



December 20, 2024

**DOCKET NO.**

PETITION FOR RULEMAKING: REQUIRING THE OFFICE OF VIOLENCE AGAINST WOMEN (1) TO MANDATE THAT ITS GRANT RECIPIENTS REPORT CRIMES COMMITTED BY ILLEGAL AND OTHER ALIENS UNDER 28 C.F.R. § 90.21 AND § 90.66, AND (2) SUBSEQUENTLY RELEASE THE TOTAL NUMBER OF VIOLENT CRIMES COMMITTED BY ILLEGAL AND OTHER ALIENS AGAINST WOMEN EACH MONTH UNDER 28 C.F.R. § 90.4(d).

**1. Petitioner's name and contact information**

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**2. Nature of the request**

Pursuant to the Administrative Procedure Act, 5 U.S.C. § 553(e), the Petitioner requests:

A. That the following subsection be added to 28 CFR § 90.4:

**(f) Data collection and report.** The Office of Violence Against Women shall collect and report monthly on its website the citizenship status (citizen, legal alien, illegal alien) and nationality of every person charged with child maltreatment, dating violence, domestic violence, female genital mutilation or cutting, sexual assault, stalking, and/or technological abuse, all as defined at 34 U.S.C. § 12991(a), and/or the murder, manslaughter, or felony injury of a biological female, whether a minor or an adult. The data shall be collected from "prosecution," as defined at 28 CFR 90.2(e), and from grantees and subgrantees under Subparts A, B, and D of this part, as appropriate.

**3. Petitioner's interest in the requested action**

Petitioner America First Legal Foundation ("AFL") is a national, nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, protect our citizens' civil rights, and promote public knowledge and understanding of the Constitution and laws of the United States. Our mission

includes promoting government transparency and accountability by gathering official information, analyzing it, and disseminating it through reports, press releases, and media, including social media platforms, all to educate the public and to keep government officials accountable for their duty to faithfully execute, protect, and defend the Constitution, laws, and citizens of the United States. AFL has over 320,000 followers on X.

AFL has unique organizational expertise and interest in the subject matter of this petition.<sup>1</sup> The Department of Justice’s collection and publication of the information requested through this Petition will help reduce violence against women by facilitating effective Congressional and Executive Branch policy making, improving federal, state, and local law enforcement’s resource allocation, and contributing to AFL’s public information mission.

#### **4. Jurisdiction**

The Violence Against Women Act, Title IV of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322 (Sept. 13, 1994) as amended, broadly authorizes the Office of Violence Against Women (OVW) to collect and report data, including the citizenship and nationality of criminal offenders, on violence against women.<sup>2</sup> OVW is a component of the Department of Justice.

#### **5. Authority**

OVW has the authority to implement the proposed rule. First, Congress broadly requires grantees to report activities with grant funds and to provide such additional information as the agency shall require.<sup>3</sup> Second, 34 U.S.C. § 12291(b)(7) obligates funds for program evaluation. Third, 34 U.S.C. § 12291(6), requires grantees to report in compliance with 2 CFR § 200.328, as well as providing any information that the OVW requires.<sup>4</sup>

#### **6. Justification for the action sought**

A. OVW’s mission is to “provide leadership in developing the national capacity to reduce violence against women and administer justice for and strengthen services to victims of domestic violence, dating violence, sexual assault, and stalking.”<sup>5</sup>

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<sup>1</sup> *Texas v. United States Dep’t of Homeland Sec.*, No. 6:24-CV-00306, 2024 WL 4579540 (E.D. Tex. Oct. 24, 2024); *Texas v. Walensky, et al*, No. 22-cv-13 (S.D. Tex. filed Apr. 22, 2022) (Tipton, J., presiding); *Texas v. Biden*, 589 F. Supp. 3d 595 (N.D. Tex. 2022).

<sup>2</sup> 34 U.S.C. § 104441(a).

<sup>3</sup> 34 U.S.C. § 12291(b)(6).

<sup>4</sup> 28 C.F.R. § 90.4(d).

<sup>5</sup> *Office on Violence Against Women*, U.S. DEP’T OF JUST., <https://perma.cc/NA4D-K28Y>.

