

**SENT VIA FAX TO 202-254-4297**

August 4, 2017

The Honorable John Roth  
Inspector General, U.S. Department of Homeland Security  
Office of Inspector General/MAIL STOP 0305  
Department of Homeland Security  
245 Murray Lane SW  
Washington, DC 20528-0305

Dear Mr. Roth:

We write to bring to your attention, and ask that your Office investigate, actions by the Department of Homeland Security (“DHS”) and its component Immigration and Customs Enforcement (“ICE”) (collectively “DHS/ICE”) to publicize federally-protected confidential information relating to untold numbers of immigrant victims of crime. Despite a federal statute directing it not to do so, DHS/ICE made this protected information available to the public through an online database, and deliberately left it publicly available for weeks, even after being specifically notified of the issue. Although DHS/ICE now appears to have removed the protected information from public view, the affected victims were put at, and may remain at, serious risk of precisely the harms that Congress sought to avert when it directed DHS/ICE not to disclose the information in the first place. These actions appear to constitute “abuse and mismanagement,” as well as a violation of federal law, and are appropriate subjects for your Office to investigate. As a result, we ask that you investigate:

- how and why the statutorily-protected confidential information was publicly disclosed in the online database when DHS/ICE has long been responsible for protecting that information, and when protocols should have been in place to prevent such disclosures;
- how and why DHS/ICE decided to leave the online database containing the protected information publicly

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available for weeks, even after being advised that the protected information was publicly available;

- whether officers and employees of DHS/ICE willfully used, published, or permitted information to be disclosed in violation of Title 8, United States Code, Section 1367(a)(2) and (c); and
- whether disciplinary measures or penalties would be appropriate.

The disclosures at issue here were made through a new and hastily-released public federal database called DHS Victim Information Notification Exchange (“DHS VINE”).<sup>1</sup> On April 26, 2017, DHS announced the launch of DHS VINE and described the database as “an automated service being launched today that will help victims track the immigration custody status of illegal alien perpetrators of crime.”<sup>2</sup>

However, DHS VINE also contains information about many people who are *not* “illegal alien perpetrators of crime.” In fact, contrary to DHS’s headline description, the database includes information about *every* detainee in ICE custody, regardless of whether they have committed any criminal offense. According to DHS:

the VINE database includes information on aliens on whom ICE has lodged a detainer, who have been booked into ICE custody, or have been booked out of ICE custody. Those are the events that trigger the notification process (for example, notification of entering ICE custody).<sup>3</sup>

Perhaps because the database is significantly overbroad, DHS/ICE has already at least twice conceded that the database publicly disclosed information that the Agency is prohibited by statute from disclosing. First, only a day after DHS VINE’s release, advocates discovered that it contained confidential information about children, including some as

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<sup>1</sup> DHS VINE, available at <https://vinelink.dhs.gov/#/map>.

<sup>2</sup> ICE Press Release, available at <https://www.ice.gov/news/releases/dhs-announces-launch-new-office-victims-illegal-immigrant-crime>.

<sup>3</sup> Id.



young as two years old. After being notified, DHS admitted that it had had a “lapse in privacy protocols,” and had failed to apply the appropriate filter to prevent statutorily protected information pertaining to minors from being included in the public database.<sup>4</sup> Despite having been informed, and conceding, that the database had already revealed and made accessible protected information, DHS/ICE apparently did not do any further review of the database to ensure that other confidential information was appropriately protected or removed.

In May 2017, attorneys for immigrants who are petitioners for relief under VAWA, and the T-visa and U-visa programs became concerned about similar disclosures for their clients. These programs were created by Congress to protect immigrants who may be victims of domestic violence, human trafficking, or other crimes, and therefore whose personal and physical location information are at a particularly high risk for misuse, including by their former abusers or traffickers. Congress therefore took specific steps to protect this information from disclosure or misuse: it prohibited the “use by or disclosure to anyone” of “*any information which relates to an alien* who is the beneficiary of an application for relief” through VAWA, or a T- or U-visa. 8 USC § 1367(a)(2).<sup>5</sup>

The concerns of the victims’ representatives were wholly justified – every such client these attorneys tested was unlawfully included in the publicly-available DHS VINE database. For each victim, DHS/ICE had

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<sup>4</sup> See <http://latinousa.org/2017/04/27/dhs-says-publishing-names-children-detained-immigrants-database-lapse-privacy-protocols/>.

