

HOUSTON IMMIGRATION  
LEGAL SERVICES COLLABORATIVE

April 15, 2019

Submitted via [www.regulations.gov](http://www.regulations.gov)

Samantha Deshombres, Chief  
Regulatory Coordination Division, Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
20 Massachusetts Avenue NW  
Washington, DC 20529-2140

Re: Public Comment Opposing Form G-1530: USCIS Tip Form  
OMB Control Number 1615-NEW, Docket ID USCIS-2019-0001

Dear Ms. Deshombres:

I am writing on behalf of the Houston Immigration Legal Services Collaborative in opposition to the Department of Homeland Security (DHS), United States Citizenship and Immigration Services (USCIS) proposal to implement the new Form G-1530: USCIS Tip Form, OMB Control Number 1615 - NEW, Docket ID USCIS-2019-0001, published in the Federal Register on February 15, 2019.

HILSC is a consortium made up of over forty immigration legal services providers, social services agencies, and advocacy organizations serving Houston's immigrant communities. Our mission is to create a coordinated network of effective and efficient services to assist low-income immigrants access the information and legal representation that allows them to make choices in their own best interest. Our member legal services organizations regularly advise and represent adult and minor immigrants and asylum seekers in their proceedings before U.S. Citizenship and Immigration Services (USCIS) and the Executive Office for Immigration Review (EOIR). Our staff members have years of experience working with immigrants, both in the legal context and in social services and mental health.<sup>1</sup>

The USCIS Tip Form is unnecessary and burdensome, and it encourages the presumption of fraud in the immigration benefits process. Furthermore, it violates due process and encourages misuse because of the anonymized reporting. This lack of due process is particularly insidious, given the implementation of the new Notice to Appear policy memorandum of June 2018, which allows USCIS to refer certain individuals to immigration court when they are denied a benefit they sought.<sup>2</sup> The Tip Sheet, taken together with the recent policy change given more power to unscrupulous employers, abusers, or other ill-wishers who can use the weapon of threats of deportation even against immigrants with lawful immigration status.

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<sup>1</sup> See attached document, "HILSC staff resumes.pdf."

<sup>2</sup> USCIS Policy Memorandum, Notice to Appear (NTA) policy memorandum, June 28, 2018, available at: [www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-06-28-PM-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf](http://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-06-28-PM-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf)

**I. The USCIS Tip Form is unnecessary and encourages the presumption of fraud in the immigration benefits process**

USCIS's primary function, as established by the Homeland Security Act of 2002, is to adjudicate immigration benefits.<sup>3</sup> Over the last two years, USCIS has transformed into another immigration enforcement agency through its increased focus on fraud and the implementation of other sweeping policy changes.<sup>4</sup> There are already existing mechanisms for collecting information about fraud, e.g. through the HSI Tip Line, which already operates with questionable effectiveness. Creating another avenue to invite the public to submit unsubstantiated reports of fraud about individual immigrants not only creates unnecessary redundancies but also significant harm to immigrant communities.

Unfortunately, there are many individuals who would submit such unsubstantiated reports in order to harm immigrant communities. According to the Department of Justice, hate crimes continue to rise, particularly those motivated by racial, ethnic, or religious animus.<sup>5</sup> For example, Muslim, Arab, Iranian, Middle Eastern, and South Asian communities face targeted harassment and violence at alarming rates, particularly in the last few years, like many other communities of color and immigrant communities. Recent reports from the Federal Bureau of Investigations (FBI) show that Muslim, Arab, Iranian, Middle Eastern, and South Asian Americans are facing heightened levels of harassment and violence, and by the FBI's own admission, these numbers are severely underreported.<sup>6</sup> Similarly, the FBI reports that hate crimes against Hispanics and Latino communities have risen nationally.<sup>7</sup> These incidents are also underreported, due to an increased fear of reporting racially motivated crimes and incidents to law enforcement.<sup>8</sup>

