



## DEPARTMENT OF HOMELAND SECURITY

[Docket No. USCBP-2019-0039]

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

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of New Privacy Act 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/U.S. Customs and Border Protection-026 Explorer Program System of Records.” This system of records allows the DHS/U.S. Customs and Border Protection (CBP) to collect and maintain records on individuals who apply for, participate in, or sponsor a minor dependent for the CBP Law Enforcement Explorer Program, a work-based volunteer program for young adults interested in learning about law enforcement. The program gives individuals ages 14-18 the opportunity to learn about law enforcement careers and serves as a stepping-stone for a career in law enforcement. The Explorer Program is chartered by Learning for Life/Boy Scouts of America as an educational resource program and sponsored by CBP as a personnel recruitment program.

This newly established system will be included in the Department of Homeland Security’s inventory of record systems.

**DATES:** Submit comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. This new system will be

effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments, identified by docket number USCBP-2019-0039 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, D.C. 20528-0655.

*Instructions:* All submissions received must include the agency name and docket number USCBP-2019-0039. 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 questions, please contact: Debra L. Danisek (202) 344-1610, [privacy.cbp@cbp.dhs.gov](mailto:privacy.cbp@cbp.dhs.gov), CBP Privacy Officer, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Room 3.3D, Washington, D.C. 20229. For 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, D.C. 20528-0655.

**SUPPLEMENTARY INFORMATION:**

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. sec. 552a, DHS/CBP

proposes to establish a new DHS system of records titled, “DHS/CBP-026 Explorer Program System of Records.”

The CBP Explorer Program allows youth between the ages of 14 and 18 to learn about law enforcement careers and serves as a stepping-stone for a career in law enforcement. The Explorer Program is chartered by Learning for Life/Boy Scouts of America (LFL/BSA) as an educational resource program and sponsored by CBP as a personnel recruitment program. All members of the CBP Explorer Program are members of the LFL/BSA. In order to participate, applicants must submit information to CBP related to their eligibility for the program. A variety of forms are required as part of the application package, including general application forms, consent forms and waivers, medical releases, and background check authorizations. For applicants under the age of 18, a parent or legal guardian is required to provide information about him or herself as part of the application process. Parents and legal guardians are also subject to background checks during the application process to obtain and verify information provided by applicants. Candidates accepted to the program attend a 10-week training academy and are then posted with the Office of Field Operations at Ports of Entry and/or with U.S. Border Patrol at Border Patrol stations. Explorers participate in regular meetings, activities, and trainings at their post until they “age out” or resign from the Program.

Consistent with DHS’s information sharing mission, information stored in the DHS/CBP-026 Explorer Program 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. In addition, DHS/CBP 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 a statutory right to covered persons 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/CBP-026 Explorer Program System of Records.

In accordance with 5 U.S.C. sec. 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)/U.S. Customs and Border Protection (CBP)-026 Explorer Program System of Records.

**SECURITY CLASSIFICATION:** Unclassified.

**SYSTEM LOCATION:** DHS/CBP maintains records at individual CBP Office of Field Operations Field Offices or Ports of Entry; U.S. Border Patrol Sectors or Stations; and CBP Headquarters at 1300 Pennsylvania Avenue NW, Washington, D.C. 20229.

**SYSTEM MANAGER(S):** Director of Field Operations for each Office of Field Operations location, and Sector Chief for each U.S. Border Patrol Sector location.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:** 5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 302, Delegation of authority; 5 U.S.C. 3111, Acceptance of volunteer service; 44 U.S.C. 3101, Records management by agency heads, general duties; Federal Information Security Act (Pub. L. 104-106, section 5113); E-Government Act (Pub. L. 104-347, section 203); Paperwork Reduction Act of 1995 (44 U.S.C. 3501); Government Paperwork Elimination Act (44 U.S.C. 3504); Homeland Security Presidential Directive-12, Policies for a Common Identification Standard for Federal Employees and Contractors, August 27, 2004; Federal Property and Administrative Act of 1949, as amended (40 U.S.C. 521); the Intelligence Reform and Terrorism Prevention Act of 2004, Pub.L. 108-458, Section 3001 (50 U.S.C. 3341); Executive Order 9397, Numbering System for Federal Accounts Relating to Individual Persons, as amended by Executive Order 13478; Homeland Security Act of 2002, Pub. L. 107-296, as amended (6 U.S.C. 341).

