

January 2, 2026

Security and Public Safety Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

**RE: Collection and Use of Biometrics by U.S. Citizenship and Immigration Services;
DHS Docket No. USCIS-2025-0205; RIN 1615-AC99
Submitted via: www.regulations.gov**

Dear USCIS:

The thirty-nine undersigned organizations submit this comment in response to the U.S. Citizenship and Immigration Service (USCIS) proposed rule entitled "Collection and Use of Biometrics by U.S. Citizenship and Immigration Services" initially published in the Federal Register on November 3, 2025 (hereinafter "proposed rule").¹

Our organizations work daily to assist, uplift, and advocate for immigrant survivors of domestic violence, sexual assault, child abuse, human trafficking, and other forms of violence and exploitation. We are deeply concerned about the many ways this proposed rule vastly expands the collection of biometrics, which will have a unique and significant impact on survivors of domestic violence, sexual assault, human trafficking, and other crimes. Not only will the proposed rule deter survivors from coming forward to access benefits Congress specifically created for their protection, but it will also increase the level of risk to survivors' safety, privacy, and security.

Given our missions and our work, **we strongly oppose the proposed rule**, which represents the Administration's latest creation of unnecessary barriers for those accessing immigration benefits, including survivors of violence, and urge its immediate withdrawal.

I. The Proposed Rule will exacerbate an already existing chilling effect on survivors coming forward to access protections created for their safety.

For many immigrant victims of domestic violence, battery, or extreme cruelty, the U.S. citizen or lawful permanent resident family members who sponsor their applications threaten to withhold legal immigration sponsorship as a tool of abuse. For this reason, a bipartisan

¹ U.S. Citizenship and Immigration Service, Department of Homeland Security, Notice of Proposed Rulemaking "Collection and Use of Biometrics by U.S. Citizenship and Immigration Services" 90 FR 49062, November 3, 2025, available at <https://www.federalregister.gov/documents/2025/11/03/2025-19747/collection-and-use-of-biometrics-by-us-citizenship-and-immigration-services>. (hereinafter "Proposed Rule")

majority in Congress enacted the Violence Against Women Act (VAWA) and later the Trafficking Victims Protection Act (TVPA), containing protections for immigrant survivors. These forms of relief play a critical role in helping survivors and their families find independence, safety, and stability.

In the past year, the Department of Homeland Security (DHS) rescinded years of protections for immigrant survivors that had been incorporated into the Victim Centered Approach² and Protected Areas policies³, and engaged in widespread and aggressive enforcement operations across the United States, including against survivors of violence.⁴ At the same time, USCIS has significantly slowed its processing of newly-filed applications.⁵ These policy changes, scaled-up enforcement actions, and slowed-down processing have created a significant chilling effect in survivors' willingness to reach out to access these protections that Congress expressly created for them.⁶

A. Expansion of biometrics modalities and information sharing

The proposed rule exacerbates the fears of immigrant survivors by vastly expanding USCIS's biometrics collection authority in a way that is overbroad, ambiguous, and needlessly invasive. Specifically, the proposed rule expands USCIS authority to collect biometric data beyond fingerprints and photographs to include additional "modalities" such as iris scan, palm print, facial recognition, voice print, and DNA.⁷ In this proposed rule, "biometrics" is being used overbroadly, replacing any references to specific testing platforms (thereby allowing them to potentially collect *any* biometric data at any time). For survivors who have endured physical, sexual, psychological, and emotional abuse or stalking, complying with these new, unnecessary, and invasive biometric requirements may exacerbate the harm and trauma they have suffered.

