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Submitted over email via cisombudsman@hq.dhs.gov, cisombudsman.policy@hq.dhs.gov, cisombudsman.publicaffairs@hq.dhs.gov, and foiapaquestions@uscis.dhs.gov

Dear Nathan Stiefel & Linda Davis,

The American Immigration Council (“the Council”) writes this letter to express concerns over obstacles and delays dozens of immigration practitioners from across the country have encountered in obtaining their clients’ Alien Files (“A-Files”) and/or other immigration records through the Freedom of Information Act (“FOIA”). These delays and difficulties arise from USCIS’s growing practices of (i) not conducting searches that comply with its own policies before issuing a no records determination—let alone the reasonable searches that FOIA requires—and (ii) not making a final determination on any request remanded for a supplemental search after a successful administrative appeal within twenty business days.

These practices violate FOIA’s search and timing provisions. They also obstruct practitioners’ representation of clients in removal and other immigration proceedings, and prompt practitioners to file repeat FOIA requests, increasing the agency’s workload.

The Council asks the agency to investigate these unlawful practices, meet with us to discuss them, and provide a proposal for ending them within the next few months.

A-Files, Receipt Files, & Other Immigration Records

USCIS is the custodian of the A-File and other immigration records. “The A-File serves as the official record of an individual’s immigration history.”¹ This history includes the individual’s “immigration applications, petitions, and requests, as well as enforcement transactions as he or she passes through the U.S. immigration process” exclusive of some “case processing and decisional data.”² The A-File “is used in immigration proceedings before U.S. Department of

¹ Notice of Modified Privacy Act System of Records, 82 Fed. Reg. 43,556, 43,557 (Sept. 18, 2017).

² *Id.* at 43,559; *see also id.* 43,559-61 (listing illustrative contents of an A-File).



Justice (DOJ) immigration judges and the Board of Immigration Appeals (BIA), and is the official record used in Federal court litigation and other official agency business transactions.”³

The A-File “takes three possible forms”: (1) records contained with a paper A-File located at the National Records Center or component field offices; (2) records contained within the electronic record from EDMS or ELIS; or (3) a combination of paper and electronic records and supporting documentation.⁴ Regardless of form, the A-File’s contents “are derived from various systems belonging to USCIS, ICE, and CBP” each of which “create[s], contribute[s] information to, and use[s]” the File.⁵

In addition to the A-File, USCIS internal documents indicate that the agency maintains other files for an individual, such as a Substitute File (S-File), a Temporary File (T-File), a Non-Immigrant File (N-File), a Work File (W-File), a Certificate File (C-File), and/or a Receipt File.⁶ T-Files, N-Files, W-Files, and Receipt Files are created by USCIS during various immigration proceedings, while an S-File is a substitute file for an A-File that has been lost or destroyed, and a C-File consists of the naturalization records for an individual naturalized before April 1, 1956.⁷ T-Files, N-Files, W-Files, and most Receipt Files are temporary: USCIS later consolidates them into the A-File.⁸ But the S-File, the C-File, and Receipt Files for applications for legal permanent residency (I-485), naturalization (N-400), certificate of citizenship (N-600), employment authorization document (I-765), or a travel/parole document (I-131) are permanent, standalone files not consolidated with the A-File.⁹

USCIS Search Policy & Practice

USCIS policy requires the agency to search two systems for records before it makes a no records determination on a FOIA request for an A-File and/or other immigration records: (1) Person Centric Identity Service (PCIS); and (2) Person Centric Query Service (PCQS).¹⁰

These systems search different sets of data using different search terms.

1. PCIS is an index of person-centric, identity profiles created by using artificial intelligence to match and aggregate biometric, biographic, and immigration data and corresponding transactional records for an individual.¹¹ PCIS pulls data and records for these profiles from five systems USCIS uses, or has used, to process applications for immigration

³ *Id.* at 43,557.

⁴ *Id.* at 43,557-58; *see also* Ex. A at 2-3 (describing ELIS and EDMS).

⁵ *Id.* at 43,557.

⁶ U.S. Dep’t of Homeland Sec., Privacy Impact Assessment for RAILS, DHS/USCIS/PIA-075, 2 (Nov. 2018), <https://www.dhs.gov/publication/dhsuscispia-075-rails>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*; *see also* Ex. B at 6.

¹⁰ Ex. C at 4, 21.

¹¹ Dep’t of Homeland Sec., Privacy Impact Assessment for the Person Centric Identity Services (PCIS) Initiative, DHS/USCIS/PIA-087, 1, 8-10 (Dec. 2022), <https://www.dhs.gov/publication/dhsuscispia-087-person-centric-identity-services-initiative> (hereinafter, “PCIS PIA”).

benefits (CLAIMS 3, CLAIMS 4, CAMINO, INFACT, and Global), the agency's biometric and background check system (CPMS), the agency's platform for noncitizens to change their address of record (AR11), the agency's repository for electronically filed benefit request forms and certain paper forms (ELIS), and the agency's central index system for tracking the location of paper A-Files (CIS2).¹² PCIS supports identifier searches by a-number, receipt number, fingerprint number, encounter number, I-94 number, social security number, or online account number as well as biographical information searches by exact name, exact date of birth, country of birth, or country of citizenship.¹³

