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Statement of the National Immigration Law Center
House Immigration and Citizenship Subcommittee of the Judiciary
Committee

Hearing on Policy Changes and Processing Delays at

U.S. Citizenship and Immigration Services

July 16, 2019 at 12:00 PM

Dear Members of the House Judiciary Subcommittee on Immigration
and Citizenship,

The National Immigration Law Center (NILC) is pleased to submit this statement to the U.S. House Subcommittee on Immigration and Citizenship of the Committee on the Judiciary for the July 16, 2019 hearing titled “Policy Changes and Processing Delays at U.S. Citizenship and Immigration Services” (USCIS).

Established in 1979, NILC is an organization long dedicated to protecting and advancing the rights and opportunities of low-income immigrants and their families. We believe that all people should have the opportunity to achieve their full human potential – regardless of their race, gender, immigration, and/or economic status. Over the past forty years, NILC has won landmark legal decisions protecting fundamental human and civil rights and advocated for policies that reinforce our nation’s values of equality and justice for all. Furthermore, we engage in policy analysis and advocacy, strategic communications, and provide technical assistance to partner organizations across the country. We applaud the Committee for conducting this hearing to address the barriers immigrants across the country are facing in accessing important programs and protections.

Of late, whether via policy or operational changes, USCIS has made the already complex and difficult-to-navigate immigration system more challenging and less accessible, with decreasing channels to remedy and improve the process. Of particular note and concern to NILC are the following issues that we encourage this Committee, and others, to further explore and investigate:

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Limiting/Eliminating the Fee Waiver: USCIS proposed significant changes to fee waiver eligibility criteria, limiting the types of evidentiary documentation that immigrants may submit to establish their economic necessity for fee waivers. Additionally, it is anticipated that further changes to fee waivers are on the horizon, with fee waivers for naturalization applicants being eliminated on the heels of an increase to the naturalization fee of as much as 80 percent. The changes to policy and the fee waiver form (Form I-912 Request for Fee Waiver) are particularly of concern to NILC, as we believe that it will fundamentally interfere with low income immigrants' ability to access the legal immigration process, and therefore with their ability to achieve their full potential.

Proposed Changes to Public Charge Regulation: On October 10, 2018, the Department of Homeland Security (DHS) proposed changes to the public charge regulation, which is administered by USCIS, that is a significant deviation from a century of precedent and would make it more difficult for low and moderate-income immigrants to become lawful permanent residents, or even to merely extend or change their nonimmigrant, temporary immigration status. Dangerously, if finalized as proposed, it would deter individuals in need from seeking health care, nutrition and housing assistance out of fear of the consequences on their immigration path. The proposed rule, although not yet final, has already resulted in a chilling effect among immigrants in need, deterring them from seeking healthcare, nutrition, and housing assistance, which results in a sicker, hungrier, and less stable population.

Denaturalization: Under the Trump Administration, USCIS has been tenaciously working towards denaturalizing and deporting naturalized citizens through DHS's Operation Janus. According to USCIS, failure to comply with *any* eligibility requirement for naturalization is subject to revocation of naturalization, and consequently, USCIS has referred individuals to the U.S. Department of Justice for civil denaturalization proceedings and ultimately denaturalization.

Backlogs and processing delays of immigration cases pending at USCIS: Backlogs at USCIS have grown to over 2.3 million--so large that on May 31, 2019, the Government Accountability Office (GAO) agreed to investigate the backlog of immigration cases. Furthermore, a bipartisan group of Senators consisting of 18 Republicans and 18 Democrats issued a letter to USCIS on May 13, 2019, expressing their concern for the delays and requesting that explanations and solutions be provided, reflecting that this is a nonpartisan issue felt across the country. As the Members' letter acknowledges, the consequences for families, local and national businesses, and our economy as a result of delayed processing of immigration cases are significant and have broad ramifications that impact not just immigrants themselves but the nation as a whole.

Notice to Appear (NTA) Memo and Request for Evidence (RFE) and Notice of Intent to Deny (NOID) Memos: The issuance of the NTA and RFE/NOID memos in July 2018 have further limited the ability of immigrants to pursue their legal immigration pathways. By reducing the opportunities for those seeking immigration

benefits to respond to requests for evidence, per the RFE memo's authorizing the denial of filings without first issuing an RFE or NOID, in combination with the NTA guidance, not only will there be an increase in the number of denied immigration benefits, but there will be an increase in the number of people unnecessarily placed into removal proceedings, adding to already unprecedented backlogs in the immigration courts and putting immigrants' lives into limbo. Furthermore, it risks adding to USCIS' processing delays, because petitioners and applicants who were erroneously denied will have to file motions to reopen, appeals, or need to refile their petitions, to address whatever deficiencies may have caused the initial denial and triggered consequent NTAs.

Enforcement Activities at USCIS Interviews: Reports of USCIS policy changes authorizing coordination with ICE for arrests at USCIS interviews not only has prevented immigrants from completing their lawful permanent resident (LPR) application process, but has also triggered fear among all immigration benefits seekers of attending USCIS appointments. Time spent collaborating with ICE to remove individuals, such as LPR applicants with pending "extreme hardship" waiver applications, is also time not spent on addressing backlogs and perpetuates USCIS processing delays while making access to status a nightmare.

NILC looks forward to working with members of this Committee to help USCIS fulfill its mandate, whether by highlighting how USCIS leadership's policy changes of late have undermined Congressional intent of immigration laws or to identify further areas requiring oversight of USCIS to ensure its actions are in line with our values for fairness, equality, and justice. Current and aspiring citizens contribute enormously to our communities, economies, and this country overall, and it is only to our benefit to help them achieve their maximum potential through ensuring a fair, accessible, and timely immigration process.

Sincerely,

The National Immigration Law Center