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

Samantha Deshommes, 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. Deshommes:

I am writing on behalf of [organization name, if applicable] 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.

[INSERT paragraph describing you or your organization and why this is form is particularly urgent, plus the expertise that you have on issues raised.]

[Additional faith-based messaging:]

As a faith-based organization, we oppose the creation of this USCIS Tip Form because it is a redundancy among other fraud reporting systems, and this excessive focus on alleged fraud is contrary to our efforts to welcome the stranger among us.

1. **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.[[1]](#footnote-1) 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.[[2]](#footnote-2) 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.

According to the Department of Justice, hate crimes continue to rise, particularly those motivated by racial, ethnic, or religious animus.[[3]](#footnote-3) 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 these numbers are severely underreported by the FBI’s own admission.[[4]](#footnote-4) Similarly, the FBI reports that hate crimes against Hispanics and Latino communities have risen nationally.[[5]](#footnote-5) These incidents are also underreported, due to an increased fear of reporting racially motivated crimes and incidents to law enforcement.[[6]](#footnote-6)

The implementation of the USCIS Tip Form permits unsubstantiated reporting to USCIS, the agency with jurisdiction over immigration benefits, and 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 that could enable them to refute allegations of fraud.

[INSERT paragraph describing how the USCIS tip form could affect you or

members of your particular community.]

1. **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.[[7]](#footnote-7) 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.

[INSERT: Indicate how processing delays have impacted individuals applying for benefits and how you believe this form will add to these delays.]

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. 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.

1. **The USCIS Tip Form violates due process**
2. 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.

1. 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.

USCIS has not provided any information about 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.

[INSERT: Indicate what examples you may have of information that anonymous outsiders tried to give you about a client’s case, and how that information was

unreliable, inaccurate, and/or motivated by racism, bigotry, or hate. Or state

your opinion about the use of anonymous tips generally - turning the civil population

into informants creates fear and mistrust.]

Furthermore, 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.

[Additional faith-based messaging:]

1. **Inclusion of Religious Worker Visas among the Enumerated Categories**

As an organization of faith, we are particularly concerned with the inclusion of the Religious Worker Visa as an enumerated category of fraud to be reported. The USCIS Fraud Detection and National Security (FDNS) Directorate already conducts site visits in connection with applications for Religious Worker Visas in order to catch and deter fraud. The addition of this specific category in this fraud tip form would waste agency resources, as significant resources are already spent on a much more reliable method of fraud detection. As described above, the form allows members of the public to make unsubstantiated allegations that would require agency resources to vet. The form also does not require the submitter to identify him or herself, which allows the submission of false or misleading information with impunity, and omits essential information to enable the subject of the tip to refute false information. Religious Workers are already complying with all Agency requests and procedures to combat fraud. This proposed form would introduce an additional risk factor for the submission of false information would create an undue burden on religious workers and their organizations of faith.

1. **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.”[[8]](#footnote-8) Abusers often threaten survivors that if they go to police or the court they will be arrested because they are undocumented, or threaten to call immigration enforcement to have survivors arrested or deported.[[9]](#footnote-9)

[INSERT: Indicate if there are examples of immigration-related abuse you

or your organization have seen in your work with survivors, taking care to

protect the privacy and confidentiality of survivors]

To combat this, 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.[[10]](#footnote-10) These protections, codified at 8 USC § 1367 are “designed to ensure that abusers and other perpetrators cannot use the immigration system against their victims.”[[11]](#footnote-11)

This protection applies to abused spouses and children generally as well as to those who are eligible to apply for benefits as 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.[[12]](#footnote-12) DHS’ own guidance instructs:

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*.”[[13]](#footnote-13)

[INSERT: Indicate whether your agency has seen abusers try to interfere

with survivor’s cases and how this has manifested itself. Consider using

examples of cases where this has occurred, taking care to protect the privacy

and confidentiality of survivors]

Given USCIS's further mandate to protect domestic violence victims who have applied for benefits under VAWA, the lack of safeguards in the process to prevent submission of abusive information threatens statutory protections in VAWA. Furthermore, 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 $5000 per violation under 8 USC 1367.*

The obligations of 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.

1. **Information Sharing and Lack of Accountability**

The USCIS Tip Form appears to allow any and all unsubstantiated information provided to be shared liberally with other law enforcement agencies, including Immigration and Customs Enforcement. USCIS has not provided any direction on what types of information should be submitted nor provided a notice that a submission to this government system is subject to perjury laws.

[INSERT: Indicate how unsubstantiated information shared with or used

by ICE has impacted you, your clients or community]

1. **Conclusion**

[Our organization] strongly 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.

1. U.S. Citizenship and Immigration Services was created with the Congressional intent of focusing on benefits adjudication, rather than an enforcement-focused agency. On its website it states that it was “formed to enhance the security and improve the efficiency of national immigration services by exclusively focusing on the administration of benefit applications. Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), components within DHS, handle immigration enforcement and border security functions” (emphasis added). USCIS Webpage, “Our History” (May 25, 2011), available at <https://www.uscis.gov/about-us/our-history>. [↑](#footnote-ref-1)
2. Joshua Breisblatt. “USCIS Is Slowly Being Morphed into an Immigration Enforcement Agency” (July 9, 2018), available at <http://immigrationimpact.com/2018/07/09/uscis-guidance-immigration-benefit/>. [↑](#footnote-ref-2)
3. Federal Bureau of Investigations Uniform Crime Reporting Program 2017 Hate Crimes Statistics, available at <https://ucr.fbi.gov/hate-crime/2017/topic-pages/incidents-and-offenses>. [↑](#footnote-ref-3)
4. John Eligon, Hate Crimes Increase for the Third Consecutive Year, F.B.I. Reports, New York Times (November 13, 2018), available at <https://www.nytimes.com/2018/11/13/us/hate-crimes-fbi-2017.html>. [↑](#footnote-ref-4)
5. See Arab American Institute, Hate Crimes Continue to Surge in America (November 13, 2018), available at <http://www.aaiusa.org/hate_crimes_continue_to_surge_in_america> (summarizing FBI 2017 statistics). [↑](#footnote-ref-5)
6. Brendan Campbell, Angel Mendoza and Tessa Diestel, Rising hate drives Latinos and immigrants into silence, News21 (August 22, 2018), available at <https://www.philly.com/philly/living/rising-hate-drives-latinos-and-immigrants-into-silence-20180822.html>. [↑](#footnote-ref-6)
7. 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 <https://www.aila.org/advo-media/aila-policy-briefs/aila-policy-brief-uscis-processing-delays>. [↑](#footnote-ref-7)
8. 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>. [↑](#footnote-ref-8)
9. National Domestic Violence Hotline, *Abuse and Immigrants*, available at: <https://www.thehotline.org/is-this-abuse/abuse-and-immigrants/>. [↑](#footnote-ref-9)
10. See 8 USC 1367 [↑](#footnote-ref-10)
11. *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 <https://www.congress.gov/109/crpt/hrpt233/CRPT-109hrpt233.pdf>. [↑](#footnote-ref-11)
12. Department of Homeland Security, *Implementation of Section 1367 Information Provisions*, DHS Instruction Systems. Instruction Number: 002-02-001. Revision Number: 00., available at <https://www.dhs.gov/sites/default/files/publications/implementation-of-section-%201367-%20information-provisions-instruction-002-02-001_0_0.pdf>. [↑](#footnote-ref-12)
13. *Id.* [↑](#footnote-ref-13)