April 11, 2025

[Submitted via Regulations.gov]

Re: Comment from the National Immigration Law Center (NILC) on the Interim Final Rule "Alien Registration Form and Evidence of Registration," RIN 1615-AC96.

Dear Division Chief Mark Phillips:

The National Immigration Law Center (NILC) welcomes the opportunity to respond to the Interim Final Rule (IFR) on "Alien Registration Form and Evidence of Registration" published on March 12, 2025, which completely fails to acknowledge the sweeping administrative, fiscal and human costs posed by its implementation. This comment also responds to the information collection effectuated through Form G-325R - Biographic Information (Registration), OMB Control Number 1615-NEW. We urge the Department of Homeland Security (DHS) and its component U.S. Citizenship and Immigration Services (USCIS) (hereinafter "the Department" or "DHS") to immediately rescind the IFR and eliminate this unnecessary, highly costly and irreparably harmful process. The only appropriate rulemaking on registration is the removal of 8 C.F.R. Part 264 in its entirety in light of the obsolescence of the underlying legal regime.

I. The IFR is not a "procedural rule" but a legislative rule properly subject to notice-and-comment rulemaking given its fundamental alteration of the rights and interests of noncitizens and federal, state and local governments.

The Department errs in its determination that the Rule constitutes a "rule of agency organization, procedure, or practice" ("procedural rule") exempted from notice-and-comment rulemaking under the Administrative Procedure Act (APA).[1] This assertion is wrong because the Rule foreseeably alters the rights and interests of millions of noncitizen parties potentially subject to its requirements, on its face. The Department's attempts to support its claim that no party's rights or interests are altered rest on the bare existence of the registration statute and is belied by the fact that the statute would not be enforced in the way the IFR proscribes absent the Department's own promulgation of the IFR. The IFR fails to address its fundamental departure from the rare and narrow application of the registration statute over the course of the past 80 years and any history of rulemaking under the statute.

Even a basic review of the law's antecedents reveals that the U.S. has effectively abandoned universal noncitizen registration for three quarters of a century.[2] By 1950, the U.S. had completely abandoned the World War II-era independent registration process reflected in the statute. After significant overhauls to the Immigration and Nationality Act (INA) in 1952 and 1965, the federal government had transitioned registration into regularized immigration applications and enforcement, because noncitizens "registered" as part of their regular

[1] Alien Registration Form and Evidence of Registration, 90 Fed. Reg. 11,793, 11,796 (Mar. 12, 2025) (to be codified at 8 C.F.R. pt. 264).
[2] Nancy Morawetz & Natasha Fernandez-Silber, *Immigration Law and the Myth of Comprehensive Registration*, 48 U.C. Davis L. Rev. 141 (2014), *available at* https://lawreview.law.ucdavis.edu/sites/g/files/dgvnsk15026/files/media/documents/48-1_Morawetz_Fernandez-Silber.pdf.

immigration processes and there was no longer any independent and universal noncitizen registration process to speak of.[3] Practically, this has meant that for nearly a century, mandatory registration has been a dead letter.

The Rule's conclusion that as many as two to three million people are now subject to an invasive and mandatory registration process newly created by the Rule underscores the hollowness of the Department's procedural rule exception claim. The Rule attempts to resurrect a long-abandoned legal scheme yet fundamentally alters it by newly requiring millions of noncitizens to provide potentially incriminating information in the registration form and to obtain fingerprints in order to be detained and deported – or expose themselves to further criminal liability for failure to comply. The Rule imposes new burdens and obligations on millions of noncitizens, including 14- and 15-year-old children and many with various forms of lawful immigration status under the INA that are not explicitly considered "registered" by the Rule, forcing them to navigate a new and highly invasive process and exposing them to substantially high risks that their constitutional rights and civil liberties may be violated under the Rule's criminal enforcement provisions.

The Department further fails to consider the impact of arbitrary and discriminatory searches, seizures, detentions, and deportations premised on the Rule and the impacts on noncitizens and citizens alike - particularly the requirements that carry criminal penalties if they fail to carry "proof of registration" on their person at all times.[4] The Rule fundamentally alters the rights and interests of millions of noncitizen parties, and may also impact citizens to the extent they too may be asked to carry "proof" of their citizenship in any dragnet created by the Rule. As such, the IFR is a legislative rule subject to APA notice-and-comment rulemaking requirements.

II. The IFR is already causing a chilling effect on fundamental First Amendment expression.

Foremost to American democracy is the First Amendment right to freedom of speech, freedom that includes the right to nonviolently object to government policies and action. Fear of detention or arrest based on racial profiling by law enforcement asking people to show proof of registration is highly likely to have a chilling effect on First Amendment-protected speech. This is particularly the case for speech challenging policies that may have a racially discriminatory effect,[5] as fear of racial profiling in connection with arbitrary immigration enforcement is already taking hold across the country.[6] Those negatively impacted will include membership

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[3] *See id.*

[4] 90 Fed. Reg. at 11794 (citing 8 U.S.C. § 1304(e)). ("Noncitizens newly issued proof of registration and fingerprinting under the IFR can be prosecuted for failure to carry that proof of registration at all times.")

[5] *See, e.g.*, Gloria Oladipo, "'A warning for students of color': ICE agents are targeting certain protesters, say experts," *The Guardian* (Mar. 26, 2025), *available at* https://www.theguardian.com/us-news/2025/mar/26/us-universities-students-israel-palestine-protests.

[6] Suzanne Gamboa and Nicole Acevedo, "Trump immigration raids snag U.S. citizens, including Native Americans, raising racial profiling fears," *NBC News* (Jan. 28, 2025), *available at* https://www.nbcnews.com/news/latino/trump-immigration-raids-citizens-profiling-accusations-native-american-rcna189203; *see also* Robert Tait, "US academic groups sue White House over planned deportations of pro-Gaza students," *The Guardian* (Mar. 25, 2025), *available at* https://www.theguardian.com/us-news/2025/mar/25/pro-palestine-student-deportation-lawsuit.

organizations such as labor unions, mutual aid societies and community organizers, as well as U.S. citizens who will reasonably fear being wrongly suspected of being subject to registration.

NILC works with many membership organizations across the U.S., organizations that rely on attendance at in-person events including rallies, protests, and lobby days. Members who fear retaliatory enforcement may reasonably refrain from attending such events, directly impacting the efficacy of membership organizations. Form G-325R - Biographic Information (Registration) is also likely to have a chilling effect on speech by requiring submitters to list advocacy efforts. It will be impossible for people to divorce this compulsory disclosure from the Trump administration's widely-publicized efforts to suppress the speech of noncitizen students, professors, and others with disfavored views.[7]

III. The IFR fails to account for the dramatic costs to the Federal government, "unregistered" noncitizens, and state and local governments and communities.

