

Before

**U.S. CITIZENSHIP AND IMMIGRATION SERVICES
DEPARTMENT OF HOMELAND SECURITY**

Washington, DC 20528

Privacy Act of 1974; System of Records
Notice (SORN): Department of Homeland
Security / U.S. Citizenship and Immigration
Services (USCIS)–004 Systematic Alien
Verification for Entitlements Program
(SAVE), Docket Number USCIS–2025–
0337, FR Doc. 2025–19735.

**COMMENTS OF
THE IDENTITY PROJECT (IDP)**

The Identity Project (IDP)

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December 1, 2025

I. INTRODUCTION

The Identity Project (IDP) submits these comments in response to the System of Records Notice (SORN), “Department of Homeland Security / U.S. Citizenship and Immigration Services (USCIS)–004 Systematic Alien Verification for Entitlements Program (SAVE)”, Docket Number USCIS–2025–0337, FR Doc. 2025–19735, published at 90 *Federal Register* 48948-48955 (October 31, 2025). The Identity Project (IDP) is an independent, nonprofit project which provides advice, assistance, publicity, and legal defense to those who find their rights infringed, or their legitimate activities curtailed, by demands for identification, and builds public awareness about the effects of ID requirements on fundamental rights.

This SORN describes a revised and vastly enlarged system of records which is *already* knowingly and willfully being maintained by officers and employees of U.S. Citizenship and Immigration Services (USCIS) without meeting the notice requirements of the Privacy Act of 1974, 5 U.S.C. § 552a(e)(4), for *prior* publication in the *Federal Register* of a valid SORN including, *inter alia*, (1) the principal purposes for which the information is intended to be used (including decision-making concerning the U.S. citizenship of natural-born U.S. citizens), (2) the categories of individuals on whom records are maintained (including natural-born U.S. citizens), (3) the categories of records maintained in the system (including information concerning drivers’ licenses and Social Security accounts of natural-born U.S. citizens), (4) the routine uses of the records contained in the system (again including decision-making concerning the U.S. citizenship of natural-born U.S. citizens), and (5) the categories of sources of records in the system (including state driver licensing agencies and the Social Security Administration).

None of this information about the current “Systematic Alien Verification for Entitlements Program (SAVE)” system of records – whose very name denotes that it is a system of information pertaining to, and used for decisions pertaining to, “aliens” and not native-born U.S. citizens – is included in the SORN currently in effect for this system.¹

The purpose of “notice” is to enable impacted individuals to make informed decisions. In the case of a system of Federal records subject to the Privacy Act, these decisions include (1) whether to provide information that will be directly or indirectly included in the system, (2) what information to provide, (3) whether to seek access to and/or correction of records, and (4) whether to seek judicial review of matters related to the system and/or records in it. To effectuate these purposes of the statutory requirement of notice, the Privacy Act rightly requires that notice be published in the *Federal Register* “upon establishment or revision” of a system of records.²

Ex post facto “notice” fulfills neither the statutory notice requirement nor its purposes, and cannot cure violations of the requirement for notice “upon... revision” of a system of records.

Because lack of notice would frustrate so many of the other purposes of the Privacy Act, the statute appropriately provides for criminal penalties, independent of any civil remedies, for any “officer or employee of an agency who willfully maintains a system of records without meeting the notice requirement of subsection (e)(4) of this section” including proper publication, timeliness, and inclusion of all statutorily required elements in the notice.³

1. Department of Homeland Security, USCIS, “Privacy Act Notice of Modified System of Records”, 85 *Federal Register* 31798-31803 (May 27, 2020).