² See U.S. Department of Homeland Security, "Interim Guidance on Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victim-Based Immigration Benefits" (January 2025) available at <https://www.ice.gov/doclib/foia/policy/11005.4.pdf>, rescinding [ICE Directive 11005.3: Using a Victim-Centered Approach with Noncitizen Crime Victims](#) (Dec. 2, 2021) and [ICE Policy Statement 10076.1: Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs](#) (Jun. 17, 2011)

³ See U.S. Department of Homeland Security "Enforcement Actions in or Near Protected Areas" (January 20, 2025), available at https://www.dhs.gov/sites/default/files/2025-03/25_0120_S1_enforcement-actions-in-near-protected-areas.pdf

⁴ See e.g., Uranga, R. "She helped get her violent husband deported. Then ICE deported her— straight into his arms." Los Angeles Times. (November 3, 2025), available at <https://www.latimes.com/california/story/2025-11-03/immigrant-crime-victims>

⁵ See USCIS, "Net Backlog and Frontlog FY2025 Quarter 3 (October 8, 2025), available at https://www.uscis.gov/sites/default/files/document/data/net_backlog_frontlog_fy2025_q3.xlsx; Billal Rahman and Dan Gooding, "US Immigration Backlog Hits All-Time High" Newsweek (July 8, 2025), available at <https://www.newsweek.com/us-immigration-backlog-hits-all-time-high-2095846>; See also Dwight Decker "USCIS Backlog Surpasses 11.3 Million Pending Applications in 2025" Freedom For All Americans (October 14, 2025) available at <https://freedomforallamericans.org/uscis-backlog/>

⁶ Alliance for Immigrant Survivors, [Fear and Silence: 2025 Insights from Advocates for Immigrant Survivors of Domestic Violence, Sexual Assault, and Human Trafficking](#) (December 2025).

⁷ Proposed Rule at 49067.

While USCIS purports that it will not require all new biometric modalities in all instances for all forms,⁸ the proposed rule fails to specify which will be utilized in the collection of survivor-based relief and how their biometric material will be protected. Given that the proposed rule extends the biometrics requirement to VAWA self-petitioners and T adjustment applicants, and benefit requestors under 14 years of age, this lack of specificity is deeply concerning.⁹ Survivor privacy is paramount to ensure their safety. USCIS undermines this safety by its lack of transparency in what process will be associated with the collection of biometrics from them, and adds additional burdens for survivors and the agencies that serve them.

Moreover, many of these additional forms of biometrics, such as facial recognition, have been found to be unreliable, racially biased, and to reinforce bias against transgender individuals.¹⁰ Additionally, the use of voice prints, which USCIS plans to integrate into USCIS call center processes, also raises concerns of racial and gender bias.¹¹ The agency makes no effort in the proposed rule to address the widely known criticisms of these modalities. Certainly, the known prevalence of false identification alone for populations with darker skin tones and transgender identity warrant serious consideration of the use of these additional modalities for the purpose of confirming the identity of immigrant populations.¹²

Lastly, the expansion of biometrics is deeply concerning for survivors, given that it will necessarily increase *who* has access to this information. Abusers and perpetrators of crime often threaten to report survivors to the police or to immigration authorities to maintain power over their victims and keep them silent.¹³ Congress created confidentiality protections for survivors, codified at 8 USC § 1367, to ensure that abusers and other perpetrators cannot

⁸ *Id.* at 49068-69.

⁹ *Id.* at 49083-84.

¹⁰ Nada Hassanin, "Law professor explores racial bias implications in facial recognition technology," University of Calgary News (August 23, 2023), available at <https://ucalgary.ca/news/law-professor-explores-racial-bias-implications-facial-recognition-technology>; Ali Breland, "How white engineers built racist code – and why it's dangerous for black people," The Guardian (December 4, 2017), available at <https://www.theguardian.com/technology/2017/dec/04/racist-facial-recognition-white-coders-black-people-p>
[lice](https://www.theguardian.com/technology/2017/dec/04/racist-facial-recognition-white-coders-black-people-p); See also Matthew Gault, "Facial Recognition Software Regularly Misgenders Transgender People," Vice (Feb. 19, 2019), available at

<https://www.vice.com/en/article/7xnwed/facial-recognition-software-regularly-misgenders-trans-people>

