

Immigration Committee Staff  
Harbani Ahuja, *Legislative Counsel*  
Elizabeth Kronk, *Senior Legislative Policy Analyst*  
Florentine Kabore, *Finance Analyst*



## **THE COUNCIL**

### **COMMITTEE REPORT AND BRIEFING PAPER OF THE JUSTICE DIVISION**

*Jeffrey Baker, Legislative Director*  
*Brian Crow, Deputy Director, Justice Division*

### **COMMITTEE ON IMMIGRATION**

*Hon. Carlos Menchaca, Chair*

**January 25, 2021**

**Oversight:**

**Reducing Barriers to Citizenship**

**Res. No. 1229:**

By Council Member Koo, Koslowitz, Gjonaj and Chin

**Title:**

Resolution calling on the United States Congress to pass, and the President to sign, the Adoptee Citizenship Act of 2019 (H.R. 2731 / S. 1554), in order to secure U.S. citizenship of internationally adopted children who are now adults or aging into adulthood

## **I. INTRODUCTION**

On January 25, 2021, the Committee on Immigration, chaired by Council Member Menchaca, will hold an oversight hearing on programs and policies that reduce barriers to citizenship in New York City. The committee will also hear Res. No. 1229, sponsored by Council Member Koo, in relation to the Adoptee Citizenship Act of 2019 (H.R. 2731 / S. 1554). The committee expects to receive testimony from the Mayor’s Office of Immigrant Affairs (‘MOIA’), as well as advocates, legal and social services providers, and members of the public.

## **II. NATURALIZATION DURING THE TRUMP ADMINISTRATION**

### *A. Background*

Naturalization is commonly considered a high honor within the United States’ immigration system and a foundational principle of the United States Constitution.<sup>1</sup> The first naturalization law was passed by the United States Congress in 1790.<sup>2</sup> While the United States immigration system of laws and policies have changed multiple times since then, the ability to naturalize has never been removed or significantly altered.<sup>3</sup> In order to become a United States citizen, an individual must be 18 years of age, have undergone the rigorous, and often expensive, process of obtaining legal permanent resident status (or a green card), and maintained this status for five years before becoming eligible to naturalize.<sup>4</sup> The individual must have remained in the United States for a total

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<sup>1</sup> IMMIGRATION LEGAL RESOURCE CENTER, *Testimony before the United States House of Representatives Judiciary Committee, Subcommittee on Immigration and Citizenship*, “Policy Changes and Processing Delays at USCIS”, Jul. 16, 2019, [https://www.ilrc.org/sites/default/files/resources/ilrc\\_testimony\\_for\\_hjc\\_hearing\\_on\\_uscis\\_policy\\_changes\\_and\\_processing\\_delays.pdf](https://www.ilrc.org/sites/default/files/resources/ilrc_testimony_for_hjc_hearing_on_uscis_policy_changes_and_processing_delays.pdf).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Or 3 years in the case of LPRs who are married to U.S. citizens and evidence of continuous residency in the U.S. Persons with qualifying military services in the U.S. Armed Forces of at least 1 year in peacetime may also apply for naturalization. See UNITED STATES DEPARTMENT OF HOMELAND SECURITY, *Annual Flow Report* (October 2020), [https://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2019/naturalizations\\_2019.pdf](https://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2019/naturalizations_2019.pdf).

of 30 months out of those five years.<sup>5</sup> Individuals must additionally learn English, United States history, and government, in order to pass the Citizenship test, and demonstrate good moral character, undergo robust background checks that can span years prior to obtaining legal permanent resident status, and submit to a comprehensive review of their criminal history, identity, immigration history, and other activities.<sup>6</sup> Individuals seeking to naturalize have already gone through multiple rounds of similar vetting in order to obtain lawful immigration statuses, such as employment, family-based or humanitarian visas, and then again when applying for lawful permanent resident status.<sup>7</sup> Currently, researchers estimate that about two-thirds of eligible immigrants have sought to naturalize and become United States citizens, leaving 9 million eligible immigrants who have yet to naturalize.<sup>8</sup> The Migration Policy Institute reports that half of the overall eligible immigrant population has resided in the United States for at least 15 years—three times the minimum residency requirement to become a citizen.<sup>9</sup>

Naturalization offers significant benefits to eligible immigrants, including protection from deportation, derived citizenship for the individual’s children under the age of 18, and the ability to file family reunification petitions for parents, siblings, and married adult children.<sup>10</sup> Naturalization also grants individuals the ability to travel freely within and outside the U.S., including access to and protection of U.S. embassies and consulates in times of emergency.<sup>11</sup> Naturalization bestows the right to vote in federal elections, and is a requirement of most state and local elections as well.<sup>12</sup>

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<sup>5</sup> *Id.*

<sup>6</sup> IMMIGRATION LEGAL RESOURCE CENTER, *supra* note 1.

<sup>7</sup> *Id.*

<sup>8</sup> MIGRATION POLICY INSTITUTE, *A Rockier Rode to U.S. Citizenship?* (July 2020), [https://www.migrationpolicy.org/sites/default/files/publications/MPI-Naturalization-Changes\\_Final.pdf](https://www.migrationpolicy.org/sites/default/files/publications/MPI-Naturalization-Changes_Final.pdf).