In Greater Houston, there were multiple reports of hateful propaganda spread throughout our region. In 2018 and 2019, white Supremacist groups, like Patriot Front and Daily Stormer Book Club, distributed hateful anti-immigrant propaganda in the greater Houston region, including the City of Houston, Kemah, Pearland, Jacinto City, Spring, and The Woodlands. The alt right and white supremacist groups posted flyers and stickers with slogans like: "Keep America American," "Reclaim America," and "Keep America American: Report any and all illegal aliens..." and "All hate crimes are hoaxes," among others.<sup>9</sup>

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<sup>3</sup> USCIS was created with the Congressional intent of focusing on benefits adjudication, rather than enforcement. USCIS was "formed to enhance the security and improve the efficiency of national immigration services by exclusively focusing on the administration of benefit applications" while ICE and CBP "handle immigration enforcement and border security functions." USCIS Webpage, "Our History" (May 25, 2011), available at [www.uscis.gov/about-us/our-history](http://www.uscis.gov/about-us/our-history).

<sup>4</sup> Joshua Breisblatt. "USCIS Is Slowly Being Morphed into an Immigration Enforcement Agency" (July 9, 2018), available at [immigrationimpact.com/2018/07/09/uscis-guidance-immigration-benefit/](http://immigrationimpact.com/2018/07/09/uscis-guidance-immigration-benefit/).

<sup>5</sup> Federal Bureau of Investigations Uniform Crime Reporting Program 2017 Hate Crimes Statistics, available at [ucr.fbi.gov/hate-crime/2017/topic-pages/incidents-and-offenses](http://ucr.fbi.gov/hate-crime/2017/topic-pages/incidents-and-offenses).

<sup>6</sup> John Eligon, Hate Crimes Increase for the Third Consecutive Year, F.B.I. Reports, New York Times (November 13, 2018), available at [www.nytimes.com/2018/11/13/us/hate-crimes-fbi-2017.html](http://www.nytimes.com/2018/11/13/us/hate-crimes-fbi-2017.html).

<sup>7</sup> See Arab American Institute, Hate Crimes Continue to Surge in America (November 13, 2018), available at [www.aaiusa.org/hate\\_crimes\\_continue\\_to\\_surge\\_in\\_america](http://www.aaiusa.org/hate_crimes_continue_to_surge_in_america) (summarizing FBI 2017 statistics).

<sup>8</sup> Rising hate drives Latinos and immigrants into silence, News21 (August 22, 2018), available at [www.philly.com/philly/living/rising-hate-drives-latinos-and-immigrants-into-silence-20180822.html](http://www.philly.com/philly/living/rising-hate-drives-latinos-and-immigrants-into-silence-20180822.html).

<sup>9</sup> ADL Hate, Extremism, Anti-Semitism, Terrorism (H.E.A.T.) Map, available at: [www.adl.org/education-and-resources/resource-knowledge-base/adl-hate-map](http://www.adl.org/education-and-resources/resource-knowledge-base/adl-hate-map) (last accessed April 8, 2019)

The implementation of the USCIS Tip Form, which permits anonymous and unsubstantiated reporting to USCIS, creates a high likelihood that bias and bigotry will play a role in reporting. Reported individuals face increased scrutiny, surveillance, and potential loss of benefits without any due process. Furthermore, it is unclear whether an applicant would even know of – let alone be able to refute – such allegations of fraud.

## II. The USCIS Tip Form Misuses USCIS Resources

Resources put toward vetting unsubstantiated tips from anonymous members of the public will take away from adjudication of benefits. USCIS has radically slowed application processing in the past two years.<sup>10</sup> Complicating the adjudications process with anonymous and unfounded allegations of fraud in a system that already suffers from backlogs and lack of transparency will harm applicants and their families.