<sup>5</sup> 8 USC § 1367:

(a) In general. Except as provided in subsection (b), in no case may the Attorney General, or any other official or employee of the Department of Justice, the Secretary of Homeland Security, the Secretary of State, or any other official or employee of the Department of Homeland Security or Department of State (including any bureau or agency of either of such Departments)—

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(2) permit use by or disclosure to anyone (other than a sworn officer or employee of the Department, or bureau or agency thereof, for legitimate Department, bureau, or agency purposes) of any information which relates to an alien who is the beneficiary of an application for relief under paragraph (15)(T), (15)(U), or (51) of section 101(a) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(15)(T), (U), (51)] or section 240A(b)(2) of such Act [8 U.S.C. 1229b(b)(2)].

The limitation under paragraph (2) ends when the application for relief is denied and all opportunities for appeal of the denial have been exhausted.

disclosed confidential information including their name, alien registration number, date of birth, country of birth, and custody status, and the detention facility in which they were housed. Because the appropriate filters to screen for these protected persons were not in place, it is likely that information regarding *every* applicant for U, T, or VAWA protection who was in ICE detention at the time was similarly exposed.

On May 12, 2017, Tahirih Justice Center, a national nonprofit that offers free legal representation to immigrant survivors of gender-based violence, wrote to Thomas Homan, Acting Director of ICE, alerting him that confidential information relating to applicants for relief under T-Visa, U-Visa, and VAWA was available in the DHS VINE database. Tahirih referenced the confidentiality requirements imposed by Section 1367, and reinforced that “[T]hese confidentiality provisions are essential, since perpetrators may try to locate and harm victims, undermine and interfere with their cases in order to maintain power and control, or jeopardize victims’ eligibility for relief.” The letter asked that DHS “immediately remove any applicants for U, T, and VAWA protection from its new searchable database. Their listing in the public database is a violation of federal statute.”<sup>6</sup>

Although Tahirih received a prompt acknowledgment of receipt of its letter, and a promise to follow up “early next week,” DHS/ICE did not in fact follow up the next week.

Thirteen days later, on May 25, 2017, Tahirih confirmed that the protected information about which it had informed DHS/ICE on May 12 remained publicly available in VINE. Tahirih therefore wrote again to Mr. Homan, reminding him of the ongoing danger to survivors posed by the illegally available information, and requesting that if the protected information could not immediately be removed, then DHS/ICE should make the entire DHS VINE inaccessible until a solution could be implemented.<sup>7</sup>

In a written response the next day, May 26, Mr. Homan stated that “[A]ny disclosure of federally protected information on DHS-VINE is completely unintentional, and I assure you that we are diligently

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<sup>6</sup> See Tahirih Letter to T. Homan of May 12, 2017 (attached).

<sup>7</sup> See Tahirih Letter to T. Homan of May 25, 2017 (attached).



implementing additional measures to strengthen the information protections of this system.” DHS/ICE then requested that Tahirih identify by name and alien registration number any clients whose information should be protected in the DHS-VINE system.<sup>8</sup>

Tahirih responded the same day that it was interested in ensuring that that *all* applicants for U visas, T visas, and VAWA relief – not only its clients – were removed from the database, and asked to be notified when that had happened.

Even after this communication, DHS/ICE neither acted to remove the protected information from the DHS VINE database nor made the database as a whole inaccessible while a solution was developed.

After not receiving any response for several additional days, Tahirih engaged pro bono counsel, Jenner & Block LLP. On June 1, 2017 counsel contacted DHS/ICE to request a meeting to address the public availability of the protected information. The next day, DHS/ICE, through Erin Clifford, Chief, Government Information Law Division, informed Tahirih and counsel that a global solution had been applied, and that the protected information was no longer available.<sup>9</sup> Tahirih had questions about the process, and Ms. Clifford obtained further information about the solution. After further discussion between the parties, DHS/ICE assured Tahirih by letter dated July 14, 2017, that the protected information was no longer available, and that steps had been taken to ensure that it would not become available in the future, including with respect to new applicants for the relevant immigrant protection programs. DHS/ICE also confirmed that the DHS and ICE Privacy Officers and others had been notified of the public availability of the protected information on the DHS VINE database. DHS/ICE, however, informed counsel that the Office of the Inspector General had not been notified.

