

submitted under penalty of perjury. While no specific form is required, requesters may obtain a form (Form DOJ-361) for use in certification of identity, which can be located at the above link. In the initial request, the requester may also include any other identifying data that the requester may wish to furnish to assist the FBI in making a reasonable search. The request should include a return address for use by the FBI in responding; requesters are also encouraged to include a telephone number to facilitate FBI contacts related to processing the request. A determination of whether a record may be accessed will be made after a request is received.

Alternative procedures are available to a person who has been denied the transfer of, or permit for, a firearm because of information in the NICS. The procedures provide for an appeal of a denial and a method to seek correction of erroneous data searched by or maintained in the system. The alternative procedures can be found at 28 CFR part 25 Subpart A.

#### CONTESTING RECORD PROCEDURES:

The Attorney General has exempted this system of records from the notification, access, amendment, and contest procedures of the Privacy Act. These exemptions apply only to the extent that the information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j) or (k). Where compliance would not appear to interfere with or adversely affect the purposes of the system, or the overall law enforcement/intelligence process, the applicable exemption (in whole or in part) may be waived by the DOJ in its sole discretion.

Individuals desiring to contest or amend information maintained in the system should direct their requests according to the "RECORD ACCESS PROCEDURES" paragraph above. All requests to contest or amend records must be in writing and the envelope and letter should be clearly marked "Privacy Act Amendment Request." All requests must state clearly and concisely what record is being contested, the reason for contesting it, and the proposed amendment to the record. Some information may be exempt from the amendment provisions as described in the "EXEMPTIONS PROMULGATED FOR THE SYSTEM" paragraph, below. An individual who is the subject of a record in this system of records may contest or amend those records that are not exempt. A determination of whether a record is exempt from the amendment provisions will be made after a request is received.

More information regarding the Department's procedures for amending or contesting records in accordance with the Privacy Act can be found at 28 CFR 16.46, "Requests for Amendment or Correction of Records."

In addition, as described above under the "RECORD ACCESS PROCEDURES" section, an alternative procedure is available to a person who has been denied the transfer of, or permit for, a firearm because of information in the NICS, by which the individual may seek the correction of erroneous data in the system. The procedures are further described at 28 CFR part 25 Subpart A.

#### NOTIFICATION PROCEDURES:

This system of records has been exempted from the notification procedures of subsections (d) and (e)(4)(G), to the extent permitted by subsections (j)(2), (k)(2), and (k)(3) of the Privacy Act. Requests for notification should be addressed to the Systems Manager. Requirements for a request are the same as set forth in the "RECORD ACCESS PROCEDURES" paragraph, above.

#### EXEMPTIONS PROMULGATED FOR THE SYSTEM:

The Attorney General has exempted this system from subsections (c)(3) and (4); (d); (e)(1), (2), and (3); (e)(4)(G) and (H); (e)(5) and (8); and (g) of the Privacy Act, pursuant to 5 U.S.C. 552a(j)(2). In addition, the Attorney General has exempted this system from subsections (c)(3), (d), (e)(1), and (e)(4)(G) and (H) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2) and (k)(3). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c), and (e) and have been published in the **Federal Register**. See 28 CFR 16.96(p) and (q).

#### HISTORY:

National Instant Criminal Background Check System (NICS), JUSTICE/FBI-018, 63 FR 65223 (Nov. 25, 1998), as amended by 65 FR 78190 (Dec. 14, 2000), 66 FR 6676 (Jan. 22, 2001), 66 FR 8425 (Jan. 31, 2001), 66 FR 12959 (Mar. 1, 2001), and 82 FR 24147 (May 25, 2017).

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On August 27, 2019, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Southern District of Texas

in the lawsuit entitled *United States and State of Texas v. City of Houston, Texas*, Civil Action No. 4:18-cv-03368.

The United States and the State of Texas filed a joint Complaint against the City, pursuant to Section 309(b) and (d) of the Clean Water Act, 33 U.S.C. 1319(b) and (d) and provisions of the Texas Water Code. The Complaint seeks, inter alia, injunctive relief to address and eliminate (a) illegal discharges, namely sanitary sewer overflows, occurring from the City's wastewater collection and transmission system and (b) discharges of pollutants from wastewater treatment plants that exceed effluent limits established in state-issued permits. Under the proposed Consent Decree, the City will implement comprehensive injunctive relief measures to eliminate both SSOs and effluent violations, as well as measures to prevent such violations. The City will pay a civil penalty of \$4.4 million, which amount will be shared equally by the United States and the State.

The publication of this notice extends the public comment period on the Consent Decree through November 8, 2019. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Texas v. City of Houston, Texas*, D.J. Ref. No. 90-5-1-1-08687/1. All comments must be submitted no later than November 8, 2019. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By e-mail .....	<a href="mailto:pubcomment-ees.enrd@usdoj.gov">pubcomment-ees.enrd@usdoj.gov</a>
By mail .....	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044-7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$39.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy

without the exhibits and signature pages, the cost is \$20.50.

**Jeffrey Sands,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

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**DEPARTMENT OF JUSTICE**

**Notice of Lodging Proposed Consent Decree**

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States v. Thomas J. Byrd, Jr.*, Civil Action No. 19-cv-18601, was lodged with the United States District Court for the District of New Jersey on Wednesday, October 2, 2019.