In its attempt to maintain the fiction that the Rule imposes no new requirements, the IFR abstains from acknowledgement or analysis of easily foreseeable costs to individuals subject to the Rule and their U.S. communities, as well as Federal, state and local governments. DHS utterly fails to adequately assess the actual costs of enforcing the Rule, claiming that any anticipated compliance-related costs are due to the statute rather than the Rule itself. In reality, the Department seeks to use an obsolete statute in a novel way to criminalize non-U.S. citizens while pretending that the cost of enforcing the Rule's requirements and its corollary criminal statutes will be limited to increased "biometric activities" for DHS.[8]

As implicitly acknowledged by the IFR's focus on criminal penalties for failure to comply with registration requirements, implementation and enforcement of the Rule will require civil and criminal law enforcement efforts. Given the alleged applicability of the Rule and its underlying statutes to millions of noncitizens in the U.S., enforcement contemplates significant administrative costs including personnel, training, and materials, as well as costs attributable to any anticipated increase in caseload among immigration judges, already suffering from significant backlogs.

Moreover, with the exception of an anticipated increase in Federal Bureau of Investigation (FBI) background checks, the Department is silent on the associated costs of the Rule's implementation and enforcement on the Department of Justice (DOJ), the agency tasked with enforcing the Federal criminal statutory penalties featured in the IFR and adjudicating removal proceedings for noncitizens charged as inadmissible or deportable through information provided by the registration process. In 2012, even when they comprised a lower share of federal criminal

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[7] *See, e.g.*, Karina Tsui, "What we know about the federal detention of activists, students and scholars connected to universities," *CNN* (Apr. 2, 2025), *available at* https://edition.cnn.com/2025/03/31/us/what-we-know-college-activists-immigration-hnk/index.html; Ray Sanchez, "'Rules aren't clear anymore': Trump crackdown on student protesters sends shockwaves across US universities," *CNN* (Mar. 18, 2025), *available at* https://edition.cnn.com/2025/03/16/us/mahmoud-khalil-columbia-protests-free-speech/index.html; Sharon Otterman, "Professors sue Trump administration over arrests of campus protesters," *N.Y. Times* (Mar. 25, 2025), *available at* https://www.nytimes.com/2025/03/25/nyregion/professors-sue-trump.html.

[8] *Id.*

prosecutions, migration-related prosecutions alone cost more than one billion dollars annually, costs that the IFR's implementation will increase exponentially.[9]

The Rule likewise fails to assess costs to U.S. communities, including state and local governments, for its implementation and enforcement. First, the Rule will undoubtedly increase the chilling effect on immigrant workers and students afraid to go to work and school for fear of exposing themselves and their families to separation, detention, deportation, or, as contemplated by the IFR, criminalization. This will in turn impact employers, businesses, schools and local governments by shrinking local economies and making communities less stable, cohesive, safe and connected.[10]

In addition, the Rule will increase the burden on immigration attorneys in private and non-profit organizations across the country, forcing lawyers and legal service providers to allocate limited resources to providing information on the Rule's new requirements and processes and their consequences. This burden is augmented by the pervasive lack of clarity in the Rule on who is and who is not required to complete the new registration process, which will likely lead many attorneys to file Freedom of Information Act (FOIA) requests that they otherwise would not have in order to gain clarity related to registration status.

By invoking the criminal statute at 8 U.S.C. § 1304(e), the IFR contemplates enforcement of the criminal penalty for failing to carry proof of registration. Enforcing this criminal penalty is only possible if law enforcement implements some kind of "show-your-papers" practice, which will inevitably result in arbitrary searches, seizures, arrests and detentions ripe for racial profiling which impacts U.S. citizens, based on racialized assumptions about immigration status for nonwhite U.S. citizens thought to "look" or "sound foreign" to law enforcement officials. Such profiling is in fact already happening in communities across the U.S.[11] Enforcement of the criminal penalty for "failure to carry proof of registration" will impede community trust in and cooperation with law enforcement and make communities less safe.[12] In addition, state and local governments will likely incur increased costs from defending against litigation as people sue state and local police for unlawful discrimination arising from the racial profiling inherent in the enforcement of the carry requirement.[13]

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[9] Jesse Franzblau, "Five Ways that Immigration Prosecutions Are Ineffective and Deadly," Nat'l Immigrant Justice Center (Jul. 19, 2022), available at https://immigrantjustice.org/staff/blog/five-ways-immigration-prosecutions-are-ineffective-and-deadly.

[10] *See, e.g.*, Rebecca Davis O'Brien & Miriam Jordan, "A chill sets in for undocumented workers, and those who hire them," *N.Y. Times* (Mar. 9, 2025), *available at* https://www.nytimes.com/2025/03/09/business/economy/immigrant-workers-deportation-fears.html; Miriam Jordan *et al*., "Immigrant communities in hiding: 'People think ICE is everywhere,'" *N.Y. Times* (Jan. 30, 2025), *available at* https://www.nytimes.com/2025/01/30/us/immigrant-communities-hiding-ice.html.

[11] *See, e.g.*, Nicole Foy, "Some Americans have already been caught in Trump's immigration dragnet. More will be," *ProPublica* (Mar. 18, 2025), *available at* https://www.propublica.org/article/more-americans-will-be-caught-up-trump-immigration-raids.

[12] Tim Henderson, "Despite profiling concerns, more law agencies are joining street-level immigration enforcement," *Stateline* (Mar. 5, 2025), *available at* https://stateline.org/2025/03/05/despite-profiling-concerns-more-law-agencies-are-joining-street-level-immigration-enforcement/.

[13] Anneliese Hermann, "287(g) agreements harm individuals, families, and communities, but they aren't always permanent," *Center for American Progress* (Apr. 4, 2018), *available at*

A. The Department insufficiently considers administrative costs and impacts the Rule will have on USCIS Application Support Centers.

In addition to failing to assess the costs of enforcing the Rule, the Department fails to adequately identify and analyze the administrative costs to USCIS of processing Form G-325R and associated biometrics through the Application Support Centers (ASCs). Although the IFR provides a thin assessment of the biometrics processing costs as directly related to the ASCs,[14] it makes no mention of the cost implications of adding an entire new form to be used by potentially millions of noncitizens.[15] Moreover, the Rule omits any reference to the Office of Management and Budget (OMB) Supporting Statement for Form G-325R and its estimate of $71,960,000 in costs to the government related to the form.