<sup>9</sup> *Id.*

<sup>10</sup> IMMIGRATION LEGAL RESOURCE CENTER, *supra* note 1.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

It also grants the ability to run for public office.<sup>13</sup> U.S. citizens have full access to health coverage and other public benefits.<sup>14</sup> Statistically, immigrants who naturalize fair better economically, attain higher education, are less likely to live below the poverty line,<sup>15</sup> and their higher earnings translate to greater economic activity and higher tax payments, benefiting the places they live.<sup>16</sup>

### *B. United States Citizenship and Immigration Services (USCIS) under Trump*

Prior to 2016, primary barriers to naturalization were cost,<sup>17</sup> age, and lack of information about naturalization processes.<sup>18</sup> The United States Citizenship and Immigration Services (USCIS) itself has largely approved the majority of naturalization applications received since FY2010 (acceptance rates between 89 and 92 percent).<sup>19</sup> The Trump administration, however, engineered a dismantling of the naturalization process by stalling existing processes, altering the mission and primary focus of USCIS, promoting policy changes that would act as naturalization deterrents, promulgating changes to the overall immigration system that incidentally impacted the naturalization process, and actively seeking to denaturalize previously naturalized immigrants through the Department of Justice (DOJ).

Pre-dating the Trump administration, a November 2017 DHS Inspector General report found that USCIS mismanaged the roll out of its electronic processing program (ELIS), which specifically slowed down processing of naturalization applications, as it failed to print

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<sup>13</sup> MIGRATION POLICY INSTITUTE, *supra* note 8.

<sup>14</sup> *Id.*

<sup>15</sup> Jared Bernstein, *Path to citizenship and out of poverty*, ECONOMIC POLICY INSTITUTE, Jun. 29, 2006, <https://bit.ly/3pgqPQU>.

<sup>16</sup> MIGRATION POLICY INSTITUTE, *supra* note 8.

<sup>17</sup> The United States has one of the highest costs for naturalization processing in the World, \$725 which includes the naturalization fee and the biometric fee, up from \$35 in 1983. See Robert W. Wood, *U.S. Has World's Highest Fee to Renounce Citizenship*, FORBES, Oct. 23, 2015, <https://www.forbes.com/sites/robertwood/2015/10/23/u-s-has-worlds-highest-fee-to-renounce-citizenship/>.

<sup>18</sup> IMMIGRATION LEGAL RESOURCE CENTER, *supra* note 1.

<sup>19</sup> MIGRATION POLICY INSTITUTE, *supra* note 8.

naturalization certificates, complete background checks, provide the option to upload documents, and created scheduling errors.<sup>20</sup> At least 40 outages of the system were noted in 2017, requiring manual re-processing of certain naturalization steps which further delayed processing time. By February 2017, these issues had delayed processing times by five months, according to the Inspector General.<sup>21</sup> As of July 2020, USCIS appears to have abandoned the electronic roll-out.<sup>22</sup>

Under the Trump administration, case processing times have ballooned: wait times for naturalization applications grew from 5.8 months in FY2015 to 9.3 months in FY2020,<sup>23</sup> with cases in New York City taking 11.32 months on average in FY2017 and up to 21.3 months (in FY2017).<sup>24</sup> In conjunction, the USCIS backlog has similarly grown, with the overall backlog growing 66 percent since FY16.<sup>25</sup> Naturalization application peaked in FY2016 and FY2017, at more than 950,000 annually, falling to just over 800,000 in FY18 and FY19.<sup>26</sup> In 2019 testimony before the United States House of Representatives' Subcommittee on Immigration and Citizenship, the Immigration Law Resource Center argued that when provided with the resources, USCIS was able to respond to naturalization application surges and reduce backlog in 1997 and 2008.<sup>27</sup> In fact, USCIS's 2006 backlog elimination plan announced that through redirection of resources, it had eliminated naturalization case backlog and cut processing times from 14 months

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<sup>20</sup> UNITED STATES DEPARTMENT OF HOMELAND SECURITY, OFFICE OF INSPECTOR GENERAL, *USCIS Has Been Unsuccessful in Automating Natural Benefits Delivery*, (Nov. 30, 2017), <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-23-Nov17.pdf>.

<sup>21</sup> *Id.*

<sup>22</sup> MIGRATION POLICY INSTITUTE, *supra* note 8.

<sup>23</sup> UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, *Historical National Average Processing Time (in Months) for All USCIS Offices for Select Forms by Fiscal Year*, (November 2020), <https://egov.uscis.gov/processing-times/historic-pt>.

<sup>24</sup> BOUNDLESS, *The 2019 State of New Americans*, (February 2019), <https://www.boundless.com/research/2019-state-of-new-american-citizenship-report/>.

<sup>25</sup> Manyu Jiang, *Growing USCIS Backlogs Could Be Worsened by Spending Cuts*, DOCUMENTED NY, Sept. 28, 2020, <https://documentedny.com/2020/09/28/growing-uscis-backlogs-could-be-worsened-by-spending-cuts/>.

<sup>26</sup> MIGRATION POLICY INSTITUTE, *supra* note 8.

<sup>27</sup> IMMIGRATION LEGAL RESOURCE CENTER, *supra* note 1.

in February 2004 to 5 months in December 2006.<sup>28</sup> As of FY2019, the backlog is 644,000, down from 728,000 in FY2017—which appears to show some progress; however, the COVID-19 pandemic and resulting agency shutdowns are likely to reverse this improvement.<sup>29</sup>

The Trump administration also made various changes to USCIS processes that have exacerbated case processing times. In 2017, USCIS required a new in-person interview requirement for employment-based green card applications and refugee/asylee relatives, which immediately increased the workload of USCIS adjudicators, indirectly impacting the length of the naturalization process.<sup>30</sup> Advocates sued in 2018 to receive information on how “enhanced vetting” policies negatively impacted naturalization processing.<sup>31</sup> In addition, responding to the sharp increase in asylum seekers at the U.S.-Mexico border in FY2018-FY2020, some USCIS adjudicators were reassigned to conducting asylum application adjudications at the border.<sup>32</sup>

In 2017, USCIS announced additional scrutiny on military service-based naturalization applications, including a longer period of required military service and extra background and security checks. In January 2018, USCIS closed its naturalization centers at three basic combat training sites and announced that it was ending the Naturalization at Basic Training Initiative, which made it easier for noncitizen recruits to apply for citizenship during training.

