

Department of Homeland Security
DHS Directives System
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DHS PRIVACY POLICY REGARDING COLLECTION, USE, RETENTION, AND DISSEMINATION OF PERSONALLY IDENTIFIABLE INFORMATION

I. Purpose

This Directive establishes policy for the treatment of all individuals' personally identifiable information (PII) collected and maintained by the Department of Homeland Security (DHS or Department) to the extent described below. This Directive does not establish policy for other aspects of Privacy Act implementation.

II. Scope

This Directive applies to all DHS Components and the Office of the Secretary. This Directive should be implemented in conjunction with Directive 047-01 "Privacy Policy and Compliance," July 7, 2011.

DHS Privacy Policy Guidance Memorandum 2017-01, DHS Privacy Policy Regarding Collection, Use, Retention, and Dissemination of Personally Identifiable Information ("2017 policy") is hereby cancelled.

III. Authorities

- A. Title 5, U.S.C., Section 552a, "The Privacy Act of 1974," as amended
- B. Public Law 107-347, "The E-Government Act of 2002," as amended, Section 208 [Title 44 United States Code (U.S.C.) § 3501 note]
- C. Title 6 U.S.C. Section 142, "Privacy Officer"
- D. Title 5 U.S.C., Section 552a note, "The Judicial Redress Act of 2015"
- E. Executive Order 13993, "Revision of Civil Immigration Enforcement Policies and Priorities, January 20, 2021"

- F. OMB Circular No. A-130, "Managing Information as a Strategic Resource," July 2016
- G. OMB Circular No. A-108, Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948, 28,951 (July 9, 1975).
- H. DHS Delegation 13001, "Delegation to the Chief Privacy Officer," June 2, 2020

IV. Responsibilities

A. Chief Privacy Officer:

1. Manages the execution of this Directive;
2. Develops and issues DHS privacy policies, oversees their implementation, and issues privacy instructions and implementing guidance;
3. Provides appropriate oversight to the extent consistent with 6 U.S.C. 142 and other privacy laws applicable to DHS, and consistent with Federal Government privacy requirements, of how the Department implements DHS privacy policies and directives, privacy laws applicable to DHS, and Federal Government-wide privacy policies;

B. Component Heads:

1. Implement and comply with this and related Directives.

V. Policy and Requirements

A. Policy:

1. As a matter of DHS policy, DHS administratively extends certain Privacy Act privileges to all individuals when their PII is maintained in DHS systems of records, regardless of citizenship or immigration status, so long as the individual's information is retrievable by a personal identifier in the normal course of agency business.
2. Under this policy, DHS Components will handle all individuals' PII in a "mixed system" in accordance with the Fair Information Practice Principles (FIPPs), as rooted in the Privacy Act. A "mixed system" shall mean any system operated by DHS or on behalf of DHS or for the benefit of DHS that contains PII of individuals, regardless of citizenship or

immigration status, that is collected, used, maintained, and/or disseminated, and which is retrievable by a personal identifier in the normal course of agency business.

3. As a matter of administrative convenience, when an individual's information is retrieved by a personal identifier, DHS implements certain Privacy Act provisions as though they apply to that individual, regardless of their citizenship or immigration status. Specifically, DHS extends the Privacy Act's access, amendment, and accounting for disclosure privileges to such individuals, as well as the maintenance and safeguarding procedures under subsection 552a(e) and the non-disclosure provisions under subsection 552a(b), to the extent it comports with Section V.A.1 above and is consistent with applicable law.

4. This policy does not extend, create, or modify any legally binding rights or obligations, including a right of judicial review for individuals who are neither U.S. citizens nor lawful permanent residents under any provision of the Privacy Act or the Judicial Redress Act. The policy may be withdrawn or modified at any time, in DHS's discretion.

B. **Requirements:** This Directive applies to any PII, regardless of an individual's citizenship or immigration status, that is collected, used, retained, and/or disseminated by a Component, if the information is retrievable by a personal identifier in the normal course of agency business.

VI. Questions

Address any questions or concerns regarding this Directive to Privacy Office, Chief Privacy Officer.

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Lynn Parker Dupree
Chief Privacy Officer

Date