AMERICAN IMMIGRATION LAWYERS ASSOCIATION

A Better Way on Immigration

Policy Brief: Right-Sizing Vetting for a Secure, Fair, and Efficient Immigration System

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Protecting national security is a core responsibility of the U.S. government—and the immigration system already reflects that priority through some of the most extensive screening and vetting processes in federal law. In response to the September 11th terrorist attacks, Congress established the Department of Homeland Security (DHS) with three distinct immigration agencies to enhance our national security by focusing on border security (Customs and Border Protection - CBP), interior immigration investigations (Immigration and Customs Enforcement - ICE) and immigration adjudications (U.S. Citizenship and Immigration Services - USCIS). With distinct responsibilities, the Homeland Security Act of 2002 aimed to ensure efficient and effective immigration management to better identify security threats.

The current Administration's push for so-called "extreme vetting" is framed as a response to alleged security threats, but in practice it operates on the flawed premise that every immigrant is a potential criminal, regardless of their background or circumstances. This blanket suspicion diverts limited USCIS adjudication resources away from genuine risk detection, creates severe processing backlogs, and blocks law-abiding immigrants from contributing to the U.S. economy and communities. Ultimately, these actions do not make us safer. A smarter, risk-based approach to screening and vetting can enhance security while preserving fairness, efficiency, and constitutional principles.

"Extreme Vetting": Myth vs. Reality

The Myth

The Trump Administration has consistently touted the narrative that all immigrants present a national security and public safety threat, alleging that even legal immigration can "destroy a country at its foundation." This has led to the repeated assertion that heightened vetting is necessary to identify criminals, terrorists, and other national security threats within the immigration system. Public statements suggest that prior standards were weak or dismantled, and that sweeping new measures are required to protect the American public.

The Reality

The anti-immigrant rhetoric displayed in the Administration's statements severely misrepresents and undermines the effective vetting standards that have long been in place at USCIS. While there undoubtedly have been tragic acts of violence committed by immigrants—including the deadly shooting of National Guard members in Washington, D.C., in November 2025 that was an impetus to many of these extreme vetting policies—these incidents are rare when compared to the millions of immigrants who are contributing members of our country. In fact, research shows that immigrants in the United States commit crimes at lower rates than the U.S.-born population and that in communities with well-established populations of immigrants, the level of criminal activity has decreased. The Administration's exploitation of isolated incidents to justify increased vetting is not supported by the facts.

These statistics are not accidental. Individuals applying for immigration benefits undergo strict vetting standards and criteria which have been in place for decades. This includes the collection of biometrics[1], criminal background checks, and FBI name checks. Various U.S. government agencies—including USCIS, Department of State (DOS), and CBP—and local and international police and intelligence agencies are involved in their screening and vetting. Officers review criminal and security-related flags, travel and employment history, and affiliation with suspicious organizations, and they deny and revoke immigration requests in accordance with the law. When determining eligibility for immigration benefits, the agency has continuously required factual and context-specific analysis.

Longstanding laws and processes ensure that immigrants who commit a crime will likely face negative immigration consequences, such as denials or deportation. For example, to qualify for a visa or obtain Legal Permanent Resident (LPR) status, foreign nationals must be "admissible"—meaning they must not fall within any of the specific grounds of inadmissibility enumerated in INA § 212(a), which include national security concerns, criminal convictions, immigration violations, health-related issues (e.g., communicable diseases, mental disorders, drug abuse), and likelihood of becoming a public charge. These inadmissibility grounds are reviewed at various stages of an individual's immigration cycle, leading up to when they apply for U.S. citizenship. To naturalize, individuals must demonstrate good moral character (GMC), a statutory standard that assesses whether applicants have been law-abiding and responsible members of society. INA 101(f) sets forth certain disqualifying factors—such as murder, drug abuse, prostitution, unlawful voting, fraud, and prior jail time—that can render noncitizens ineligible for naturalization.

The Economic and Security Costs of Extreme Vetting

While our laws set forth strict vetting standards, they can only work if they are faithfully implemented in tandem by the various government agencies involved in the immigration process. CBP manages individuals entering at the border, ICE enforces immigration law within the United States, and DOS screens individuals who seek to enter the United States from overseas. USCIS plays a distinct role—determining if high-skilled immigrants, seasonal workers, family members of U.S. citizens, and those seeking humanitarian protection, among others, are eligible for immigration benefits under the law. Congress directed USCIS to prevent backlogs and processing delays, allowing eligible individuals to contribute to the economy and communities, while promptly identifying those who are ineligible or pose security risks.

However, the Trump Administration has done the exact opposite. Singularly focused on enforcement, it has issued a number of extreme vetting policies that have stymied immigration adjudications at USCIS by ordering pauses, re-reviews, and burdensome and indiscriminate information gathering with a disregard for due process or transparency. Millions[2] of applicants—including individuals applying for citizenship, family members of U.S. citizens, people already working in the United States, and those seeking to bring their talents here—have been caught up in this massive dragnet as their cases are inexplicably delayed. If someone in that lengthy line was intending to do harm to the United States, they may be discovered only after it is too late.