On February 2, 2018, the Trump administration altered the USCIS mission, removing the former mission to “secure America’s promise as a nation of immigrants by providing accurate and

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<sup>28</sup> UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, *USCIS Announces Elimination of Naturalization Application Backlog*, (Sep. 15, 2006), <https://www.aila.org/infonet/uscis-elimination-natz-application-backlog>.

<sup>29</sup> Manyu Jiang, *supra* note 25.

<sup>30</sup> AMERICAN IMMIGRATION LAWYERS ASSOCIATION, *USCIS Processing Delays Have Reached Crisis Levels Under the Trump Administration*, (Jan. 30, 2019), <https://www.aila.org/infonet/aila-policy-brief-uscis-processing-delays>; *Coalition for Humane Immigrant Rights, et al. v. United States Citizenship and Immigration Services*, No. 2:18-CV-08034 (C.D. Cal. 2018).

<sup>31</sup> CBS LOS ANGELES, *Immigrant Rights Groups Sue Feds Over ‘Second Wall’ of Citizenship Applications*, Sep. 17, 2018, <https://losangeles.cbslocal.com/2018/09/17/npna-lawsuit-uscis-over-citizenship-backlog-second-wall/>.

<sup>32</sup> MIGRATION POLICY INSTITUTE, *supra* note 8.

useful information to customers, granting immigration and citizenship benefits, promoting awareness and understanding of citizenship...” and replacing it with, “administers the nation’s lawful immigration system, safeguarding its integrity...by efficiently and fairly adjudicating requests for immigration benefits while protecting Americans, securing the homeland...”.<sup>33</sup> This change is emblematic of a shift in focus to a vetting agency: in federal FY2019, USCIS referred 22 percent more naturalization applications to its Fraud Detection and National Security Directorate than in federal FY2018.<sup>34</sup>

In July 2018, USCIS published a memo granting USCIS adjudicators the ability to deny cases without issuing a request for evidence or a notice of intent to deny—meaning small mistakes or lack of information could lead to denial without the opportunity to rectify an application.<sup>35</sup> USCIS additionally announced new guidance stating that any individual whose application for immigration benefits is denied should automatically be put into removal proceedings, including instances where naturalization applicants’ permanent residence was being attacked by USCIS.<sup>36</sup> Since September 2018, fee waiver criteria for naturalization have changed three times—the most recent would deny fee waivers for those who have been previously vetted for inability to pay prior to receipt of a means-tested benefit—a complete reversal from former processes.<sup>37</sup> Applying with a fee waiver now triggers heightened scrutiny and questioning by USCIS.<sup>38</sup> In December 2019, USCIS released guidance that would make the “good moral character” requirement more difficult

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<sup>33</sup> IMMIGRATION LEGAL RESOURCE CENTER, *supra* note 1.

<sup>34</sup> MIGRATION POLICY INSTITUTE, *supra* note 8.

<sup>35</sup> UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, *USCIS Updates Policy Guidance for Certain Requests for Evidence and Notices of Intent to Deny*, (Jul. 13, 2018), <https://www.uscis.gov/news/news-releases/uscis-updates-policy-guidance-for-certain-requests-for-evidence-and-notices-of-intent-to-deny>.

<sup>36</sup> UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, *USCIS Updates Notice to Appear Policy Guidance to Support DHS Enforcement Priorities*, (Jul. 5, 2018), <https://www.uscis.gov/news/news-releases/uscis-updates-notice-to-appear-policy-guidance-to-support-dhs-enforcement-priorities>.

<sup>37</sup> IMMIGRATION LEGAL RESOURCE CENTER, *supra* note 1.

<sup>38</sup> *Id.*

to attain, by expanding the list of crimes and examples of unlawful acts that could lead to denial of citizenship.<sup>39</sup>

In March 2019, the Immigration Legal Resource Center surveyed 212 organizations that assist in naturalization outreach and processing in 34 metropolitan areas across the United States. All respondents noted an increase in suspicion among USCIS adjudicators, with a heightened emphasis on rooting out fraud through longer interviews (up to 90 minutes as opposed to the traditional 45-60 minutes) and changes to the types of questions asked of applicants, including requests for information outside the scope of the naturalization application, or changing the manner in which English and civics testing is conducted.<sup>40</sup> Applicants were additionally issued more Requests for Evidence to support applications related to tax compliance and income, continuous residency and physical presence, marriage and child support, and criminal history.<sup>41</sup> In some instances, applicants were so intimidated, they withdrew their applications.<sup>42</sup>

### *C. Proposed Rules*

USCIS additionally issued several rule changes that could add barriers to the naturalization process. In 2018, USCIS proposed changes to the naturalization form under the Paperwork Reduction Act, which added unclear and legally overbroad questions that could lead to arbitrary and inconsistent adjudications, and unclear and burdensome instructions likely to further disincentivize applicants.<sup>43</sup> In 2018, USCIS proposed changes to the fee waiver for naturalization

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<sup>39</sup> UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, *USCIS Expands Guidance Related to Naturalization Requirement of Good Moral Character*, (Dec. 13, 2019), <https://www.uscis.gov/news/news-releases/uscis-expands-guidance-related-to-naturalization-requirement-of-good-moral-character>.

