

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
ICE Policy System**

DISTRIBUTION:	ICE
DIRECTIVE NO.:	1-32.0
ISSUE DATE:	October 2, 2009
EFFECTIVE DATE:	October 2, 2009
REVIEW DATE:	October 2, 2012
SUPERSEDES:	See Section 3 Below.

**DIRECTIVE TITLE: ALIEN REGISTRATION FILE (A-FILE) CREATION,
MAINTENANCE, ORGANIZATION, AND DISCLOSURE OF
INFORMATION**

1. **PURPOSE and SCOPE.** The purpose of this Directive is to provide all U.S. Immigration and Customs Enforcement (ICE) offices and employees with standard and uniform procedures for the creation, maintenance, and organization of and the disclosure of information from unclassified, physical Alien Registration Files (A-Files). This directive applies to all ICE offices and employees and only to unclassified A-Files, or the unclassified portions of A-Files, created, changed, or modified after the effective date of this Directive.
2. **AUTHORITIES/REFERENCES.**
 - 2.1. 8 United States Code (U.S.C.) § 1103(a)(2)-(a)(3), § 1103(g)(2), § 1229(a)(1)(F)(i)-(F)(ii), § 1229(a)(3), § 1230, 1304(b).
 - 2.2. 8 Code of Federal Regulations (CFR) 103.2(b)(16)-(17), 103.8, 103.10, 103.11, 103.20-103.36, 208.6.
 - 2.3. 28 CFR 16.99, Exemption of the Immigration and Naturalization Service Systems-limited access, 28 CFR 16.99.
 - 2.4. U.S. Citizenship and Immigration Services (USCIS) Records Operations Handbook.
 - 2.5. Privacy Act, 5 U.S.C. § 552a.
 - 2.6. Freedom of Information Act (FOIA), 5 U.S.C. § 552.
 - 2.7. A-File Systems of Record Notice (SORN), 72 FR 1755.
3. **SUPERSEDED/CANCELLED POLICY/SUMMARY OF CHANGES.** This Directive is the originating and establishing directive regarding A-File creation, maintenance and organization.
4. **BACKGROUND.**

4.1. The A-File is a series of records maintained on an individual that document the history of his or her interaction with USCIS, U.S. Customs and Border Protection (CBP), and ICE as prescribed by the Immigration and Nationality Act (INA) and other regulations. It is the single most comprehensive set of records on aliens kept by the Department of Homeland Security (DHS).

4.2. ICE, CBP, and USCIS may all place documentation into an individual's A-File. For this reason, the procedures outlined in this Directive comport with applicable guidelines provided by USCIS and CBP for their respective employees. The information in the A-File is used by USCIS, ICE, and CBP as well as agencies outside of DHS.

5. DEFINITIONS.

5.1 **A-File.** File composed of relevant immigration forms and documents related to an individual's immigration case and labeled with bar codes indexed in the Central Index System and tracked by the National File Tracking System (NFTS). Temporary A-Files, also called T-Files, are created when the original A-File is unavailable.

5.2. **Central Index System.** Database containing the biographical and historical information related to an individual's file.

5.3. **"DIG" Code.** Code for digitized files that are available electronically. "DIG" in the location field in the Central Index System indicates that the file has been digitized and is available for viewing in the Enterprise Document Management System (EDMS).

5.4. **File Control Office (FCO).** An office authorized to manage A-Files. FCOs can create, store, transfer, receive, and maintain A-Files; however, only a USCIS FCO can retire A-Files. An FCO is responsible for all files in its jurisdiction to include sub-offices, field offices, ICE offices, Ports of Entry, and Border Patrol Stations.

5.5. **National File Tracking System (NFTS).** A USCIS world-wide database that tracks the location and provides a history of A-Files and Temporary A-Files (T-Files).

5.6. **Receipt File.** A non-immigrant application or petition created at a USCIS Service Center.

5.7. **Record of Proceedings (ROP).** The material constituting the record of any application, petition, or hearing. An ROP may include but is not limited to testimony, exhibits, applications, proffers, requests, and the immigration judge's decision and all written orders, motions, appeals, briefs, and other papers filed in the proceedings that constitute the record of a case.

