



U.S. Citizenship and Immigration Services

JOINT WRITTEN TESTIMONY

OF

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**FOR A HEARING ON
POLICY CHANGES AND PROCESSING DELAYS
AT USCIS**

**BEFORE
THE HOUSE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON IMMIGRATION AND CITIZENSHIP**

July 16, 2019

Chairwoman Lofgren, Ranking Member Buck, Chairman Nadler, and Ranking Member Collins, we are pleased to be here today to represent U.S. Citizenship and Immigration Services (USCIS) and discuss the work of our agency. We represent three of USCIS' seven directorates. Don Neufeld serves as the Associate Director for Service Center Operations, Michael Valverde serves as the Deputy Associate Director for Field Operations, and Michael Hoefler serves as the Chief of the Office of Performance and Quality within the Management Directorate. All of us have been with USCIS since it was created in 2003, and combined we represent more than eighty-five years of immigration experience at USCIS and its predecessor—the Immigration and Naturalization Service.

USCIS administers our nation's lawful immigration system. The agency's mission is to safeguard the integrity and promise of that system by efficiently and fairly adjudicating requests for immigration benefits while protecting Americans, securing the homeland, and honoring our values.

We at USCIS recognize that while the individual applicants and petitioners are most directly affected by backlogs, so too are U.S. citizen families and employers. Across our agency, we work continuously to improve the quality, integrity, and efficiency of the work we do. When possible, we have sought to realize process and organizational efficiencies, adopt technological solutions, and standardize and simplify guidance. We recognize and anticipate patterns and trends in immigration application and petition filing volumes. We allocate resources and adjust processes to account for them. We recognize fee increases, presidential elections, and humanitarian crises can increase or decrease immigration applications and petitions. We also know process changes or technological improvements can have short-term negative effects on efficiency and cause processing delays. As we look forward to each new fiscal year, we apply what we have learned, anticipate new or unusual demands, and establish plans to accomplish our anticipated workloads. That said, unanticipated events and impacts can and do occur so we cannot perfectly forecast future years' demand.

Today in our testimony, we will discuss factors that traditionally drive demand for our services, and our responses to them. We will also recognize the factors that we believe have driven our current backlog and processing delays. Lastly, we discuss actions we are taking to address the backlog and increase efficiency.

There has been an extraordinary and growing demand for our services in recent years, and the number of adjudications that we completed increased between fiscal year (FY) 2017 and 2018. In FY 2018, we adjudicated more than 8 million applications and petitions, up by 9 percent since FY 2017, and 30 percent over the past five fiscal years. In FY 2018, we completed the most naturalizations since FY 2013, a 5-year high in new oaths of citizenship.

Despite these efforts, however, the volume of cases pending beyond our targeted processing goals ("backlog") has steadily been growing and stood at 2.4 million cases at the end of FY 2018, accounting for 43 percent of the agency's total pending inventory. Although many factors relating to an individual's case can affect processing times, the most significant drivers of the current backlog include: receipt increases, especially during the presidential election and before the implementation of a final fee rule in 2016; statutory changes; new programs and policies;

court-ordered continuation of accepting renewal requests for Deferred Action for Childhood Arrivals (DACA); added security requirements; and insufficient staffing levels and facilities.