2. PCQS is a search tool that retrieves all immigration transactions for an individual stored in connected data systems from a single query.¹⁴ In addition to the nine USCIS systems from which PCIS ingests data for its profiles, connected data systems include thirteen additional systems operated by USCIS, ICE, CBP, DHS, EOIR, or the U.S. Department of State: ADIS, ATS-P, BBSS, CCD, eCISCOR,¹⁵ EID, FD 258 Fingerprint Tracking System, IDENT, IRIES, MFAS, RAILS, SEVIS, and TECS.¹⁶ PCQS supports searches by a-number, wildcard¹⁷ name, date of birth range, and other data elements depending on the systems searched.¹⁸

Notwithstanding USCIS' stated policy of searching these two systems, the agency has a growing practice of issuing a no records determination after searching only PCIS. It has done so for at least forty different FOIA requests for immigration records since August 2022. When the requester appeals the search, USCIS remands the request for a supplemental search but then does not make a final determination on remand within twenty business days. The agency has failed to process at least twelve different FOIA requests on remand within this time since August 2022, some of which have languished on remand for well over a year.

USCIS Practices Violate FOIA

USCIS search and remand practices violate FOIA's requirements to (i) conduct a reasonable search before making a no records determination; and (ii) make a subsequent determination on requests remanded for a supplemental search within twenty business days.

¹² *Id.* at 8 & ns. 32-41; *see also* Ex. A (describing CLAIMS 3, CLAIMS 4, CAMINO, INFACT, Global, CPMS, AR11, ELIS, and CIS2).

¹³ PCIS PIA, *supra* n. 11, at 11; *see also* Ex. C at 6-8; Ex. D at 3-8, 18.

¹⁴ U.S. Dep't of Homeland Sec., Privacy Impact Assessment for the Person Centric Query Service, DHS/USCIS/PIA-010, 1 (Mar. 2016), <https://www.dhs.gov/publication/dhsuscispia-010-person-centric-query-service> (hereinafter, "PCQS PIA").

¹⁵ This letter treats eCISCOR as a single system despite PCQS's PIA listing four different eCISCOR systems in its list of connected systems.

¹⁶ PCQS PIA, *supra* n. 14, at 18-19; *see also* Ex. C at 10-14.

¹⁷ Wildcard name means a string of letters bookended by wildcards (usually asterisks).

¹⁸ PCQS PIA, *supra* n. 14, at 1; *see also* Ex. C at 9.



Search Violations

Not searching PCQS before issuing a no records determination is unreasonable. Reasonableness bars USCIS from “limit[ing] its search to only one record system if there are others that are likely to turn up the information requested.”¹⁹ It also requires the agency “to follow through on obvious leads to discover requested documents,”²⁰ such as alternative spellings of names.²¹

By searching only PCIS, USCIS is failing to search thirteen different immigration data systems connected to PCQS that may contain responsive records to a request for immigration records or yield obvious leads for locating such records (*e.g.*, alternative a-numbers, dates of birth, or name spellings). Omitted systems include a CBP system with data on attempted entry, entry, and departure from the United States (ADIS), an EOIR system with records of removal proceedings (IRIES), an ICE repository for investigation, arrest, booking, detention, and removal data (EID), a State Department database about visa applications (CCD), and USCIS’s system for locating paper A-Files (RAILS).²² USCIS is also failing to search the case management systems from which PCIS ingests data by obvious leads that PCIS does not support, such as searches by wildcard name and date of birth range.

Remand Violation

Not processing requests for immigration records remanded for a supplemental search after a successful administrative appeal within twenty business days also violates FOIA. “Although FOIA does not explicitly contemplate remands following administrative appeals,” USCIS must make a determination on “[a] request upon remand ... within twenty working days.”²³

USCIS’s growing, unlawful practices of not searching PCQS as its internal policies require and not processing requests remanded for a supplemental search within twenty business days are obstructing immigration practitioners’ representation of noncitizens seeking an immigration benefit or fighting removal.

The Council asks the agency to investigate these unlawful practices, meet with us to discuss them, and provide a proposal for mitigating them within the next few months.

Please direct any questions or concerns to Chris Opila, copila@immcouncil.org or (202) 507-7699. Thank you for your time and consideration.

¹⁹ *Campbell v. U.S. Dep’t of Just.*, 164 F.3d 20, 28 (D.C. Cir. 1998) (cleaned up); *see also Int’l Refugee Assistance Project, Inc. v. U.S. Citizenship & Immigr. Servs.*, 551 F. Supp. 3d 136, 172 (S.D.N.Y. 2021) (enjoining USCIS to search a refugee database to which it previously had access when processing requests for refugee records).

²⁰ *Valencia-Lucena v. U.S. Coast Guard*, 180 F.3d 321, 325 (D.C. Cir. 1999).

²¹ *Hasbrouck v. U.S. Customs & Border Patrol*, No. C 10-3793, 2012 WL 177563, *4 (N.D. Cal. Jan. 23, 2012).

²² *See* Ex. A (reproducing and describing these systems).

²³ *Coleman v. Drug Enf’t Agency*, 714 F.3d 816, 824 (4th Cir. 2013).



Respectfully,

/s/ Chris Opila _____

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Exhibits & Enclosures:

- A. List of Relevant Systems
- B. USCIS, Lesson Plan: Case Processing Overview
- C. USCIS, No Records Procedures (Jan. 12, 2022)
- D. PCIS Overview