**PURPOSE(S) OF THE SYSTEM:** The purpose of this system is to collect information on applicants, participants, and parents/legal guardians sponsoring a dependent for participation in the CBP Explorer Program, and any references provided on the applications, to ensure that (1) applicants meet the required qualifications for program

participation; that (2) applicants and their parents and legal guardians, if appropriate, do not have a criminal history that would preclude them from accessing CBP personnel and facilities; and (3) ensure the safety and welfare of program participants. CBP uses information from Explorer Program participants to administer the program and to monitor the participant's progress and achievements, and to ensure that CBP can attend to the participant's medical and other needs if they arise while the individual is participating in program trainings and activities.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:** Categories of individuals within this system include (1) potential applicants to the Explorer Program who submit preliminary information to CBP; (2) applicants who have submitted partial or complete application materials; (3) current and former participants in the Explorer Program; (4) parents and legal guardians of Explorer applicants and participants, as well as others authorized by the parent or legal guardian to pick up or otherwise provide support to the participant; and (5) individuals serving as references or providing information to verify eligibility for Explorer program participation.

**CATEGORIES OF RECORDS IN THE SYSTEM:** CBP maintains the following information related to the Explorer Program:

- Applicant first name, middle initial, and last name;
- Applicant age and date of birth;
- Applicant place of birth;
- Identification information (driver's license, birth certificate, or other identifying information);
- Social Security number (Applicant/Participant/Parents/Guardians);

- Photocopies of any relevant identity documents;
- Applicant Citizenship status;
- Applicant Ethnic background;
- Photos or videos provided during the Explorer's tenure in the Program;
- Emergency contact information;
- Applicant Gender;
- Applicant Phone numbers;
- Applicant Email addresses;
- Notary Information, if required for certain application forms;
- Applicant Mailing addresses, including ZIP code;
- Applicant/participant education information;
- Applicant/participant employment information;
- Applicant/participant annual health and medical information, including but not limited to: medical history; current and prior medical conditions and diagnoses; symptoms reported and exhibited treatment and prescription information; special needs and accommodations; health insurance information; and other records related to the assessment and treatment of a health or medical issue;
- Parent/guardian general contact information;
- Parent/guardian employment information;
- Applicant/participant and parent/guardian general consent information;

- Background check results for applicants and parents/guardians (clear/no clear response only; no details or copies of the background check are maintained among these records); and
- General information related to the individuals' training and performance in the program.

**RECORD SOURCE CATEGORIES:** DHS/CBP may obtain records about applicants, and parents/guardians directly from the individual, or through Learning for Life/Boy Scouts of America.

**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. sec. 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. sec. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other federal agencies conducting litigation or in 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 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, when 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 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.

I. To an organization or person in either the public or private sector, either foreign or domestic, when there is a reason to believe that the recipient is or could become the target of a particular criminal or terrorist activity or conspiracy, or when the information is relevant to the protection of life, property, or other vital interests of a person.

J. To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations for the purpose of protecting the vital interests of a data subject or other persons, including to assist such agencies or organizations in preventing exposure to or transmission of a communicable or quarantinable disease or to combat other significant public health threats; appropriate notice will be provided of any identified health threat or risk.

K. 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 in the proper performance of the official duties of the officer making the disclosure.

L. To any nonprofit organization or entity, such as “Learning for Life” or the “Boy Scouts of America,” to the extent necessary to administer the CBP Explorer Program and ensure the health, safety, and welfare of program participants.

M. 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, when disclosure is necessary to preserve confidence in the integrity of DHS, or when disclosure is necessary to demonstrate the accountability of DHS’s officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:** DHS/CBP stores records in this system electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, and digital media.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:** DHS/CBP retrieves records by an individual’s name.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:** CBP is in the process of drafting a proposed records retention schedule for the information maintained in the CBP Explorers SORN. CBP will delete records when

superseded, obsolete, or when an individual submits a request to the agency to remove the records. In general, and unless it receives a request for removal, CBP will maintain these records for 2 years after the individuals leave the program, at which point the records will be considered obsolete and deleted and shredded.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:** DHS/CBP safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. DHS/CBP 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:** 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 CBP's Freedom of Information Act (FOIA) Officer, whose contact information can be found at <http://www.dhs.gov/foia> under "Contacts 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, D.C. 20528-0655. Even if neither the Privacy Act nor the Judicial Redress Act provide a right of access, certain records about you may be available under the Freedom of Information Act (FOIA).

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. sec. 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 the information being requested;
- Identify which component(s) of the Department 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 the request is seeking records pertaining to another living individual, the request must include an authorization from the individual whose record is being requested, authorizing the release to the requester.

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, individuals may make a request for amendment or correction of a

record of the Department about the individual by writing directly to the Department component that maintains the record, unless the record is not subject to amendment or correction. The request should identify each particular record in question, state the amendment or correction desired, and state why the individual believes that the record is not accurate, relevant, timely, or complete. The individual may submit any documentation that would be helpful. If the individual believes that the same record is in more than one system of records, the request should state that and be addressed to each component that maintains a system of records containing the record.

**NOTIFICATION PROCEDURES:** See “Record Access Procedures” above.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:** None.

**HISTORY:** None.

Jonathan R. Cantor,

Acting Chief Privacy Officer,

Department of Homeland Security.

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