¹¹ Xingyu Chen, Zhengxiong Li, et al., "Exploring racial and gender disparities in voice biometrics," Scientific Reports (March 8, 2022), available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC8904636/>; Joan Palmiter Bajorek, "Voice Recognition Still Has Significant Race and Gender Biases," Harvard Business Review (May 10, 2019), available at <https://hbr.org/2019/05/voice-recognition-still-has-significant-race-and-gender-biases>

¹² Maria Cramer and Kashmir Hill, "How the NYPD's Facial Recognition Tool Landed the Wrong Man in Jail," New York Times (August 26, 2025), available at <https://www.nytimes.com/2025/08/26/nyregion/nypd-facial-recognition-dismissed-case.html>.

¹³ See e.g. Cara Tabachnick, "She married a U.S. citizen for love. After she alleged abuse, he threatened deportation.", CBS News (June 15, 2025), available at

<https://www.cbsnews.com/news/alleged-abuse-he-threatened-to-deport-her/>; Samantha Schmidt, "Deputy accused of sexually assaulting girl, 4, threatening to have mother deported if she spoke up," Washington Post (June 18, 2018) available at <https://www.washingtonpost.com/news/morning-mix/wp/2018/06/18/deputy-accused-of-sexually-assaulting-girl-4-threatening-to-have-mother-deported-if-she-spoke-up/>

use the immigration system against their victims.¹⁴ Despite the numerous policies put in place regarding survivor information, DHS' own reports indicate their components can and should do more to protect survivor information.¹⁵ The proposed rule states that the biometrics collection will be implemented in accordance with 8 U.S.C. 1367 but does not provide any explanation as to how the agency will comport with the statute and what safeguards are in place to protect survivor information across DHS components.¹⁶

Overall, we are deeply concerned that the sweeping expansion of biometrics will lead to additional disclosures (either intentionally or through vulnerabilities to hacking¹⁷ and other breaches), that will jeopardize survivor safety. The proposed rule acknowledges there could be some unquantified impacts related to privacy concerns for risks associated with the collection and retention of biometric information, and would expand the population that could have privacy concerns. Whenever sensitive information about a victim is shared between agencies, the security of that information is compromised due to the increasing number of people authorized to access the information and increased risks of unauthorized access and hacking. This is especially true of survivors of domestic violence, sexual assault, stalking, and other crimes who may have justified concerns about what information is shared, with whom, and for what purpose. For example, in cases of domestic violence or stalking where the abuser or the abuser's friends or family are in law enforcement, this raises significant security concerns regarding who may potentially have access to these biometric databases.¹⁸

¹⁴ "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>

¹⁵ See e.g. DHS. Privacy Compliance Review of the Privacy Incidents Affecting Individuals Protected by Section 1367" (February 4, 2019) indicating "Most Components lack necessary policies for protecting 1367 records in compliance with DHS Directive 002-02, Directive 215-01, and Instruction 215-01-002" available at <https://www.dhs.gov/sites/default/files/publications/1367%20PCR%20Report%20FINAL%2020190204.pdf>

¹⁶ Proposed Rule at 49074. In addition, the proposed rule incorrectly states that the 8 U.S.C. 1367 protections end when the benefit request is denied and all opportunities for appeal of the denial have been exhausted. This is only true for 8 U.S.C. 1367(a)(2) protections related to non-disclosure and does not apply to the protections at 8 U.S.C. 1367(a)(1) regarding reliance on prohibited sources. See 8 U.S.C. § 1367 and Department of Homeland Security (DHS) Instruction No. 002-02-001, Rev. 00.1: Implementation of Section 1367 Information Provisions (May 28, 2019).

