

SOCIAL MEDIA & DHS/ICE ENFORCEMENT

For over a decade, the Department of Homeland Security (“DHS”) has built a massive, global network that has been able to link it to nearly every federal agency, such as the Department of Labor and the Department of State. This network has expanded beyond U.S. borders, and has now linked to agencies of other governments and international organizations, such as INTERPOL, to allow for enhanced data-mining, information comparison and sharing. With the click of a button, DHS has access to information compiled.

Until the rise of social media, however, DHS’ network was limited to what was “learned” or believed, with the assessments coming from third-parties, investigators, or government documents that are often based on third-party collected information. In other words, the information rarely, if at ever, came *directly* from the person on who information is sought.

Social medial applications like Facebook, Twitter, and LinkedIn have created a new source of information and data-gathering techniques for DHS. Unlike the government compiled reports of the past, social media outlets give DHS the never-before seen ability to learn *directly* from the words, thoughts, “check-ins,” comments, online social and professional friendships and connections, of the very person in question.

Pictures at work place picnics. Noting on LinkedIn or Facebook where you work, live, eat, sleep, drive, and shop. “Checking-In” to a certain place of employment or vacation spot. Comments posted on pages of friends, pages that one “likes,” company social media pages. This is just a brief list of how much information is *voluntarily* made available to the world, including DHS, because of social media applications.

As noted, DHS has long used social media as part of investigations. Recognizing the magnitude of available information, DHS has ramped up its efforts. In doing so, DHS has been able to locate undocumented individuals, visa overstays, and others wanted for immigration related violations. DHS, together with the Department of Labor, has been able to use social media to verify employment of certain employment-based non-immigrant and immigrant visa holders, as well as non-immigrant student attendance and visa compliance. Social media has been sourced back as the one piece of information that led to the initiation of hundreds of investigations across the United States, including several worksite inspections and raids.

DHS' social media reach is expected to significantly expand. On October 18, 2017, DHS was authorized to include "social media handles and aliases, associated identifiable information, and search results" in the alien files, or "A-Files," it maintains for everyone who has gone through the immigration system, including naturalized citizens, accredited representatives, employers, certain employer representatives and document signatories, and even immigration attorneys entering their appearance on behalf of individuals, families, and companies who already received or are seeking immigration related benefits. The files will also include information on immigration status, professional accreditation, and family, travel, education, employment, and criminal histories. To do this, DHS will use "publicly available information from the internet" and public records, commercial data providers (such as Google, Amazon Web Services, SAP, IBM, VMware, and thousands of others) to obtain the information.

While DHS' past-practices included social media as part of current investigations, this recent expansion of data collection, mining, and storage ability, only increases DHS' capabilities to initiate new investigations, locate employers who are not otherwise identified to DHS as employers, search corporate, personal, and individual pages for the purpose of learning new information, locating individuals, learning more about the background of anyone and any company, and more. The crucial difference is that DHS will not have to go much further to build a possible case against someone, other than the own words of the person or company posted on one of the many social media applications.

Employers, employees, management, and others should use great caution when using social media platforms. Before posting, think once, twice, three—four times—before hitting the "post" button.

To learn more about DHS and its Social Media Policies, please contact Attorney Raymond G. Lahoud, Chair of the Norris McLaughlin & Marcus Immigration Law Practice Group at rglahoud@nmmlaw.com. Also, read more about the use of State Department's Policies Related Social Media in a recent NMM Blog: [Yes, Facebook and Twitter Posts Can Forever Ban You From the United States.](#)

This document provides information on the area of immigration law. The information contained in this document does not constitute legal advice and readers should not act upon it absent retained professional legal advice.