The Rule says nothing about the administrative costs, including personnel, materials and overhead, that will be associated with processing potentially millions of Form G-325R submissions. It is likewise silent on the potential costs of adding a significant additional workload to an agency already historically overburdened and backlogged across benefit categories.[16]

B. The IFR's implementation may have a significant economic impact on a substantial number of small businesses and other small entities, especially near the Canadian border.

The IFR claims without support or analysis that the Rule will not have a significant economic impact on a substantial number of small entities (such as small businesses).[17] This unsupported assertion disregards easily foreseeable effects of the Rule's implementation, particularly on tourism to the U.S. generally and especially for prospective Canadian visitors, including those who may have previously sought to remain in the U.S. for more than 30 days. The Canadian government recently issued an updated travel advisory for Canadians considering visiting the U.S.,[18] while Canadian media has reported on the foreseeable "show-your-papers" impacts of the registration proof carry requirement contemplated by the IFR on Canadian visitors to the U.S.[19]

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https://www.americanprogress.org/article/287g-agreements-harm-individuals-families-communities-arent-always-permanent/.

[14] Alien Registration Form and Evidence of Registration, 90 Fed. Reg. 11,793, 11,796-97 (Mar. 12, 2025) (to be codified at 8 C.F.R. pt. 264).

[15] *Id.* at 11,797.

[16] *See, e.g.*, Adriel Orozco, "While federal firings focus on immigration processing, funding for immigration enforcement expands," Immigration Impact, American Immigration Council (Mar. 6, 2025), *available at* https://immigrationimpact.com/2025/03/06/federal-firings-immigration-processing-enforcement-expands/.

[17] Alien Registration Form and Evidence of Registration, 90 Fed. Reg. 11,793, 11,798 (Mar. 12, 2025) (to be codified at 8 C.F.R. pt. 264).

[18] The Canadian Press, "Canada updates travel advisories for U.S., China after recent tensions," *CBC* (Mar. 22, 2025), *available at* https://www.cbc.ca/news/canada/us-travel-registration-canadians-1.7490768.

[19] Holly Cabrera, "Canadians exempted from fingerprinting for U.S. travel under new Homeland Security rules," *CBC News* (Mar. 11, 2025), *available at* https://www.cbc.ca/news/politics/us-travel-immigration-law-executive-order-canadians-1.7481054.

Moreover, the Rule does not exist in a vacuum. As DHS Secretary Kristi Noem, among others, has made explicit, the IFR represents a key piece of a larger effort to effectuate the administration's "mass deportation" goals.[20] This effort coexists with ongoing hostility and threats by the administration toward Canada, which has led to a precipitous and ongoing decrease in Canadian tourism to the U.S.[21] This decrease is already having a significant economic impact on tourism entities, while communities near the U.S.-Canada border fear ongoing decreases in business as Canadians decline to enter the U.S.[22] This phenomenon could impact additional small entities in communities farther south in the U.S. as Canadian "snowbirds" are dissuaded from longer visits to the U.S. south and southwest during the winter months.[23]

As a result, the Rule wrongly ignores the significant economic impacts of this Rule on small entities in many U.S. communities.

IV. The enforcement contemplated by the IFR will necessarily rely on national origin, which will inevitably result in racial profiling, including wrongful arrest and detention of U.S. citizens and lawfully present noncitizens.

The implementation of the Rule, although being justified as beneficial for the efficacy and efficiency of law enforcement resources, carries a prima facie racially discriminatory effect. The IFR particularly targets a single group: non-citizens, a target based not only on national origin but also on race and ethnicity.

The intent to discriminate based on national origin is intrinsically linked to political rhetoric against immigrant communities and racial prejudice, rather than legitimate national security or public safety concerns. Citing unsubstantiated "criminality" as a broad characterization of immigrants, President Trump has consistently made statements rooted in eugenicist, nativist, and xenophobic sentiments to justify sweeping policy measures.

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[20] "Secretary Noem announces agency will enforce laws that penalize aliens in the country illegally," Dep't. of Homeland Security (Feb. 25, 2025), *available at* https://www.dhs.gov/news/2025/02/25/secretary-noem-announces-agency-will-enforce-laws-penalize-aliens-country-illegally.

[21] Claire Fahy, "Feeling 'slapped across the face by Trump,' Canadians say they'll skip U.S. trips," *N.Y. Times* (Feb. 27, 2025), *available at* https://www.nytimes.com/2025/02/27/travel/canada-tariffs-us-tourism.html; *see also* Marina Dunbar, "Flight booking between Canada and US down 70% amid Trump tariff war," *The Guardian* (Mar. 27, 2025), *available at* https://www.theguardian.com/world/2025/mar/27/canada-us-flights-down-trump; Vjosa Isai & Christine Chung, "Airlines cut seats to the U.S. as Canadians stay away," *N.Y. Times* (Mar. 28, 2025), *available at* https://www.nytimes.com/2025/03/28/world/canada/air-canada-flights-seats-us.html; Bob Chiriato, "Canadians cancel trips to Chicago over Trump, sparking worries ahead of summer tourist season," *Chicago Sun-Times* (Apr. 4, 2025), *available at* https://chicago.suntimes.com/small-business/2025/04/04/canadians-tourism-chicago-trump-summer-tourist-season.

[22] Matthew Haag & David Andreatta, "Trump's threat to annex Canada is keeping tourists north of the border," *N.Y. Times* (Mar. 19, 2025), *available at* https://www.nytimes.com/2025/03/19/nyregion/nyc-tourism-canada-trump.html.

[23] *See, e.g.*, Avery Lotz, "Trump administration to start registering some Canadian visitors," *Axios* (Mar. 12, 2025), *available at* https://www.axios.com/2025/03/12/trump-canada-visitors-immigration-authorities; "Canadians who visit US for more than 30 days will need to register," *The Guardian* (Mar. 13, 2025), *available at* https://www.theguardian.com/world/2025/mar/13/canada-fingerprint-visit-us.

