

January 22, 2026

Mr. Andrew Good  
Chief, Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
5900 Capital Gateway Dr,  
Camp Springs, MD 20746

RE: **Comment in Response to USCIS Policy Manual Updates “Applicability of 8 U.S.C. 1367(a)(1) and (a)(2) Provisions”** [[1 USCIS-PM A.7](#)]

Submitted via email to: [policyfeedback@uscis.dhs.gov](mailto:policyfeedback@uscis.dhs.gov)

Dear Chief Good:

The undersigned organizations submit this comment in response to the USCIS Policy Manual update entitled, “Applicability of 8 U.S.C. §1367(a)(1) and (a)(2) Provisions”, published on December 22, 2025. 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 changes to the Policy Manual (PM), which will have a unique and significant impact on survivors of domestic violence, sexual assault, human trafficking, and other crimes because they impermissibly alter longstanding protections designed to keep survivors safe. Specifically, we are concerned about how USCIS will interpret and operationalize the consideration of prohibited source information for protected individuals who may have been convicted of crimes listed in INA §237(a), how USCIS will consider prohibited source information in adjudicative actions that do not directly involve admissibility or deportability, and whether survivors' confidential addresses will remain protected.

These changes will not only deter survivors from coming forward to access benefits Congress specifically created for their protection, but they will also increase risks to survivors' safety, privacy, and security. For these reasons, we respectfully request that USCIS rescind these revisions immediately.

## **I. Purpose of 8 U.S.C. §1367 Protections**

For over 35 years, Congress has recognized that abusers and perpetrators of crime often weaponize the immigration system to exert power and control.”<sup>1</sup>

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<sup>1</sup> Even before the Violence Against Women Act in 1994, in 1990, Congress created domestic violence focused waivers related to conditional residency requirements, noting that “present law does not ensure that a battered...spouse or child will not be forced to remain in an abusive relationship for fear of deportation. Immigrant and family law attorneys, refugee service agencies, and battered women's advocates agree that current [law] does not go far enough in ensuring the safety and protecting the legal rights of immigrants in situations of

In 1996, Congress codified protections at 8 U.S.C. §1367 for victims eligible for immigration benefits under the Violence Against Women Act (VAWA). These protections were amended in 2000 to include victims of trafficking applying for T nonimmigrant status and victims of qualifying criminal activities petitioning for U nonimmigrant status.<sup>2</sup> 8 U.S.C. §1367 prohibits DHS, the Department of Justice (DOJ), and the Department of State (DOS) from making an adverse determination of admissibility or deportability against a protected person using information furnished solely by a prohibited source, including an abuser, trafficker or perpetrator of crime, or a member of their family.<sup>3</sup> The statute also generally prohibits the unauthorized disclosure of **any** information relating to a beneficiary of a pending or approved application for a victim-based benefit to anyone other than an officer or employee of DHS, DOJ, or DOS for a legitimate agency purpose, unless an exception applies.<sup>4</sup>

Congress stated that these protections were “designed to ensure that abusers and other perpetrators cannot use the immigration system against their victims.”<sup>5</sup> Some examples include “abusers using DHS to obtain information about their victims, including the existence of a VAWA immigration petition, interfering with or undermining their victims’ immigration cases, and encouraging immigration enforcement officers to pursue removal actions against their victims.”<sup>6</sup> The House Judiciary Committee wanted to “ensure that immigration enforcement agents and government officials covered by this section do not initiate contact with abusers, call abusers as witnesses or *rely on information furnished by or derived from abusers to apprehend, detain and attempt to remove victims of domestic violence, sexual assault and trafficking, as prohibited by section 384 of IIRIRA.*”<sup>7</sup>

Further, Congress directed “immigration enforcement officials not to rely on information provided by an abuser, his family members or agents to arrest or remove an immigrant victim from the United States.”<sup>8</sup> A bipartisan majority in Congress supported 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.”<sup>9</sup>

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domestic violence.” See H.R. REP. No. 723, 101st Cong., 2d Sess., pt. 1, at 51 (1990), available at

<https://niwaplibrarywcl.american.edu/wp-content/uploads/HR-REP-101-723-BSW-Leg-History.pdf>

<sup>2</sup> Representative Conyers Jr. Congressional Record 151: 164 (December 18, 2005) E2606-7. Available at:

<https://www.congress.gov/crec/2005/12/18/CREC-2005-12-18-pt1-PgE2605-4.pdf>

<sup>3</sup> 8 U.S.C. §1367(a)(1). Under the statute, this provision does not apply if the protected person has been convicted of a crime listed in INA 237(a)(2).

