



## STATEMENT OF THE AMERICAN IMMIGRATION COUNCIL

SUBMITTED TO THE HOUSE SUBCOMMITTEE ON  
IMMIGRATION AND CITIZENSHIP

HEARING ON POLICY CHANGES AND PROCESSING DELAYS AT  
U.S. CITIZENSHIP AND IMMIGRATION SERVICES

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The American Immigration Council (“Council”) is a non-profit organization that has worked to increase public understanding of immigration law and policy - and the role of immigration in American society - for over 30 years. We write to thank the Committee for scheduling this hearing and considering the significant impact that U.S. Citizenship and Immigration Services (USCIS) processing delays have on individual applicants, petitioners, and employers throughout the country.

We also write to highlight a separate but related issue of systemic USCIS delays in responding to Freedom of Information Act (FOIA) requests. Many individual applicants must navigate the severely delayed and backlogged FOIA process before filing the applications or petitions that are the subject of today’s hearing.

Individual applicants and petitioners for immigration benefits in the U.S. have an interest in knowing what information the government has, or does not have, in its records regarding their immigration history in the U.S. An individual’s full immigration history contains information regarding prior interactions with immigration agencies and prior applications or petitions filed by, or on behalf of, a prospective applicant or petitioner. This information is critical in understanding a person’s eligibility or lack of eligibility for immigration benefits in the U.S. It is therefore imperative that individuals, petitioners, and their attorneys be able to obtain the timely disclosure of their individual immigration histories so that they may make informed decisions about how to best proceed in their cases. Fortunately, the Freedom of Information Act provides an avenue to request government records in individual immigration cases, but the process is plagued by delays and a growing backlog of requests.

Under current law, USCIS is supposed to respond to a FOIA request within 20 days of receipt, although the agency is afforded a ten-day grace period under limited circumstances. In practice, however, USCIS takes considerably longer to respond to FOIA requests. The agency’s [website](#) confirms that its average



processing for simple FOIA requests is in excess of 80 days. FOIA requests filed with USCIS can be subjected to further delays, however, when they are referred by USCIS to Immigration and Customs Enforcement (ICE) for review. ICE routinely fails to respond to these referrals in a timely manner, and a 2014 [report](#) by the Government Accountability Office confirmed that this referral process results in unnecessary duplication and increased costs, in addition to extended processing times.

USCIS also maintains a mounting backlog of FOIA requests. At the end of fiscal year 2018, the Department of Homeland Security (DHS) [reported](#) that the USCIS backlog stood at 41,329 cases. These delays create considerable hardship for countless potential applicants and petitioners for immigration benefits in the U.S. by adding an additional two months of processing delays before they receive the information necessary to conduct a meaningful evaluation of their cases and ultimately proceed with filing the applications or petitions – the very applications and petitions that are subjected to the increasing processing delays that are the subject of today’s hearing. These excessive and unnecessary delays cause significant emotional and financial hardship for individuals who are attempting to navigate our complex system of immigration law, and they are the reason that the Council and its partners have filed a [nationwide class action](#) in federal district court on behalf of several immigration attorneys and individuals.

The Council’s litigation seeks to challenge these systemic violations and the harm that they cause. The lawsuit alleges that DHS, USCIS, and ICE routinely violate the FOIA statute and fail to allocate sufficient resources to reduce backlogs and processing times in order to provide timely determinations on FOIA requests. While the Council is hopeful that this litigation will result in a positive outcome, we urge the Committee to consider and debate the FOIA delays’ impact in an effort to increase oversight and accountability within DHS, USCIS, and CBP.

We thank you for the opportunity to submit this statement, and for the Committee’s efforts to engage in a thoughtful conversation about the impact that USCIS processing delays have on individuals, employers, and the economy more broadly.