

# **The Identity Project**

**www.PapersPlease.org**

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October 21, 2010

Margo Schlanger  
Officer for Civil Rights and Civil Liberties  
U.S. Department of Homeland Security  
Building 410, Mail Stop #0190  
Washington, D.C. 20528  
(by e-mail to <[CRCL@dhs.gov](mailto:CRCL@dhs.gov)>)

Dear Ms. Schlanger:

On August 25, 2010, we received an unsigned e-mail message containing an unsigned letter from your office dated August 13, 2010, requesting that we “clarify” the complaints of violations of international human rights treaty obligation by DHS components which we submitted to you by letter and e-mail message of August 10, 2010.

The letter from your office of August 13, 2010, asks us, “Are you asking you to accept as complaints the comments provided by the Identity Project on six Notices of Proposed Rulemaking (NPRMs) and two System of Records Notices (NPRMs)?”

Yes, that is correct. We are asking that you docket, investigate, and act on each of these complaints (in addition to the other complaint, not initially submitted in response to an NPRM or SORN, which was included in our letter and e-mail message of 10 August 2010), as was explicitly and unambiguously stated in our letter and e-mail message.

Each of these complaints was included in the itemized list our letter and e-mail message, and complete copies of each of these complaints were attached.

We are puzzled by the apparent confusion -- and/or the unwillingness to accept, docket, investigate, and act on – our explicit, unambiguous letter of complaint.

We are also puzzled and concerned by the statement that, “CRCL does not normally receive complaints in the form of comments to NPRMs or SORNs.”

If true, that is likely because of the lack of adequate notice either to the public or to DHS components of your designation as point of contact for Executive Order 13107.

If, as we have been informed (after months of repeated unanswered inquiries, and despite the absence of any formal public notice of this designation), “the Department has designated the Officer for Civil Rights and Civil Liberties as the point of contact for Executive Order 13107” , than in the normal course of operation of the DHS you should already have received each of these complaints – along with all other pending, unanswered complaints of human rights treaty violations by the DHS – on referral from the respective DHS components to which they were initially submitted.

Please clarify which, if any, of these complaints you had not already received on referral, and what steps you are taking to ensure that all other such pending complaints, as well as all such complaints submitted in the future, are promptly referred to you.

In each of these instances, DHS components gave formal notice of proposed or final regulations or systems of records, solicited comments, created a regulatory docket for those comments, and designated a point of contact and procedure for the submission of such comments to be entered in that docket as formal responses to those notices.

In each case, the Identity Project submitted comments for the designated docket, to the point of contact, and in the manner prescribed by the respective DHS components in the notices, objecting to the proposed or final rules or systems of records as being in violation of US obligations pursuant to international human rights treaties.

In doing so, we acted in exact compliance with the specific, formal, directions and procedures established by the DHS and the respective DHS components.

Neither in any of these notices, nor in any other DHS notices or rulemaking procedures, can we find any indication that comments on the relationship of rules or systems of records to international human rights (or other) treaties could or should be submitted to any other point of contact, in any other docket, or in any other manner than comments that the rules or systems of records violate any other US laws.

Please clarify: How else do you believe we or others with such complaints that DHS components were proposing or promulgating rules or operating systems of records that violated international human rights treaties should, or should have, proceeded?

As soon as we received notice (after months of diligent unanswered inquiry) of your designation as DHS point of contact for Executive Order 13107, we forwarded courtesy copies of all of our pending, unanswered complaints directly to you. But that should, of course and as noted above, be and have been unnecessary,

We reiterate, with respect to each of the nine complaints itemized in and attached to our letter and e-mail message of 10 August 2010, the six specific requests for action by you listed on page two of that letter.

We look forward to your action on our complaints.

Sincerely,

Edward Hasbrouck  
Consultant on travel-related civil liberties and human rights issues  
The Identity Project