With nearly 6 million pending cases as of March 31, 2018, DHS has conceded that USCIS lacks the resources to timely process its existing workload.<sup>11</sup> A review of data just since FY 2017 indicates lengthening processing times for applications for green cards, employment authorization, travel documents, and green card replacements, among others. By the end of FY 2017, 5,606,618 applications and petitions remained unadjudicated by USCIS<sup>12</sup> – 23% more than one year earlier.<sup>13</sup> In February 2018, DHS conceded, “USCIS continues to face capacity challenges.”<sup>14</sup> In fact, processing times for many of the agency’s product lines has doubled in recent years.<sup>15</sup>

Immigrants in Texas have seen their wait times balloon. The latest federal count available showed that the naturalization application backlog in Texas stood at about 103,300 applications at the end of March 2018 – up from about 30,500 at the end of March 2014.<sup>16</sup> In Houston, adjustment of status applications are taking 19.5 to 24 months to adjudicate and naturalization applications are taking

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<sup>10</sup> Jason Boyd and Greg Chen, AILA Policy Brief: USCIS Processing Delays Have Reached Crisis Levels Under the Trump Administration, American Immigration Lawyers Association (January 30, 2019), available at [www.aila.org/advocacy/media/aila-policy-briefs/aila-policy-brief-uscis-processing-delays](http://www.aila.org/advocacy/media/aila-policy-briefs/aila-policy-brief-uscis-processing-delays).

<sup>11</sup> USCIS Webpage, “Data Set: All USCIS Application and Petition Form Types: Fiscal Year 2018, 2nd Quarter” (Jul. 17, 2018);

[www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/Quarterly\\_All\\_Forms\\_FY18Q2.pdf](http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/Quarterly_All_Forms_FY18Q2.pdf). DHS, “Annual Report on the Impact of the Homeland Security Act on Immigration Functions Transferred to the Department of Homeland Security” (Apr. 13, 2018);

[www.uscis.gov/sites/default/files/reports-studies/Annual-Report-on-the-Impact-of-the-Homeland-Security-Act-on-Immigration-Functions-Transferred-to-the-DHS.pdf](http://www.uscis.gov/sites/default/files/reports-studies/Annual-Report-on-the-Impact-of-the-Homeland-Security-Act-on-Immigration-Functions-Transferred-to-the-DHS.pdf).

<sup>12</sup> U.S. Citizenship and Immigration Services. Data set: All USCIS Application and Petition Form Types, 2017, available at [www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/Quarterly\\_All\\_Forms\\_FY17Q4.pdf](http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/Quarterly_All_Forms_FY17Q4.pdf). End of FY 2017 Pending Forms – 5,606,618.

<sup>13</sup> U.S. Citizenship and Immigration Services. Data set: All USCIS Application and Petition Form Types, 2016, available at [www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/all\\_forms\\_performancedata\\_fy2016\\_qtr4.pdf](http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/all_forms_performancedata_fy2016_qtr4.pdf). End of FY 2016 Pending Forms – 4,316,013.

<sup>14</sup> U.S. Department of Homeland Security. Annual Performance Report: Fiscal Years 2017-2019, 2018, available at [www.dhs.gov/sites/default/files/publications/DHS%20FY%202017-2019%20APR\\_0.pdf](http://www.dhs.gov/sites/default/files/publications/DHS%20FY%202017-2019%20APR_0.pdf).

<sup>15</sup> See USCIS Webpage, “Historical National Average Processing Time for All USCIS Offices” (up to Jul. 31, 2018); [egov.uscis.gov/processing-times/historic-pt](http://egov.uscis.gov/processing-times/historic-pt).