¹⁷ See e.g., Brian Barret. "Hack Brief: Hack Brief: Hacker Leaks the Info of Thousands of FBI and DHS Employees" *Wired* (Feb. 8, 2016), available at <https://www.wired.com/2016/02/hack-brief-fbi-and-dhs-are-targets-in-employee-info-hack/>. This is especially concerning given the "One DHS Memorandum" which established a uniform approach for information sharing across DHS components. See DHS. "DHS Policy for Internal Information Exchange and Sharing" (February 1, 2007), available at https://www.dhs.gov/sites/default/files/2023-09/23_0928_DHS-Policy-for-Internal-Information-Exchange-and-Sharing.pdf

¹⁸ National Center for Women and Policing. "Police Family Violence Fact Sheet.", available at <https://web.archive.org/web/20200409070910/http://womenandpolicing.com/violenceFS.asp>; See also Conor Friedersdorf. "Police Have A Much Bigger Domestic-Abuse Problem Than the NFL Does" *The Atlantic* (Sept. 19, 2014) available at <https://www.theatlantic.com/national/archive/2014/09/police-officers-who-hit-their-wives-or-girlfriends/380329/>

B. Expansion of DNA collection

The proposed rule will allow immediately for DHS, in its discretion, to request, require, or accept DNA test results for individual benefit requests requiring proof of a genetic relationship or to confirm biological sex.¹⁹ Phase V of their implementation plan would permit DHS to request or require DNA evidence in survivor-based relief, including but not limited to:

- VAWA Self-Petitions (Form I-360)²⁰
- Form I-914, Supplement A, Application for Derivative T Nonimmigrant Status (Form I-914A);
- Form I-918, Supplement A, Petition for Qualifying Family Member of U-1 Recipient (Form I-918A);
- Form I-929, Petition for Qualifying Family Member of a U-1 Nonimmigrant (Form I-929).²¹

USCIS estimates that thousands of survivors and their family members may be subject to these new DNA requests.²²

USCIS' proposal to utilize DNA testing to confirm biological sex is unjustified and raises significant concerns regarding privacy, necessity and agency overreach. It represents a profound intrusion into bodily and genetic privacy that is not tied to any immigration-related purpose. There is nothing in statute or regulation that requires proving an individual's biological sex as an element of eligibility for immigration benefits, and USCIS has neither the authority, role, nor expertise to be in the position to "prove or disprove" biological sex. Including this provision in the proposed rule would create profound harm and additional barriers for trans, nonbinary, intersex and other gender non-confirming individuals seeking immigration benefits, including survivor-based forms of relief.

Furthermore, USCIS has not demonstrated that there is any systemic problem in establishing qualifying relationships for these matters that would compel a blanket DNA collection approach; nor has the agency acknowledged that these additional costs create significant barriers to survivors who may be facing economic instability related to their victimization. These additional financial burdens to survivors are not at all addressed in the proposed rule. As these requests are within the "discretion" of the adjudicator, this undoubtedly will lead to inconsistent treatment of survivors, adding additional costs and burdens to an already strenuous adjudication process. The potential costs to survivors are significant; DNA tests often incur a \$230 fee to test the first genetic relationship and \$220 for each additional test, which are costs **the applicant** must take on.²³ Abusers commonly

¹⁹ Proposed Rule at 49078.

²⁰ *Id.* at 49107.

²¹ *Id.* at 49100.

²² *Id.* 49110.

²³ *Id.* at 49112.

prevent survivors from accessing or acquiring financial resources in order to maintain power and control in the relationship.²⁴ These additional costs add increased burdens to survivors who may be facing financial instability following, and as a consequence of, their victimization.

USCIS purportedly "recognizes that some individuals who submit biometrics/DNA have concerns germane to privacy, intrusiveness, and security."²⁵ In cases of domestic violence, stalking, human trafficking, and other crimes, survivors may have valid concerns about this process and the privacy of this information. According to the Electronic Privacy Information Center, "Domestic violence victims have high needs for privacy, as they are already the target of an abuser, and often need to keep data from them. This abuse can also involve privacy violations such as surveillance, monitoring, or other stalking. For a domestic violence victim, the need for privacy is a need for physical safety."²⁶ While the proposed rule acknowledges the protections of 8 USC § 1367, it does not sufficiently consider the unique concerns of survivors of stalking, and other crimes, and lacks specific details about how this information may potentially be used outside the adjudication setting.

