



April 16, 2019

Ms. 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
Submitted via www.regulations.gov

Dear Ms. Deshommes:

On behalf of ASISTA Immigration Assistance and the National Organization for Women (NOW), I submit this comment 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 (hereinafter “USCIS Tip Form”), published in the Federal Register on February 15, 2019.¹ We appreciate the opportunity to provide comment to this new form.

ASISTA is a national organization dedicated to safeguarding and advancing the rights of immigrant survivors of violence. ASISTA worked with Congress to create survivor-based forms of immigration relief through the Violence Against Women Act (VAWA) and for 15 years has provided attorneys and advocates nationwide with valuable resources to help survivors access the services and status they need to achieve safety and independence.

The National Organization for Women is dedicated to its multi-issue and multi-strategy approach to women’s rights, and is the largest organization of feminist grassroots activists in the United States. NOW has hundreds of chapters and hundreds of thousands of members and activists in all 50 states and the District of Columbia. Since its founding in 1966, NOW’s purpose is to take

¹ U.S. Citizenship and Immigration Services. “Agency Information Collection Activities; New Collection: USCIS Tip Form”, 84 FR 4518 (February 15, 2019), available at <https://www.federalregister.gov/documents/2019/02/15/2019-02381/agency-information-collection-activities-new-collection-uscis-tip-form>

action through intersectional grassroots activism to promote feminist ideals, lead societal change, eliminate discrimination, and achieve and protect the equal rights of all women and girls in all aspects of social, political, and economic life.

Given our missions and the focus of our work, we oppose the publication of the proposed USCIS Tip Form, as its issuance will disproportionately harm immigrant survivors of domestic violence, sexual assault, human trafficking and other crimes who are eligible to apply for humanitarian protections. We call on USCIS to immediately withdraw the proposed USCIS Tip Form: It is unnecessary and will undermine access to critical protections for survivors of violence Congress created under the Violence Against Women Act (VAWA) and the Trafficking Victims Protection Act (TVPA).

I. The USCIS Tip Form Will Not Facilitate the Collection of Credible Information and will Harm Survivors of Domestic Violence and Other Crimes

The purpose of the USCIS Tip Form is to “facilitate the collection of information from the public regarding credible and relevant claims of immigration benefit fraud impacting both open adjudications as well as previously approved benefit requests where the benefit remains valid.”² Our organizations also are deeply concerned about fraud prevention. We vehemently disagree, however, that USCIS Tip Form will “enhance the quality, utility, and clarity of the information collected” related to immigration benefit fraud.³

Instead, we believe the USCIS Tip Form will further stigmatize, marginalize and harm immigrant communities⁴ and encourage abusers and other crime perpetrators to use the new system as a weapon against their victims. This is especially true for immigrant survivors of domestic violence, sexual assault, human trafficking and other crimes, on whom abusers and perpetrators typically prey, and often threaten survivors that seeking assistance will result in their deportation.⁵

This chilling effect is real. A recent study found that law enforcement officials believe that “many crimes have become more difficult to investigate: 69 percent said domestic violence was harder to investigate, 64 percent said this applied to human trafficking, and 59 percent said this

² *Id.*

³ *Id.*

⁴ The Department of Justice reports that hate crimes continue to rise, particularly those motivated by racial, ethnic, or religious animus. See Federal Bureau of Investigation Uniform Crime Reporting Program 2017 Hate Crimes Statistics, available at <https://ucr.fbi.gov/hate-crime/2017/topic-pages/incidents-and-offenses>. See also 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).

⁵ 2017 Advocate and Legal Service Survey Regarding Immigrant Survivors.” Available at: <http://www.tahirih.org/wp-content/uploads/2017/05/2017-Advocate-and-Legal-Service-Survey-Key-Findings.pdf>

was true about sexual assault.”⁶ 64 percent of law enforcement officials also expressed concern for community safety when immigrant crime survivors are afraid to seek assistance.⁷ The USCIS Tip Form will exacerbate this already existing chilling effect on survivors coming forward to access protections created for their safety.

