

ALA American Library Association

October 17, 2017

Jonathan R. Cantor
Acting Chief Privacy Officer
Privacy Office
Department of Homeland Security
Washington, DC 20528-0655
via Regulations.gov

Re: Privacy Act of 1974; System of Records
82 F.R. 43556, docket number DHS-2017-0038

Dear Mr. Cantor:

On behalf of the American Library Association (ALA) and our more than 57,000 members, I am writing to express my concern about the proposal to modify the department's system of records titled, "Department of Homeland Security/U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection—001 Alien File, Index, and National File Tracking System of Records."

We are particularly concerned that the department proposes to "expand the [system's] categories of records to include [...] social media handles, aliases, associated identifiable information, and search results," information which the department is not currently authorized to maintain in the system.¹

The Privacy Act requires agencies to "maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President"² and to "maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity."³ A system which "contains information regarding transactions involving an individual as he or she passes through the U.S. immigration process" would seem to have neither need nor statutory authorization to collect an individual's social media activity.

ALA strongly supports the protection of each person's civil liberties, regardless of that individual's nationality, residency, or status, and has traditionally opposed any legislation or regulation that infringes on the rights of anyone in the USA or its territories, citizens or otherwise, to use library resources, programs, and services on national, state, and local levels.⁴

An individual's activity on social media often includes sensitive information intimately related to their exercise of First Amendment rights. Libraries uphold the principles of intellectual freedom and oppose any government overreach that could have chilling effects on Constitutional rights.

¹ 76 F.R. 34233.

² 5 U.S.C. § 552a(e)(1).

³ 5 U.S.C. § 552a(e)(7).

⁴ ALA Resolution in Support of Immigrant Rights, adopted January 24, 2007.

www.ala.org/aboutala/sites/ala.org/aboutala/files/content/wo/reference/colresolutions/PDFs/012407-CD20.2.pdf

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As information professionals we are acutely aware that the collection, retention, use, and sharing of social media handles, aliases, associated identifiable information and search results can provide a wealth of data that provides a detailed portrait of an individual's intellectual activities and reading habits, including one's political and religious beliefs, affiliations, and associates. If carried out as proposed, DHS' collection and retention of immigrants' social media information will chill immigrants' freedom of expression and freedom of association and plausibly threaten their right to privacy in their intellectual activities and reading habits.

Libraries are among America's most democratic institutions—places of equitable access to education, information, and lifelong learning that strengthen communities and help create a more literate and just society. Moreover, libraries are no longer just repositories of books. Libraries are now digital hubs for their communities, providing services through platforms that frequently include social media components, including online public catalogs, reference services, digital content, and web applications.

Because of libraries' role as information portals and community centers, libraries are among the first institutions immigrants turn to for help learning how to read and write in English, gain information on citizenship and employment, and access and use digital technologies, especially public computers. Libraries have been providing citizenship and naturalization-related resources for many years.

The threat to free speech and privacy rights is particularly acute regarding immigrants' use of libraries' public computers to access digital information and communicate with family, friends, and colleagues. The proposed rulemaking, if adopted, will permit the DHS and other agencies to use and disseminate the social media information for purposes that include intelligence gathering, thereby facilitating future government scrutiny of their intellectual activities both in and out of the library.

Moreover, because social media platforms are inherently a means of networking with other persons regardless of one's citizenship or immigration status, any review or monitoring of immigrants' social media information potentially threatens the First Amendment and privacy rights of persons legally residing in the United States who utilize public computers in libraries to communicate with others via social media platforms.

While homeland security is important, ALA finds this information collection to be quite excessive and thus an invasion of privacy. Given the significant issues raised and the outpouring of public input on this proposal, we urge the department not to put the system into effect at this time and to fully review and respond to the comments the department has received about this proposal.

Thank you for considering ALA's views on this important matter.

Sincerely,



Kathi Kromer
Associate Executive Director
Washington Office



Jamie LaRue
Director
Office for Intellectual Freedom