C. Expansion of biometrics requirements to VAWA self-petitioners and T visa-based adjustment of status applicants

The proposed rule eliminates the requirement that VAWA self-petitioners and T visa-based adjustment of status applicants submit police clearance letters from locations in the United States where they resided for more than six months and replaces it with a requirement that they appear for biometrics collection. This is particularly concerning as the proposed rule fundamentally changes evidentiary expectations for VAWA and T visa-based adjustments through a biometric framework, despite Congress' clear intent that these forms of relief remain flexible and survivor-centered, and especially given the statutory and regulatory directive to consider "any credible evidence" to establish eligibility.²⁷

This change, while seemingly minor, has enormous impacts on survivors of domestic violence and trafficking. The agency utterly fails to consider the associated costs, both tangible and intangible, of appearing at biometrics appointments for those fleeing abuse. By failing to consider the context in which VAWA self-petitioners in particular may be submitting their filings, and the reliance interests they may have in the existing evidentiary requirement, the proposed rule fails to honor the aims of the statutory protections for immigrant survivors.

²⁴ National Network to End Domestic Violence. "Financial Abuse Fact Sheet" available at: <https://nnedv.org/wp-content/documents/Financial%20Abuse%20Fact%20Sheet%20-%20May%202025%20EN.pdf>

²⁵ *Id.* at 49111.

²⁶ Electronic Privacy Information Center (EPIC). Domestic Violence & Privacy, available at <https://www.epic.org/privacy/dv/>

²⁷ See INA 204(a)(1)(J); 8 CFR 204.2(c)(2)(i); 8 CFR 204.2(e)(2)(i); 8 CFR 245.23(g)(3)

USCIS proposes that replacing the certificate requirement with biometrics collection will simplify the application process. However, the agency fails to consider the practical impacts of this policy change on immigrant survivors of domestic violence and trafficking. USCIS's estimates of the costs of this process to the applicant vastly undervalue non-tangible costs, such as missing school, relying on a friend or family member to take them to Application Support Center (ASC) appointment and (thus *their* time-related opportunity costs) not to mention that in rural areas, the ASCs are vastly more than 50 miles round trip estimated by USCIS.²⁸ For example, a survivor residing in Mobile, Alabama, must travel to New Orleans for the closest ASC Center, a trip nearly 2 hours away, with attendant costs incurred in terms of lost work, child care, and travel, in addition to these non-tangible costs.

For VAWA self-petitioners in particular, introducing a biometrics requirement at the VAWA self-petitioning phase exposes them to heightened danger from abusers, with whom they may still be living in the same household or sharing child care. The VAWA statute recognizes that abuse takes various forms beyond physical harm, including financial and social control. Requiring VAWA self-petitioners to travel long distances or make arrangements for biometrics appointments while negotiating abusive behavior may cause them to miss appointments and delay the processing of survivor benefits, or worse - denial of their self-petitions for failure to appear.

We oppose the extension of biometrics collection requirements to VAWA self-petitioners as unnecessary, invasive, and in conflict with the purposes of and protections intended to be made available by law.

II. VAWA and T visa-based adjustment of status evidentiary changes for good moral character determinations

In this NPRM on biometrics use and collection, USCIS proposes new documentary requirements for good moral character determinations in both VAWA self-petitions and T visa-based adjustment of status applications even though these changes are unrelated to biometric identity verification and substantially revise evidentiary standards for these forms of relief. In particular, the proposed rule would:

- remove the requirement that VAWA self-petitioners and T visa-based adjustment applicants who have resided in the United States submit police clearance letters as evidence of good moral character, because DHS will be able to obtain the individual's criminal history using the biometrics.
- consider conduct beyond the requisite period²⁹ immediately before filing, where: (1) The earlier conduct or acts appear relevant to an individual's present moral character;

²⁸ *Id* at 49069.