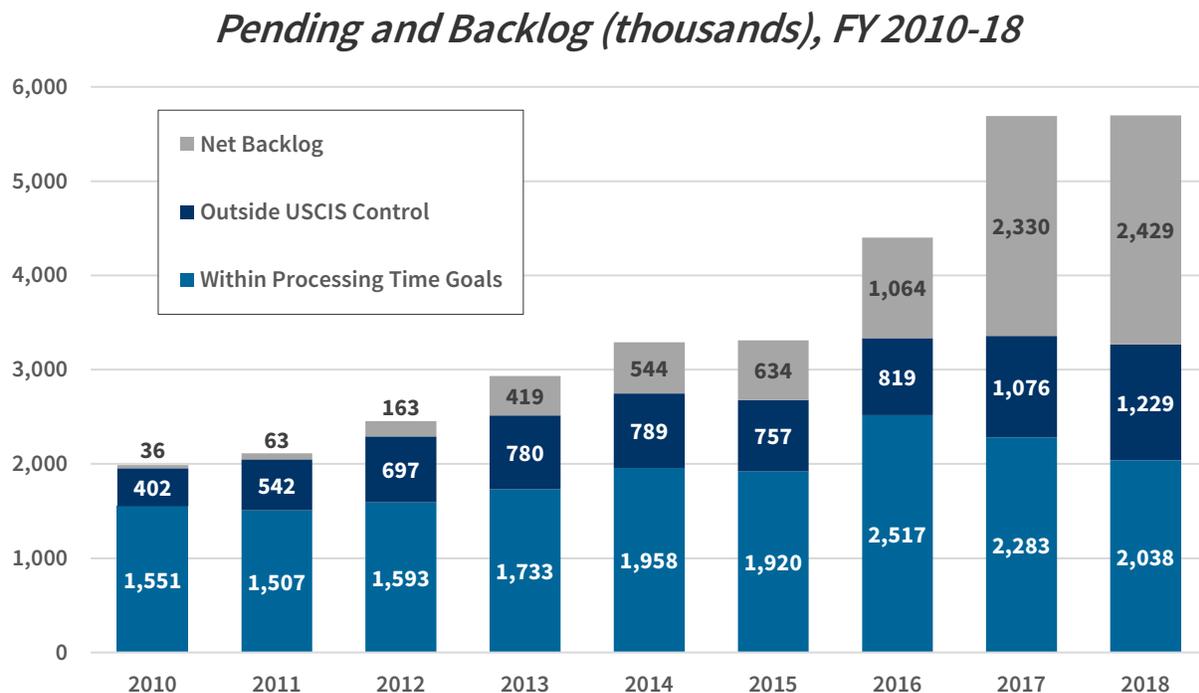
In FY 2018, our backlog did not grow as much as in previous fiscal years due to operational reforms and receipts decreasing. As part of our agency's commitment to efficiently and fairly adjudicating all requests, we have launched a series of initiatives to reduce the net backlog. We have already begun to implement meaningful reforms, hire additional staff, and expand facilities to ensure our ability to keep pace with extraordinary demand for services. We are also working to eliminate the backlog and improve processing by focusing on efficiency. We are transitioning more pre-, post-, and non-adjudicative work to non-adjudicators, allowing adjudicators to focus solely on functions requiring their expertise. We are centralizing the delivery of information services through the USCIS Contact Center to allow applicants to receive case status updates more quickly, without having to visit a USCIS office. We are also continuing to leverage electronic processing and automation to modernize the agency and increase efficiency. Furthermore, we have reintroduced performance metrics to ensure timelier processing and update processing time goals to reflect operational realities, and we continue to hire additional staff.

BACKGROUND:

Backlog Definition:

The backlog is the number of pending cases that have been in process longer than the processing goals set by USCIS. Applications and petitions that are not ready for adjudication (due to visa number unavailability) or are outside of USCIS control (pending Requests for Evidence or re-exam for naturalization) are not counted as part of the net backlog. At the close of FY 2018, the USCIS net backlog was 2.4 million cases, accounting for 43 percent of total pending inventory of 5.7 million. The chart below shows the breakdown of the net backlog, cases outside of USCIS control, and cases within processing time goals by fiscal year.

Pending and Backlog (thousands), FY 2010-18



Historical Perspective:

Backlogs of immigration benefits are not a new phenomenon. Throughout the agency’s history, multiple factors have driven the backlog, notably increases in applications. New laws and policies may expand benefit eligibility criteria, causing an uptick in new receipts. Events such as the 9/11 terrorist attacks ushered in a new era of greater security and background checks. Humanitarian crises, political instability, and armed conflicts can cause unexpected migratory flows or a spike in workload as individuals seek refugee status, asylum, or Temporary Protected Status. Immigrant visa availability, as published in the Department of State’s Visa Bulletin, ebbs and flows based on worldwide demand subject to congressionally-set limits. A pending increase in fees for immigration benefits, legislative or executive policy change, or presidential election can affect an individual’s decision whether to apply for a benefit or naturalize. It is against this backdrop that we perform our work.

We have faced and addressed larger backlogs in the past. We had a backlog of 3.6 million receipts in 2003 after introducing new security measures following 9/11. Another contributing factor was growth in petitions for family members following the filing deadlines for the LIFE Act 245(i) adjustment in 2001. That law allowed individuals who were the beneficiary of a qualifying labor certification or immigrant visa petition but who had entered without inspection to apply for adjustment of status in the United States if they paid a \$1,000 penalty. Congress appropriated funds to help combat the backlog, and we used the funds for term hires and overtime.

