

United States Senate

WASHINGTON, DC 20510

November 20, 2017

The Honorable Elaine Duke
Acting Secretary
U.S. Department of Homeland Security
3801 Nebraska Ave, NW
Washington, D.C. 20528

Dear Acting Secretary Duke:

We write to express concern over the notice published in October that the Department of Homeland Security (“DHS”) would be retaining “social media handles, aliases, associated identifiable information, and search results” in an immigrant’s Alien File (“A-File”).¹ Without any information explaining the scope and timing of the Department’s plans to implement social media screening of all applicants for immigration benefits, we are concerned with the constitutional and privacy concerns raised by this action. Not only does this data collection affect immigrants, it would appear to impact any individual in the United States who communicates with an immigrant, including a U.S. citizen. In addition, the Department’s own Office of Inspector General report on pilot programs for social media screening stated that the program’s “lack criteria for measuring performance to ensure they meet their objectives”.²

Given that finding, and the potentially serious implications of this kind of screening for citizens and non-citizens alike, we seek answers to the following questions:

1. How long has DHS been going through social media accounts/handles in reviewing immigration applications?
2. How does DHS define social media, and which platforms are reviewed (e.g. Facebook, video game applications, dating websites/applications, etc.)?
3. Is DHS evaluating the social media activity of every individual applying for an immigration benefit? If not, what criteria is DHS using to decide what specific individuals or groups of individuals are screened via their social media accounts?
4. If DHS is still testing social media screening through pilot programs, what is the target date for implementing a Department-wide social media screening initiative for all applicants for immigration benefits?

¹ <https://www.federalregister.gov/documents/2017/09/18/2017-19365/privacy-act-of-1974-system-of-records>

² <https://www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-40-Feb17.pdf>

5. DHS specifically noted that it would begin another pilot in January 2017. Did the agency “identify clearly defined successful outcomes from the technological, research, and productivity perspectives”?
6. Does DHS plan to implement the recommendation from the February 27, 2017 OIG report that ICE and USCIS “develop and implement a plan to evaluate the performance of social media screening pilots that includes features such as well-defined, clear, and measurable objectives and standards”?³
7. How is DHS currently collecting social media identifiers and handles of individuals who are seeking immigration benefits and how does it intend to collect this information in the future? Will DHS forms be updated to request this information as a matter of routine in the future?
8. What is the scope of the social media that DHS will include in the A-files?
9. Will DHS continue to screen individuals, including lawful permanent residents and naturalized U.S. citizens, even after they have obtained the immigration benefit requested?
10. Does the government intend to use the information from immigrants’ social media accounts to conduct political or religious vetting? If so, what criteria will be used to determine what views or beliefs pose a threat to the United States?
11. Does DHS plan to screen the social media of third parties identified in the A-File, such as U.S. born citizens, attorneys and accredited representatives, interpreters, preparers, and Civil Surgeons? If so, how will DHS collect social media handles from third parties and how does DHS plan to retain and/or use this information?
12. How does DHS plan to certify that information gleaned from an immigrant’s account was in fact posted by the owner of that account?
13. What due process protections are in place for an immigrant to dispute social media information placed in his or her A-File?
14. What protections are in place to guard against Privacy Act prohibitions regarding First Amendment-protected speech and conduct?
15. Will information retained on immigrants or their third party contacts be shared with other government agencies or components?

³ *Id.*

Given that the new or modified routine uses became effective through this notice on October 18, 2017, we request that you provide answer to the above questions as soon as possible. Thank you for your prompt attention to this matter.

Sincerely,



Robert Menendez
United States Senator



Cory A. Booker
United States Senator



Edward J. Markey
United States Senator



Kirsten Gillibrand
United States Senator



Patty Murray
United States Senator



Mazie K. Hirono
United States Senator