²⁹ For VAWA self petitioners, the requisite period to demonstrate good moral character is 3 years, according to the regulations. See e.g. 8 CFR 204.2(c)(2)(v); With regard to T visa applicants applying for adjustment, the requisite period is for "for a continuous period of at least 3 years since the date of admission as a nonimmigrant" or "continuous period during the investigation or prosecution of acts of trafficking." See INA 245(l)(1)(A).

and (2) the conduct of the self-petitioner/applicant during the three years immediately before filing does not reflect that there has been a reform of character from an earlier period. See generally 8 CFR § 316.10(a)(2).

- remove the presumption of good moral character for VAWA self-petitioners and T visa-based adjustment, applicants 14 years of age and younger.

These provisions are simply unnecessary and invite unwarranted scrutiny into outdated information. Like so much of this proposed rule, these are solutions without demonstrable problems. VAWA self-petitioners who are eligible for adjustment of status **already** are required to submit biometrics in connection with their adjustment applications. Similarly, T visa holders **are already** required to submit biometric evidence upon filing their adjustment applications. Thus, USCIS **already** has existing mechanisms in place to verify an applicant's identity. As indicated above, databases that USCIS searches as a result of biometrics may also contain incomplete, inaccurate or outdated information about the applicant. Indeed, USCIS has not sufficiently demonstrated how the current process is unreliable, how it directly burdens USCIS to review police clearance letters, or how the proposed provisions outweigh the reliance interests approved VAWA self-petitioners eligible for adjustment of status have in the existing policy and practice.

The agency further asserts that no statute or regulation prevents it from looking beyond the three-year period long considered to be the requisite period for showing good moral character for VAWA self-petitioners and T visa-based adjustment of status applicants.³⁰ It cites the preamble to the 1996 VAWA interim regulation to bolster its position that it is not limited to the three-year look-back period.³¹ However, Congress wanted to recognize the unique circumstances facing survivors and thus established different frameworks to consider good moral character in these forms of relief. For this reason, in 2000, Congress added INA § 204(a)(1)(C) to explicitly authorize the Attorney General to waive a mandatory bar to good moral character if the conduct occurred as a result of battery or extreme cruelty.³²

To justify its expanded consideration of good moral character for T visa-based adjustment of status applicants, the proposed rule improperly cites regulatory language from the naturalization context.³³ However, Congress specifically limited the requisite period for evaluating good moral character to three years or less.³⁴ This was done to ensure that T visa holders would not be unjustly prejudiced or retraumatized by repeatedly reviewing criminal

³⁰ Proposed rule at 49088.

³¹ *Id.*, citing 61 FR 13066, which permits the agency to consider acts outside of the three year period "if there is *reason to believe* that the self-petitioner may not have been a person of good moral character in the past." [emphasis added].

³² See Memorandum of William Yates, Associate Director, Operations, USCIS, *Determinations of Good Moral Character in VAWA Self-Petitions* (January 19, 2005), available at <https://niwaplibrary.wcl.american.edu/wp-content/uploads/2015/IMM-Gov-USCISMemoYatesGoodMoralCharacter-01.19.05.pdf>.

³³ Proposed Rule at 49089 (citing 8 CFR 316.10(a)(2)).

³⁴ See INA 245(l)(1)(A).

acts that they were forced to engage in as part of their abuse and exploitation. These issues would **already have** been addressed as part of their underlying T visa application. By allowing this look back beyond the period authorized by Congress, USCIS is unlawfully introducing additional subjective elements that can be used to retraumatize survivors and subjectively deny them the protections afforded under the law.

Lastly, removing the presumption of good moral character for VAWA self-petitioners and T visa-based adjustment applicants under 14 creates needless barriers for young applicants and increases the burden on survivors. USCIS already had the authority to get additional information from applicants if warranted, and codifying these provisions in the regulations adds additional barriers without sufficient justification.