5.8. **Records Operations Handbook (ROH).** A USCIS publication that provides policy statements in accordance with authorized directives, regulations, and manuals. The ROH applies to government employees or contractors who work for components of DHS and

who create or use immigration records. It reflects the current policies, procedures, and best record keeping practices of the USCIS Records Division.

6. **POLICY.** It is ICE policy that all ICE employees and contractors working on behalf of ICE shall create and/or maintain A-Files in accordance with this Directive, USCIS standards, and the ROH. Under this policy, A-Files are to be secure at all times and are not to be removed from ICE offices unless absolutely necessary. Each ICE Program Office shall be accountable for and shall manage A-Files within its custody and have access to an electronic copy of the ROH (available at the USCIS website). All A-Files shall remain in the custody of a DHS component, except in the rare circumstance where release to the Department of Justice may be required for the purpose of defending the Department in litigation. Further, it is ICE policy to prevent the loss and damage of A-Files and to track all transfers in the course of ICE official activities. It is ICE Policy that while the information in an A-File can be disclosed, original A-Files must not be transferred to outside agencies or local law enforcement. It is ICE policy that A-Files, both physical and electronic copies, shall be used for official purposes only; scanning and making electronic copies of A-Files for unofficial use is strictly prohibited.

7. PROCEDURES.

- 7.1. **General.** When processing a case, an ICE employee shall first do a thorough search of all available databases and records to determine if an A-File already exists. The existence of a Temporary A-File (T-File) indicates that an A-File exists.

- 1) If an A-File exists, but is unavailable, the ICE employee shall request the original file and create a T-File for use until the original A-File is received. If the file exists and has a "DIG" code, refer to the Records Digitization Facility Customer Guide in the ROH. If a T-File exists and is unavailable, the ICE employee shall create another T-File and ensure that all the material in the T-File is transferred to the A-File as appropriate and in accordance with USCIS standards, the ROH, and this Directive. The use of Working Files (W-File) to store notes, calculations, or drafts created to analyze or prepare other documents is strongly discouraged as they are not tracked or stored in the same way as A-Files and T-Files.
- 2) If no A-File exists, the ICE employee shall create an A-File in accordance with Part II-3 of the ROH, "Creating A-Files," and this Directive.

- 7.2 **Initial A-File Creation.** If there is no A-File for the individual, an ICE employee shall use a USCIS-issued empty A-File jacket with a pre-printed A-number for that individual. Unless an employee works at an ICE FCO or an ICE field office that has been authorized to create A-Files, the ICE employee shall forward the biographical information and the A-File number to USCIS Records requesting to create that record in the Central Index System, where the A-File data must be entered and verified. Refer to Chapter II-04 of the ROH for the procedures for creating a Temporary A-File (T-File).