II. The USCIS Tip Form Threatens Existing Protections for Survivors

Recognizing that perpetrators will try to manipulate legal systems against survivors, Congress created certain protections discouraging reliance on unreliable sources, i.e., abusers, crime perpetrators, and those associated with them. DHS and other government agencies may not make adverse determinations on a survivor’s immigration matter based on information solely provided by a perpetrator or a member of a perpetrator’s household or family member.⁸ Congress stated that these protections, codified at 8 USC § 1367, are “designed to ensure that abusers and other perpetrators cannot use the immigration system against their victims.”⁹ It created these statutory protections for survivors because it realized “threats of deportation are the most potent tool abusers of immigrant victims use to maintain control over and silence their victims and to avoid criminal prosecution.”¹⁰

DHS’ own guidance illustrates how abusers often try to interfere with a survivor’s case, noting “[a]busers often claim their marriage is fraudulent in order to exact revenge or exert further control over the victim.”¹¹ DHS guidance also provides that “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.*”¹²

The USCIS Tip Form, by creating an anonymous reporting mechanism without any consequence or penalties for false reports, contravenes these statutory protections put in place to keep survivors safe. Furthermore, the USCIS Tip Form poses an increased risk of liability to the

⁶ “Freezing Out Justice: How immigration arrests at courthouses are undermining the justice system,” American Civil Liberties Union, 2018. Available at: <https://www.aclu.org/report/freezing-out-justice>

⁷ *Id.*

⁸ See 8 USC 1367, note there are extremely limited exceptions enumerated in 8 USC 1367(b).

⁹ “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>

¹⁰ Representative Conyers Jr. Congressional Record 151: 164 (December 18, 2005) E2606, Available at: <https://www.congress.gov/crec/2005/12/18/CREC-2005-12-18-pt1-PgE2605-4.pdf>

¹¹ *Id.*

¹² *Id.* [Emphasis added]

government as violations of the confidentiality provisions *are punishable by disciplinary action and civil and monetary penalties of up to \$5000 per violation under 8 USC 1367.*¹³

The USCIS Tip Form does not require that reporting individuals list their name and contact information, nor does it have any statement regarding consequences or penalties for providing false information.¹⁴ Nor do there appear to be any internal mechanisms in place for USCIS to determine the validity of information provided by anonymous tips and to accurately determine if these tips are impermissibly motivated. Instead, the USCIS Tip Form will allow abusers and perpetrators to bypass these critical protections, allowing anonymous accusations against survivors with complete impunity. Without safeguards to ensure that 8 USC 1367 is fully complied with, the USCIS Tip Form will both encourage abusers to undermine immigration applications filed by survivors and generate challenges by survivors and their counsel for likely violations of 8 USC 1367.

III. The USCIS Tip Form Is Unnecessary

USCIS Tip Form is a harmful solution to a non-existent problem. The Department of Homeland Security already has various avenues in place for the public to report suspected fraud; the USCIS Tip Form is, therefore, an unnecessary redundancy.¹⁵ USCIS has not shown why the current avenues to report suspected fraud are insufficient, including those run by Immigration and Customs Enforcement (ICE) Homeland Security Investigation (HSI).¹⁶ Thus, the USCIS Tip Form is duplicative, and will have no “practical utility” as there are other mechanisms in place at DHS to address the issue of fraud.¹⁷

Conclusion

For the above-mentioned reasons, ASISTA and NOW oppose the publication of the USCIS Tip Form as it creates additional hardship for immigrant communities including survivors of violence. We urge USCIS to withdraw the USCIS Tip Form and, instead, to advance policies and guidance that protect the health, safety, and best interests of immigrant crime survivors and their families.

¹³ 8 USC 1367 [Emphasis added]

¹⁴ *Cf. e.g.* Immigration and Customs Enforcement (ICE) Homeland Security Investigation Tip Form (last updated 08/23/2018), available at <https://www.ice.gov/webform/hsi-tip-form>

¹⁵ *See e.g.* Immigration and Customs Enforcement (ICE) Homeland Security Investigation Tip Form (last updated 08/23/2018), available at <https://www.ice.gov/webform/hsi-tip-form> *See also* USCIS. “Report Fraud” (last updated March 4, 2019), available at <https://www.uscis.gov/report-fraud>

¹⁶ HSI an agency whose mission is to be “**an investigative arm** of the Department of Homeland Security”. [Emphasis added]. *See* Immigration and Customs Enforcement. “Homeland Security Investigations” (last updated March 29, 2019) available at <https://www.ice.gov/hsi>

¹⁷ *See* Federal Register Notice, note 1 *supra*.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Cecelia Levin".

Cecelia Friedman Levin
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ASISTA