<sup>4</sup> 8 USC §1367(a)(2); 8 U.S.C. §1367(b). [Emphasis added]

<sup>5</sup> H. Rept. 109-233 (2005), available at

<https://www.congress.gov/committee-report/109th-congress/house-report/233/1?outputFormat=pdf>

<sup>6</sup> *Id.* See also, National Resource Center on Domestic and Sexual Violence, “Immigration Power and Control Wheel” available at <https://www.tahirih.org/wp-content/uploads/2015/06/Immigrant-Power-and-Control-Wheel.pdf>

<sup>7</sup> *Id.* [Emphasis added]

<sup>8</sup> 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>

<sup>9</sup> *Id.*

DHS's own guidance notes that violations of "Section 1367 could give rise to serious, even life-threatening, dangers to victims and their family members. Violations compromise the trust victims have in the efficacy of services that exist to help them and, importantly, may unwittingly aid perpetrators retaliate against, harm or manipulate victims and their family members, and elude or undermine criminal prosecutions."<sup>10</sup> To further advance these protections, the law establishes consequences for willful violations of the law as well as a directive to agencies to provide training to personnel.<sup>11</sup>

## II. Convictions under INA §237(a)(2)

The Policy Alert notes that "USCIS has not previously implemented the statutory requirement under 8 U.S.C. §1367(a)(1) to consider whether an alien has been convicted of a crime or crimes listed under INA §237(a)(2) before establishing that the prohibited source protections apply."<sup>12</sup> Thus, by USCIS's own admission, this update represents a departure from prior policy and operational guidance and warrants careful scrutiny to ensure consistency with longstanding congressional intent which established victim-centered approaches in the law.

The PM echoes long-standing DHS guidance that when USCIS receives adverse information about a victim of domestic violence, sexual assault, human trafficking or an enumerated crime from a prohibited source, its employees treat the information as inherently suspect.<sup>13</sup> Information provided by an abuser or other prohibited sources does not change its character-or become more reliable- just because a 1367-protected person has a criminal conviction. Prohibited source information is unreliable **because** of its inherent conflict of interest and because of an abuser's incentive to retaliate. A survivor's conviction does not neutralize an abuser's or perpetrator's motive or reduce the risk of retaliation, which Congress explicitly sought to prevent through enacting 8 U.S.C. 1367 protections. In fact, it may increase a survivor's vulnerability because abusers and perpetrators now have an incentive to negatively impact a survivor's case.

The Policy Alert states, "USCIS understands that, in certain cases, a petitioner or applicant **may be otherwise eligible for a waiver of inadmissibility because the victim has sufficiently demonstrated that a crime occurred in the context of their victimization** (for example, if they were forced to commit a crime by their abuser or trafficker) but ultimately have the benefit request denied based on information provided solely by the abuser,

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<sup>10</sup> DHS Instruction 002-02-001.Revision 001. "Implementation of Section 1367 Information Provisions" (November 7, 2013) available at <https://www.dhs.gov/sites/default/files/2022-12/002-02-001%20Implementation%20of%20Section%201367%20Information%20Provisions%3B%20Revision%2000.1.pdf> (hereinafter "DHS Instruction")

<sup>11</sup> See 8 USC 1367(c) and (d).

<sup>12</sup> USCIS. PA-2025-34 "Applicability of 8 U.S.C. 1367(a)(1) and (a)(2) Provisions" (December 22, 2025), available at "<https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20251222-VAWACConfidentiality.pdf>

<sup>13</sup> USCIS Policy Manual, [1 USCIS-PM A.7](#), quoting DHS Instruction, *supra*.

trafficker, or another source of information listed under 8 U.S.C. 1367(a)(1).<sup>14</sup> This sentence has several important implications:

First, USCIS recognizes that individuals applying for survivor-based protections may be vulnerable to being arrested and prosecuted for crimes related to the abuse they have suffered. A lack of resources and limited access to effective assistance of counsel, particularly to counsel that understand the immigration consequences of criminal pleas and convictions, compounds immigrant victims' vulnerability to encounters with the criminal justice system.