- 7.3. Training.** Each ICE Program office shall ensure that any employee who handles A-Files has completed the required National Archives and Records Administration (NARA) training for records management via the NARA website. In addition, employees shall also complete National File Tracking System (NFTS) training, Enterprise Document Management System (EDMS) training, and ICE Records Management Training, all of which are available at the ICE Virtual University website. For up-to-date information on A-File control and accountability, visit the ICE Records Management Branch website.
- 7.4. Access to Electronic A-Files.** An ICE employee must use EDMS to access an electronic A-File. EDMS can be accessed using a government computer or government encrypted laptop computer.
- 7.5. Control of File.** Generally, A-Files are not to be taken out of the office. Supervisors may grant permission, in writing, for employees to take A-Files outside of the office only if it is absolutely necessary (e.g., for travel to court). In the limited instances when taking A-Files for work outside the office for periods longer than three days is justified, ICE employees shall:
- a) Obtain permission, in writing, from their supervisor.
 - b) Use NFTS to charge A-Files and Receipt Files to their responsible party code.
 - c) Create a list of the files they are taking and leave a copy of the list with their supervisor.
 - d) Ensure that the Records Management Branch [(b)(7)(E)]@dhs.gov and the USCIS Records Manager are aware of the file's location.
 - e) Keep the A-File locked and in a secure place at all times when not in the employee's physical possession.
 - f) Ensure their supervisor can contact them if there is an emergency or high priority request, in which case the employee must be able to return the file to the office within 24 hours or within the time required by their local office. If the A-File cannot be returned, provide the supervisor, the Records Management Branch, and the USCIS Records Manager with the appropriate file indicator to update the Central Index System.
- 7.6. Lost, Stolen, or Damaged A-Files.** All ICE employees shall immediately report any suspected loss, theft, or significant damage of an A-File or its bar code/contents (whether in paper or electronic form) to their supervisor, their Security Officer, the Records Management Branch [(b)(7)(E)]@dhs.gov, the USCIS Records Manager, and the ICE Help Desk (1-888-347-[(b)(7)(E)]). Employees are reminded that issues involving employee misconduct with respect to the A-File must also be reported to the Office of Professional Responsibility (OPR) local office or 24-hour hotline (1-877-2[(b)(7)(E)]).
- 7.7. Consolidation of Files into the A-File.** ICE shall forward A-Files to USCIS for consolidation in accordance with USCIS policy.
- 7.8. Interfiling.** To submit evidentiary documents in the A-File for interfiling, ICE personnel, like other components, must place an action completed stamp on top of the

documents to be interfiled, and submit the documents to a local FCO or to the National Records Center. When interfiling evidentiary documents, ICE personnel must clearly mark the documents and/or secure them in an evidence envelope to ensure that the documents are protected and will not be released inappropriately.

7.9. **Handling Oversized Files.** In particularly lengthy or complicated investigations, more than one A-File jacket may be required to hold an individual's documents. Each additional A-File jacket shall retain the same number of the original file, and a record of the additional A-File(s) shall be noted in the Central Index System and on the original A-File (e.g., Part 1 of 3, Part 2 of 3, etc.). For further details, see Part II-8 of the ROH, "Maintaining A-Files."

7.10. **Documents in Initial A-File.** ICE employees should seek the advice of a USCIS Records Manager if there are any questions on whether a document should be placed in an A-File. Documents shall be organized in an A-File as described below and must be in chronological order, with the most recent document on top. Original record material and the contents of the ROP must be reflected in the A-File at all times. When creating an ROP for an adjudicatory body, such as the Board of Immigration Appeals, send a copy of the original record material, not the original itself.

a) **Left Side.** The left side, also referred to as the record side, includes ROP documents that are filed with the Immigration Court and all petitions, forms, applications, evidence, documentation, and correspondence relating to the legalities of detention and an individual's legal status, such as records related to removal, exclusion, and deportation proceedings. A pink M-175, *Cover Sheet-Record of Proceeding*, should be used to separate each distinct ROP in an A-File. A copy of any document or record admitted into evidence at an official proceeding must be added to the left side.

a) **Right Side.** The right side of the A-File, also referred to as the non-record side, includes all administrative forms, documents, and records not considered a part of the ROP, such as internal documents, materials believed to be exempt from disclosure under the FOIA, and material protected from disclosure by the attorney/client privilege.

7.11. **Release of Information.** The disclosure of information in an A-File is primarily governed by the Privacy Act (5 U.S.C. § 552a), including the A-File System of Records Notice (SORN) and the FOIA (5 U.S.C. § 552). However, the A-File may contain information that is subject to additional disclosure restrictions, including, but not limited to, information relating to asylum claims, temporary protected status, legalization, claims filed under the Violence Against Women Act, and other subject matter-specific confidentiality requirements, as described below. DHS is legally required to adhere to such disclosure restrictions.

1) Public Requests for A-Files. The release of information contained in an A-file to the public is governed by the FOIA. Any written request from a member of the public

for an A-File, including a request from the subject of the A-File, shall be referred immediately to the USCIS FOIA Office for appropriate action and response to the requestor. Verbal requests for information cannot be accepted; the requestor should be told to submit the request in writing to the USCIS FOIA Office.

