

United States Senate

February 13, 2026

Rodney S. Scott
Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Ave., NW
Washington, DC 20229

Dear Commissioner Scott,

We are alarmed by U.S. Customs and Border Protection's (CBP) new proposed policy requiring individuals eligible to visit the United States without a visa to provide five years of social media history to CBP. This new policy, if implemented, would be a gross privacy invasion and would mark a dramatic and unacceptable escalation of government data collection and monitoring. Additionally, CBP's proposal arrives amid a troubling increase in the Trump administration's efforts to target and intimidate foreign visitors, students, and non-American residents for their speech and political views. We urge CBP to immediately reverse course on this dangerous and unjustified proposal.

Although the Department of Homeland Security (DHS) has been expanding its use of social media monitoring for years — including, most recently, by issuing a proposal to require applicants for an immigration benefit to disclose their social media identifiers — CBP's new policy is yet another escalation of this surveillance. Under the proposed rule, CBP would require visitors to the United States from countries participating in the Visa Waiver Program (VWP) to provide five years of social media history on their travel application.¹ The VWP was specifically designed as a “comprehensive security partnership with many of America's closest allies,” in which visitors from participating countries could enter the United States for up to 90 days without a visa.² The VWP program not only strengthens security cooperation but also delivers significant economic benefits, contributing an estimated \$231 million per day to local economies in fiscal year 2023, according to DHS.³ This new proposal would undermine the VWP's very foundation by demanding that travelers from countries deemed “close allies” by the State Department share an unprecedented level of personal information.

CBP's new proposed policy is an alarming privacy intrusion. Social media platforms are avenues for people to share all aspects of their lives, often including sensitive information meant only for trusted circles. By requiring travelers to disclose their personal social media information, CBP will force people who simply want to visit family in the United States, conduct business with U.S. companies, or attend events such as the upcoming World Cup to submit to

¹ Agency Information Collection Activities; Revision; Arrival and Departure Record (Form I-94) and Electronic System for Travel Authorization (ESTA), 90 Fed. Reg. 57208 (Dec. 10, 2025), <https://www.federalregister.gov/documents/2025/12/10/2025-22461/agency-information-collection-activities-revision-arrival-and-departure-record-form-i-94-and>.

² U.S. Visa Waiver Program, Department of Homeland Security (May 2, 2025), <https://www.dhs.gov/visa-waiver-program>.

³ *Id.*

sweeping digital surveillance. No doubt many Americans would be outraged if countries such as Great Britain, France, or Australia imposed a similar policy on American tourists. Ordinary U.S. visitors should not have their online activity scraped and monitored by the Trump administration's ever-expanding surveillance apparatus. Choosing to visit the United States cannot become synonymous with relinquishing individual privacy rights.

Furthermore, CBP's proposed policy would almost certainly suppress speech and deter lawful dissent against the current administration. In its notice, CBP failed to explain how it will vet visitors' social media information, but DHS has previously stated that it intends to vet visa applicants' social media for "hostile attitudes towards our citizens, culture, government, institutions, or founding principles."⁴ If CBP adopts a similar approach to social media screening for VWP visitors, it could result in sweeping viewpoint discrimination. By design, this policy gives border officials a convenient tool to penalize travelers simply for expressing disagreement with the current administration. Even if DHS does not intentionally discriminate against travelers based on their social media postings, human reviewers and automated tools frequently misunderstand sarcasm, jokes, cultural references, and non-English posts, creating serious risks to non-English speakers and people from diverse cultural backgrounds. Faced with the threat that their online views could be scrutinized, misinterpreted, or taken out of context, applicants will inevitably self-censor, silencing lawful expression and restricting the ability of Americans to receive that speech. CBP's proposed social media vetting rule can only be viewed as yet another escalation in a pattern of immigration enforcement policies intended to scrutinize, intimidate, and potentially silence speech the Trump administration finds objectionable.

This invasive social media monitoring will have consequences for Americans as well. Given the globalized nature of social media, Americans regularly interact with foreigners on social media, including by commenting on posts, sending direct messages, and "liking" their content. As a result, the collection of visitors' social media information will inevitably sweep up sensitive information about American citizens as well, undermining their privacy. And without any assurance that social media monitoring will be confined to visitors' own accounts, Americans may also self-censor to reduce the risk that CBP will capture their own speech simply because they interacted with a friend or family member from a VWP country. This backdoor surveillance of the American public is unacceptable.

Finally, as we explained in our June letter to DHS about its expansion of its social media monitoring of visa applicants,⁵ the federal government has provided almost no information about the effectiveness of social media monitoring. The little information available suggests that such surveillance is resource-intensive, taking agents away from more effective investigative activities. In its evasive response to our letter, DHS notably ignored our request for information on the effectiveness of its past use of social media monitoring.⁶ Without providing such

⁴ Miranda Jeyaretnam, *What to Know About New Social Media Screening Rules for Student Visas*, TIME, (June 19, 2025), <https://time.com/7295949/international-student-visas-colleges-universities-social-media-state-department-trump/>.

⁵ Letter from Senator Edward J. Markey to Marco Rubio, Secretary of State, U.S. Department of State and Kristi Noem, Secretary of Homeland Security, U.S. Department of Homeland Security (Jun. 18, 2025) https://www.markey.senate.gov/imo/media/doc/letter_to_state_and_dhs.pdf.

⁶ Letter from Kristi Noem, Secretary of Homeland Security, U.S. Department of Homeland Security to Senator Edward J. Markey, (Aug. 8, 2025) https://www.markey.senate.gov/imo/media/doc/ice_social_media_scanning_response.pdf.

The Honorable Rodney S. Scott

February 13, 2026

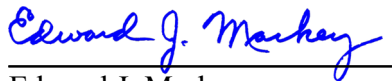
Page 3

evidence, DHS's continued expansion of its social media monitoring suggests its intentions are not to protect national security but to scrutinize and discourage foreigners' expression.

This new proposed CBP policy represents a serious threat to individual privacy and yet another attempt by the Trump administration to silence dissent under guise of protecting national security. CBP should reverse course and not implement this invasive and unjustified expansion of its social media surveillance apparatus.

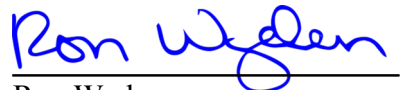
Thank you for your attention to this serious issue.

Sincerely,



Edward J. Markey

United States Senator



Ron Wyden

United States Senator