<sup>16</sup> Alexa Ura, “Under Trump, The Backlog of U.S. Citizenship Applications in Texas Is Growing,” Houston Public Media (August 9, 2018), available at [www.houstonpublicmedia.org/articles/news/2018/08/09/299370/under-trump-the-backlog-of-u-s-citizenship-applications-in-texas-is-growing/](http://www.houstonpublicmedia.org/articles/news/2018/08/09/299370/under-trump-the-backlog-of-u-s-citizenship-applications-in-texas-is-growing/).

between 17 and 21.5 months.<sup>17</sup> The processing time has now more than doubled for a lawful permanent resident to become a citizen in Texas.<sup>18</sup> In March 2019, ten Texas House members sent a letter to USCIS Director Cessna about these delays, emphasizing that such delays impose a “burden on those who live and work in our community and want nothing more than to follow the law.”<sup>19</sup>

Processing delays upend the lives of immigrants and their U.S. citizen families. Lengthy wait times can result in applicants losing their jobs, thus depriving their families – including families with U.S. citizen children – of income essential to necessities like food and housing.<sup>20</sup> Adjudication delays also lead to expiration of driver’s licenses, which immigrants may rely upon to access banking, medical treatment, and other indispensable services, as well as for transportation to school and work. Delays also prolong the separation of families who are dependent on case approval for their reunions. The stress of waiting for status has significant negative mental health impacts as well.<sup>21</sup>

Not only is such reporting and targeting unjust, it is also a waste of government resources to focus on claims that have no relevance to fraud or abuse.

### III. The USCIS Tip Form violates due process

#### A. The USCIS Tip Form is overbroad and vague

USCIS fails to set any criteria for reporting fraud and there is no requirement that an allegation be made in connection with a pending application for benefits. The form also provides no definition of “fraud,” which has a complex definition under the Immigration Act and in case law. Additionally, it is unclear how the information collected through the USCIS Tip Form will be used in adjudications. Moreover, by creating an “other” category, USCIS is opening its reporting to claims with no connection to fraud, instead creating yet another avenue for bigotry and harassment with serious consequences for individuals, communities of color, and government administrators.

#### B. Anonymous Reporting Encourages Misuse

The proposed USCIS Tip Form requests that individuals provide their name and contact information but does not require it to make a report. Thus, USCIS has no formal mechanism to follow up on allegations, and applicants for benefits have no opportunity to learn about derogatory information lodged against them or refute any allegations.

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<sup>17</sup> Letter from Texas Congressional Representatives to USCIS Director Cessna, March 28, 2019, available at: [www.aila.org/advo-media/whats-happening-in-congress/congressional-updates/bipartisan-letter-from-texas-members-of-the-house](http://www.aila.org/advo-media/whats-happening-in-congress/congressional-updates/bipartisan-letter-from-texas-members-of-the-house)

<sup>18</sup> Under Trump, The Backlog of U.S. Citizenship Applications in Texas Is Growing,” Houston Public Media

<sup>19</sup> Letter from Texas Congressional Representatives to USCIS Director Cessna, March 28, 2019.

<sup>20</sup> See AILA, “Deconstructing the Invisible Wall” (Mar. 19, 2018); [www.aila.org/infonet/aila-report-deconstructing-the-invisible-wall](http://www.aila.org/infonet/aila-report-deconstructing-the-invisible-wall).

<sup>21</sup> Rinaldi, Tiziana and Angilee Shah. “Immigration limbo is a ‘tug of emotions. It’s also a mental health issue,” PRI The World (August 22, 2017), available at [www.pri.org/stories/2017-08-21/immigration-limbo-tug-emotions-it-s-also-mental-health-issue](http://www.pri.org/stories/2017-08-21/immigration-limbo-tug-emotions-it-s-also-mental-health-issue).

USCIS has not provided any information how it will handle and respond to these anonymous tips. It is unknown what mechanisms are in place for USCIS to determine the validity of information provided by anonymous tips and to accurately assess whether they are impermissibly motivated. Without this information, it is unclear whether reported individuals will have any access to due process or any recourse against false reports.

