

#MLWashingtonCyberWatch: Trump Administration Restricts Privacy Rights for Non-US Citizens

May 03, 2017 | | By **Cynthia J. Larose**, **Kevin R. McNamara**

In another example of increased restriction on the rights of non-U.S. Citizens, last week the Department of Homeland Security (“DHS”) published a policy memorandum limiting the privacy rights of immigrants and foreign nationals under the Federal Privacy Act of 1974. This new guidance was issued to bring DHS policy in line with President Trump’s January 25 executive order.

The **Privacy Act** was established to govern the collection, maintenance, use and dissemination of personally-identifiable information maintained by federal agencies. The Privacy Act, with specific exceptions, prohibits disclosure of such records without the consent of the individual. It also provides individuals a means to access and amend their records.

Previous DHS guidance stated that such personally-identifiable information would be treated the same, regardless of citizenship. However, consistent with the January 25 executive order, the new guidance provides that immigrants and nonimmigrant foreign nationals may not utilize these provisions and may only access their information through a request made pursuant to the **Freedom of Information Act (FOIA)**. Additionally, they may not request amendments of their records. Furthermore, in connection with the new guidance, DHS stated that it permits the sharing of such information about immigrants and nonimmigrant foreign nationals from agency records with federal, state and local law enforcement.

In response to the current Administration’s “citizen-centric” policies, we are seeing an increased interest in applications for naturalization by U.S. Lawful Permanent Residents.

Originally posted in Mintz Levin's Immigration Law Blog on May 2, 2017

Authors

Cynthia Larose

Kevin McNamara