2. 5 U.S.C. § 552a(e)(4)

3. 5 U.S.C. § 552a(i)(2)

Official statements by USCIS and the Department of Homeland Security (DHS) and agency pleadings in ongoing litigation pertaining to this system of records make explicit that officers and employees of USCIS and DHS knowingly and willfully revised the SAVE system of records, beginning in April and May of 2025, to expand the purposes, categories of individuals, categories of records, routine uses, and categories of sources of records in the SAVE system:

On April 22, 2025, DHS announced that it had begun “a comprehensive optimization of the Systematic Alien Verification for Entitlements (SAVE) database to ensure a single, reliable source for verifying non-citizen status nationwide.” USCIS Press Release, *DHS, USCIS, DOGE Overhaul Systematic Alien Verification for Entitlements Database* (Apr. 22, 2025), <https://perma.cc/Y8A5-YX3M>. The update “eliminates fees for database searches, breaks down silos for accurate results, streamlines mass status checks, and integrates criminal records, immigration timelines, and addresses.” *Id.* And on May 22, 2025, DHS announced two specific changes: (1) “[u]sers are now able to create cases using a Social Security number (SSN) as the applicant’s enumerator,” and (2) “users may now create cases in bulk.” USCIS, *Optimizing SAVE: New Options to Create Cases with a Social Security Number and by Bulk Upload* (May 22, 2025), <https://perma.cc/LM3N-RB76>.

(“Defendants’ opposition to plaintiffs’ motion for a preliminary injunction or a stay under 5 U.S.C. § 705”, *League of Women Voters, et al., v. U.S. Department of Homeland Security*, No. 1:25-cv-03501-SLS, U.S. District Court, District of Columbia, October 22, 2025.)

USCIS and DHS did not publish this revised SORN until October 31, 2025, and it is not scheduled to take effect (if it is not withdrawn, as it should be, as discussed below) until December 1, 2025. But USCIS and DHS have continued to maintain the revised SAVE system.

These actions and public declarations by and on behalf of USCIS and the DHS provide clear and unambiguous probable cause to believe that officers and employees of USCIS and

DHS have committed criminal violations of the Privacy Act of 1974, 5 U.S.C. § 552a(i)(2), by knowingly instantiating the revised SAVE system without first publishing a valid notice..

It is the duty of agency officials reviewing and acting on these comments to refer these likely criminal violations of the Privacy Act by agency officials and employees to appropriate law enforcement officers including the DHS Office of Inspector General and the office of the appropriate U.S. Attorney(s) for investigation and prosecution, if they have not done so already.

In the meantime, the changes made to the SAVE system of records without prior notice must be rescinded until these comments are duly considered and acted on, and any information collected beyond the purposes, categories of individuals, categories of records, routine uses, and categories of sources of records disclosed by the SORN then in effect must be expunged.

As many other commenters on the revised SORN have argued, we believe that the revisions to the SAVE system of records exceed the statutory authority of USCIS and violate multiple provisions of the Privacy Act. The revised SORN, in its entirety, should be withdrawn.

The Privacy Act at 5 U.S.C. § 552a(e)(1) requires that, “Each agency that maintains a system of records shall— (1) maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President”.

The statutory mandate of USCIS is to carry out various functions with respect to naturalization and derivative citizenship. No statute requires USCIS to carry out any function whatsoever with respect to natural-born U.S. citizens, or to collect information about them.

Nor does any statute require *any* agency to maintain a national registry of U.S. citizens.

The President may lawfully direct an agency, by Executive Order, to carry out actions authorized by law. No law authorizes the maintenance of a national registry of all citizens.

Even if some statute were deemed to “require” USCIS to create or maintain a national registry of native-born U.S. citizens for some Constitutionally valid purpose, or an Executive Order directing USCIS to do so were found to be within the scope of some agency function authorized by a valid law, records of Social Security numbers and account information and state drivers’ license records would not be “relevant or necessary” to accomplish that purpose.

Pursuant to the U.S. Constitution, an individual born in the U.S. acquires U.S. citizenship by birth. In the absence of a valid renunciation of citizenship -- which would be executed and recorded by the Department of State, not by USCIS, the Social Security Administration (SSA), or state drivers’ license agencies -- the *sole* fact that is relevant or necessary to ascertain their U.S. citizenship is the fact of their birth in the U.S., not whether they have a Social Security number or drivers’ license, much less any other information in SSA or drivers’ license records.