Information motivated by bigotry is unreliable, and often hides a more nefarious purpose, such as in the case of employer wage theft or domestic violence (see Section IV, “The USCIS Tip Form Threatens VAWA Confidentiality and Puts Survivors at Risk,” *infra*). For example, in the Texas Senate, a lawmaker called ICE on hundreds of protestors, who were demonstrating against the then-recently passed Texas’ SB4, which many feared would increase racial profiling. The lawmaker used the threat of ICE to try to silence his political opposition. Another lawmaker commented on the incident, saying: “he looked into the gallery and saw Hispanic people and automatically assumed they were undocumented. He racially profiled every single person that was in the gallery today. He created the scenario that so many of us fear.”<sup>22</sup>

Employers also use the threat of calling ICE to control, underpay, and retaliate against workers. The proposed Tip Sheet would be another avenue for unscrupulous employers to threaten employees with lawful work authorization by submitting an anonymous report about the person’s immigration benefit. Immigrants already face employer discrimination on the basis of race and national origin. For instance, in a 2010 case brought by the Department of Labor’s Equal Employment Opportunity Commission (EEOC) in Houston, a company discriminated against 14 Indian, Blacks, and Latinos. A supervisor called a Muslim employee things like a “terrorist,” “Taliban,” “Osama” and “Al-Qaeda,” and called Latinos “f-----g Mexicans.”<sup>23</sup>

The vulnerability of undocumented immigrants results in gross labor violations, and this tip Sheet would expand those violations to immigrant workers who have work authorization.

Fe y Justicia Worker Center, a member of the Houston Immigration Legal Services Collaborative, has “had reports of legal permanent residents and citizens just because the employer suspected that they might be undocumented, they issued a threat and said, ‘We’re going to call ICE on you.’”<sup>24</sup> The Worker Center has also mapped wage theft across Houston, showing that in 2018, \$1.2 million were stolen from Houston workers through wage theft.<sup>25</sup> One study found that 73% of

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<sup>22</sup> Matthew Watkins, Alexa Ura, and Julian Aguilar, “Republican lawmaker: I called immigration authorities on Capitol protesters,” Texas Tribune (May 29, 2017) available at: [www.texastribune.org/2017/05/29/protesters-disrupt-house-proceedings-raise-opposition-sanctuary-cities/](http://www.texastribune.org/2017/05/29/protesters-disrupt-house-proceedings-raise-opposition-sanctuary-cities/)

<sup>23</sup> *EEOC v. Pace Services, L.P.*, No. 4:08cv2886 (S.D. Tex. Apr. 2010).

<sup>24</sup> Eric Stone, “Report: Wage Theft Rampant In Houston,” Houston Chronicle (March 28, 2019) available at: [www.houstonpublicmedia.org/articles/news/in-depth/2019/03/28/326751/wage-theft-rampant-in-houston-new-report-says](http://www.houstonpublicmedia.org/articles/news/in-depth/2019/03/28/326751/wage-theft-rampant-in-houston-new-report-says)

<sup>25</sup> Elizabeth Trovall, “Higher Rates Of Worker Abuse Reported In Sharpstown, Gulfton & Spring Branch,” Houston Public Media (March 20, 2019), available at: [www.houstonpublicmedia.org/articles/news/2019/03/20/325583/higher-rates-of-worker-abuse-reported-in-sharpstown-gulfton-spring-branch/](http://www.houstonpublicmedia.org/articles/news/2019/03/20/325583/higher-rates-of-worker-abuse-reported-in-sharpstown-gulfton-spring-branch/)

undocumented day laborers reported that they have been victims of wage theft while working in Houston.<sup>26</sup>

The USCIS Tip Sheet will become another tool for employers to use to threaten documented employees to keep silent about wage theft, dangerous working conditions, and other violations. A threat of a report to the USCIS Tip Sheet gives an employer significant leverage, particularly in light of the new USCIS Notice to Appear policy memorandum.<sup>27</sup> Dozens of reports show that undocumented workers are particularly vulnerable to threats of deportation – this Tip Sheet would extend that vulnerability to all immigrants, irrespective of immigration status. The failure to collect information from the person completing the form creates a likelihood that those targeting individuals based upon racism and bigotry will have the option of submitting numerous baseless claims with no accountability.