The Trump Administration's Executive Order 14159, "Protecting the American People Against Invasion" 90 Fed. Reg. 8443 (Jan. 20, 2025) ["Jan. 20 EO"] is inherently founded in race-based prejudice and its implementation through the IFR is based on the premise that immigrants who are not citizens are "invading" the United States, a claim falsely made by President Trump leading up to his second term: for instance, when he stated "we got a lot of bad genes in our country right now," as he argues immigrants are "poisoning the blood of our country," and must be excluded from entry.[24] In addition, President Trump and Vice President Vance claimed that Haitians were "eating pets" and that their presence in Springfield was "destroying their way of life," while likening their presence to an invasion.[25] Just as eugenics used the Immigration Act of 1924, the Chinese Exclusion Act, and others alike to impose national origin and race-based restrictions, we already witnessed the Trump administration using the Alien Enemies Act ("AEA") to weaponize broad executive authority to unlawfully and extraterritorially incarcerate Venezuelan immigrants.[26]

The explicit criminalization of non-citizen status with the underlying racially discriminatory motive for the Rule will undeniably harm marginalized Black and Brown communities, citizens and noncitizens alike, who are disproportionately incarcerated in the U.S. The enforcement of the requirement that proof of registration must be carried by noncitizens at all times will likely result in people of color, regardless of immigration status, being asked to prove their registration status and lawful presence or citizenship if encountered by law enforcement officers. Such racial profiling will endanger, among many others, many thousands of people with lawful permanent residence, asylum, U-Visas, DACA or TPS, subjecting community members who have qualified for key protections under our laws to harassment, arrest, detention, and even criminal prosecution rooted in racial bias and animus.

V. The IFR's implementation is highly likely to result in extensive due process violations, especially when considered in the context of the Trump administration's immigration enforcement policies and practices.

Since taking office, the Trump administration has engaged in a pattern of enforcement actions that have consistently violated basic principles of due process. For example, the Trump administration has targeted cities and states solely on the basis of their welcoming policies, leading to sweeping raids and arrests that have led to alarming violations of constitutional and statutory rights.[27] These enforcement actions have led to hospitalizations, family separations, the

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[24] Michelle Price, Trump Says Migrants Who Have Committed Murder Have Introduced 'A Lot of Bad Genes in Our Country,' *AP News* (Oct. 7, 2024), https://apnews.com/article/donald-trump-immigration-2024-election-2157777f240142e5aed38be192a52b25.

[25] Huo Jingnan & Jasmine Garsd, JD Vance Spreads Debunked Claims About Haitian Immigrants Eating Pets, *National Public Radio* (Sept. 10, 2024), https://www.npr.org/2024/09/10/nx-s1-5107320/jd-vance-springfield-ohio-haitians-pets.

[26] Nicholas Riccardi & Will Weissert, Trump Invokes 18th Century Law to Speed Deportations, Judge Stalls It Hours Later, *AP News* (Mar. 16, 2025), https://apnews.com/article/trump-aclu-deportations-venezuelans-b2566f05b10bf1cde1caf467a3b001cc.

[27] Executive Order 14159 of January 20, 2025, Protecting the American People Against Invasion, 90 Fed. Reg. 8443 (published on Jan. 20, 2025). Tears, fears — but few details — in wake of immigration sweeps across Chicago area, WBEZ Chicago (Jan. 7, 2025), https://www.wbez.org/immigration/2025/01/27/chicago-immigration-ice-raid-monday; see also Alicia A. Caldwell,

detention of domestic violence survivors, and the disappearance of small business owners and employers who contribute to our economy. Immigration and Customs Enforcement (ICE) has also engaged in a pattern of warrantless collateral arrests that violate binding settlement agreements, sweeping up even U.S. citizens.[28] These examples have shown that this administration shows little to no respect for the law prior to disappearing new and long-standing members of our communities in the name of mass deportation.

The administration's cruelty towards immigrant families has not spared U.S. citizen children either. The Trump administration recently deported a family of seven, including four U.S. citizen children—one of whom was on their way to get brain cancer treatment.[29] Though DHS has no lawful right to deport U.S. citizens, this is likely to become a daily occurrence with the implementation of this Rule. One in four children has an immigrant parent.[30] Studies have shown that U.S. children of mixed status families experience "significant emotional and behavioral consequences and detrimental educational outcomes" as they fear their parent could be arrested, detained, or deported.[31]

This registration process is part of a larger attack on immigrant communities. By giving more tools to this administration, the Rule will fuel the alarming enforcement practices already commonplace under this administration.

VI. The IFR's deficient treatment of the complex web of immigration forms considered to meet registration requirements will cause confusion and fear for many lawfully present noncitizens who should be considered registered.

Given its reliance on the Alien Registration Act of 1940, many immigration applications, benefits, and standard forms updated in more recent years are excluded from the IFR's purview, creating unnecessary confusion and fear for immigrants who have come forward seeking established benefits and protections.. Among these are asylum, U and T nonimmigrant status, Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status (TPS).

8 USC 1304, on which the 8 CFR 264.1 and the IFR rely, authorizes the Attorney General and Secretary of State to create forms that capture the information required for registration. This includes "(1) the date and place of entry of the [noncitizen] into the United States; (2) activities

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X (Jan. 26, 2025), https://x.com/aacaldwellLA/status/1883580370396094672 (reporting that of about 260 people arrested in the Chicago area, only seven had criminal warrants).

[28] National Immigrant Justice Center, 22 People Arrested in ICE Raids Announce Federal Court Action Challenging Unlawful Warrantless ICE Arrests Under New Trump Administration (March 17, 2025), https://immigrantjustice.org/press-releases/22-people-arrested-ice-raids-announce-federal-court-action-challenging-unlawful.

[29] Nicole Acevedo, "U.S. citizen child recovering from brain cancer removed to Mexico with undocumented parents," *NBC News* (March 12, 2025), *available at* https://www.nbcnews.com/news/latino/us-citizen-child-recovering-brain-cancer-deported-mexico-undocumented-rcna196049.

[30] Nicole Acevedo, "1 in 4 children have immigrant parents. Are U.S. policies reflecting that reality?," *NBC News* (March 14, 2019), *available at* https://www.nbcnews.com/news/latino/1-4-children-have-immigrant-parents-are-u-s-policies-n982786.

[31] Zayas LH, Aguilar-Gaxiola S, Yoon H, Rey GN. The Distress of Citizen-Children with Detained and Deported Parents. J Child Fam Stud. 2015 Nov 1;24(11):3213-3223. doi: 10.1007/s10826-015-0124-8. Epub 2015 Jan 18. PMID: 26640358; PMCID: PMC4667551.

in which [they] ha[ve] been and intend to be engaged; (3) the length of time [they expect] to remain in the United States; (4) [their] police and criminal record, if any [ ]; and (5) such additional matters as may be prescribed."[32] The Department has not demonstrated why the information and evidence contained in the applications requesting DACA and TPS, among other excluded long-established immigration benefits like asylum or U and T nonimmigrant status, are insufficient for these purposes. For example, people seeking DACA or TPS must answer numerous questions regarding criminal and immigration history and must submit biometrics shortly after filing.[33]

The IFR will cause immense confusion for many people with lawful immigration status, including those with DACA. Determining whether a noncitizen needs to submit a G-325R is extremely complex, and depends on several factors including their manner of entry, whether they have been in removal proceedings, whether they have ever filed a Form I-485, Application to Register Permanent Residence or Adjust Status, whether they have a Form I-766 Employment Authorization Document (which largely depends on long processing times outside the survivors' control), and the ultimate decision in their cases. And yet the Rule is silent on whether someone possessing a regulatory "form" or "evidence" of registration but who was not fingerprinted would have to use the new registration process and/or be fingerprinted in order to be "registered."