Additionally, the number of adjudications is generally increasing over time. We approved or denied 7.3 million applications and petitions in FY 2016, 7.5 million in FY 2017, and 8 million in FY 2018. These totals exclude international operations and refugee decisions.

DRIVERS OF THE CURRENT BACKLOG:

Receipt increases: Historically, we have experienced increased receipts during years when we implemented a new fee structure, followed by reduced applications the following fiscal year. In an unanticipated change, filings did not decrease in FY 2017 after the implementation of new fees in December 2016 and the presidential election in November 2016. As a result, the increase in receipts, coupled with the other factors noted below, outpaced our capability to adjudicate and complete applications within processing time goals. The backlog grew by 70 percent from January 2016 to January 2017. In FY 2018, however, our backlog did not continue to grow at the same rate as the previous two fiscal years, in part because receipts declined.

Deferred Action for Childhood Arrivals: Since the inception of the Deferred Action for Childhood Arrivals (DACA) policy in June 2012 through February 2019, nearly 910,000 individuals have requested an initial grant of DACA and employment authorization, and there have been roughly 1,511,000 renewal requests. The backlog grew by 77 percent from January 2013 (290,000) to January 2014 (512,000), in part due to the diversion of USCIS resources to adjudicating DACA requests. The current Administration sought to rescind the DACA policy in September 2017, but the rescission has since been enjoined by several courts, pending final resolution of litigation.

New security requirements and policies: Enhanced vetting, such as additional interview requirements for multiple benefits, have increased workloads, required additional security checks, and impacted overall adjudication times.

Presidential election: As is typical with a presidential election year, naturalization applications increased in 2016, contributing to the backlog. Unlike recent past history, naturalization applications did not return to lower levels after the election.

Resources: We develop annual Staffing Allocation Models (SAMs) and forecast volumes for each form type to estimate its resource needs. Due to cost concerns, we could not authorize staffing at the levels recommended by the SAMs. Hiring lags are caused by the significant amount of time required to complete and post announcements, assess applicants, conduct interviews, complete background checks, and confirm an entrance on duty date. Furthermore, newly hired staff members are not fully productive until they have completed BASIC training and other on-the-job trainings, creating a lag in productivity.

Facilities: The existing USCIS-occupied facilities cannot accommodate a large number of additional staff, and it generally takes GSA from 18 to 36 months to deliver space that is ready to occupy.

Quality workplace initiative: We changed the focus for employee evaluations to the quality of their work product and away from numerical case production metrics in FY 2014. This change appears to have affected processing times.

BACKLOG REDUCTION PLAN:

We have gradually increased our staffing to keep pace with the record number of immigration benefit requests we receive. Since FY 2009, we have almost doubled authorized staffing, from 10,695 to 20,390 (a 91 percent increase). In FY 2019, we authorized an additional 737 employees (a 5 percent increase) in the operational directorates that conduct adjudications. This follows an increase of 908 authorized positions in FY 2018 (a 7 percent increase). Additionally, with the proposed rulemaking to adjust the Immigration Examinations Fee Account fee schedule in FY 2020, we plan to increase staff to reduce the backlog and keep up with the projected workloads.

We have opened three new field offices in the past three years and expanded more than 10 others in an effort to increase processing capacity for naturalization applications and other immigration benefits. We are also expanding our space in select locations to accommodate additional staff where possible.

Aside from adding resources, we are working to reduce the backlog by focusing on efficiency. USCIS aims to (1) transition more pre-, post-, and non-adjudicative work to non-adjudicators; (2) centralize the delivery of information services through the USCIS Contact Center; (3) reintroduce performance metrics; (4) leverage electronic processing and automation; (5) redefine some publicly stated processing time goals; and (6) hire additional staff.

1. Transition Pre-, Post- and Non-Adjudicative Work from Adjudicators to Non-Adjudicators

We are implementing changes to allow adjudicators to employ their skills on the aspects of case adjudication that require their level of expertise, not on other matters. These measures will improve processing times.