#### **IV. The USCIS Tip Form Threatens VAWA Confidentiality and Puts Survivors at Risk**

The USCIS Tip Form provides abusers and perpetrators of crime an anonymous tool to weaponize the immigration system against survivors, without consequence or repercussion. This is extremely problematic and dangerous, as “one of the most intimidating tools abusers and traffickers of immigrants use is the threat of deportation.”<sup>28</sup> Abusers often threaten survivors that if they go to police or the court they will be arrested because they are not citizens, or threaten to call immigration enforcement to have survivors arrested or deported.<sup>29</sup>

Many of the organizations in the Houston Immigration Legal Services Collaborative work with women who have had their immigration status held against them by partners who were controlling them, beating them, and raping them. In one case, an abuser used his Indian spouse’s immigration status to control her. In addition to reducing her food intake, isolating her from friends and family, and physically and emotionally abusing her, her husband repeatedly told her that her HB4 spousal visa meant her immigration status was tied to his, so if she left him or went to police she would be deported.<sup>30</sup>

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<sup>26</sup> Nik Theodore, *After the Storm: Houston’s Day Labor Markets in the Aftermath of Hurricane Harvey*, University of Illinois at Chicago (November 2017), available at: [greatcities.uic.edu/wp-content/uploads/2017/11/After-the-Storm-Theodore-2017.pdf](http://greatcities.uic.edu/wp-content/uploads/2017/11/After-the-Storm-Theodore-2017.pdf)

<sup>27</sup> USCIS Policy Memorandum, Notice to Appear (NTA) policy memorandum, June 28, 2018, available at: [www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-06-28-PM-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf](http://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-06-28-PM-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf)

<sup>28</sup> Stacey Ivie et al., *Overcoming Fear and Building Trust with Immigrant Communities and Crime Victims*, INT’L ASS’N OF CHIEFS OF POLICE (Apr. 2018), available at <http://library.niwap.org/wp-content/uploads/PoliceChief-April-2018-Building-Trust-With-Immigrant-Victims.pdf>.

<sup>29</sup> National Domestic Violence Hotline, *Abuse and Immigrants*, available at: [www.thehotline.org/is-this-abuse/abuse-and-immigrants/](http://www.thehotline.org/is-this-abuse/abuse-and-immigrants/).

<sup>30</sup> Massarah Mikati, “As legal status options narrow for immigrants, domestic abuse reports rise,” (October 26, 2018), available at: [www.houstonchronicle.com/news/houston-texas/houston/article/As-legal-status-options-narrow-for-immigrants-13340451.php](http://www.houstonchronicle.com/news/houston-texas/houston/article/As-legal-status-options-narrow-for-immigrants-13340451.php)

In another Houston case, a woman from Mexico faced abuse from her boyfriend, who beat her, controlled her, and threatened to kill her and her children. “He told me nobody would help me, because I don’t have papers. . . I felt like there was no help for me.”<sup>31</sup>

The Tip Sheet would create another opportunity for abusers to threaten their partners based on their immigration status. Since the tip form will allow the collection of anonymous claims of fraud on previously approved benefit requests, it gives power to abusers even when a survivor has managed to get away from that person. Survivors are already more fearful of coming forward, given recent obstacles placed in the path of achieving legal status. Most recently, for instance, USCIS issued a policy memorandum wherein USCIS may issue a Notice to Appear to applicants, beneficiaries, and self-petitioners where their application or petition is denied and they are no longer in a period of authorized stay.<sup>32</sup>

To combat the weaponization of immigration status for abusers, Congress created special immigration protections in the Violence Against Women Act (VAWA) for survivors of domestic violence, sexual assault, human trafficking and other forms of violence to allow survivors to seek protection without fear of deportation.