Many people, including those with DACA or TPS who have already provided extensive information and biometrics to USCIS, may reasonably believe that they have already registered, given the incoherence and complexity of the Rule and the Department's extremely limited public notice of the new registration requirements.[34] Many may have to submit Freedom of Information Act (FOIA) requests to determine whether they are already registered. Even for those noncitizens already considered "registered," the Rule lacks guidance on how they can comply with the carry requirement or otherwise avoid being stopped and arrested for failure to register.

The new, separate registration process created by the IFR is a dangerous tool of intimidation and fear. One of the express goals of the IFR is "to improve DHS law enforcement efficacy, because law enforcement personnel would have access to a more comprehensive registration data."[35] DHS does not hide the fact that registration is designed as an immigration enforcement tool. Congress created USCIS to be a benefit-granting agency.[36] The IFR represents yet another way in which USCIS is betraying that mission to become a third enforcement arm of DHS.

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[32] 8 USC § 1304.

[33] VAWA self-petitioners similarly must submit biometrics if submitting a Form I-765: Application for Employment Authorization Document or a Form I-485, Application to Register Permanent Residence or Adjust Status.

[34] Despite the serious and widespread criminal and civil enforcement consequences of the Rule and the Department's assessment of its application to between two and three million people, DHS has limited its public notice of the Rule's complex new requirements to a USCIS webpage, the Rule's publication in the Federal Register, and a brief appearance by DHS Secretary Noem on Fox News. The Rule is silent on whether such limited public notice could possibly be adequate given the significant due process and liberty interests at stake for millions of people across the U.S.

[35] See IFR V.B

[36] Congress specifically designated USCIS as the immigration benefits and adjudications agency in the Homeland Security Act in 2002 See, Section 451(b) Pub. L. No. 107–296, 116 Stat. 2135) (November 25, 2002), available at: https://www.dhs.gov/xlibrary/assets/hr_5005_enr.pdf

VII. The IFR fails to address whether any confidentiality or privacy protections or considerations apply or to justify their inapplicability.

The IFR is completely silent on privacy and confidentiality protections associated with the registration requirement. The Form G-325R contains links to several systems of record notices, but does not specify how they are related to the information collection. It also states that DHS may share the information, as appropriate, for law enforcement purposes or in the interest of national security.[37]

DHS does not provide clear information regarding the privacy impact of the IFR to clarify how this registration comports with existing law, including 8 U.S.C. § 1367 and related guidance.[38] This makes it difficult for individuals, including those subject to 8 U.SC.§ 1367 protections or DACA recipients, to fully understand how their information will be used and shared in compliance with existing law. Survivors who have already applied for U or T nonimmigrant status or VAWA protections, but who are not considered registered, may now need to disclose personal, confidential information in order to register but without the assurances of confidentiality and privacy protections that attached to their applications for protections as survivors of violence and abuse.

VIII. The proposed Form G-325R is overbroad and vague and the Department's use of the form without meaningful notice and comment opportunity violates the Paperwork Reduction Act.

A. The use of Form G-325R violates the Paperwork Reduction Act.

The Paperwork Reduction Act (PRA) requires that forms used for the collection of information for immigration be published in the Federal Register with an initial comment period of 60 days and a follow up comment period of 30 days after comments from the initial collection period have been considered. The purpose of this notice and comment structure is to ensure that the information collection is accurate as to the necessity of the collection and the burden on the public.[39]

The Form G-325R was posted for online filing on March 3, 2025. The IFR was published in the Federal Register on March 12, 2025 which included the information collection notice for the Form G-325R. In sum, the Department made the form available for online filing before the publication of the IFR, and the form has continued to be available during the 30-day delay of the effective date. Further, the Department did not provide individual notice on the form, but included it in a broader comment collection with the IFR, resulting in confusion for the commenting public. No justification was provided for these major deviations from procedure.

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[37] *See* Form G-325R- Biographic Information (Registration), available at https://www.regulations.gov/document/USCIS-2025-0004-0022.

[38] *See* Implementation of Section 1367 Information Provisions, DHS Instruction 002-02-001, Revision 00.1, issued November 7, 2013. See also DHS Directive 215-01 and DHS Instruction 215-01-001 Disclosure Of Section 1367 Information To National Security Officials For National Security Purposes; and DHS Instruction 215-01-002, Disclosure Of Section 1367 Information To Law Enforcement Officials For Legitimate Law Enforcement Purposes, available at https://www.dhs.gov/sites/default/files/publications/1367%20PCR%20Report%20FINAL%2020190204.pdf.

[39] 44 USC § 3501 et. seq.

In circumventing the PRA in this manner, the Department has deprived the public of a meaningful opportunity to comment on the form and accurately provide information as to the necessity and burden to the public posed by Form G-325R. As such, the form should be rescinded in its entirety.

B. The information collected on Form G-325R is vague, overbroad and will cause confusion for the public.

The information collected on Form G-325R presents a burden to the public that is not accurately addressed in the IFR. In addition to requesting information about the subject of the application, the form requests overly broad information about the subject's spouse and parents. The information requested goes beyond what is explicitly described in the statute, an overreach that is promulgated without comment in the Rule or its associated information collection. This information serves only to provide another mechanism by which to intimidate and coerce information from those completing the form and bears no relation to purported information collection. Further, the form includes vague questions about the applicant's "activities" in the United States with no guidance as to what should be included in response to this answer, not least given that the form lacks any accompanying instructions.

The lack of clarity and clear instruction on the form is exacerbated by the Department's stated intention in the IFR to apply criminal fraud penalties for erroneous responses, errors that could easily and foreseeably arise from confusion and the absence of clear instructions. The burden on the public in completing this form is far greater than what is estimated by the IFR. Further, the overbroad and vague questions represent a blatant overreach by the Department. The form should be rescinded in its entirety.

