

## Woodhull Freedom Foundation Comment in Response to a Proposed Rule by the Homeland Security Department: Collection and Use of Biometrics by U.S. Citizenship and Immigration Services

Woodhull Freedom Foundation is a national organization dedicated to defending sexual freedom as a fundamental human right. We are responding to the Department of Homeland Security's (DHS) Proposed Rule, "[Collection and Use of Biometrics by U.S. Citizenship and Immigration Services](#)", published in the Federal Register on November 3, 2025. Woodhull strongly opposes the proposed rule due to significant privacy and surveillance concerns, the potential for algorithmic bias and inaccuracy, security risks via potential data breaches, and the chilling of constitutionally protected speech. If this proposed rule goes into effect, the broad collection and use of biometric data (including DNA, social media, fingerprints, and facial scans) will create an extensive surveillance system, turning immigrants and U.S. citizens into perpetual suspects, undermining anonymity and core civil liberties. We urge DHS to abandon this misguided rule proposal, which threatens the constitutional rights of immigrants and U.S. citizens alike.

As an organization focused on protecting everyone's sexual freedoms, we are particularly alarmed at the security threat this proposed rule poses to transgender, non-binary, and gender expansive individuals. The proposed rule would, "...grant DHS express authority to require, request, or accept raw DNA or DNA test results (which include a partial DNA profile) from relevant parties such as applicants, petitioners, derivatives, dependents, and beneficiaries, to prove...biological sex." We are extremely alarmed at the prospect of the U.S. federal government maintaining a vast database of immigrants' DNA, including that of children, to "prove biological sex." Throughout both of President Trump's administrations, he has used his authority to relentlessly attack transgender, non-binary, and gender expansive individuals. If this rule goes into effect, we are deeply concerned about how transgender, non-binary, and gender expansive migrants' biometric data may be used to deny them due process in immigration proceedings.

We are also disturbed by the language used in the proposed rule when referring to biological sex, including the absence of accurate language on sex and gender diversity. The focus on biological sex is reflective of discriminatory language in a January 2025 Executive Order from the White House, which makes it the United States policy to recognize only two sexes, male and female. The recognition of only two sexes is not only scientifically inaccurate but extremely harmful to the mental and physical well-being of gender diverse individuals. We include here a brief excerpt from our Fact Checked by Woodhull series, which addresses the reality of sex and gender:

"Sex and gender are complex and exist on a spectrum, yet society often creates narrow, rigid categories that fail to reflect this diversity. These restrictive categories can cause harm by excluding and shaming anyone who exists outside of these lines, especially transgender and intersex people. Being forced into categories that do not align with identity can cause discrimination and violence in families, healthcare, and social systems. This can have serious long-term emotional and physical consequences for individuals who are outside of these lines.

For example, transgender youth reported significantly increased rates of depression, suicidality, and victimization compared to their cisgender peers. These are often accompanied by struggling with belonging in school, family issues, and internalized self-stigma.”

It is imperative that DHS and all federal government policies accurately represent the complexities of sex and gender. We include in this comment PDFs of Woodhull publications, which provide accurate language that should be used in public policy related to gender and sex:

- [“Sex and Gender Are Not The Same”](#)
- [“Transgender People Are Not a Threat to Public Safety”](#)

This proposed rule from DHS threatens civil rights protections for millions of people throughout the United States and furthers the cruel attacks against transgender, non-binary, and gender expansive individuals. We call on DHS to recognize the proposed rule’s inherent harms to privacy, security, and equality, and reject its implementation.