III. Extraordinary Circumstances Standard to Reschedule Biometrics and Interviews

The proposed rule unjustly penalizes immigrant survivors who are unable to attend biometrics or interview appointments. The proposed rule would establish an “extraordinary circumstances” standard to excuse a failure to appear at any non-asylum biometrics appointment. If applicants fail to meet this standard, “DHS may take adverse administrative action on the [benefit request].” The justification offered by the agency for adopting this higher standard is thin at best, and does not apply to its extension of the extraordinary circumstances standard to requests to reschedule interviews. The proposed rule allows for a single initial request to reschedule a biometrics appointment for any reason, after which the extraordinary circumstances standard will apply. The agency notes that the extraordinary circumstances standard will be more stringent than the current good cause standard, but does not provide further explanation.³⁵ USCIS promises to issue policy guidance interpreting this standard.³⁶

DHS notes that almost 200,000 reschedule requests were received by USCIS in 2024, and acknowledges that this number, without more, is not indicia of abuse.³⁷ Even so, DHS goes on to cite 241 persons who made 5 or more reschedule requests, among which 1 applicant made 10 reschedule requests.³⁸ These numbers, compared with the millions of total filings received by USCIS in 2024³⁹, do not nearly justify this sweeping elevation of the current standard. Against this backdrop, the 241 individuals cited represent an infinitesimal amount of the total filing population. Yet the proposed rule seeks to impose a burdensome ‘extraordinary circumstances’ standard on millions of compliant applicants based on this microscopic fraction. In addition, DHS does not explain why the current “good cause”

³⁵ Proposed Rule at 49091. The proposed rule provides that the agency will assess requests on a case-by-case, discretionary basis to include “unforeseen scenarios that impact an individual’s ability to attend a previously scheduled appointment. For example, the unexpected death of an immediate family member or if the individual experiences a serious medical emergency requiring immediate medical attention or hospitalization.”

³⁶ Proposed Rule at 49067 fn 19.

³⁷ Proposed Rule at 49090.

³⁸ Proposed Rule at 41091.

³⁹ See e.g. USCIS. “All USCIS Application and Petition Form Types FY24Q4” available at https://www.uscis.gov/sites/default/files/document/data/quarterly_all_forms_fy2024_q4.xlsx

standard is insufficient to stop the purported abuse of reschedule requests by this de minimis number of applicants.

The agency's proposal to apply this heightened standard is especially troubling for immigrant survivors of domestic violence, sexual assault, and trafficking. Without further justification beyond increasing operational efficiency, the agency proposes to extend the extraordinary circumstances standard to requests to reschedule interviews before USCIS. Unlike biometrics appointments, the proposed rule specifies that applicants *cannot* make an initial request to reschedule interviews for any reason, and that "failure to appear at an interview without prior authorization may result in a variety of consequences, including denial of a benefit request, other request, or collection of information."⁴⁰ Such a draconian change fails to consider important aspects, including the reliance interest, of applicants (particularly survivors) who face transportation, economic, or safety barriers to attending appointments at their originally scheduled time and date.

IV. The Proposed Rule is Overbroad and Creates Needless Administrative Barriers and Costs

The proposed rule unjustly exceeds USCIS's statutory authority. The laws that USCIS cite in the proposed rule do not support the agency's authority to justify these sweeping changes.⁴¹

Over the last year, DHS has already created significant barriers to immigration relief in a variety of ways--some by way of seismic rollbacks of discretionary protections, ramped up enforcement, and other discrete and calculated procedural shifts. This includes significant processing delays and an ever-growing front log in the initial receipt of USCIS humanitarian-based benefit requests. This proposed rule would only further limit access to protections.

The reality is that these longstanding USCIS processing delays undermine the effectiveness of these critical benefits. Such long waits for adjudication, coupled with other barriers (like a lack of access to work authorization or other financial support) can be devastating to survivors, and cause them possibly to either face homelessness, leave injuries untreated, or have to return to violent homes.

