



**Transportation
Security
Administration**

**Office of Civil Rights & Liberties, Ombudsman,
and Traveler Engagement**

**TSA MANAGEMENT DIRECTIVE No. 3700.1
Implementation of Section 1367 Information Provisions**

To enhance mission performance, TSA is committed to promoting a culture founded on its values of Integrity, Innovation and Team Spirit.

- 1. PURPOSE:** This directive provides TSA policy and procedures for the implementation of DHS Directive 002-02, *Implementation of Section 1367 Information Provisions*.
- 2. SCOPE:** This directive applies to all TSA employees and contractors.
- 3. AUTHORITIES:**
 - A. Title 8 U.S.C., Section 1367 Penalties for Disclosure of Information
 - B. Title 42, U.S.C., Section 13925(a), Definitions and grant provisions (as re-designated and amended by Section 3 of VAWA 2013), Public Law 113-4
 - C. Public Law 101-649, Immigration and Nationality Act (INA) Section 101(a)(51), as codified in U.S.C. Section 1101(a)(51)
 - D. Public Law 103-322, Violence Against Women Act (VAWA)
 - E. Public Law 106-386, Victims of Trafficking and Violence Protection Act (VTVPA)
 - F. Public Law 109-162, Violence Against Women and Department of Justice Reauthorization Act of 2005, Section 817, "VAWA Confidentiality Nondisclosure.
 - G. Public Law 113-4, Violence Against Women Reauthorization Act of 2013, Section 810, Disclosure of Information for National Security Purposes.
 - H. [DHS Instruction 002-02-001, Implementation of Section 1367 Information Provisions](#)
 - I. [DHS Privacy Incident Handling Guidance](#)
- 4. DEFINITIONS:**
 - A. Section 1367 Information:
 - (1) Any information relating to aliens who are seeking or have been approved for immigration status as battered spouses, children and parents under VAWA provisions, as victims of a severe form of human trafficking who generally are cooperating with law enforcement authorities, or as aliens who have suffered substantial physical or mental abuse and are

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cooperating with law enforcement authorities. This definition includes records or other information that do not specifically identify the individual as an applicant or beneficiary of the T Visa, U Visa, or VAWA protections.

- (2) Information relating to pending or approved applications for one or more of the victim-based benefits described below:
- a. VAWA self-petitioner, which incorporates the following applications or petitions:
 - (i) I-360 Self-petition-self-petitioners under INA sec. 204
 - (ii) I-751 Hardship waiver-battered spouse or child hardship waiver
 - (iii) VAWA CAA-abused Cuban Adjustment Act applicants
 - (iv) VAWA HRIFA-abused Haitian Refugee Immigration Fairness Act applicants
 - (v) VAWA NACARA-abused Nicaraguan Adjustment and Central American Relief Act applicants
 - (vi) VAWA Suspension Deportation
 - b. VAWA Cancellation of Removal applicants under INA 240A(b)(2)
 - c. I-914 T Nonimmigrant Status-victim of a severe form of trafficking in persons under INA 101(a)(15)(T)
 - d. I-918 U Nonimmigrant Status-victim of qualifying criminal activity under INA 101(a)(15)(U)
- B. T Nonimmigrant Status: Status for victims of a severe form of trafficking in persons, as defined in section 103 of the VTVPA of 2000, who are physically present in the United States on account of trafficking and who have complied with any reasonable requests for assistance in law enforcement investigation or prosecution (with limited exceptions). See INA 101(a)(15)(T).
- C. U Nonimmigrant Status: Status for victims of criminal activity designated in INA §101(a)(15)(U) (qualifying crimes) who have suffered substantial mental or physical abuse as a result of being a victim of criminal activity, possess relevant information concerning the crime, and have been helpful, or are likely to be helpful to law enforcement or government officials in the investigation or prosecution of the criminal activity.
- D. VAWA Self-Petitioner: Certain persons who have been battered or subjected to extreme cruelty by a qualifying relative including: the spouse, child, or parent of an abusive U.S. citizen; the spouse or child of an abusive Lawful Permanent Resident (LPR); the conditional resident spouse or child of an abusive U.S. citizen or LPR; the conditional resident spouse or child of an abusive U.S. citizen or LPR; the spouse or child of an alien eligible for relief under the Cuban Adjustment Act (CAA), the Haitian Refugee Immigration Fairness Act, (HRIFA), or the Nicaraguan Adjustment and Central American Relief Act (NACARA); and the spouse or