What is the relevance of whether someone has a Social Security number to whether they are a U.S. citizen? Non-U.S. citizens can and routinely do (and in many cases must) have Social Security numbers and accounts. What is the “relevance” of whether an individual has a driver’s license to whether they are a U.S. citizen? Many states can and do issue driving permits to non-U.S. citizens, on the basis of their demonstrated competence to operate motor vehicles safely rather than on the basis of citizenship. Neither the Social Security Administration nor state driver licensing agencies are authoritative adjudicators of U.S. citizenship, and neither of them has any

need, for any of their official purposes, to ensure that whatever information about U.S. citizenship they may incidentally collect and maintain is either accurate or up to date.

Will anyone who doesn't have a drivers' license be presumed not to be a U.S. citizen?

A “citizenship” registry constructed in garbage-in, garbage-out fashion by aggregating state drivers' license records that have nothing to do with citizenship will inevitably be incomplete, inaccurate, and unfit for the purpose of judging citizenship, eligibility to vote, or eligibility for other Federal, state, or local, programs.

“Necessary” is an even higher threshold than “relevant”. For Social Security Administration or state drivers’ license records to be “necessary” for determining U.S. citizenship, it would have to be shown that it is *impossible* to determine whether someone is a U.S. citizen without knowing whether they have a Social Security number or a state-issued driver’s license – a claim which would be patently absurd. Even if this information might in some cases have some marginal relevance (which we doubt), it would not be necessary. Inclusion of this information by USCIS in the SAVE system violates the Privacy Act.

The Privacy Act at 5 U.S.C. § 552a(e)(2) also requires that, “Each agency that maintains a system of records shall... (2) collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual’s rights, benefits, and privileges under Federal programs.”

None of the additional information in the revised SAVE system would be collected directly from the subject individuals, as required by this provision, although all of it could be.

If USCIS wants to create a registry of all U.S. citizens (and if a valid law has authorized it to do so, which it has not), USCIS must “to the greatest extent practicable” sign individuals up directly for that registry, first providing them with the notices required by the Privacy Act.

USCIS is not collecting information about native-born U.S. citizens “to the greatest extent practicable directly from” those individuals. USCIS has made no attempt in the revised SORN or anywhere else to show that it is doing so, and could not make such a showing.

According to the revised SORN:

The purpose of this system is to provide a service... that assists federal, state, territorial, tribal, and local *benefit-granting* agencies... to verify the U.S. citizenship and immigration status of individual, to include naturalized, derived, and U.S. citizens by birth,... *applying for benefits*... to the extent that such disclosure is necessary to enable these agencies and entities to make decisions related to (1) *determining eligibility for a federal, state, territorial, tribal, or local public benefit*.

90 *Federal Register* 48952, emphasis added.

The revised SORN couldn't be more explicit that the purpose of including this additional information in SAVE is to enable recipients of responses to SAVE queries to make “determinations about an individual’s rights, benefits, and privileges under Federal programs”. These are exactly the purposes for which the Privacy Act rightfully requires information to be collected directly from data subjects.

It’s not enough to claim that collecting citizenship information directly from citizens would cost more than trying to infer it from data Social Security, drivers’ license, or other data from (knowingly unreliable) third parties and intermediaries. For good reasons, the law requires “the greatest extent practicable” of direct collection of data, even if that is more costly.

U.S. citizens do not want a national ID database or a national registry of all U.S. citizens including natural-born citizens, and Congress has not authorized USCIS or any other agency to create or maintain one. Even if this SORN had been timely published in the *Federal Register* before the revisions to the SAVE system of records were implemented, the expansion of the SAVE system would violate the Privacy Act.

We urge USCIS to rescind the revised SORN and expunge all unlawfully collected data.

Respectfully submitted,

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