<sup>40</sup> IMMIGRATION LEGAL RESOURCE CENTER, *supra* note 1.

<sup>41</sup> MIGRATION POLICY INSTITUTE, *supra* note 8.

<sup>42</sup> *Id.*

<sup>43</sup> Ilona Bray, J.D., *New N-400 Naturalization Application form Required by USCIS*, NOLO, Dec. 16, 2019, <https://www.nolo.com/legal-updates/new-n-400-naturalization-application-form-required-by-uscis.html>.



applications, proposing to eliminate the receipt of a public benefit as grounds for waiver eligibility.<sup>44</sup> This change, however, is currently being litigated.<sup>45</sup>

In its Spring 2019 Regulatory Agenda, USCIS announced a massive USCIS fee structure overhaul, proposing to increase the naturalization fee by 83 percent.<sup>46</sup> The fee proposal cited a need to transfer revenue to ICE as justification.<sup>47</sup> In August 2020, a final rule was published that raised the naturalization fee by 81 percent,<sup>48</sup> but a preliminary injunction granted in two separate lawsuits effectively barred implementation.<sup>49</sup> On December 28, 2020, instead of filing its opening brief in the federal appellate court, the DOJ moved to dismiss its appeal, effectively canceling the final rule and subsequent fee hike.<sup>50</sup> On January 14, 2021, the following was posted to the federal register, regarding the litigation: “DHS is enjoined from implementing or enforcing the final rule in its entirety pending final adjudication of the two cases.”<sup>51</sup>

On December 1, 2020, USCIS administered a new naturalization test, drawing from 128 prepared civics questions, given orally.<sup>52</sup> As part of this new test, candidates must answer 20 randomized questions with a passing score of 12, up from answering six of 10 questions from a

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<sup>44</sup> IMMIGRATION LEGAL RESOURCE CENTER, *supra* note 1.

<sup>45</sup> PROTECT DEMOCRACY, *City of Seattle v. DHS*, (n.d.), <https://protectdemocracy.org/project/city-of-seattle-v-dhs/>.

<sup>46</sup> AMERICAN IMMIGRATION LAWYERS ASSOCIATION, *USCIS Proposed Rule with adjustments to Fee Schedule and Other Changes*, (Nov. 14, 2019), <https://www.aila.org/infonet/84-fr-62280-11-14-19>.

<sup>47</sup> *Id.*, See 84 FR 62280 (Nov. 14, 2019).

<sup>48</sup> AMERICAN IMMIGRATION LAWYERS ASSOCIATION, *Final Rule Significantly Altering USCIS Fee Schedule*, (Aug. 3, 2020), <https://www.aila.org/infonet/final-rule-altering-uscis-fee-schedule>.

<sup>49</sup> See United States District Court for the Northern District of California (*Immigrant Legal Resource Center v. Wolf*, No. 4:20-cv-5883 N.D. Cal Sept. 29, 2020), and United States District Court for the District of Columbia, (*Rights Project, et al., v. United States Citizenship and Immigration Services, et al.*, No. 19-3283 RDM (D.D.C., Oct. 8, 2020).

<sup>50</sup> Otenio B. Ombok, *USCIS Withdraws Proposed Filing Fee Increases*, THE NATIONAL LAW REVIEW, Jan. 7, 2021, <https://www.natlawreview.com/article/uscis-withdraws-proposed-filing-fee-increases>.

<sup>51</sup> See UNITED STATES FEDERAL REGISTER, Volume 86, Number 9, *Agency Information Collection Activities, Extensions, Without Change of a Currently Approved Collection: Request for Reduced Fee*, Jan. 14, 2021, <https://www.govinfo.gov/content/pkg/FR-2021-01-14/html/2021-00644.htm>.

<sup>52</sup> See Steven Lubet, *Trump’s New Citizenship Test is Full of Conservative Bias—And Dotted with Mistakes*, POLITICO, Dec. 3, 2020, <https://www.politico.com/news/magazine/2020/12/03/trumps-new-citizenship-test-is-full-of-conservative-biasand-dotted-with-mistakes-442777>; UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, *The 2020 Version of the Civics Test*, (last updated on Jan. 20, 2021), <https://www.uscis.gov/citizenship/2020test>.

pool of 200.<sup>53</sup> Questions have also gotten more difficult, asking for biographical details of Founding Fathers or analysis questions such as “the purpose of the Tenth Amendment,” or been altered to reflect a political opinion held by the Trump administration.<sup>54</sup> In some instances, the study guide omits obvious correct answers to questions, seemingly for political reasons.<sup>55</sup> For example, the question, “What are three rights of everyone living in the United States?” fails to include rights to counsel, due process, equal protection, and freedom from cruel and unusual punishment or unreasonable search and seizure as correct answers, but lists the right to bear arms.<sup>56</sup>

#### *D. Incidental Impacts on Naturalization*

While USCIS and Trump administration policy issued direct changes to the naturalization process, changes to other parts of the immigration system also had incidental negative impacts on naturalization. For example, in its provider survey findings, ILRC detailed how New American Campaign partners noted that delays in USCIS processing impacted naturalization applications:<sup>57</sup>

- More green cards expiring prior to completion of the naturalization process: as the case resolution periods extended by several months, renewing green cards added time and expense to existing naturalization applications;<sup>58</sup>

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<sup>53</sup> Last edited in 2008, See Steven Lubet, *Trump’s New Citizenship Test is Full of Conservative Bias—And Dotted with Mistakes*, POLITICO, Dec. 3, 2020, <https://www.politico.com/news/magazine/2020/12/03/trumps-new-citizenship-test-is-full-of-conservative-biasand-dotted-with-mistakes-442777>.

