



December 22, 2025

PA-2025-34

Policy Alert

SUBJECT: Applicability of 8 U.S.C. 1367(a)(1) and (a)(2) Provisions

Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the [USCIS Policy Manual](#) to clarify the applicability of 8 U.S.C. 1367(a)(1) and (a)(2) provisions. This revision also resolves minor technical errors in previously published safe address procedures for aliens protected under 8 U.S.C. 1367.

Background

USCIS has implemented provisions in the USCIS Policy Manual that provide guidance on proper handling and safe address procedures for aliens protected under 8 U.S.C. 1367. The confidentiality provisions at 8 U.S.C. 1367 protect information about aliens who have pending or approved victim-based immigration relief, or in certain circumstances, when USCIS is aware of the intention to file an 8 U.S.C. 1367 initiating benefit request, specifically relief under the Violence Against Women Act (VAWA), such as Petition for Amerasian, Widow(er), or Special Immigrant ([Form I-360](#)) VAWA self-petitions and Petition to Remove Conditions on Residence ([Form I-751](#)) (joint filing waivers based on battery or extreme cruelty), T nonimmigrant status applications, or U nonimmigrant status petitions, as well as their derivatives and beneficiaries.

Through this policy, USCIS is updating the application of 8 U.S.C. 1367(a)(1) and (a)(2). USCIS has not previously implemented the statutory requirement under 8 U.S.C. 1367(a)(1) to consider whether an alien has been convicted of a crime or crimes listed under INA 237(a)(2) before establishing that the prohibited source protections apply. Further, USCIS has not previously limited prohibitions on use of information furnished solely by prohibited sources to adverse determinations of admissibility or deportability, as described in 8 U.S.C. 1367(a)(1).

This policy also revises USCIS' guidance interpreting that the confidentiality protections under 8 U.S.C. 1367 end at naturalization.¹ While USCIS recognizes that this is a substantive shift in both policy and practice, USCIS has determined it is necessary because prior USCIS policy is inconsistent with the statute and fails to ensure that USCIS is adjudicating applications in a way that ensures the integrity of the immigration system. Further, this update supports USCIS' adherence to multiple provisions of Executive Order 14161, *Protecting the United States From Foreign Terrorists and*

¹ See [Customer Service and Interpretation of 8 U.S.C. 1367 Confidentiality Protections for U.S. Citizens](#), PA-2024-15, issued June 12, 2024.

Other National Security and Public Safety Threats (January 20, 2025).² Additionally, this policy helps USCIS efficiently implement an anti-fraud strategy while improving program integrity in 8 U.S.C. 1367-protected benefits.³

Further, this guidance provides minor technical revisions to the previously updated guidance on mailing address procedures for protected aliens.⁴ These minor revisions support protected aliens receiving correspondence from USCIS in a timely manner and ensure they can control which address USCIS uses to mail correspondence related to their benefit requests.

This guidance, contained in Volume 1 of the Policy Manual, is effective immediately and applies to requests pending or filed on or after the publication date. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance.

Policy Highlights

- Clarifies the applicability and duration of protections under 8 U.S.C. 1367 generally, as well as how evidence submitted by, or about, the protected alien should be considered.
- Explains the process where, under 8 U.S.C. 1367(a)(1), DHS considers whether an alien has been convicted of a crime or crimes under INA 237(a)(2) prior to making an adverse determination of admissibility or deportability of an alien under the Immigration and Nationality Act using information furnished solely by an alleged or confirmed abuser, trafficker, perpetrator of the qualifying crime committed against them, or another source listed under 8 U.S.C. 1367(a)(1)(A) – (F).
- Confirms that, in alignment with 8 U.S.C. 1367, if DHS determines that an alien has been convicted of a crime or crimes under INA 237(a)(2), or if DHS is not making an adverse determination regarding admissibility or deportability (for example, denial of a Form I-360, VAWA self-petition, a Form I-751, or an Application for Employment Authorization for Abused Nonimmigrant Spouse ([Form I-765V](#))), the prohibited source protections provided under 8 U.S.C. 1367(a)(1) do not apply.
- Explains that, solely in the context of evaluating 8 U.S.C. 1367(a)(1) prohibited source provision applicability, DHS does not consider any available waivers of inadmissibility.