IX. The IFR fails to address the fundamental constitutional concerns raised by the questions on Form G-325R.

Although the Rule raises some potential criminal consequences related to compliance with registration and changes of address, it is silent on the constitutional implications of requiring people to respond to the mandatory questions in the online-only Form G-325R, Biographic Information (Registration). The Fifth Amendment of the U.S. Constitution applies to all persons in the U.S. regardless of citizenship status and includes the right to remain silent and the right against self-incrimination. Yet Form G-325R contains numerous mandatory questions and sub-questions seeking significant detail on any potential criminal activity, whether charged or not, in addition to questions about the registrant's immigration history that may reveal inculpatory information connected to migration-related federal offenses. Moreover, the question asking "Immigration status at last arrival" has a singular option in the drop-down answer menu of "EWI - Entry Without Inspection," meaning that the only available USCIS-supplied answer for a mandatory Form G-325R question implicates the submitter in the Federal crime of unlawful entry.[40]

While some of the Form G-325R mandatory questions related to criminal activity resemble questions on other USCIS forms, Form G-325R is not a benefit request form, unlike other USCIS forms with similar questions. Those who submit benefit request forms to USCIS are

[40] 8 U.S.C. § 1325.

affirmatively seeking to meet a burden of proof in order to obtain an immigration benefit and retain the ability to exercise their Fifth Amendment right to not be compelled to self-incriminate. In contrast, the Rule seeks to establish Form G-325R – with its mandatory questions – as an obligation for potentially millions of noncitizens in the U.S., with the only affirmative benefit to the submitter being an easily-degradable printout document intended to forestall criminal prosecution under two long-disused criminal statutes.[41]

When read in the context of the Department's announcement of the new registration process,[42] it is clear that Form G-325R is meant as a fishing expedition to force noncitizens to expose themselves to self-incrimination under cover of a long disused and obsolete World War II-era law. This would effectively nullify the Fifth Amendment rights of noncitizens the Rule considers required to submit Form G-325R. The lack of any acknowledgement or discussion of these foreseeable impacts on the Fifth Amendment rights of the Rule's affected population is glaring in its absence and raises grave constitutional and Administrative Procedure Act concerns.

X. The IFR is silent on the numerous harmful impacts its implementation will have on vulnerable populations.

A. Requiring children between the ages of 14 and 18 years old to register and be fingerprinted runs contrary to longstanding norms in the U.S. legal system.

The IFR places an alarming requirement on children between the ages of 14 and 18 years old to submit themselves to registration, fingerprinting, and background checks. Subjecting children to invasive reporting requirements raises numerous concerns and belies the outdated nature of the law on which this Rule is based. In the decades since that law was written, our society has seen significant evolution in the law and science of our understanding of childhood and adolescence, including intervening law that recognizes the significant differences and vulnerabilities of children and teenagers.

The United States criminal legal system has gradually moved towards protecting youth from overreaching criminal prosecution for minor infractions.[43] Juvenile justice experts agree that juvenile justice policies and stakeholders should avoid exposing youth to the criminal juvenile justice system.[44] The IFR holds children to an unrealistically high standard, given that it is not developmentally appropriate to either expect children between 14 and 18 years old to understand and fulfill the requirement to register and be fingerprinted or to safeguard proof of registration.

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[41] Alien Registration Form and Evidence of Registration, 90 Fed. Reg. 11,793, 11,796 (Mar. 12, 2025) (to be codified at 8 C.F.R. pt. 264).

[42] "Secretary Noem announces agency will enforce laws that penalize aliens in the country illegally," Dep't. of Homeland Security (Feb. 25, 2025), *available at* https://www.dhs.gov/news/2025/02/25/secretary-noem-announces-agency-will-enforce-laws-penalize-aliens-country-illegally.

[43] *See, e.g.*, Richard Mendel, Protect and Redirect: America's Growing Movement to Divert Youth Out of the Justice System, The Sentencing Project (Mar. 20, 2024), *available at* https://www.sentencingproject.org/reports/protect-and-redirect-americas-growing-movement-to-divert-youth-out-of-the-justice-system/.

[44] *See, e.g.*, Nat'l Conf. of State Legislatures, Principles of Effective Juvenile Justice Policy (Jan. 2018), *available at* https://documents.ncsl.org/wwwncsl/Criminal-Justice/JJ_Principles_122017_31901.pdf.

Moreover, even though the carry requirement only attaches at 18 years old, the IFR fails to consider how law enforcement implementing the carry requirement will distinguish between children under 18 and youth 18 and over, or whether this implicitly imposes a separate carry requirement for adolescent children subject to registration to always carry proof of their age on their person and what kind of proof of age would suffice.

Expecting that a child turning only 14 – typically a middle schooler – would be aware of, understand and complete the complex process and implications of registration or face exposure to the United States criminal juvenile system for failing to register with the Federal government is unduly burdensome and harsh, as well as inappropriate and unfounded. Nowhere in the Rule does the Department consider the implications of resurrecting a 1940 legal requirement for children in light of extensive superseding law, policy, and science recognizing the unique vulnerability of children.[45]

The information required for registration may be either unavailable or incomprehensible to children. For example, children 14 years or older may have been very young when they entered the U.S. and may not easily be able to access their immigration history, such as their date of arrival or whether they entered without inspection, were paroled or were issued a Notice to Appear. The Rule makes no provisions for developmentally appropriate information or guidance related to the many mandatory questions on Form G-325R, Biographic Information (Registration).

B. The IFR ignores its foreseeable impact on family well-being, autonomy and integrity in violation of section 654 of the Treasury General Appropriations Act, 1999.

The IFR claims without support or analysis that the Rule's implementation will not negatively affect family well-being nor have any impact on the autonomy and integrity of the family as an institution.[46] This conclusion is erroneous and belies the Rule's thorough disregard for its impacts on children, parents, and legal guardians. While not exhaustive, it is clear that at least two critical aspects of the Rule will impact family well-being, autonomy and integrity: (1) the requirement that children independently register upon turning 14 years of age; and (2) the duty for parents or legal guardians to register their children under 14.

Assigning children only 14 years old the responsibility of completing a complex registration process using an online form with questions that entail complex civil and criminal liability and privacy and confidentiality issues raises weighty legal and ethical concerns that go unacknowledged by the Department. Yet imposing this requirement on adolescent children, many of whom will not even be in high school, will certainly impact the safety or stability of countless families. It will also interfere with parents' autonomy in the education and supervision of their children. The Rule makes no attempt, for example, to examine the relationship between parental responsibility under the law for children under the age of 18 and this requirement assigning independent responsibility (and implicitly, liability) to children between the ages of 14

[45] *See, e.g.*, *Roper v. Simmons*, 543 U.S. 551 (2005); *In re Gault*, 387 U.S. 1 (1967); *Matter of Devison*, 22 I&N Dec. 1382 (BIA 2000).

[46] Alien Registration Form and Evidence of Registration, 90 Fed. Reg. 11,793, 11,799 (Mar. 12, 2025) (to be codified at 8 C.F.R. pt. 264).

and 18. This requirement also clearly establishes a policy concerning the relationship between the behavior and personal responsibility of youth and the norms of society – notably, by resurrecting outdated norms related to responsibility of children that have been superseded by many decades of intervening law and scientific research.