Accordingly, because DHS/ICE made statutorily-protected confidential information publicly accessible from April 26 through June 2, 2017, and because DHS deliberately permitted the VINE database to remain publicly accessible from at least May 12 through approximately

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<sup>8</sup> See Homan Letter to Tahirih of May 26, 2017 (attached).

<sup>9</sup> Email chain from Erin Clifford summarizing conversation (June 2, 2017) (attached).

June 2, *even after* being informed and acknowledging that it contained statutorily-protected confidential information, we ask you to investigate the questions raised above, and to take any other appropriate steps to ensure that, going forward, the confidential victim information DHS/ICE is required to protect is monitored regularly to guarantee protection, and that disciplinary measures or penalties are employed as appropriate and as provided by Congress in Section 1367(c).

Respectfully,

A handwritten signature in black ink, appearing to be 'AP' with a long, sweeping horizontal line extending to the right.

Archi Pyati  
Chief of Policy and Programs  
Tahirih Justice Center

Attachments:

Tahirih Letter to T. Homan of May 12, 2017

Tahirih Letter to T. Homan of May 25, 2017

Homan Letter to Tahirih of May 26, 2017

E. Clifford email chain summarizing conversation (June 2, 2017)

DHS Letter to Tahirih of July 14, 2017

## ATTACHMENTS



May 12, 2017

Thomas Homan  
Acting Director  
Immigration Customs Enforcement

Mr. Homan:

The Tahirih Justice Center is a national nonprofit that offers free legal representation to immigrant survivors of gender-based violence. It has come to our agency's attention that detained applicants for U, T, and VAWA protection, including our clients, are listed in the new ICE VINE database, which is searchable by the public.

Victims of crimes such as human trafficking, domestic violence, and sexual assault may be eligible for relief under the Violence Against Women Act of 1994 and the Victims of Trafficking and Violence Prevention Act of 2000, specifically as VAWA self-petitioners, T or U visa applicants. Special protections for these applicants' confidentiality are contained in 8 USC §1367. These confidentiality provisions are essential, since perpetrators may try to locate and harm victims, undermine and interfere with their cases in order to maintain power and control, or jeopardize victims' eligibility for relief.

Under this statute, DHS is prohibited from disclosing ANY information about a VAWA applicant, U or T visa holder to a third-party (with certain limited exceptions). See 8 U.S.C. § 1367 (a)(2) & (b).

Because we represent and advocate for victims of violence, we are extremely concerned with this unlawful disclosure of their federally protected information. We request that ICE immediately remove any applicants for U, T, and VAWA protection from its new searchable database. Their listing in the public database is a violation of federal statute.

Thank you for your swift attention to this matter.

Sincerely,



Archi Pyati  
Chief of Policy and Programs



May 25, 2017

Thomas Homan  
Acting Director  
Immigration Customs Enforcement

Mr. Homan:

We informed you in a letter dated May 12, 2017, that detained applicants for U, T, and VAWA protection are listed in the new ICE VINE database, which is searchable by the public. To date, we have not received a response. We confirmed as of yesterday, May 24, 2017, that applicants are still searchable in the database.

As you know, victims of crimes such as human trafficking, domestic violence, and sexual assault may be eligible for relief under the Violence Against Women Act of 1994 and the Victims of Trafficking and Violence Prevention Act of 2000, specifically as VAWA self-petitioners, T or U visa applicants. Special protections for these applicants' confidentiality are contained in 8 USC §1367. These confidentiality provisions are essential, since perpetrators may try to locate and harm victims, undermine and interfere with their cases in order to maintain power and control, or jeopardize victims' eligibility for relief.

Under this statute, DHS is prohibited from disclosing ANY information about a VAWA applicant, U or T visa holder to a third-party (with certain limited exceptions). See 8 U.S.C. § 1367 (a)(2) & (b).

We are extremely concerned about this unlawful disclosure of victims' federally protected information. Their listing in the public database is a violation of federal statute which carries significant penalties under the law, and puts survivors' lives in danger.

**If you cannot immediately remove these applicants from ICE VINE, then we ask that you take down the entire database, and no later than Friday, May 26, 2017.**

Thank you for your swift attention to this matter.

