

Message from the Ombudsman



The 2015 reporting period was a momentous one for immigration. On November 20, 2014, President Obama announced significant new executive actions to help fix our broken immigration system. Among the initiatives are new enforcement priorities and an expansion of programs vital to family unity. While

the executive actions are no replacement for the legislative reform our immigration system desperately needs, they will help ameliorate barriers faced by individuals and employers seeking immigration benefits and services. I am honored to serve in the Department of Homeland Security under Secretary Jeh Johnson's leadership, and I am proud of the many dedicated public servants who work tirelessly to improve our nation's immigration programs.

Although the new initiatives, known as expanded DACA and DAPA, were halted due to court orders,¹ USCIS published policy guidance and regulations to improve existing programs, including the much anticipated L-1B Specialized Knowledge draft guidance and final regulations extending work authorization to certain spouses of H-1B visa holders. The agency launched two new humanitarian programs to support family unity and help prevent travel by unaccompanied children from Central America: the Haitian Family Reunification Parole Program and the In-Country Refugee/Parole Program for Central American Minors. In response to the high number of children arriving at the Southwest border last summer, USCIS asylum officers have acted diligently to process their cases and to ensure that women and children in detention are afforded the opportunity to express a fear of returning to their home

¹ As of the date of publication of this Report, implementation of expanded Deferred Action for Childhood Arrivals (DACA) and Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) has been halted following a preliminary injunction. *Texas v. USA*, 15-40238 (5th Cir. May 26, 2015)(order denying stay of preliminary injunction).

countries and seek asylum in the United States. The agency's efforts to serve vulnerable populations and protect the integrity of our asylum system should be commended and supported.

An ambitious undertaking, the executive actions demanded the attention of USCIS Director León Rodríguez and many key leaders in the immigration service. At the same time, longstanding challenges in existing immigration programs likewise require agency attention and action. In last year's Annual Report, we discussed in detail Requests for Evidence (RFEs) that are too often vague, unduly burdensome, or unnecessary. Such RFEs continue to delay adjudications and burden applicants and petitioners, particularly in the provisional waiver program and key employment-based categories. Providing adequate notice regarding filing deficiencies is essential to the effectiveness of RFEs, but they are often general and fail to address evidence already in the record. This is especially important in cases in which customers are not afforded the option of an appeal or a motion to reopen or reconsider.

During this reporting year, my office received numerous examples of Special Immigrant Juvenile petitions in which USCIS requested a wide range of records pertaining to the underlying state court dependency order, essentially second-guessing the state court action. We believe these RFEs are inconsistent with USCIS' limited statutory "consent authority," and the agency's own training materials. I strongly encourage USCIS to engage with stakeholders serving unaccompanied children to better understand the impact of its current adjudicatory practices. In the coming weeks, we will publish formal recommendations to improve processing of petitions for Special Immigrant Juveniles.

Since December 2014, the Ombudsman's Office has worked to resolve nearly 1,500 requests for case assistance from DACA renewal applicants facing expiration of their deferred action and accompanying work authorization due to processing delays. Requests for assistance came from a young man supporting a disabled parent, a new public school teacher in the Midwest, a low-income applicant facing eviction from his apartment, and an

expectant mother about to lose her health benefits due to the imminent loss of employment caused by delays in her DACA renewal. As is the case for many applicants facing a lapse in work authorization, processing delays threaten people's livelihoods and can disrupt their education, healthcare benefits, driving privileges, and even housing and food stability. Administrative processing delays must not undermine a program that has enabled young people—Americans in every way but on paper—to realize their full potential in our workforce and our communities.

In addition to DACA renewal delays, our office continued to receive requests for assistance from other applicants seeking to renew employment authorization. Though a small percentage of the total number processed each year, thousands of applications for employment authorization remained pending past the 90-day regulatory processing time. I urge USCIS to adopt measures that facilitate a more orderly and predictable renewal process for DACA and other employment authorization applicants. We will continue to present recommendations to help achieve these goals.

In this year's Report, we discuss again backlogs in the asylum program, the strains these place on applicants and their families, and the current efforts to address them. This Report also addresses adjudications issues in other programs for vulnerable populations, including victims of violence, and the need for a parole program for conditional U visa grantees who are often in danger in their home countries while awaiting visa availability.

In the EB-5 immigrant investor program, backlogs grew and many cases remained pending long past the 11 to 14-month processing time goals. Projects languished and job creation was stalled because of these delays.

Last year, our Annual Report highlighted the agency's accomplishments in the area of stakeholder outreach.

Public engagement should remain fundamental to developing new policy and initiatives. It is my hope that this area in which the agency has made great strides in the past will continue to be prioritized as a core function of USCIS.

At this inflection point in the history of our nation's immigration policy, I believe more than ever in the Ombudsman's statutory charge of assisting individuals and employers with problems with USCIS both through case assistance and policy recommendations. But we cannot achieve this mandate alone. Every day the Ombudsman staff works with dedicated USCIS officers from around the country to provide high-quality services for customers who may not have experienced USCIS at its best. I very much appreciate our USCIS colleagues for their collaboration in this important work.

I want to thank Secretary Johnson and Deputy Secretary Alejandro Mayorkas for their unflinching support of the Ombudsman's mission, and Director Rodriguez for his partnership in pursuing our shared goal of an immigration service built on fairness and integrity. I am also grateful for the entire team in the Ombudsman's office who honor our mission by helping individuals and employers navigate our immigration system and without whom publication of this in-depth report would not be possible.

Sincerely,



Maria M. Odom
Citizenship and Immigration Services Ombudsman