizure Records. Categories of individuals, categories of records, and the routine uses of these legacy system of records notices have been consolidated and updated to better reflect Immigration and Customs Enforcement's search, arrest, and seizure records. Additionally, DHS is issuing a Notice of Proposed Rulemaking (NPRM) concurrent with this SORN elsewhere in the **Federal**

Register. The exemptions for the legacy system of records notices will continue to be applicable until the final rule for this SORN has been completed. This system will be included in the Department's inventory of record systems.

DATES: Written comments must be submitted on or before January 8, 2009. This new system will be effective January 8, 2009.

ADDRESSES: You may submit comments, identified by docket number DHS-2008-0130 by one of the following methods:

- **Federal e-Rulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Fax:** 1-866-466-5370.
- **Mail:** Hugo Teufel III, Chief Privacy Officer, Privacy Office, 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 without change and may be read at <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 issues please contact Lyn Rahilly, Privacy Officer, (202) 732-3300, Immigration and Customs Enforcement, 500 12th Street, SW., Washington, DC 20024, *e-mail:* ICEPrivacy@dhs.gov. For privacy issues please contact Hugo Teufel III (703-235-0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:**I. Background**

Pursuant to the savings clause in the Homeland Security Act of 2002, Public Law 107-296, Section 1512, 116 Stat. 2310 (November 25, 2002), the Department of Homeland Security (DHS) and its component agency Immigration and Customs Enforcement (ICE) have relied on preexisting Privacy Act system of records notices for the collection and maintenance of records pertaining to ICE's arrests of individuals, and searches, detentions, and seizures of property pursuant to ICE's law enforcement authorities. As part of its efforts to streamline and consolidate its record systems, DHS is establishing a component system of records under the Privacy Act (5 U.S.C.

552a) for ICE to cover these records. The collection and maintenance of this information will assist ICE in meeting its obligation to record its actions regarding searches of individuals and property, arrests of individuals, and detentions and seizures of property and goods pursuant to ICE's law enforcement authorities.

In accordance with the Privacy Act of 1974, DHS is giving notice that it proposes to consolidate two legacy record systems: Treasury/CS.212 Search/Arrest/Seizure Report (66 FR 52984 October 18, 2001) and Treasury/CS.214 Seizure File (66 FR 52984 October 18, 2001) into an ICE system of records notice titled Search, Arrest, and Seizure Records. Categories of individuals, categories of records, and the routine uses of these legacy system of records notices have been consolidated and updated to better reflect ICE's search, arrest, and seizure records. Additionally, DHS is issuing a Notice of Proposed Rulemaking (NPRM) concurrent with this SORN elsewhere in the **Federal Register**. The exemptions for the legacy system of records notices will continue to be applicable until the final rule for this SORN has been completed. This system will be included in the Department's inventory of record systems.

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' 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 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. 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 of their records, and to assist individuals to more easily find such files within the agency. Below is the description of the DHS/ICE Search, Arrest, and Seizure Records 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 (OMB) and to Congress.

System of Records DHS/ICE-008

SYSTEM NAME:

Immigration and Customs Enforcement Search, Arrest, and Seizure Records.

SECURITY CLASSIFICATION:

Unclassified. Law Enforcement Sensitive (LES).

SYSTEM LOCATION:

Records are maintained at the U.S. Immigration and Customs Enforcement (ICE) Headquarters in Washington, DC and in field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include persons who violated, or are believed to have violated, the laws and regulations enforced by ICE, including those who have been administratively or criminally charged with violations of such laws and regulations. Also included in this system are owners, claimants, and other interested parties of the detained, seized and/or forfeited property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system may include: Information about individuals:

- Name;
- Nationality;
- Aliases;
- Social Security Number;
- Fingerprints;
- Date of birth;
- Physical description of individual;
- Addresses;
- Telephone numbers;
- Occupation;
- Place of business;
- Driver's license number;

Information about the search, seizure, or detention of goods or property, or the search or arrest of individuals:

- Search/arrest/seizure/detention date;

- License and registration number of vehicle, vessel and/or aircraft;
- Individual and/or contraband's mode of entry;
- Photographs related to searches, detentions, seizures, or arrests;
- Declaration forms submitted to U.S. Customs and Border Protection;
- Receipts of cash, goods, or other property seized, detained, or forfeited;
- Description of goods or other property seized, detained, searched, or forfeited;
- Estimated foreign value of seized goods or other property;
- Duty paid and owed;
- Domestic value of seized goods or other property;
- Notices provided to owners, claimants, or other interested parties pertaining to seized goods or other property;
- Reports of arrests, searches, detentions and seizures by ICE including the circumstances of the seizure, including reports from other law enforcement agencies;
- Section of law violated; and
- Seized or detained records in both paper and electronic form, including computers, computer records, disks, hard drives, flash drives and other electronic media and storage devices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 19 U.S.C. 66, 1618, 1625; 19 U.S.C. 8; 19 CFR Parts 171 and 172; the Federal Records Act, 44 U.S.C. 3101; Executive Order 9373.

