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April 25, 2011

Alexys Garcia  
U.S. Department of State,  
2100 Pennsylvania Ave., NW, Room 3031  
Washington, DC 20037

Re: Form: DS-5513, Biographical Questionnaire for U.S. Passport; FR Doc. 2011-4154

Dear Ms. Garcia:

The National Center for Transgender Equality and the Transgender Law Center submit the following comments to express our strong concerns about the proposed new Biographical Questionnaire for U.S. Passport form (DS-5513).

### **Our organizations**

The National Center for Transgender Equality is a national social justice organization devoted to ending discrimination and violence against transgender people through education and advocacy on national issues of importance to transgender people. Since 2003, NCTE has been engaged in educating legislators, policymakers and the public, and advocating for laws and policies that promote the health, safety and equality of transgender people.

The Transgender Law Center (TLC) is a multidisciplinary civil rights organization advocating for transgender communities in California. Since 2002, TLC has used direct legal services, public policy advocacy, education and community building strategies to improve the lives of transgender people.

### **Concerns regarding proposed data collection**

Our organizations are concerned that the information requested in this questionnaire is invasive, irrelevant and overly burdensome for many U.S. citizens. For transgender people, who experience high levels of rejection from their families of origin and discrimination in employment and housing, this form will have a disproportionately adverse impact. In a recent national survey, 40% of transgender adults reported that parents or other members of their family of origin had stopped speaking with or spending time with them because of their identity.<sup>1</sup> The extent of family rejection transgender people experience is illustrated by mounting research documenting high rates of

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<sup>1</sup> Grant, Jaime M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*, 94. Washington, DC: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011.

homelessness among transgender youth.<sup>2</sup> Much of the information requested in the proposed form would be difficult for an applicant who was disowned or kicked out of their family home by parents who rejected them, and has no way of obtaining detailed information about their birth or early childhood, such as their mother's work history and pre-natal care, who was present at the applicant's birth, or the applicant's address during his or her early childhood.

Likewise, if an applicant has been turned out of jobs or apartments in the past because of their transgender status, he or she might be unable to confirm exact dates, addresses or other details. In the above-mentioned national survey, more than one in four transgender adults reported having lost at least one job because of their identity, and more than one in ten reporting having been evicted at least once because of their identity. Rates of losing a job or a home due to discrimination in this survey were considerably higher for Black, Latino, American Indian and multiracial transgender adults.<sup>3</sup> Even for those who have not experienced such discrimination, a gender transition and corresponding name change would make contact prior employers or landlords to obtain such details an intimidating task.

Given the difficulty that many applicants may have in obtaining the information requested on this form, and the volume of information requested, we are concerned that filling out the form would take much longer than the stated estimated of 45 minutes and would be too onerous for most people to complete. Moreover, we are concerned that for many people, including a disproportionate number of transgender people, the form would either be impossible to complete, or completing it would require making inquiries with potentially hostile individuals that would be stressful at best and dangerous at worst.

We understand that in some case the Department may have a need for historical information about an applicant in order to verify passport eligibility in the absence of more typical documentary evidence. However, we believe that requiring all of this information in the proposed form would go beyond any reasonable need for information, would be burdensome and impracticable, and would pose particular problems for transgender people.

### **Concerns regarding proposed form language**

Additionally, we are concerned that the language of the proposed form will be inappropriate or confusing for applicants with transgender parents, and applicants who have two mothers or two fathers. Page 1, Section B requires the passport applicant to list information about the child's "Father," "Step-father," "Mother," and "Step-mother." The form does not permit applicants with same-sex parents to accurately reflect their families. In addition, if one or more of the applicant's parents is transgender, the applicant may be unsure whether he or she is expected to list the transgender parent(s) according to the parent's sex at the time of the applicant's birth or their current lived gender. We are disappointed that given that the Department has led the effort to make forms more inclusive of diverse family formations by using "Parent 1" and "Parent 2" designations, this form appears to take a step backward.

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<sup>2</sup> Quintana, N., Rosenthal, J., Krehely, J. (2010) *On the Streets: The Federal Response to Gay and Transgender Homeless Youth*. Washington, DC: Center for American Progress. Available at:

<http://www.americanprogress.org/issues/2010/06/pdf/lgbtyouthhomelessness.pdf>.

<sup>3</sup> Grant et al., *Injustice at Every Turn*, 53, 112-13.

## **Lack of guidance for applicants**

Moreover, we are concerned about the lack of guidance indicating when and how this supplementary form will be used. Given the great extent and the private nature of much of the information requested, the Department should provide clear guidelines as to when use of this form is required, to what extent applicants are expected to fully complete it, and how an application will be evaluated if some information is not practically obtainable. We request that the Department promulgate guidance together with this form so that use of the form is consistent and not arbitrary.

## **Conclusion**

Given the serious concerns outlined above, we respectfully request that the Department reconsider either the scope of information to be collected in this form, or the instructions for use, completion and evaluation of the form, or both.

Thank you for your consideration.

Sincerely,

Mara Keisling  
Executive Director  
National Center for Transgender Equality

Masen Davis  
Executive Director  
Transgender Law Center