<sup>54</sup> See UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, *The 128 Civics Questions and Answers (2020 Version)*, last updated November 2020, [https://www.uscis.gov/sites/default/files/document/crc/M\\_1778.pdf](https://www.uscis.gov/sites/default/files/document/crc/M_1778.pdf); See UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, *Civics (History and Government) Questions for the Naturalization Test*, last updated January 2019, <https://www.uscis.gov/sites/default/files/document/questions-and-answers/100q.pdf>.

<sup>55</sup> Steven Lubet, *supra* note 53.

<sup>56</sup> *Id.*

<sup>57</sup> IMMIGRATION LEGAL RESOURCE CENTER, *supra* note 1.

<sup>58</sup> *Id.*

- Tax returns submitted along with fee waivers deemed “outdated” and fee waivers being rejected as a result;<sup>59</sup>
- Death of a partner making an applicant ineligible for citizenship, despite having been eligible while the partner was alive;<sup>60</sup>

More than this, suspending and reducing refugee admissions,<sup>61</sup> slowing family-sponsored immigration,<sup>62</sup> limiting employment-based immigration,<sup>63</sup> and attempting to exclude potential ‘public charge’ applicants by rule<sup>64</sup> have acted as slowdowns to lawful immigration that necessarily decreased naturalization.<sup>65</sup>

#### *E. DOJ’s Denaturalization Division*

Prior to the Trump administration, denaturalization—the process of stripping an immigrant of their U.S. citizenship—was rarely exercised, with only an average of eleven instances per year from 1990 to 2017, largely concerning serious human rights violators and war criminals (such as former Nazis).<sup>66</sup> In January 2018, USCIS referred 1,600 naturalized citizens to the Department of Justice for prosecution,<sup>67</sup> and as recently as February 2020, the *New York Times* reported that

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<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> Anita Snow and Julie Watson, *Under Trump, U.S. no longer leads world on refugee protections*, AP NEWS, Oct. 26, 2020, <https://apnews.com/article/donald-trump-politics-virus-outbreak-immigration-immigration-policy-1f8c91e31fba158126f8e91c1453b13f>.

<sup>62</sup> Mica Rosenberg, *Fewer family visas approved as Trump toughens vetting of immigrants: Reuters review*, REUTERS, Jan. 4, 2018, <https://www.reuters.com/article/us-trump-effect-immigration/fewer-family-visas-approved-as-trump-toughens-vetting-of-immigrants-reuters-review-idUSKBN1ET15I>.

<sup>63</sup> See UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, *Buy American and Hire American: Putting American Workers First*, last updated Oct. 29, 2020, <https://www.uscis.gov/laws-and-policy/other-resources/buy-american-and-hire-american-putting-american-workers-first>.

<sup>64</sup> Nicole Narea, *A federal judge blocked Trump’s rule creating a wealth test for immigrants*, VOX, last updated, Jul. 30, 2020, <https://www.vox.com/policy-and-politics/2019/10/11/20899253/trump-public-charge-rule-immigrants-welfare-benefits>.

<sup>65</sup> MIGRATION POLICY INSTITUTE, *supra* note 8.

<sup>66</sup> IMMIGRATION LEGAL RESOURCE CENTER, *supra* note 1.

<sup>67</sup> UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, *USCIS partners with Justice Department and Secures First Denaturalization as a Result of Operation Janus*, Oct. 10, 2018, <https://www.uscis.gov/news/news-releases/uscis-partners-justice-department-and-secures-first-denaturalization-a-result-operation-janus>.

denaturalizations have increased under the Trump administration: “Of the 228 denaturalization cases that the department has filed since 2008, about 40 percent of them were filed since 2017...denaturalization case referrals have increased 600 percent.”<sup>68</sup> In its budget request for FY2019, U.S. Immigration and Customs Enforcement requested a \$200 million transfer from USCIS in order to review the cases of 700,000 naturalized U.S. citizens.<sup>69</sup> In February 2020, DOJ announced the creation of a section dedicated to denaturalization cases, claiming that it anticipated a “growing number of referrals [for denaturalization] from law enforcement agencies.”<sup>70</sup>

### III. NATURALIZATION IN 2020

#### A. COVID-19 Impact

The rapid transmission of the SARS-CoV-2 virus in 2020 halted most USCIS processing, specifically suspending in-person interviews and naturalization oath ceremonies from March through May, with a gradual reopening beginning on June 4, 2020, by appointment only.<sup>71</sup> Under typical circumstances, USCIS naturalizes 2,100 immigrants daily, which translates to at least 130,000 individuals who were unable to naturalize while interviews and ceremonies were suspended.<sup>72</sup> This unforeseen and extended shutdown impacted hundreds of thousands of applicants and allowed the backlog to further balloon while also affecting the USCIS budget, which is largely fee-funded and does not receive Congressional appropriations.<sup>73</sup>

#### B. 2020 Election

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<sup>68</sup> Katie Benner, *Justice Dept. Establishes Office to Denaturalize Immigrants*, THE NEW YORK TIMES, Feb. 26, 2020, <https://www.nytimes.com/2020/02/26/us/politics/denaturalization-immigrants-justice-department.html>.