PURPOSE(S):

The purpose of this system is to document all information and activity related to ICE searches of individuals and property, arrests of individuals, and seizures of goods, as well as related information about the individuals or entities suspected of violations of laws and regulations enforced by ICE. The system is also intended to facilitate communication between ICE and foreign and domestic law enforcement agencies for the purpose of enforcement and administration of laws, including immigration and customs laws.

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 of 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 (including United States Attorney

Offices) or other Federal agency conducting litigation or in proceedings before any court, adjudicative 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. 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 the Department of Justice or DHS has agreed to represent the employee; or
4. the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

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

D. To an agency, organization, or individual 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 the security or confidentiality of information in the system of records has been compromised;

2. The Department has 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) or harm to the individual who relies upon the compromised information; 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 compromise and prevent, minimize, or remedy such harm.

F. 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.

G. To an appropriate Federal, State, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or 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 an appropriate Federal, State, local, tribal, 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 disclosure is appropriate to the proper performance of the official duties of the person making the request.

I. To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction.

J. To third parties during the course of a law enforcement investigation to the extent necessary to obtain information pertinent to the investigation, provided disclosure is appropriate to the proper performance of the official duties of the officer making the disclosure.

K. To international and foreign governmental authorities in accordance with the law and formal or informal international arrangements.

L. 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 also stored on magnetic disc, tape, digital media, and CD-ROM.

RETRIEVABILITY:

Records are retrieved by individual's name, Social Security Number, ICE case number, vehicle, vessel, or aircraft number.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated system security access policies. Strict controls have been imposed 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.

RETENTION AND DISPOSAL:

Records are maintained for 5 years after final disposition, and then are transferred to the Federal Records Center. Records are destroyed 20 years after final disposition. Disposal of paper files occurs by burning or shredding; electronic data is disposed of using methods approved by the DHS Chief Information Security Officer.

SYSTEM MANAGER AND ADDRESS:

Unit Chief, Executive Information Unit/Program Management Oversight (EIU/PMO), Office of Investigations, Mission Support Division, U.S. Immigration and Customs Enforcement, Potomac Center North, 500 12th St., SW., Washington, DC 20024.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to

contest its content, may submit a request in writing to the component's FOIA Officer, whose contact information can be found at <http://www.dhs.gov/foia> under "contacts." 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, Department of Homeland Security, 245 Murray Drive, SW., Building 410, STOP-0550, Washington, DC 20528.

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, a law that 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 Director, Disclosure and FOIA, <http://www.dhs.gov> or 1-866-431-0486. In addition you should provide the following:

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- Identify which component(s) of the Department you believe may have the information about you,
- Specify when you believe the records would have been created,
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records,
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) will not be able to conduct an effective search, and your request may be denied due to lack of 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:

Individuals who have been subject to search or arrest; owners, claimants, and other interested parties of detained, seized and/or forfeited property; other Federal agencies, and State, tribal and

local law enforcement agencies; confidential sources; and members of the public.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to exemption 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), and (e)(4)(H), (e)(5) and (e)(8); (f); and (g). Pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f). In addition, to the extent a record contains information from other exempt systems of records, ICE will rely on the exemptions claimed for those systems.

Dated: November 28, 2008.

Hugo Teufel III,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E8-29055 Filed 12-8-08; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2008-0186]

Privacy Act of 1974; U.S. Immigration and Customs Enforcement-006 Intelligence Records System (IIRS) System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to establish a new system of records titled the U.S. Immigration and Customs Enforcement (ICE) Intelligence Records System (IIRS). IIRS contains information generated or received by the ICE Office of Intelligence, or other offices within ICE that support the law enforcement intelligence mission, that is analyzed and disseminated to ICE executive management and operational units for law enforcement, intelligence, counterterrorism, and other homeland security purposes. IIRS also contains data maintained in the Office of Intelligence's Intelligence Fusion System (IFS), a software application and data repository that facilitates research and analysis of information from a variety of sources within and outside of DHS to support law enforcement activities and investigations of violations of U.S. laws, administration of immigration laws and other laws

administered or enforced by DHS, and production of DHS law enforcement intelligence products. Additionally, a Privacy Impact Assessment for IFS will be posted on the Department's privacy Web site. (See www.dhs.gov/privacy and follow the link to "Privacy Impact Assessments.") Due to urgent homeland security and law enforcement mission needs, IFS is currently in operation. Recognizing that ICE is publishing a notice of system of records for an existing system, ICE will carefully consider public comments, apply appropriate revisions, and republish the IIRS notice of system of records within 180 days of receipt of comments. A proposed rulemaking is also published in this issue of the **Federal Register** in which the Department proposes to exempt portions of this system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: The established system of records will be effective January 8, 2009. Written comments must be submitted on or before January 8, 2009. A revised IIRS notice of system of records that addresses public comments, responds to OMB direction, and includes other ICE changes will be published not later than July 7, 2009 and will supersede this notice of system of records.

ADDRESSES: You may submit comments, identified by docket number DHS-2008-0186 by one of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 1-866-466-5370.
- *Mail:* Hugo Teufel III, Chief Privacy Officer, Privacy Office, 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 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: Lyn M. Rahilly (202-514-1900), Privacy Officer, U.S. Immigration and Customs Enforcement, 425 I Street, NW., Washington, DC 20001, or Hugo Teufel III (703-235-0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION: