



U.S. Department of Homeland Security
U.S. Customs and Border Protection
Washington, DC 20229

DHS/CBP Procedures for Access, Correction or Rectification, and Redress for Passenger Name Records (PNR)¹

1. How can an individual request access to his or her PNR?

Any individual, regardless of citizenship who wishes to seek access to his or her PNR held by DHS can do so under the Freedom of Information Act (FOIA). FOIA provides members of the public with access to records, subject to certain exemptions, about the operations and activities of the U.S. federal government. Individuals seeking access to PNR records may submit a FOIA request to CBP at <https://foia.cbp.gov/palMain.aspx>, or by mailing a request to:

CBP FOIA Headquarters Office
U.S. Customs and Border Protection
FOIA Division
90 K Street NE, 9th Floor
Washington, DC 20002
Fax Number: (202) 325-0230

An individual who is not satisfied with the agency's response under FOIA may challenge a refusal to disclose data or a lack of a response to a FOIA request first through an administrative appeals process, and then in federal court.

2. How can an individual request correction or rectification of his or her PNR?

Several options are available for individuals seeking correction of personally identifiable information (PII) held by DHS.

- Under DHS policy, individuals who are not U.S. citizens or lawful permanent residents (hereafter referred to as non-U.S. persons) may request amendment of their records, including PNR. The policy, referred to as the "mixed systems" policy, gives to non-U.S. persons whose data are held in systems that also contain the personal data of U.S. persons the same opportunities to request correction of their data. The "mixed systems" policy applies to the Automated Targeting System-Passenger (ATS-P), the system in which DHS stores PNR. The "mixed systems" policy, however, does not extend or create a right of judicial review for non-U.S. persons. The policy can be accessed on the DHS Privacy website at:

http://www.dhs.gov/xlibrary/assets/privacy/privacy_policyguide_2007-1.pdf.

¹ Article 10, paragraph 2 of the 2011 Agreement between the United States of America and the European Union on the Use and Transfer of Passenger Name Records to the United States Department of Homeland Security states, "DHS shall publish and provide to the EU for possible publication its procedures and modalities regarding access, correction or rectification, and redress procedures."

Non-U.S. persons may request amendment of their PNR by filing a Privacy Act Amendment Request through the CBP FOIA Headquarters Office, above. The DHS Traveler Redress Inquiry Program (TRIP), accessible at www.dhs.gov/trip, provides a means for all individuals, regardless of citizenship, to appeal a security determination and to seek correction of erroneous information that may result in travel delays or misidentification. TRIP does not involve individual access to one's records, but rather provides a structured method of review.

- Questions, concerns, or comments of a general or specific nature regarding CBP or its handling of PNR may be directed to the CBP INFO Center. You may contact the CBP INFO Center in any one of three ways:

Online - Through the "Questions" tab at: www.cbp.gov

Telephone- During the hours of 8:30 a.m. to 5:00 p.m. Eastern Time:
(877) 227-5511 (toll-free call for U.S. callers)
(202) 325-8000 (international callers)
(866) 880-6582 (TDD)

Mail - U.S. Customs & Border Protection
OPA/CBP INFO Center
1300 Pennsylvania Avenue N.W., MS: 1345
Washington, DC 20229

- In the event that a complaint cannot be resolved by CBP, the complaint may be directed, in writing, to the Chief Privacy Officer, Department of Homeland Security, Washington, DC 20528-0550; Email at privacy@hq.dhs.gov; Phone: (202) 343-1717; and Fax: (202) 343-4010. The Chief Privacy Officer shall review the situation and endeavor to resolve the complaint.

3. What are an individual's options for redress?

Judicial redress for individuals, regardless of citizenship, may be available under the following circumstances:

- The Computer Fraud and Abuse Act (CFAA) (18 U.S.C. § 1030) allows individuals to bring a civil action in court for actual damages, and in some cases punitive damages plus attorney fees, when that individual's personal information held on a U.S. government computer system, including the Automated Targeting System-Passenger (ATS-P) that holds PNR, has been improperly accessed, causing a certain type of harm.
- The Electronic Communications Privacy Act (18 U.S.C. 2701 et seq. and 18 U.S.C. 2510 et seq.) allows any person to bring a civil action in court for actual damages, and in some cases punitive damages plus attorney fees, when that person's stored wire or electronic communications are improperly accessed or disclosed, or when that person's wire, oral, or electronic communications are improperly intercepted or disclosed.
- Under 49 U.S.C. § 46110, an individual with interest in particular transportation orders, including orders that implement DHS Transportation Security Administration watchlists, may file a petition for review in an appropriate U.S. Court of Appeals.

- The Administrative Procedure Act (5 U.S.C. §§ 551 – 559), or APA, generally provides for judicial review of final agency action that is not precluded by statute or committed to the discretion of the agency, and provides for a court to set aside final administrative action not in compliance with statutes, or that is arbitrary and capricious, or an abuse of discretion. Individuals can bring APA claims on their own behalf, or as part of a class action.

4. What administrative, civil, and criminal enforcement measures apply to PNR?

Administrative, civil, and criminal enforcement measures are available under U.S. law for unauthorized disclosure of U.S. records, including PNR. Relevant provisions include but are not limited to:

- 18 U.S.C. § 641 – Public money, property or records
- 18 U.S.C. § 1030 – Fraud and related activity in connection with computers (CFAA)
- 19 C.F.R. § 103.34 – Sanctions for improper actions by Customs officers or employees