<sup>69</sup> UNITED STATES DEPARTMENT OF HOMELAND SECURITY, IMMIGRATION AND CUSTOMS ENFORCEMENT, *Budget Overview (Fiscal year 2019) Congressional Justification*, <https://www.dhs.gov/sites/default/files/publications/U.S.%20Immigration%20and%20Customs%20Enforcement.pdf>.

<sup>70</sup> See AMERICAN IMMIGRATION LAWYERS ASSOCIATION, *DOJ Announces Creation of a Section Dedicated to Denaturalization Cases*, Feb. 6, 2020, <https://www.aila.org/infonet/doj-announces-creation-of-a-section-dedicated>

<sup>71</sup> <https://www.uscis.gov/about-us/find-a-uscis-office/field-offices>; MIGRATION POLICY INSTITUTE, *supra* note 8.

<sup>72</sup> MIGRATION POLICY INSTITUTE, *supra* note 8.

<sup>73</sup> *Id.*

As the Trump administration’s policies deliberately attacked the naturalization process and COVID-19 pandemic created extensive delays for naturalization applicants, many immigrants who would have otherwise naturalized in time to meet most states’ voter registration deadlines to vote in the 2020 election were deprived of the opportunity.<sup>74</sup> Specifically, data from USCIS revealed that the agency had only interviewed 91,000 out of the 381,000 naturalization applicants who could have normally expected to vote in November.<sup>75</sup> This was particularly concerning, considering newly naturalized citizens are one of the fastest-growing voting blocs in the United States.<sup>76</sup> In February 2020, the Pew Research Center estimated that over 23 million naturalized citizens would be eligible to vote in the 2020 election, making up 10 percent of the entire electorate.<sup>77</sup> The majority would be voting in five states—California, New York, Florida, Texas, and New Jersey—with both Florida and Texas as battleground states in the 2020 election.<sup>78</sup> But given the backlog of naturalizations, the composition of the electorate was changed—making the 2020 election voter population less diverse, and less representative of the United States.<sup>79</sup>

#### **IV. NATURALIZATION IN NEW YORK CITY**

##### *A. NYC Population*

New York City is home to 3.1 million immigrants who comprise about 37 percent of the city’s population.<sup>80</sup> Accordingly to the Mayor’s Office of Immigrant Affairs (MOIA), approximately 56 percent of immigrant New Yorkers are naturalized U.S. citizens, and an

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<sup>74</sup> BOUNDLESS, *The Fix is in—Nearly 300,000 Immigrants Won’t Become U.S. Citizens in Time for the 2020 Election*, (Sep. 3, 2020), <https://www.boundless.com/blog/immigrants-citizenship-vote-2020/>.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> NEW YORK CITY MAYOR’S OFFICE OF IMMIGRANT AFFAIRS, *Annual Report (Calendar year 2019)*, (March 2020), <https://www1.nyc.gov/assets/immigrants/downloads/pdf/MOIA-Annual-Report-for-2019.pdf>.

additional estimated 622,000 immigrant New Yorkers, who are lawful permanent residents (i.e., green card holders), are potentially eligible to naturalize.<sup>81</sup> New York City offers various services that assist individuals with their citizenship applications.

### *B. City Programs*

CUNY Citizenship Now! is the largest university legal assistance program in the nation, providing free and confidential citizenship and immigration legal services since 1997.<sup>82</sup> With more than 70 employees, 6 full-time centers and more than 30 part-time locations in Council Member offices in districts across the city, CUNY Citizenship Now! helps more than 1,500 individuals each year, all on the path to citizenship.<sup>83</sup> Services are open to members of the public based on availability, and do not have a minimum income requirement.<sup>84</sup> In addition to their one-on-one services, the program has also developed a model to help large groups with the immigration applications—a model that is nationally recognized and has been implemented by other organizations and has served thousands of immigrants who cannot afford to pay for private attorneys.<sup>85</sup> Additionally, CUNY Citizenship Now! works with partners to offer Civics classes and workshops about immigrant rights, business creation, and finances, and holds more than 20 community-based events annually.<sup>86</sup> In 2020, CUNY Citizenship Now! assisted 2,425 New Yorkers with citizenship applications, work permit applications, and other cases, including adjustment of status, consular processing, document replacement/renewal, and removal of

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<sup>81</sup> *Id.*

<sup>82</sup> CITY UNIVERSITY OF NEW YORK CITIZENSHIP NOW!, *About*, last accessed Jan. 25, 2021, <http://www1.cuny.edu/sites/citizenship-now/about/>.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

condition cases.<sup>87</sup> This total included 792 citizenship consultations and 477 citizenship applications completed.<sup>88</sup> CUNY Citizenship Now! also held monthly Facebook Live events on public charge, proposed fee increases/elimination of fee waivers, and DACA restoration.<sup>89</sup>