This proposed Consent Decree concerns a complaint filed by the United States against Thomas J. Byrd, Jr., pursuant to Section 301 of the Clean Water Act, 33 U.S.C. 1311, and Section 10 of the Rivers and Harbors Act, 33 U.S.C. 403, to obtain injunctive relief from and impose civil penalties against the Defendant for conducting earthmoving activities that resulted in the unauthorized discharge of dredged or fill material into waters of the United States. The proposed Consent Decree resolves these allegations against the Defendant by requiring the Defendant to conduct specific restoration activities, under the supervision of the United States Army Corps of Engineers.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Allan Urgent, Senior Litigation Counsel, United States Attorney's Office, District of New Jersey, 970 Broad Street, Suite 700, Newark, NJ 07102 and refer to *United States v. Thomas J. Byrd, Jr.*, 19-cv-18601 (DJ #90-5-1-1-20812).

The proposed Consent Decree may be examined at the Clerk's Office at the United States District Court for the District of New Jersey, 50 Walnut Street, Newark, NJ 07102. For other locational information, please visit <https://www.njd.uscourts.gov/>. In addition, the proposed Consent Decree may be examined electronically at <http://www.justice.gov/enrd/consent-decrees>.

**Cherie L. Rogers,**

*Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.*

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**DEPARTMENT OF JUSTICE**

**[CPCLO Order No. 009-2019]**

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

**AGENCY:** Federal Bureau of Investigation, United States Department of Justice.

**ACTION:** Notice of a modified system of records.

**SUMMARY:** Pursuant to the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A-108, notice is hereby given that the Federal Bureau of Investigation (FBI), a component within the United States Department of Justice (DOJ or Department), proposes to modify an existing system of records notice titled The Next Generation Identification (NGI) System, JUSTICE/FBI-009. The FBI proposes to add iris images as another biometric in NGI, include fingerprints voluntarily submitted to NGI by individuals appealing firearms denials or seeking a review of their NGI identity records, include the testing environments of NGI, and clarify the biographic records in NGI.

**DATES:** In accordance with 5 U.S.C. 552a(e)(4) and (11), the public has 30 days in which to comment on the routine uses, described below. Please submit any comments by November 8, 2019.

**ADDRESSES:** The public, OMB, and Congress are invited to submit any comments by mail to the United States Department of Justice, Office of Privacy and Civil Liberties, ATTN: Privacy Analyst, 145 N St. NE, Suite 8W-300, Washington, DC 20530; by facsimile at 202-307-0693; or by email at [privacy.compliance@usdoj.gov](mailto:privacy.compliance@usdoj.gov). To ensure proper handling, please reference the above CPCLO Order No. on your correspondence.

**FOR FURTHER INFORMATION CONTACT:** Roxane M. Panarella, Privacy Attorney, Criminal Justice Information Services (CJIS) Division, 1000 Custer Hollow Road, Clarksburg, WV 26306; telephone (202) 324-3000.

**SUPPLEMENTARY INFORMATION:** The NGI SORN is being republished due to several changes since its last publication in May of 2016. The following updates are being made: (1) The inclusion of iris images as a biometric; (2) the inclusion of individuals who voluntarily provide fingerprints and associated information in order to appeal firearm denials; (3) the inclusion of individuals who voluntarily provide fingerprints and associated information in order to obtain their own identity history

records; (4) the inclusion of data in the testing environments of NGI; and (5) the clarification that some identity records contain only biographic information.

**Iris images:** As described in the previously published NGI SORN, one of the significant changes from the FBI's predecessor system, the Integrated Automated Fingerprint Identification System (IAFIS), was the implementation of NGI's additional biometric services. While IAFIS had been primarily a fingerprint system, NGI now offers the retention and searching of additional biometrics, such as facial images and palm prints. NGI continues to rely on ten-print fingerprints for positive identification but its identity records may contain multi-modal biometrics to augment those fingerprints and associated biographic information. For the past few years, the FBI has conducted a pilot to determine if iris images would be an appropriate and useful addition to the NGI operational environment. The FBI has coordinated with criminal justice and scientific partners to determine the efficacy of using iris images for biometric identification purposes. Based on the pilot findings, the FBI has determined that iris matching is highly accurate; therefore, the addition of iris images in the NGI operational environment would be of great value. The FBI plans to permit authorized users of NGI to enroll and search iris images in the near future. Although the May 2016 NGI SORN used the terms "biometrics" and "biometric images" which would include iris images, in the interest of clarity, the FBI has decided to specifically add "iris images" to all appropriate categories of individuals and categories of records in this SORN.

**Firearms denials:** In accordance with the Brady Handgun Violence Prevention Act of 1993, the FBI uses the National Instant Criminal Background Check System (NICS) to conduct background checks on potential buyers of firearms. If the FBI denies the transfer of the firearm based on federal or state prohibiting criteria, the individual has a right, per federal statute, to request the reason for the denial and to appeal that denial. An individual may voluntarily provide fingerprints to the FBI in support of the appeal. The FBI has been conducting NICS background checks for decades; however, with the passage of the Fix NICS Act in 2018, it sought ways to expedite the appeal process. If an individual submits fingerprints, the FBI now conducts electronic searches of the fingerprints and associated biographic information in NGI to locate relevant criminal history. The fingerprints and other personally identifiable