- **Work Redistribution.** We have transferred the handling of immigrant visa processing and returned Employment Authorization Documents and Green Cards from the adjudicative staff in the Service Center Operations Directorate to the Office of Intake and Document Production. This shift will allow adjudicative staff to adjudicate petitions and applications instead of perform administrative work.
- **Efficiency Pilot Projects.** We are testing 16 potential new processing methods in the field, including moving non-decisional tasks from the benefit interview into the check-in stage, so that interviewing officers can concentrate on the interview. We are also testing whether we can centralize certain tasks, such as performing pre-interview assessments of eligibility, risk, and complexity to inform scheduled interview lengths and provide suggested lines of inquiry, and centrally processing Notices to Appear for individuals who are out of status following denial of their benefit requests. We are shifting administrative tasks from the interview and placing them in the front and back end of the adjudication process. For example, removing

tasks such as identity verification, the history and government exam, and review of interpreter forms and Forms G-28 (Notice of Entry of Appearance as Attorney or Accredited Representative) from the interview allows the interviewing officer to focus on the person applying for the benefit, increases the number of interviews a field office can schedule, and makes the adjudications process more efficient.

- **Address Changes.** We may move the change of address workload from the service centers to the External Affairs Directorate. In doing so, administrative work will be shifted from adjudicators to other staff allowing adjudicators to focus on adjudicating petitions and applications.

2. Centralize the Delivery of Information Services through the USCIS Contact Center

- **Enhance online and Contact Center self-help features.** We continue to enhance online self-help service through USCIS online accounts and expand Contact Center capabilities by implementing new technologies such as a speech-enabled integrated voice response system and artificial intelligence. These features will allow applicants to receive case status updates more quickly. Expanding the level of case status information provided to the public through USCIS online accounts, including proactive case status messages and more detailed responses tailored to the benefit type, will reduce follow-up calls and inquiries to operational components.
- **Complete the implementation of the Information Services Modernization initiative.** Known as “InfoMod,” this initiative encourages applicants to use our online information resources and the USCIS Contact Center for general “how-to” information and case inquiries rather than through in-person appointments. Applicants who need essential documentary services, such as advance parole and Alien Documentation Identification and Telecommunication (ADIT/I-551) stamps, can request in-person appointments through the USCIS Contact Center. Staff who previously worked the information services counter are redirected to complete initial or refresher training and then assigned to conduct interviews or perform other adjudication activities. We are already realizing the benefits of this initiative. On average, the Contact Center can resolve 70 percent of inquiries without an in-office appointment. If an in-office appointment is required and the Contact Center schedules that appointment, the applicant waits an average of 4 to 5 days to attend that appointment versus around 9 days if they had self-scheduled that appointment.

3. Reintroduce Performance Metrics

- **Officer timeliness standards.** We strengthened adjudication performance standards for asylum officers to provide a metric-based method to emphasize the importance of timely case processing. For decisions that will be picked up in person, cases are considered timely when they are completed and submitted within five business days after the interview. When decisions are mailed out, cases are considered timely when completed and submitted within seven working days after the interview.

- **Post-interview program goals.** We are designing new benchmarks to ensure applications are completed within two weeks of the affirmative asylum interview. The new IT case management system will include national tracking reports.
- **Set office production targets.** Rather than setting individual employee-level targets, the Field Operations Directorate introduced annual office-level completion targets in key workloads.
- **Placed performance metrics in employee performance evaluations.** Service Center Operations reintroduced performance metrics for immigration services officers.

4. Leverage Electronic Processing and Automation to Increase Efficiency

- **Implement eProcessing.** eProcessing is the USCIS initiative to quickly enable electronic intake, processing, and communication with applicants by integrating various systems and services. With eProcessing, we will be able to link data and handle information more efficiently than on physical paper, allowing resources to be repurposed to adjudication rather than paper management.

We expend significant costs on producing and storing paper documentation. Asylum offices are exploring ways to adopt paperless processing. The 2018 deployment of a new IT case management system offered a new opportunity to eliminate existing paper documentation.