Second, USCIS recognizes that there may be waivers available for individuals with criminal histories who are applying for VAWA/T/U benefits that enable them to still be eligible for immigration relief.

Third, USCIS says that even when a waiver is available, that a benefit request may still be denied based solely upon information provided by a prohibited source– which undermines the entire intent and goals of 8 U.S.C. §1367 protections.

### **III. Consideration of Prohibited Source Information Outside Admissibility or Deportability Determinations**

The PM also states that USCIS may rely on abuser-provided information **without obtaining independent corroboration** if the agency is not making an adverse determination of admissibility or deportability. USCIS states that this includes rejections, decisions on deferred action, employment authorization, or denials of Petitions for Alien Relatives (Form I-130), VAWA self-petitions (Form I-360), Petitions to Remove Conditions on Residence (Form I-751) or Applications for Employment Authorization for Abused Nonimmigrant Spouses (Form I-765V). In these instances, abuser-provided information does not need to be verified before considering it in the adjudication of the case.

This distinction is deeply flawed. Denials of Forms I-130, I-360, I-751, or I-765V are not minor or collateral determinations, they are significant adjudicative actions that determine whether an individual may be eligible for immigration protections. Treating these determinations as outside the scope of 8 U.S.C. §1367 protections eliminates important safeguards from survivors when they need them most. Denials of these forms can serve as a catalyst for enforcement actions **directly related to** inadmissibility or deportability. The PM effectively allows unverified prohibited source information to be used at an initial adjudicative stage, thus allowing abusers and perpetrators of crime to trigger the enforcement actions the law was designed to prevent.

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<sup>14</sup> USCIS. PA-2025-34 "Applicability of 8 U.S.C. 1367(a)(1) and (a)(2) Provisions" (December 22, 2025), available at "<https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20251222-VAWAConfidentiality.pdf>"

The PM outlines that adjudicators should follow relevant guidance on how to "appropriately" consider evidence, including the motive, and the reliability and credibility of the statement in the context of the other evidence in the record. Yet, Congress *already* established what is appropriate in considering the credibility of prohibited source information. 8 USC §1367 protections reflect Congress' judgement that—when it comes to information provided by abusers and perpetrators of crime—"credibility" determinations are distinct. DHS guidance expressly recognizes the inherent unreliability of abuser-provided allegations, noting that "an assertion of fraud by the prohibited source, such as an accusation that the marriage is fraudulent, ordinarily will not serve as the sole basis for adverse action. Abusers often claim their marriage is fraudulent in order to exact revenge or exert further control over the victim."<sup>15</sup> Despite this acknowledgement, the Policy Manual nevertheless states:

*"If an officer reviews the record and determines that information provided by the source is credible, and such information is sufficient to establish that the marriage was not entered into in good faith, the officer shall deny the Form I-360 or Form I-130 and is not required to seek additional independent corroborating evidence."<sup>16</sup>*

Allowing unverified, abuser-generated information to be relied upon in the VAWA/T/U adjudicative process will undoubtedly jeopardize survivor safety. USCIS fails to explain how abuser-generated information suddenly becomes "reliable enough" to support the denial of VAWA-based benefits, when Congress explicitly established 1367 protections precisely to prevent reliance on these sources. As the PM contradicts 8 U.S.C. §1367's central purpose without any reasoned explanation, it must be withdrawn.

#### **IV. Address Issues**

The PM also revises language regarding safe addresses, and states, "Nothing in this guidance excuses an alien from providing USCIS with his or her physical address, where required by statute, regulation, or form instruction." It is important to note that USCIS has, in practice, accepted confidential addresses on survivor-based forms for years, which shows that address confidentiality is feasible and already incorporated into agency operations.