Sincerely,



Archi Pyati  
Chief of Policy and Programs

cc: Jonathan Cantor, DHS Chief Privacy Officer  
Veronica Venture, DHS Acting Officer for Civil Rights and Civil Liberties  
Joseph Mather, DHS Acting General Counsel

Office of the Director

U.S. Department of Homeland Security  
500 12th Street, SW  
Washington, D.C. 20536



**U.S. Immigration  
and Customs  
Enforcement**

May 26, 2017

Ms. Archi Pyati  
Chief of Policy and Programs  
Tahirih Justice Center  
6402 Arlington Boulevard, Suite 300  
Falls Church, VA 22042

Dear Ms. Pyati:

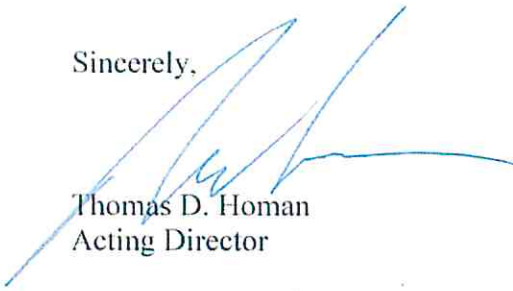
Thank you for your May 12, 2017 letter and your follow-up correspondence from May 25, 2017.

U.S. Immigration and Customs Enforcement (ICE) launched the Department of Homeland Security Victim Information Notification Exchange (DHS-VINE) system to ensure victims of federal, state, and local crimes remain informed about the custody status of those who have done them harm. ICE endeavors to provide victims of crime with a solution that gives them the information they need to feel secure while ensuring adherence to all applicable laws and regulations regarding information disclosure. Any disclosure of federally protected information on DHS-VINE is completely unintentional, and I assure you that we are diligently implementing additional measures to strengthen the information protections of this system. It should be noted that applications for immigration benefits can be filed at any time. Thus, ICE will work with U.S. Citizenship and Immigration Services to ensure ICE has access to the latest application information.

Your correspondence mentions that you have clients whose protected information is currently accessible via DHS-VINE. ICE would like to flag and remove any such information pertaining to these individuals from the DHS-VINE system immediately. If you could kindly provide us with the names and alien registration numbers of your clients whose information you believe to be improperly included within DHS-VINE, we will promptly take the necessary corrective actions. I have asked ICE's Office of the Principal Legal Advisor to reach out to you to follow up on this important issue.

Thank you again for your letter.

Sincerely,



Thomas D. Homan  
Acting Director

[www.ice.gov](http://www.ice.gov)



## Julie Carpenter

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**From:** Bitkower, David <DBitkower@jenner.com>  
**Sent:** Friday, June 02, 2017 6:35 PM  
**To:** 'erin.j.clifford@ice.dhs.gov'  
**Cc:** Callahan, Mary Ellen; 'ronald.seely@ice.dhs.gov'; 'joseph.maher@hq.dhs.gov'; Julie Carpenter  
**Subject:** RE: Call re DHS VINE

Dear Erin,

Thank you for taking the time to speak with us today and for your email below. We look forward to the response from ICE on the two issues you have outlined. I would like to take a moment clarify that our request on the first issue may be broader than set forth in the email: Although we are concerned about ensuring that “corrective measures will apply to all protected individuals in the system and that they will continue to be protected going forward,” as we specified on the call we are also concerned about ensuring that corrective measures are immediately applied to individuals who gain protected status in the future. Please let me know if you have any questions about that aspect of the inquiry.

Seeing that you are out of the office on Monday, we would respectfully request a response to these questions by close of business on Wednesday. Thanks again, and enjoy your weekend as well.

-David

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**From:** Clifford, Erin J [mailto:Erin.J.Clifford@ice.dhs.gov]  
**Sent:** Friday, June 02, 2017 4:20 PM  
**To:** Callahan, Mary Ellen <MECallahan@jenner.com>; Seely, Ronald <Ronald.Seely@ice.dhs.gov>; Maher, Joseph <Joseph.Maher@HQ.DHS.GOV>; 'Julie Carpenter' <JulieC@tahirih.org>; Bitkower, David <DBitkower@jenner.com>  
**Subject:** RE: Call re DHS VINE

Hello all,

Pursuant to our conversation, I just wanted to reaffirm that ICE takes public safety and the safety of victims very seriously. We appreciate input from stakeholders and can see from our conversation that we agree on the importance of protecting victim information. I hope I was able to address some of your concerns on the call in that any release of restricted information was entirely inadvertent and after we were notified on May 12<sup>th</sup> by Tahirih, ICE began to take immediate steps to rectify the issues. As I said on the phone call, to the best of my knowledge, a global solution was applied and all protected information is no longer available via DHS VINE.