- 2) Requests to Correct an A-File. Under the Privacy Act, an individual may request that his or her A-File be amended to correct inaccuracies. If such a request is received by ICE, it must be referred to the USCIS FOIA Office for processing. In some situations, an individual may not be entitled to access and amend his or her A-File (in part or in its entirety) because of national security or law enforcement concerns.
- 3) Disclosure of A-File Information for Official Purposes. The FOIA does not govern the disclosure of A-File information for official purposes; rather, the Privacy Act governs the disclosure of A-File information for official purposes to agencies outside of DHS. In accordance with DHS policy, ICE employees shall not disclose A-Files or their contents unless authorized by subsection (b) of the Privacy Act (5 U.S.C. § 552a(b)). This directive describes *some* but not all situations in which A-File information may be disclosed. Because disclosure questions are often complex, ICE employees and their supervisors are encouraged to consult with legal counsel or the ICE Privacy Office.

ICE employees are authorized to disclose the information in an A-File within DHS for official purposes where the receiving employee has a “need to know” the information from the file. ICE employees may disclose A-File information outside of DHS if a “Routine Use” in the A-File SORN or another exception under subsection (b) of the Privacy Act allows such sharing. (A current version of the A-File SORN can be found on the DHS Privacy Office website at www.dhs.gov/privacy.) The A-File SORN Routine Uses permit disclosure of A-File information for various official purposes, including, but not limited to, law enforcement, benefits administration, immigration enforcement and removal proceedings, and litigation. Before making a disclosure, ICE employees and their supervisors shall ensure it is clearly within the scope of the Routine Use or seek appropriate guidance from legal counsel or the ICE Privacy Office.

In consultation with their supervisors, ICE employees may also disclose A-File information in response to a written request signed by the head of the requesting agency, or his/her designee at the section chief level or above, and specify the type of information requested and the specific investigatory purpose(s) for which the information is requested. ICE’s written response must identify the information being disclosed, clearly state that it is being disclosed on the condition that it is used only for the stated purpose(s) in the request and signed by an ICE supervisor. Prior to providing any information, an ICE supervisor must determine that the disclosure is permissible pursuant to the Routine Uses in the A-File SORN and that providing the information to the requestor would not jeopardize an ICE investigation or criminal prosecution.

- 4) Disclosure of A-File Information to the U.S. Department of Justice. ICE employees shall disclose A-File information to the U.S. Department of Justice, including United States Attorneys' Offices, for the purpose of presenting cases to the Justice Department for criminal prosecution. ICE employees shall provide this information promptly and without delay to ensure the Department of Justice has the evidence needed to proceed and to ensure compliance with all discovery obligations. When providing such information, ICE employees should provide the Department of Justice notice if information contained in the file is subject to special protections under the law so that the Department of Justice can take whatever steps it deems necessary to provide appropriate protections to such information. Such information may include: information contained in or pertaining to an asylum application; information relating to claimants who have a pending or approved petition under the Violence Against Women Act; information relating to Season Agricultural Worker or Legalization claims; information relating to the Temporary Protected Status of an individual; information relating to S Visas; or information relating to trafficking victims (T Visas) or victims of crimes (U Visas). Likewise, in the event an A-file contains classified information, ICE employees must ensure that the Department of Justice employee receiving the information has an appropriate clearance level.
- 5) ICE employees shall note in the A-File itself any disclosures of A-File information outside of DHS.
- 6) For assistance with questions related to the disclosure of A-File records or information, employees should contact their local Office of Chief Counsel, the Records Management Branch, or the ICE Privacy Office.

8. **ATTACHMENT.** NONE.

9. **NO PRIVATE RIGHT STATEMENT.** This Directive is an internal policy statement of ICE. It is not intended to, and does not create any rights, privileges or benefits, substantive or procedural, enforceable by any party against the United States; its departments, agencies, or other entities; its officers or employees; contractors or any other person.

Approved


 John Morton
 Assistant Secretary
 U.S. Immigration and Customs Enforcement