Leaving an abusive relationship can be the most dangerous time for survivors.<sup>17</sup> As one survivor notes, "I recall one day in September, 2007, I told him that I was leaving, but he pulled out a sharp small knife and he broke my suitcases and he punched my left muscle. He told me some very bad things such as he was [going] to kill me if I left..."<sup>18</sup> This is why

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<sup>15</sup> DHS Instruction at 11.

<sup>16</sup> [1 USCIS-PM A.7, E.2.](#)

<sup>17</sup> See Women Against Abuse, "Why It's So Difficult to Leave" available at <https://www.womenagainstabuse.org/education-resources/why-its-so-difficult-to-leave>

<sup>18</sup> Monica Scott, Shannon Weaver and Akiko Kamimura. "Experiences of Immigrant Women who Applied for Violence Against Women Act (VAWA) self-petitions in the United States: Analysis of Legal Affidavits." Diversity and Equality in Health and Care (2018) 15(4): 145-150, available at

many domestic violence shelters maintain confidential locations, and most states have laws establishing address confidentiality programs to assist eligible survivors in keeping their location confidential.<sup>19</sup>

For example, victims of domestic violence, dating violence, sexual assault, stalking or trafficking, may be entitled to enroll in State address confidentiality programs, whose addresses are entitled to be suppressed under State or Federal law or suppressed by a court order. This is also why it may be very difficult for a survivor to safely comply with such a stringent address change notification requirement.

Congress recognized the importance of address confidentiality in the VAWA Reauthorization of 2005, directing DHS to develop regulations and guidance with regard to identification documents to “consider and address the needs of victims, including victims of battery, extreme cruelty, domestic violence, dating violence, sexual assault, stalking or trafficking, who are entitled to enroll in State address confidentiality programs, whose addresses are entitled to be suppressed under State or Federal law or suppressed by a court order, or who are protected from disclosure of information pursuant to section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367)”<sup>20</sup> USCIS must maintain this critical practice.

## Conclusion

The Policy Alert notes the changes to the 1367 protections “are necessary to complete thorough and efficient vetting of, and investigations into, any fraud, national security, or public safety risks identified through review of an alien’s record.”<sup>21</sup> **They are not.**

Our organizations also are concerned about fraud prevention and national and public safety. We vehemently disagree, however, that this PM update addresses these concerns. Over decades, USCIS has developed a highly trained, dedicated team of adjudicators with deep expertise and experience adjudicating survivor-based benefits, including how to carefully evaluate abuser-provided information. Staff is trained on how to identify fraud, national security risks, and public safety issues. USCIS has successfully identified fraud and public safety concerns while maintaining confidentiality and safeguards in place for survivor’s information. This PM update solves no demonstrable problem; rather, it will create real and foreseeable harm for survivors. In fact, this update circumvents the legislative intent behind VAWA protections, impermissibly allowing USCIS to substitute its judgement for that of Congress. We urge USCIS to immediately withdraw the update.

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<https://www.primescholars.com/articles/experiences-of-immigrant-women-who-applied-for-violence-against-women-act-vawa-self-petition-in-the-united-states-analysis-of-lega.pdf>

<sup>19</sup> See Safety Net Project “Address Confidentiality Programs” available at

<https://www.techsafety.org/address-confidentiality-programs>

<sup>20</sup> Pub. Law. 109-162, §827 (Jan. 5, 2006), 119 STAT. 3066

<sup>21</sup> PA-2025-34 “Policy Alert-Applicability of 8 U.S.C. 1367(a)(1) and (a)(2) Provisions (December 22, 2025), available at <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20251222-VAWAConfidentiality.pdf>

Respectfully submitted,

ASISTA Immigration Assistance

Asian Pacific Institute on Gender-Based Violence

Coalition to Abolish Slavery and Trafficking

Esperanza United

Her Justice

Immigration Center for Women and Children

Immigrant Legal Resource Center

SC Coalition Against Domestic Violence and Sexual Assault

Survivor Justice Center

Tahirih Justice Center

The Advocates for Human Rights

Ujima, National Center on Violence Against Women in the Black Community

Wisconsin Coalition Against Sexual Assault