David expressed some ongoing concerns in that Tahirih wanted to check the system for their clients' information to validate that the information was not available. To the extent that there is still concern on individual clients, I would reiterate our offer to take a closer look at those cases as well, just to double check that they are no longer available and that the corrective measures taken are being applied globally. We would be willing to receive that information in whatever manner you are comfortable with (i.e. encrypted email, CD, etc.)

David also asked for additional information on two areas. First, what steps were taken to address the issues so that Tahirih can be assured that corrective measures will apply to all protected individuals in the system and that they will continue to be protected going forward. Second, David asked for more information as to why a letter was sent to ICE on May 12<sup>th</sup> but the corrective measures appeared to be implemented at a later date (which answer may in part lie with the

answer to the first issue.) I expressed that I did not have the answers to these more technical questions, but that I would look into this and get back to you with any information that I can. I am out on Monday, but will try to respond early next week.

If I have misstated anything said on the call, please feel free to respond and correct me. You now have my contact information, please feel free to reach out at any time with any additional concerns.

Have a good weekend.

Thank you,

Erin Clifford  
Chief, Government Information Law Division  
Office of the Principal Legal Advisor  
U.S. Immigration and Customs Enforcement  
(202) 732-5446 (Desk)  
(202) 300-1210 (Mobile)

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-----Original Appointment-----

**From:** Callahan, Mary Ellen [<mailto:MECallahan@jenner.com>]  
**Sent:** Thursday, June 1, 2017 5:19 PM  
**To:** Callahan, Mary Ellen; Clifford, Erin J; Seely, Ronald; Maher, Joseph; 'Julie Carpenter'; Bitkower, David  
**Subject:** Call re DHS VINE  
**When:** Friday, June 2, 2017 3:30 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** 1 877 211 3621,, 1236211447

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US Toll Free: 1-877-211-3621  
Guest Passcode: 621 123 1447

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## David Bitkower

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U.S. Immigration  
and Customs  
Enforcement

July 14, 2017

Archi Pyati  
Chief of Policy and Programs  
Tahirih Justice Center  
6402 Arlington Blvd. Suite 300  
Falls Church, VA 22042  
Via email: [archip@tahirih.org](mailto:archip@tahirih.org)

Dear Ms. Pyati:

In light of our ongoing discussions regarding the Department of Homeland Security Victim Notification Exchange (DHS-VINE) system, U.S. Immigration and Customs Enforcement (ICE) is providing the additional information below. This information supplements ICE's letter to the Tahirih Justice center dated May 26, 2017. Both letters are provided in response to Tahirih Justice Center correspondence with ICE dated May 12 and May 25 of this year raising concerns that information protected by 8 U.S.C. § 1367, may have been accessible via the DHS-VINE system.

ICE takes very seriously both its mission to promote public safety and its obligations to safeguard crime victims. In particular, ICE is committed to upholding the confidentiality provisions found in 8 U.S.C. § 1367, which includes protections afforded to those individuals seeking relief under the Violence Against Women Act of 1994 and the Victims of Trafficking and Violence Prevention Act of 2000, specifically as VAWA self-petitioners, T or U visa applicants. Any disclosure of federally protected information that may have occurred in the context of the DHS-VINE system, specifically information subject to the protections afforded by 8 U.S.C. § 1367, was completely inadvertent, and ICE took immediate steps to implement additional measures to strengthen the information protections of the system. ICE can confirm that a global solution has been applied to ensure that 8 U.S.C. § 1367-protected information is not accessible via DHS-VINE. Any protected information that may have been inadvertently disclosed in the past is no longer available on the DHS-VINE database. Further, ICE has implemented corrective measures to ensure that the global solution applies to all individuals that currently have protected status and any individuals that gain protected status in the future.

ICE appreciates input from stakeholders such as the Tahirih Justice Center. ICE would encourage any person with concerns or knowledge of disclosures of federally protected information to contact ICE immediately at [iceprivacy@ice.dhs.gov](mailto:iceprivacy@ice.dhs.gov).

A handwritten signature in black ink, appearing to read "Erin J. Clifford".

Erin J. Clifford  
Chief  
Government Information Law Division  
ICE Office of the Principal Legal Advisor  
U.S Department of Homeland Security