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child eligible for suspension of deportation or cancellation of removal due to abuse by a U.S. citizen or LPR. See INA §101(a)(51)(defining VAWA self-petitioner).

5. RESPONSIBILITIES:

- A. The TSA Privacy Officer is responsible for reporting violations of this Directive to the DHS Chief Privacy Officer and DHS Officer for Civil Rights and Civil Liberties in accordance with DHS Privacy Incident Handling Guidance.
- B. The Office of Chief Counsel (OCC) is responsible for providing legal advice with respect to this Directive.
- C. The TSA Liaison to the DHS Council on Combatting Violence Against Women is responsible for coordinating the implementation of this Directive.
- D. The TSA Office of Training and Workforce Engagement (OTWE) are responsible for ensuring the computer based training module, *VAWA: Confidentiality and Immigration Relief* is made available to TSA employees and contractors who may come into contact with Section 1367 Information. The training should be available via TSA's Online Learning Center.
- E. Within 60 days of the effective date of this Directive, individual program offices must determine if their employees and contractors have access to Section 1367 Information. Program offices' Training Points of Contact (TPOC) must ensure that these individuals are trained in accordance with provision 5(d) above.

6. POLICY:

- A. TSA employees and contractors are prohibited from disclosing or permitting use of Section 1367 Information by anyone except for disclosures within DHS, the Department of State (DOS), or the Department of Justice (DOJ) for legitimate agency purposes, or as set forth in 8 U.S.C. §1367(b).
- B. This nondisclosure directive is triggered as soon as a TSA employee or contractor has a reason to believe that an individual is the beneficiary of a pending or approved victim-based application or petition, and ends when the application for relief is denied and all opportunities for appeal of the denial have been exhausted.

7. PROCEDURES:

- A. TSA employees or contractors who have reason to believe that an individual is covered by section 1367 may not disclose this information except as described in Section 6(A) above.
- B. Violations of this Directive must be reported to the TSA Privacy Office.
- C. TSA employees and contractors must consult OCC if disclosure of Section 1367 Information is mandated by court order or constitutional requirements.

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Example: Disclosure may be required in a federal, state, or local criminal proceeding for purposes of complying with constitutional obligations to provide exculpatory and impeachment material that is relevant either to guilt or punishment of a criminal defendant in a federal criminal proceeding ("Brady" material) or that bears upon the credibility of a prosecution witness ("Giglio" material). OCC should also be consulted if a Member of Congress not described in the congressional oversight exception in Section 1367(b)(6) is requesting protected information pursuant to his or her congressional oversight authority.

D. TSA employees and contractors who may come into contact with 1367 Information must complete the computer based training module described in Section 5(d) above no later than 180 days after the effective date of this Directive, and annually thereafter.

8. APPROVAL AND EFFECTIVE DATE: This policy is approved on the date of signature unless otherwise specified.

APPROVAL

Signed

September 18, 2015

Kimberly Walton
Assistant Administrator
Office of Civil Rights & Liberties,
Ombudsman and Traveler Engagement

Date

EFFECTIVE

Date

Distribution: Office of Security Operations; Office of Law Enforcement/Federal Air Marshal Service; Office of Chief Counsel; Office of Inspection; Office of Intelligence and Analysis; Office of Global Strategies; Office of Security Policy and Industry Engagement, Office of Civil Rights and Liberties; Ombudsman and Traveler Engagement; Risk Based Security

Point of Contact: TSA Privacy Office, TSAPrivacy@tsa.dhs.gov