- **Expand streamlined processing.** We introduced streamlined processing of Form I-90, Application to Replace Permanent Resident Card, which increased efficiency by automating many tasks and freeing up officers to focus only on those adjudicative areas that required their attention. For example, areas of cases that required adjudicator review were flagged, such as an IDENT or TECS hit. By segmenting the tasks that required manual review, adjudicators did not need to spend time on other parts of the case and were able to complete more cases. This practice reduced the I-90 backlog by 75 percent at the end of FY 2018.
- **Automated assessments.** The affirmative asylum decision is supported by a case analysis summary prepared by asylum officers. Through new IT solutions, portions of the assessment may be prepopulated using case information stored within the recently modernized IT case management system. Eventually, this capability will contribute significantly to efficiency and quality of human decision-making across all directorates.

5. Redefine Processing Time Goals to Better Reflect True Cycle Times

- We are not meeting most of the target processing goals that were set after the 2007 fee rule. In March 2018, the DHS Office of Inspector General recommended that we redefine the processing goals for Form I-485, Application to Register Permanent Residence or Adjust Status, which are beyond the 120-day goal. Although revising the I-485 cycle time would not eliminate the past backlog, it would set more realistic timelines for the public on how long they should expect to wait, on average, for a Green Card.

6. Hire Additional Staff

- To address the human and financial resource requirements associated with significantly reducing the backlog over the next five years, we plan to initiate a rulemaking to adjust the Immigration Examinations Fee Account fee schedule in late FY 2020. We expect that a fee adjustment will enable the agency to fund additional positions in a phased approach, starting in FY 2021. By modeling a 6-year expanded time horizon, we can identify the required staff earlier, which in turn allows us to start hiring earlier so that we can fill positions by the time they are needed to achieve the completion targets contained in the backlog model. It will also allow us to provide the needed space to accommodate the increased staff to avoid a delay in onboarding.

Additional Steps for Increasing Efficiency and Reducing the Backlog

Beyond the five steps outlined above, we are using several other tactics to increase efficiency and help address the backlog, including:

- **Eligibility, Resource Intensity and Complexity Assessment.** We are identifying eligibility, risk, and complexity factors before scheduling interviews. Using systems data and algorithms to understand the complexity of a case will help field offices more effectively plan, route, and schedule workloads.
- **Strategic scheduling.** Asylum offices use a strategic approach to schedule cases, comparing data in USCIS databases to identify asylum applicants who may be processed quickly outside of the regular asylum workflow. Most recently, we have prioritized asylum cases of applicants who appear to be using the asylum process to apply for cancellation of a removal in immigration court. This project has allowed for streamlined case processing and has deterred similar filings.
- **Workload and staffing shifts.** We continually monitor workload distribution and adjust workloads as necessary for quality and efficiency. For example, Service Center Operations transfers workloads from one center to another when additional capacity exists, and is moving toward an enterprise approach in handling various case types so that each center will be able to adjudicate all case types if there is a surge. Field Operations recently detailed 55 employees to Refugee, Asylum, and International Operations for one- to six-week rotations.
- **Asylum officer scheduling tool.** Asylum has prioritized an officer scheduling tool to address the challenges of redeploying staff between affirmative asylum processing at an asylum office and credible fear screenings by telephone and at detention centers. This project should more efficiently utilize interview space and reduce the productivity lost from travel and other scheduling logistics.
- **Phase out international field offices.** We are in discussions with DHS and the State Department to shift much of our international workload to U.S. operations for domestic processing, as well as to the Consular Sections of U.S. embassies and consulates abroad. We are working in close coordination with the State Department to reach an expanded

interagency agreement for unit costs for immigration-related services. Once we receive the revised fee schedule, we will be able to calculate the anticipated savings to USCIS resources and cost savings that can be reallocated, in part, to backlog reduction efforts.

We plan to implement these new strategies to reduce the backlog as efficiently as possible. Once the new strategies are fully implemented and new staff are hired, we expect the backlog to decrease.

We do not want to leave you thinking that there are quick and easy fixes—there aren't. Realizing organizational and procedural efficiencies, staffing to appropriate levels, and providing the physical and technological resources needed to eliminate the backlog will take some time. Yet, we have full confidence in our field managers and staff, and full faith in their commitment to addressing the workloads in an efficient and secure manner. For our part, we are committed to providing them with the tools and resources they need to get the work done.

It is our privilege to be here today, and we hope that the information we provide will be useful. USCIS is dedicated to serving and safeguarding the American people and our nation. We are extremely proud of the hard work and professionalism that we see every day in service to our nation by the individuals we work with at USCIS. Again, thank you for allowing us to be here today. We look forward to answering your questions.