² See [90 FR 8451](#) (Jan. 30, 2025). This directs federal agencies to, in part, “vet and screen to the maximum degree possible all aliens who intend to be admitted, enter, or are already inside the United States.” It also directs federal agencies to “Evaluate and adjust all existing regulations, policies, procedures, and provisions of the Foreign Service Manual, or guidance of any kind pertaining to each of the grounds of inadmissibility listed...” in INA 212(a)(2)-(3) to ensure the continued safety and security of the American people. This policy promotes this, and other recent Executive Orders, by ensuring that USCIS Fraud Detection and National Security personnel, as well as adjudicating officers, are not unnecessarily restricted from considering potentially relevant information within a record.

³ See, for example, GAO Report [“Immigration Benefits: Additional Actions Needed to Address Fraud Risks in Program for Foreign National Victims of Domestic Abuse”](#) (September 30, 2019).

⁴ See [Safe Address and Special Procedures for Persons Protected by 8 U.S.C. 1367](#), PA-2023-14, issued April 11, 2023.

- Revises USCIS procedures related to denaturalization of protected aliens, specifically, clarifying that USCIS reinstates 8 U.S.C. 1367 protections upon initiation (not consideration, as previously stated) of denaturalization proceedings.
- Confirms that only adults can waive their confidentiality protections under 8 U.S.C. 1367(b)(4).
- Explains that alien registration requirements as well as change of address requirements apply to aliens protected under 8 U.S.C. 1367.
- Expands access to USCIS Contact Center to allow protected aliens' attorneys and representatives to submit case inquiries and clarifies safe mailing procedures for aliens who only provide USCIS with a physical address for correspondence.

Summary of Changes

Affected Section: Volume 1 > Part A > Chapter 7, Privacy and Confidentiality

- Revises Section E (VAWA, T, and U Cases) in its entirety.

USCIS may also make other minor technical, stylistic, and conforming changes consistent with this update.

Citation

Volume 1: General Policies and Procedures, Part A, Public Services, Chapter 7, Privacy and Confidentiality [[1 USCIS-PM A.7](#)].

Additional Considerations

Reliance Interest

USCIS recognizes that this policy and procedural shift may increase the need for officers to consider the credibility of additional and possible conflicting evidentiary sources as well as the appropriate weight to assign to certain types of evidence (particularly in the event of conflicting evidence provided by a victim and their alleged or confirmed abuser). Further, USCIS notes that, depending on certain case-specific factors, this may either positively or adversely impact anticipated processing times. Lastly, USCIS understands that, in certain cases, a petitioner or applicant may be otherwise eligible for a waiver of inadmissibility because the victim has sufficiently demonstrated that a crime occurred in the context of their victimization (for example, if they were forced to commit a crime by their abuser or trafficker) but ultimately have the benefit request denied based on information provided solely by the abuser, trafficker, or another source of information listed under 8 U.S.C. 1367(a)(1).

USCIS has thoroughly considered all these potential outcomes and has determined that they do not outweigh or negate the need for the agency to begin following the clear statutory language found at

8 U.S.C. 1367(a)(1). USCIS recognizes the statute clearly provides for an exception to 8 U.S.C. 1367(a)(1) where the alien has been convicted of a crime under INA 237(a)(2), and additionally, only requires the application of protections where an adverse determination of admissibility or deportability is being made.⁵ Additionally, these changes are necessary to complete thorough and efficient vetting of, and investigations into, any fraud, national security, or public safety risks identified through review of an alien's record. As such, USCIS has determined that impacted aliens should be aware of the statutory requirements and will not suffer unfair surprise or harm in response to these policy and procedural changes. In individual cases, USCIS will continue to provide notice of derogatory information of which the petitioner or applicant is unaware and provide an opportunity to rebut the information and present information in his or her behalf before reaching a decision.⁶ Additionally, officers retain adjudicative discretion to weigh evidence as appropriate on a case-by-case basis.

⁵ See [8 U.S.C. 1367\(a\)\(1\)](#), which states that "...in no case may the Attorney General, or any other official or employee of the Department of Justice, the Secretary of Homeland Security, the Secretary of State, or any other official or employee of the Department of Homeland Security or Department of State (including any bureau or agency of either of such Departments), make an adverse determination of admissibility or deportability of an alien under the Immigration and Nationality Act... unless the alien has been convicted of a crime or crimes listed in section 237(a)(2) of the Immigration and Nationality Act [8 U.S.C. 1227(a)(2)]."

⁶ See [8 CFR 103.2\(b\)\(16\)\(i\)](#).