Since January 20, 2021, there have been over 10 million illegal alien encounters.<sup>6</sup> With these 10 million illegal aliens has also come a wave of violence across our nation. This violence includes sexual violence against women. For example, a woman walking home from work on a commonly traveled trail in Herndon, Virginia, a Washington, DC suburb, was raped by an illegal alien on November 18, 2024.<sup>7</sup> The alleged rapist has been accused of past crimes, including sex crimes. Moreover, stories like those highlighted by the House Judiciary Committee’s hearing on the “Biden-Harris Border Crisis: Victim Perspective” are also commonplace.<sup>8</sup> The House Judiciary Committee heard tragic, anecdotal evidence from mothers across our nation about how their children had been brutally murdered by illegal aliens who had entered our country sometime after January 20, 2021.<sup>9</sup> Critically, *the committee was only able to hear anecdotal evidence because the federal government does not collect information on crimes committed by illegal aliens.* The government’s failure to collect readily available and potentially useful data has, among other things, kept our nation in the dark about just how common alien violent encounters are and therefore interfered with effective policy making.<sup>10</sup>

B. The proposed rulemaking requires those who accept federal grants from the OVW to report the nationality and citizenship of those who commit violence against women. It will also require that the OVW release, at the beginning of each month, the reported number of aliens who commit violence against women. Currently, these numbers are unknown because no federal entity records them. Texas records these numbers independently,<sup>11</sup> but without a nationwide information collection, it is impossible to accurately assess the true scale of the problem or to take effective measures against it.

## 7. Conclusion

The Administrative Procedure Act requires that the Department respond to this petition in a timely manner. If it grants this petition, then the Department should commence notice-and-comment rulemaking on AFL’s proposals. If it denies this petition, then it must provide a reasoned explanation for the denial. Given the need

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<sup>6</sup> *Nationwide Encounters*, U.S. CUSTOMS AND BORDER PATROL, <https://perma.cc/UH3B-5XM9>.

<sup>7</sup> *Man who is in the US illegally and allegedly raped a woman has a long criminal history*, ABC 7 NEWS (Nov.25, 2024), <https://perma.cc/Q4PC-QJHT>.

<sup>8</sup> *Hearing on The Biden-Harris Border Crisis: Victim Perspectives, Before the H. Comm. on the Judiciary*, 118th Cong. (2024), <https://perma.cc/L7GQ-MZJS>.

<sup>9</sup> *Id.*

<sup>10</sup> For example, evidence that individuals from certain national, cultural, and religious backgrounds are more likely to commit violence against women than men from other nations, cultures, or religions could be highly probative and useful in formulating rational immigration and law enforcement policies. *See, e.g., Khoshnood, et al., Swedish rape offenders – a latent class analysis*, Forensic Sciences Research, <https://perma.cc/DWE3-42SQ?type=image>.

<sup>11</sup> *Texas Criminal Illegal Noncitizen Data*, Texas Department of Public Safety, <https://perma.cc/B57T-EY6E>.

for an exigent policy response to combat the violence against women that has accompanied the mass illegal migration between January 20, 2021, and January 20, 2025,<sup>12</sup> AFL hereby requests that this petition be granted at the earliest possible time.

Respectfully Submitted,

/s/ Reed D. Rubinstein

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Zachary Land

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<sup>12</sup> Jocelyn Nungary was brutally murdered by two Venezuelan nationals who had entered the United States illegally and were released into the interior by the Biden-Harris administration. *See, House Homeland Analysis: 4 Hard Truths For The Biden Administration About Jocelyn Nungaray's Murder, Recent Illegal Alien Crime, And America's Open Borders*, H. Comm. on Homeland Sec., <https://perma.cc/7MHL-VKC5>; *Illegal Immigrant MS-13 Gang Member Pleads Guilty in Brutal 2022 Murder*, Office of the State's Att'y, Harford Cty., Md., <https://perma.cc/N5SL-7BK6>; An example of the Biden-Harris Administration blocking oversight of immigration record of Laken Riley's Murderer, *e.g.*, Letter from Jim Jordan et al., Chairman, H. Comm. on the Judiciary, to Alejandro Mayorkas Sec'y, U.S. Dep't of Homeland Sec. (Mar. 14, 2024).