It is also likely that the Rule's requirement that parents and legal guardians complete the registration process on behalf of their children under 14 years old will impact the safety or stability of the family or the authority of parents in the education, nurture, and supervision of their children. The Rule requires parents to volunteer information about their children that could expose their children to, at minimum, civil immigration enforcement, including detention and deportation. This clearly impacts family well-being and the safety and stability of the family, as well as the authority of parents to direct the education, nurture and supervision of their children.

The Department's determination that the implementation of this regulation will not negatively affect family well-being nor impact the autonomy and integrity of the family as an institution is erroneous and violates the requirements of section 654 of the Treasury General Appropriations Act, 1999 by failing to provide an adequate rationale for the Rule's implementation in light of its negative impact on family well-being.

C. The IFR understates and misapprehends the expected impact on Native American tribal communities.

The IFR claims without support or analysis that the Rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, erroneously asserting that it will not have a substantial direct effect on one or more Indian Tribes or the relationship between the Federal Government and Indian Tribes.[47] This assertion ignores the mechanics of implementing and enforcing the IFR, which will necessarily require law enforcement to identify people who appear to be noncitizens and ask them to produce proof of compliance with registration. Members of Indian Tribes are U.S. citizens and members of the American community and could very feasibly be subject to immigration and criminal enforcement related to the Rule.

Moreover, DHS law enforcement has a practice of seeking citizenship documentation from members of Indian Tribes going about their lives in the community, with a noticeable increase in such discriminatory racial profiling since the beginning of the current administration.[48] This has led at least seven Indian Tribes to issue guidance to their members on carrying documentation

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[47] Alien Registration Form and Evidence of Registration, 90 Fed. Reg. 11,793, 11,798 (Mar. 12, 2025) (to be codified at 8 C.F.R. pt. 264).

[48] *See, e.g.*, Shondiin Silversmith, "Senators call for ICE to respect tribal sovereignty amid immigration enforcement," *AZ Mirror* (Feb. 25, 2025), *available at* https://azmirror.com/briefs/senators-call-for-ice-to-respect-tribal-sovereignty-amid-immigration-enforcement/; Andrew Hay, "Native Americans say tribal members harassed by immigration agents," *Reuters* (Jan. 30, 2025) *available at* https://www.reuters.com/world/us/native-americans-say-tribal-members-harassed-by-immigration-agents-2025-01-30/.

and responding to immigration enforcement encounters.[49] In addition, tribal members observe that DHS officers sometimes baselessly fail to accept tribal identification as valid.[50] Despite its contemplation of enforcement of the "carry requirement," the IFR is silent on the implications of a national show-your-papers regime for tribal communities. As a result, the Rule errs and worse, turns a blind eye to the harmful impacts of this Rule on tribal communities, in asserting that there are no Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments.

D. The IFR is silent on the impact of its online-only process on people with disabilities, including access to the registration process itself.

The IFR does not mention people with disabilities, yet it is clear that all immigrants, including people with disabilities, must be registered or face consequences. The failure to consider how people with disabilities may access and be affected by the registration process violates Section 504 of the Rehabilitation Act, which prohibits discrimination on the basis of a disability[51] in programs, services, or activities conducted by U.S. federal agencies, including DHS.[52]

The registration process for people considered unregistered is inaccessible in a number of ways, and people with disabilities therefore do not have meaningful access.[53] People with certain mental health, developmental or cognitive disabilities may be unable to determine if the new registration requirement does or does not even apply to them. Registration requires access to the internet and a computer or smartphone and an email address. This may be difficult or impossible

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[49] Erin Alberty and Russell Contreras, "Native American tribes say ICE harassing members amid raids," *Axios* (Jan. 29, 2025) *available at* https://www.axios.com/2025/01/29/native-american-immigration-raids-navajo-nation; Ximena Bustillo, "Fearing encounters with ICE, tribal leaders offer guidance to their members," *NPR* (Jan. 29, 2025) *available at* https://www.npr.org/2025/01/29/nx-s1-5276351/trump-immigration-tribal-concerns.

[50] *Id.*

[51] The Rehabilitation Act defines "disability" as "a physical or mental impairment that substantially limits one or more major life activities of [the] individual. 42 U.S.C. § 12102(1).

[52] 6 C.F.R. § 15 (applying to DHS); accord 28 C.F.R. § 39.130 (same). *See also* ICE, *Disability Access*, https://www.ice.gov/leadership/ocrc/disability-access (accessed Mar. 25, 2025); DHS, *Our Commitment to Implementing Section 504 of the Rehabilitation Act Across DHS*, https://www.dhs.gov/our-commitment-implementing-section-504-rehabilitation-act-across-dhs (accessed Mar. 25, 2025) ("DHS is committed to providing full inclusion and equal opportunity for individuals with disabilities. Whether a person with a disability is traveling through an airport, crossing into our country at a border, becoming a naturalized citizen, or rebuilding their life following a disaster, DHS has an obligation to ensure nondiscrimination and equal opportunity under Section 504 of the Rehabilitation Act."). Under Section 504, "[n]o qualified individual with a disability in the United States, shall, by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity . . . conducted by any Executive agency." 29 U.S.C. § 794. Section 504 forbids facial discrimination against individuals with disabilities and requires that executive agencies such as DHS alter their policies and practices to prevent discrimination on account of disability. The terms "benefit, programs, and services" are construed broadly. *See*, e.g., *Pennsylvania Dep't of Corr. v. Yeskey*, 524 U.S. 206, 210 (1998).

[53] The U.S. Supreme Court has created a "meaningful access" standard, whereby the government must grant reasonable modifications to "otherwise qualified" persons with disabilities (*i.e.*, the person's disability creates an impediment to fully benefiting from a program for which they qualify) to ensure they are "provided with meaningful access" to the program at issue. *Alexander v. Choate*, 469 U.S. 287, 300–02 n. 21 (1985) ("The regulations implementing § 504 are consistent with the view that reasonable adjustments in the nature of the benefit offered must at times be made to assure meaningful access."). Namely, under Section 504, covered entities must afford persons with disabilities "'equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement.'" *Id.* at 305 (citing 45 C.F.R. § 84.4(b)(2)). Thus, meaningful access means equal access.

for people with a range of disabilities, including those who are blind or have low vision; have mobility issues that affect their manual dexterity or ability to navigate technology; or have intellectual or cognitive disabilities.

