



NATIONAL
IMMIGRATION
LAW CENTER

BOARD of DIRECTORS

Sara K. Gould
Chair

Hiroshi Motomura
Vice Chair
University of California,
Los Angeles School of Law

Inez Gonzalez
Treasurer
California State University,
Fullerton

Ghazal Tajmiri
Secretary
Blank Rome LLP

Julissa Arce
Ascend Educational Fund

Adnan Bokhari
Prosperity Now

J. Anthony Borrego
Spring Street Business Law, PC

Kevin M. Cathcart, Esq.

Muzaffar Chishti
Migration Policy Institute at New
York University School of Law

Robert J. Horsley
Fragomen, Del Rey,
Bernsen, & Loewy, LLP

Cindy Mann
Manatt, Phelps & Phillips, LLP

Robert Pauw
Gibbs Houston Pauw

Bradley S. Phillips
Munger, Tolles & Olson LLP

Alexandra Suh
Koreatown Immigrant
Workers Alliance

*Organizations listed for
identification purposes only*

EXECUTIVE DIRECTOR
Marielena Hincapié

May 24, 2018

Carl C. Risch,
Assistant Secretary, Bureau of Consular Affairs, Department of State
Washington, D.C.

**COMMENTS ON A DEPARTMENT OF STATE NOTICE OF PROPOSED
INFORMATION COLLECTION: APPLICATION FOR NONIMMIGRANT
VISA**

Docket No. Docket Number: DOS-2018-0002

SUBMITTED BY THE NATIONAL IMMIGRATION LAW CENTER

The National Immigration Law Center (NILC) submits the following comments on the March 30, 2018 Department of State Notice of Proposed Information Collection: Application For Nonimmigrant Visa. NILC opposes the proposed changes to the nonimmigrant visa application form.

Established in 1979, the National Immigration Law Center (NILC) is one of the leading organizations in the U.S. exclusively dedicated to defending and advancing the rights and opportunities of low-income immigrants and their families. Our mission is grounded in the belief that every American—and aspiring American—should have the opportunity to fulfill their full potential, regardless of where they were born or how much money they have.

**WHAT THE DEPARTMENT OF STATE PROPOSES TO REQUIRE
APPLICANTS FOR A NONIMMIGRANT VISA TO PROVIDE**

- Any identifiers used in the past 5 years for multiple social media platforms (currently 20 listed in the notice – a list which may be updated by adding or removing platforms);
- If applicants elect to provide them, social media identifiers associated with other media platforms not listed in the notice;
- Telephone numbers, email addresses and international travel for the past 5 years;
- Information on whether the applicant has been deported or removed from any country; and
- Information about whether the applicant's spouse or parents have

LOS ANGELES (Headquarters)
3450 Wilshire Blvd. Box #108 – 62
Los Angeles, CA 90010
213 639-3900
213 639-3911 fax

WASHINGTON, DC
PO Box No. 34573
Washington, DC 20043
202 216-0261
202 216-0266 fax

www.nilc.org

been involved in terrorist activities.

WHAT'S WRONG WITH THE NEW REQUIREMENTS

- **Discrimination:** President Trump has made clear his intent to discriminate against immigrants who are Muslim or people of color or who come from disfavored countries. He has done this through the various iterations of the [Muslim ban](#) that would either ban Muslims explicitly or would ban nationals of primarily Muslim countries; his characterization of [Mexicans](#) as criminals; his rejection of noncitizens from Haiti, El Salvador, and African countries, which he characterized as “[shithole](#)” countries; and his stated preference for immigrants of countries with predominantly white populations, such as [Norway](#). Requiring information provided on social media platforms as well as other detailed personal information is a back-door mechanism to reject Muslims and people of color.
- **Pretextual denials:** The new requirement to list social media identifiers, telephone numbers, email addresses, and international travel demands providing a considerable amount of information. Inadvertent omissions will provide the basis for pretextual denials that will carry out the discriminatory intent described above.
- **Perpetual surveillance:** The Department of State’s (DOS’) proposed access to social media use is part of a larger Trump administration [scheme](#) of continuous, open-ended monitoring of non-citizens and naturalized citizens. This monitoring will occur without probable cause or reasonable suspicion of wrongdoing and without transparency, oversight, or accountability. The DOS proposal is merely the first step in the process.
- **Interference with free speech and privacy rights:** Requiring disclosure of social media activities has a chilling effect that violates fundamental principles of American democracy. Such disclosure will reveal political views and personal information such as religious beliefs. In addition, individuals who post materials anonymously on social media will be required to reveal their identities. The disclosure reaches far beyond noncitizens. It also reveals the views and personal information of U.S. citizens who communicate with them through social media. Both noncitizens and citizens are likely to censor themselves in order to avoid scrutiny by the U.S. government.
- **Disclosure puts noncitizens at risk:** Many noncitizens come from countries where expression of their political views or personal matters such as sexual preferences put them at risk. Their social media activities and disclosure by the U.S. government can endanger them in their own countries.
- **Inaccurate analysis will lead to bad results:** The new questions will generate enormous volumes of information. According to [technology experts](#), the analysis of such information is likely to lead to “inaccurate and biased” results.
- **Terrorism information will serve as a trap for people engaged in ordinary activities and result in collective punishment:** The application form provides no definition of terrorism. But in other contexts the U.S. government has defined terrorism and material support of terrorism in ways no ordinary person would associate with these concepts, for example, [organizing a conference](#) for a group the government deems to be an undesignated terrorist organization,

providing [food](#) under duress to terrorists, or raising or donating money for [food and humanitarian assistance](#) through a group designated as a terrorist organization. Applicants could easily fail to provide such information because they understandably do not consider it terrorist activity. And they may well be unaware of such activities by a spouse or parents. As a result, the question regarding a spouse or parents' participation in terrorist activities will inevitably result in the inadvertent failure to disclose information that the application form requests.

For the foregoing reasons, NILC requests that DOS not require applicants for a nonimmigrant visa to provide the additional information listed in the notice.