MOIA offers several Legal Services programs, which serve as entry points for New Yorkers seeking free immigration legal services.<sup>90</sup> MOIA's ActionNYC programs, for example, are citywide, community-based programs that provide immigrant New Yorkers with access to free, high-quality immigration legal services in their language, at safe locations in their communities.<sup>91</sup> ActionNYC is operated jointly by MOIA, DSS/HRA, and CUNY, and implemented in collaboration with over 30 community-based organizations and legal service providers.<sup>92</sup> MOIA's 2019 annual report states that ActionNYC has seen a steady rise in demand for immigration legal services since 2017, including an increase in calls to the hotline from individuals seeking assistance and also an increase in the work being done by legal service providers to try to meet that demand.<sup>93</sup> Additionally, MOIA reports that from July to September 2018, there was a significant increase in naturalization cases filed, likely in anticipation of the midterm elections and in response to fears that non-citizen status would leave individuals vulnerable.<sup>94</sup> MOIA states that in tandem with the increase of anti-immigrant rhetoric and policies, providers are being more cautious with every application they file because of heightened consequences of denial.<sup>95</sup> With this exercise of appropriate risk aversion comes the need for more administrative and legal time to be able to

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<sup>87</sup> CITY UNIVERSITY OF NEW YORK CITIZENSHIP NOW!, *FY2020 – FY20201 City Council Final Report for CUNY Citizenship Now! Reporting Period: July 1, 2020 – December 18, 2020*, (on file with Committee staff).

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> NEW YORK CITY MAYOR'S OFFICE OF IMMIGRANT AFFAIRS, *supra* note 80.

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

support clients in filing their applications in a timely and legally viable fashion.<sup>96</sup> ActionNYC services provided for citizenship increased from 861 to 958 applications from 2017 to 2018, and a decrease to 864 applications in 2019.<sup>97</sup> Action NYC also saw a 152 percent increase in applications for fee waivers that assist low income New Yorkers in accessing benefits, such as naturalization, which otherwise have a high cost.<sup>98</sup>

MOIA also ensures access to safe, quality, and linguistically responsive citizenship services for all immigrant New Yorkers through its flagship program, NYCitizenship.<sup>99</sup> NYCitizenship is a collaborative effort by the MOIA, Brooklyn Public Library, New York Public Library, Queens Library, New York City Human Resources Administration, New York Legal Assistance Group, and the Mayor's Fund to Advance New York City.<sup>100</sup> The program is supported by the Mayor's Office for Economic Opportunity, alongside private funders including Citi Community Development and Robin Hood.<sup>101</sup> NYCitizenship provides free legal help with citizenship applications, and financial counseling, at select public library branches.<sup>102</sup> NYCitizenship legal services are solely provided by the New York Legal Assistance Group through a city-wide partnership with MOIA.<sup>103</sup> As part of NYCitizenship, individuals can meet with a free, trusted lawyer, easily apply for citizenship, find out if they can apply for free, and get free, confidential financial counseling.<sup>104</sup> In 2019, NYCitizenship provided services at 12 public library branches across the five boroughs, and held 121 information sessions and outreach

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<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> NEW YORK CITY MAYOR'S OFFICE OF IMMIGRANT AFFAIRS, *Legal Services: Citizenship*, last accessed Jan. 25, 2021, <https://www1.nyc.gov/site/immigrants/help/legal-services/citizenship.page>.

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> NEW YORK CITY PUBLIC LIBRARY, *NYCitizenship*, last accessed Jan. 25, 2021, <https://www.nypl.org/help/community-outreach/nycitizenship>.

<sup>104</sup> NEW YORK CITY MAYOR'S OFFICE OF IMMIGRANT AFFAIRS, *supra* note 100.



activities, reaching 9,000 individuals.<sup>105</sup> In 2019, NYCitizenship screened 1,454 clients, filed over 800 citizenship and 70 green card renewal applications accompanied by over 600 fee waivers, and provided legal referrals to 11 individuals.<sup>106</sup> Of the applications that were adjudicated in 2019, 88 percent were approved.<sup>107</sup> NYCitizenship also assisted applicants with fee waivers and disability waiver applications if eligible, and all clients were additionally provided with the opportunity to meet with a financial counselor for free and confidential financial counseling.<sup>108</sup> MOIA stated in its 2019 annual report that in July 2020, the NYCitizenship program was to be transitioned into the ActionNYC model, as ActionNYC in Libraries, which will be more deeply embedded in the City's civil legal services infrastructure through MOIA and DSS/HRA.<sup>109</sup>

## V. CONCLUSION

The Committee on Immigration intends to highlight the ways in which the City supports programs that assist immigrant New Yorkers who are seeking to naturalize. The last four years have been unique in the systematic attacks promoted by the executive branch of the federal government against the citizenship process. They have also included a global pandemic that halted much of the in-person naturalization procedures, such as interviews and ceremonies, further growing the case backlog. At the same time, New York City has a significant population of immigrants who may be eligible for naturalization, and service providers have continued to help many of these individuals navigate the increasingly difficult process, even throughout the pandemic. With the possibility of an expanded pathway to citizenship for some categories of

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<sup>105</sup> NEW YORK CITY MAYOR'S OFFICE OF IMMIGRANT AFFAIRS, *supra* note 80.

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

undocumented immigrants,<sup>110</sup> the City must continue to support programs and policies that reduce barriers to citizenship. The committee expects to hear strategies to assist in this effort from the Mayor's Office, including ways in which the administration can partner with USCIS and service providers on the ground to ensure that the case backlog and other policies put in place by the Trump administration do not hamper access to citizenship for eligible New Yorkers.

## **VI. LEGISLATIVE ANALYSIS OF RES. NO. 1229**

Res. No. 1229 calls on the United States Congress to pass and the President to sign legislation that would extend citizenship, without exception, to all internationally adopted children, upon entry into the United States. The most recent legislation that related to this was the Adoptee Citizenship Act of 2019 (H.R. 2731 / S. 1554), and would need to be reintroduced under a new title and bill reference numbers in the 117<sup>th</sup> Congress.