Federal agencies like DHS have an affirmative obligation under Section 504 to ensure that their benefits, programs, and services are accessible to persons with disabilities, including by providing reasonable modifications.[54] "[T]he express prohibitions against disability-based discrimination in Section 504 and Title II include an affirmative obligation to make benefits, services, and programs accessible to disabled people."[55] "[N]othing in the disability discrimination statutes even remotely suggests that covered entities have the option of being passive in their approach to disabled individuals as far as the provision of accommodations is concerned."[56] Thus, failure to implement reasonable accommodations, as DHS has done in this IFR, amounts to disability discrimination.[57]

Under Section 508 of the Rehabilitation Act of 1973, federal agencies must make sure technology allows individuals with disabilities to access and use it.[58] It is unclear whether the process to create a USCIS online account, and Form G-325R itself, are in fact currently accessible as required by Section 508. We are concerned that the online registration process, which carries the risk of serious penalties when not done or done improperly, is inaccessible to people with a range of disabilities, including those who are blind or have low vision; have mobility issues that affect their ability to navigate a website; or have intellectual disabilities.

The registration process does not contemplate the assistance of another person or organization, and is in fact clear that adults and children 14 or older must register themselves. Moreover, a Section 508 violation occurs even if an individual is ultimately able to access the technology through the assistance of another person. The standard is whether the disabled person's access is "comparable" to that of "members of the public who are not individuals with disabilities."[59] Being forced to locate and rely on another person to access technology means the federal agency's technology does not provide "comparable" access to individuals with disabilities.

1. The IFR's requirement to possess proof of registration at all times disproportionately impacts people with disabilities.

The IFR cites 8 U.S.C. 1304(e), which requires that every registered alien 18 years of age and over must *at all times* carry and have in their personal possession any certificate of alien registration or alien registration receipt card. Unlike the change of address requirements where a person may demonstrate that failure to comply was not willful or otherwise reasonably

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[54] *Pierce v. District of Columbia*, 128 F. Supp. 3d 250, 266 (D.D.C. 2015).
[55] *Id*. (quoting *Choate*, 469 U.S. at 295) (emphasis added); *see also Disabled in Action v. Bd. of Elections in City of New York*, 752 F.3d 189, 196–97 (2d Cir. 2014); *Updike v. Multnomah Cnty*., 870 F.3d 939, 949 (9th Cir. 2017)
[56] *PGA Tour v. Martin,* 532 U.S. 661 (2001) at 662-63, 690; *Franco-Gonzales v. Holder*, 767 F. Supp.2d 1034, 1053 (C.D. Cal. 2010) (considering the "unique circumstances" and "Plaintiffs' individual characteristics and the procedural posture of their cases pending before the BIA" in assessing the reasonableness of the accommodation requested).
[57] *Choate*, 469 U.S. at 298.
[58] 29 U.S.C. § 794d(a).
[59] *Id.* § 794d(a)(1)(A)(ii).

excusable, there is no such consideration in this context. The IFR is silent on reasonable accommodations for people with disabilities affected by this provision.

People with certain mental health, developmental or cognitive disabilities may simply be unable to understand the registration requirement or that they need to carry proof of registration with them; or they may be in situations where even their autonomy to make decisions about carrying proof is limited (institutional settings, dependence on others for dressing or other activities of daily living, etc.).

In addition, enforcement of the carry requirement will inevitably be used as a pretext for immigration enforcement actions, which in turn will harm people with disabilities, who are disproportionately at risk in encounters with law enforcement, and most particularly will harm disabled people of color.[60] Law enforcement officers are often unequipped to interact with disabled individuals in a non-discriminatory fashion due to lack of training, resources, and bias. This makes complications more likely to develop during interactions between law enforcement and people with disabilities because communication is hindered or parties misjudge each other's actions.

The carry requirement will lead to worse outcomes for people with disabilities. People with disabilities who are presumed to be immigrants – whether or not they actually are – will experience increased law enforcement interactions. When those disabilities include limited capacity or communication impairments, a person approached by law enforcement may not understand the reasoning behind the interaction, or what is happening in the moment. This requirement, and the myriad other problems within the immigration system—including lack of access to counsel, lack of accommodations throughout the system, and inadequate medical and mental health care in detention—increase disabled noncitizens' likelihood of being deported.[61]

E. The IFR fails to consider its impact on people with limited English proficiency or other language or technological access barriers.

Despite only applying to non U.S. citizens, the Rule makes no mention of its impact on noncitizens with limited English proficiency or other language barriers. This should figure, for example, in its analysis of the costs borne by the noncitizens targeted under the Rule, including in the additional effort, time, and professional interpretation or translation support that noncitizens may need in order to comply with the Rule's requirements. The IFR does not account for any translation of Form G-325R, Biographic Information (Registration) nor for the Rule itself. This omission obscures the impact on small entities and organizations that serve limited English proficiency and low-income communities, as well as people with disabilities, and

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[60] *See, e.g.*, Vilissa Thomson, Ctr. for Am. Prog., U*nderstanding the Policing of Black, Disabled Bodies* (Feb. 10, 2021), https://www.americanprogress.org/article/understanding-policing-black-disabled-bodies/ ("In the United States, 50 percent of people killed by law enforcement are disabled, and more than half of disabled African Americans have been arrested by the time they turn 28—double the risk in comparison to their white disabled counterparts.").

[61] *See generally* Tania N. Valdez, *Disability, Race, and Immigration: The Intersectional Impact of Policing*, 65 B.C. L. Rev. 1981 (2024); *id.* at 1985 (describing instances where the criminalization of mental health crises led to immigration enforcement).

implicates Federal government obligations under Sections 504 and 508 of the Rehabilitation Act of 1973 and Title VI of the Civil Rights Act of 1964.

Moreover, the Rule omits any consideration of the impact of making its new registration process online-only. In addition to the many accessibility issues related to disability and language detailed above, noncitizens who the Department considers subject to its new registration requirements may lack reliable access to or familiarity with the Internet and submitting complex forms online. This may be especially true for noncitizens of advanced age, limited economic resources, rare language speakers, limited literacy, or residents of rural areas.

XI. Conclusion

This improperly issued Rule and its accompanying improperly issued information collection seek to justify an entirely new campaign of widespread criminal enforcement and deportation against millions of noncitizens, imposing new burdens and obligations on noncitizens that would not exist but for the Rule, on the basis of a long-dormant statute. As NILC has demonstrated, the numerous harms of this racially discriminatory effort will fall disproportionately on the most vulnerable members of our U.S. communities, tearing families apart and wreaking unprecedented human, fiscal, and democratic costs. The Department must immediately rescind the IFR and information collection and instead issue a rulemaking to remove 8 C.F.R. Part 264 in its entirety in light of the obsolescence and harms of the underlying legal regime.

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