Recognizing that perpetrators will try to manipulate legal systems against survivors, Congress also created confidentiality protections that mandate, *inter alia*, that the government not to make adverse determinations based on information solely provided by an perpetrator or a member of a perpetrator’s household or family member.<sup>33</sup> These protections, codified at 8 USC § 1367 are “designed to ensure that abusers and other perpetrators cannot use the immigration system against their victims.”<sup>34</sup>

This protection applies to abused spouses and children generally as well as to those who are eligible to apply for benefits as a VAWA self-petitioner, or who are eligible for VAWA cancellation, U visa or T visa relief. These protections are in place regardless of whether an application for immigration relief is pending with USCIS.<sup>35</sup> DHS’ own guidance instructs:

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<sup>31</sup> Cora Engelbrecht, “Fewer Immigrants Are Reporting Domestic Abuse. Police Blame Fear of Deportation,” New York Times (June 3, 2018), available at: [www.nytimes.com/2018/06/03/us/immigrants-houston-domestic-violence.html](http://www.nytimes.com/2018/06/03/us/immigrants-houston-domestic-violence.html)

<sup>32</sup> USCIS Policy Memorandum, Notice to Appear (NTA) policy memorandum, June 28, 2018, available at: [www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-06-28-PM-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf](http://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-06-28-PM-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf)

<sup>33</sup> See 8 USC 1367

<sup>34</sup> *Id.*; See also, *Department of Justice Appropriations Authorization Act, Fiscal Years 2006 through 2009: Report of the Committee on the Judiciary, House of Representatives, to accompany H.R. 3402* H.R. Rep. No. 109-233, at 120 (2005), available at [www.congress.gov/109/crpt/hrpt233/CRPT-109hrpt233.pdf](http://www.congress.gov/109/crpt/hrpt233/CRPT-109hrpt233.pdf).

<sup>35</sup> Department of Homeland Security, *Implementation of Section 1367 Information Provisions*, DHS Instruction Systems. Instruction Number: 002-02-001. Revision Number: 00., available at [www.dhs.gov/sites/default/files/publications/implementation-of-section-%201367-%20information-provisions-instruction-002-02-001\\_0\\_0.pdf](http://www.dhs.gov/sites/default/files/publications/implementation-of-section-%201367-%20information-provisions-instruction-002-02-001_0_0.pdf).

There are a number of ways DHS employees might receive “tips” from an abuser or an abuser’s family, such as: calling ICE to report the victim as illegal, a “landlord” (who may actually be a human trafficker) calling ICE to report that his “tenants” are undocumented, or providing information to USCIS rebutting the basis for the victim’s application.

When a DHS employee receives adverse information about a victim of domestic violence, sexual assault, human trafficking or an enumerated crime from a prohibited source, *DHS employees treat the information as inherently suspect.*<sup>36</sup>

USCIS has mandated protections for domestic violence victims who have applied for benefits under VAWA, yet the lack of safeguards in the Tip Sheet process to prevent submission of abusive information threatens those statutory protections in VAWA. The form poses a risk to the government of liability for violations of the confidentiality provisions, *which are punishable by civil and monetary penalties of up to \$5,000 per violation under 8 USC 1367.*

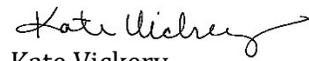
The obligations of Section 1367, which Congress has consistently expanded over time, are enormously important to survivors of violence. It is unknown whether or how these protections have been taken into account in the proposal to publish the fraud tip form.

## **V. Conclusion**

The Houston Immigration Legal Services Collaborative opposes the publication of the USCIS Tip Form as it creates additional hardship for immigrant communities and vulnerable individuals. USCIS should withdraw the USCIS Tip Form immediately and instead work on developing policies that do not threaten immigrant communities, waste resources, or undermine due process and access to critical immigration benefits.

Thank you for the opportunity to submit comments on the proposed rulemaking.

Sincerely,



Kate Vickery  
Executive Director  
Houston Immigration Legal Services Collaborative



Andrea Guttin  
Legal Director  
Houston Immigration Legal Services Collaborative

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<sup>36</sup> *Id.*