Now, under the proposed rule, survivors who are already facing these incredible backlogs will endure even more hurdles as USCIS expends scarce resources for new equipment, training, operating procedures, and steps to the adjudication process. Resources put toward

⁴⁰ Proposed Rule at 49092, noting that "With respect to a showing of exceptional circumstances in the asylum context, USCIS proposes to maintain the status quo. See proposed 8 CFR 208.10. As stated above, DHS is retaining this standard so as to not create a disparity between USCIS asylum adjudications and EOIR asylum proceedings governed under DOJ regulations. See 8 CFR 1003.10, 1208.10, 1240.67(b)(3), and 1240.68."

⁴¹ For example, 8 U.S.C. § 1103(a) does not mention biometrics at all. And the Secretary's authority to "perform such other acts as he deems necessary for carrying out his authority under the provisions of this chapter is limited by the terms of the INA. While the proposed rule also cites 8 U.S.C. §§ 1225(d)(3) & 1357(b), those provisions do no more than allow DHS to collect documentary and testimonial evidence.

implementing the proposed rule will take away from the adjudication of benefits, which is the principal job of USCIS.

V. Continuous Vetting Erodes Due Process & Survivor Security

The proposed rule would implement "continuous vetting" procedures in which individuals may "be subjected to continued and subsequent evaluation of eligibility for their immigration benefits to ensure they continue to present no risk of causing harm subsequent to their entry. This rule proposes that any individual alien who is present in the United States following an approved immigration benefit may be required to submit biometrics unless and until they are granted U.S. citizenship."⁴²

Continuous vetting policies raise significant civil rights concerns and open up discriminatory surveillance of people of color. Requiring survivors to submit biometrics repeatedly, at any time, until they obtain citizenship, not only is a tremendous waste of agency resources, but creates instability and insecurity for survivors seeking to heal from victimization.

The net effect of this "extreme vetting" on survivor-based cases will be to complicate their adjudications; give license to subjective decision-making without regard to the dynamics of violence and trauma that Congress intended; and lead to wildly inconsistent results by adjudicators across the country.

III. Conclusion

We strenuously oppose the proposed rule because of the significant, unique, and extremely harmful and dangerous impact it would have on survivors of gender-based violence. We call on USCIS to promptly withdraw the proposed rule in its entirety.

Respectfully submitted,

National Organizations

ASISTA Immigration Assistance
Asian Pacific Institute on Gender-Based Violence
Care Spells
Esperanza United
Just Detention International
Muslim Advocates
National Alliance to End Sexual Violence (NAESV)
National Immigrant Justice Center
National Immigration Law Center (NILC)
Service Employees International Union (SEIU)

⁴² Proposed Rule at 49137.

Tahirih Justice Center
The Advocates for Human Rights
Young Center for Immigrant Children's Rights

State and Local Organizations

California

Apoyo Legal Migrante Asociado
Asian Americans Advancing Justice Southern California (AJSOCAL)
California Partnership to End Domestic Violence
Coalition to Abolish Slavery and Trafficking
Immigrant Defenders Law Center (ImmDef)
Immigration Center for Women and Children
Survivor Justice Center

Connecticut

Greater Hartford Legal Aid (GHCLA)
New Haven Legal Assistance Association

Delaware

Delaware Coalition Against Domestic Violence

Georgia

Hope Immigration, LLC

Illinois

Illinois Coalition Against Domestic Violence
Illinois Coalition Against Sexual Assault

New York

Crime Victims Treatment Center
Her Justice, Inc.
New York State Coalition Against Domestic Violence

Pennsylvania

Asian Americans United
Casa de la Cultura
Community for Change Montgomery County
Make the Road Pennsylvania

Tennessee

Legal Aid Society of Middle Tennessee and the Cumberlands

Texas

Refugee Support Network - RSN

Virginia

Virginia Poverty Law Center

Washington

Northwest Immigrant Rights Project

Washington State Coalition Against Domestic & Sexual Violence

Wisconsin

Freedom, Inc.