Current laws do not grant automatic citizenship to all children brought to the United States for the purposes of adoption. Rather, it is currently the responsibility of adopted parents to ensure that adoptions are finalized within the U.S. and citizenship separately sought for those adopted children who entered the U.S. under visa categories ineligible for automatic citizenship. The Child Citizenship Act of 2000 attempted to address the existing gap by granting automatic citizenship to certain categories of internationally adopted children, however it excluded: (1) adopted children who were 18 years of age, or older, at the time of the Act's passage; (2) children adopted after the Act's passage, whose adoptions were not finalized in the countries of their birth and thus did not enter the U.S. on specific visas; and (3) children who entered the U.S. on non-immigrant or

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<sup>110</sup> Lisa Mascaro and Bill Barrow, *Biden to propose 8-year citizenship path for immigrants*, AP NEWS, Jan. 18, 2021, <https://apnews.com/article/biden-8-year-citizenship-path-immigrants-4f2dffdb7a688e1e126a62a8acd59730>.

humanitarian visas. Unfortunately, failure to finalize adoption and naturalization filings can result in the depriving the adopted child of citizenship. Often, the cost alone of filing for citizenship can be prohibitive to adoptive parents. Legislation like the Adoptee Citizenship Act of 2019 would ensure that all internationally adopted children are bestowed the rights of U.S. citizenship.

Res. No. 1229

Resolution calling on the United States Congress to pass, and the President to sign, the Adoptee Citizenship Act of 2019 (H.R. 2731 / S. 1554), in order to secure U.S. citizenship of internationally adopted children who are now adults or aging into adulthood.

By Council Members Koo, Koslowitz, Gjonaj and Chin

Whereas, Current laws do not guarantee United States ('U.S') citizenship to all children brought to the U.S. for the purposes of adoption; and

Whereas, The Child Citizenship Act of 2000 guaranteed automatic citizenship to adoptees under the age of 18 who were born outside the U.S. and adopted by U.S. citizens, as long as their adoptions are considered final in the countries of their birth; and

Whereas, The Child Citizenship Act excluded three categories of adopted children from automatic citizenship: (1) adopted children who were 18 years of age, or older, at the time of the Act's passage; (2) children adopted after the Act's passage, whose adoptions were not finalized in the countries of their birth and thus did not enter the U.S. on specific visas; and (3) children who entered the U.S. on non-immigrant or humanitarian visas; and

Whereas, It is the responsibility of adopted parents to ensure that adoptions are finalized within the U.S. and citizenship separately sought for those adopted children who entered the U.S. under visa categories ineligible for automatic citizenship; and

Whereas, Information related to the immigration of adoptees is unevenly distributed by adoption agencies, often resulting in adoptive parents being unaware of the implications of failing to finalizing adoptions in the U.S. and filing for the naturalization of their adoptive children; and

Whereas, In other instances, adoptive parents neglect to complete adoption or naturalization filings, resulting in the deprivation of citizenship; and

Whereas, The cost of filing for naturalization can be prohibitive in addition to the high cost of intercountry adoptions; and

Whereas, A bipartisan effort to close the adoptee-citizenship loophole has been ongoing, the most recent iteration of which is the Adoptee Citizenship Act of 2019 (H.R. 2731 / S. 1554), sponsored by U.S. Representative Smith (D-WA) and U.S. Senator Blunt (R-MO); and

Whereas, The Adoptee Citizenship Act of 2019 would grant automatic citizenship to any adoptee of a U.S. citizen parent upon entry to the U.S., subject to a criminal background check, and waive all grounds of inadmissibility outlined in section 212(a) of the Immigration and Nationality Act; and

Whereas, Federal data does not track the naturalizations of intercountry adoptees, however U.S. Department of State data shows that at least 27 percent of all intercountry adoptions between 1999 and 2016 were of children entering the U.S. under visa categories ineligible for automatic citizenship; and

Whereas, Adoptees at risk of U.S. citizenship deprivation were born in Argentina, Brazil, Cambodia, China, Colombia, Costa Rica, Dominican Republic, El Salvador, Germany, Great Britain, Guatemala, Haiti, India, Iran, Ireland, Japan, Mexico, Panama, the Philippines, Russia, Samoa, South Korea, St. Kitts, Thailand, the Ukraine, and Vietnam; and

Whereas, National advocacy organization, the Adoptee Rights Campaign ('ARC') estimates that between 25,000 and 49,000 children adopted between 1945 and 1998 reached adulthood without naturalizing; and

Whereas, ARC estimates that an additional 7,321 to 14,643 children, could enter adulthood without guaranteed U.S. citizenship; and

Whereas, These estimates do not account for children who entered the U.S. on non-immigrant or humanitarian visas and could therefore be much higher; and

Whereas, The state of New York has the second highest population of intercountry adopted children in the nation, and could see more than 4,000 adopted residents deprived of the protections granted by U.S. citizenship; and

Whereas, Without U.S. citizenship, these adoptees are not protected from deportation, which has occurred in a least 12 cases according to ARC; and

Whereas, The well-documented rise in immigration enforcement could lead to additional deportations of adoptees if the current statute is not amended; now, therefore, be it

Resolved, That the Council of the City of New York calls on the United States Congress to pass, and the President to sign, the Adoptee Citizenship Act of 2019 (H.R. 2731 / S. 1554), in order to secure U.S. citizenship of internationally adopted children who are now adults or aging into adulthood.

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