These new policies, issued under the guise of "national security," include:

- **The inexplicable halt and burdensome "re-review" of millions of applications:** USCIS placed **an indefinite hold** on all benefit applications submitted by individuals from countries on the Administration's travel ban list, asylum applications for all individuals, and adjustment of status for refugees admitted during the Biden Administration. The agency additionally ordered **re-review of approved benefit requests** for these groups granted on or after January 20, 2021, likely impacting tens of millions.[3] There is no evidence that this hold and re-review will enhance national security, only that processing times will continue to lengthen.[4]

- **Arresting refugees for not applying for green cards**: USCIS and ICE issued a memo requiring detention of refugees who fail to apply for permanent residence within one year of admission, with no exceptions. It allows that refugees can be held until their adjustment application is adjudicated, despite the extensive screening all refugees receive prior to arrival and the fact that many of these applications are currently subject to the adjudications pause detailed above. This could lead to unreasonable outcomes, such as detaining children—who are not able to file their own applications—for extended periods.

- **Considering country of birth a negative factor**: An August 2025 USCIS memo now considers that an applicant's country of origin may be a "significant negative [factor]" when deciding discretionary applications, such as those for green cards and change of nonimmigrant status. AILA members have reported receiving Requests for Evidence (RFE) for applicants from travel ban countries asking them to prove why the mere fact that they were born in one of these countries should not negate their eligibility for continued status, adding extra layers of unnecessary and discriminatory evidentiary requirements that exacerbate processing delays.

- **Subjective and resource-intensive social media vetting:** USCIS guidance directs officers to review social media for "anti-American" activity as part of its decision making. The lack of defined standards for what is considered anti-American will result in arbitrary, inconsistent, and subjective decisions used to punish individuals and their family members if they do not hold beliefs similar to the Administration's. Foreign students have already suffered the brunt of these First Amendment attacks. USCIS has proposed collecting social media identifiers on all immigration forms, adding more paperwork without explaining how this needle in a haystack type of search will identify real threats.

- **Delays in work authorization renewals that will leave U.S. businesses stranded:** USCIS published an Interim Final Rule (IFR) eliminating the automatic extension of timely-filed

employment authorization document (EAD) renewals. DHS claims that automatic extensions create a security vulnerability; however, individuals formerly eligible for the automatic extensions have already been vetted. Eliminating automatic extensions amid processing delays will result in lapses in their work authorization, forcing employers to terminate or suspend employees and thereby creating high turnover costs and disruptions for U.S. businesses.

- **Resource-draining "Neighborhood Checks" that divert resources from actual threat detection:** USCIS issued a memo announcing it will conduct personal investigations, or neighborhood checks, for naturalization applicants. Individuals applying for U.S. citizenship have already been vetted multiple times, as they have held various legal statuses for years, if not decades, before applying for citizenship. Sending USCIS officers door to door to interview the neighbors of the 700,000-800,000 individuals who apply for citizenship every year is a colossal fishing expedition that taxes limited resources.

- **Loyalty tests replacing good moral character analysis:** On August 15, 2025, USCIS instructed officers to assess a naturalization applicant's positive attributes, including "assimilation" and "allegiance and character." AILA members report that during interviews clients have been asked "why do you love the U.S.?" and what they thought about the Charlie Kirk shooting. Not only are these criteria subjective and amenable to abuse, but they contradict the law[5] which requires analysis on measurable negative acts by an applicant, rather than subjective and intangible traits of an individual. Using these criteria also duplicates existing laws that require applicants to pass English and Civics tests and take the Oath of Allegiance to objectively measure assimilation and allegiance.

- **Implementation of less transparent policies impacting due process:** USCIS issued policy guidance creating a more restrictive standard for withholding derogatory information from applicants. Specifically, USCIS will not provide a written or verbal summary of classified information used to deny an individual's application. Without any sense of the information being used against them, applicants are not given the full opportunity to defend themselves before an adverse decision is made in their case.

The Administration has not shown a cognizable pattern of security concerns that justify policies that slow and burden lawful immigration processing. The Administration should instead advance national security by following its statutory mandate of adjudicating immigration benefit applications fairly and efficiently. This can be done by reviewing all relevant facts and evidence presented, requesting additional information when specific concerns arise, faithfully applying statutory vetting standards, and avoiding doubling back on already approved cases where no credible evidence of security threat or fraud has been presented in that specific case.

A Better Way Forward: Security Through Smart, Evidence-Based Vetting

Collectively, all the highlighted changes will significantly damage the legal immigration system, impacting families, communities, businesses, the economy, and the fabric of the country as a whole. The Administration's actions and rhetoric make us less safe by fueling fear of immigrants and forcing immigrants pursuing lawful pathways into the shadows.

Adequate vetting and security checks are needed, but there must be a balance between properly securing the United States and making the immigration system fair and accessible. Instead, the Administration should focus on:

- **Risk-Based Vetting:** Vetting should focus on demonstrated threat indicators, not nationality, generalized country conditions, or subjective cultural judgments. Resources should be targeted where evidence shows actual risk.
- **Efficiency as a Security Tool:** Timely adjudication is itself a security measure. Faster processing allows officers to identify risks sooner, prevents backlogs from obscuring red flags, and ensures that eligible applicants can contribute to the economy without unnecessary delay.
- **Evidence-Driven Policy:** Any new vetting requirement should be justified by clear evidence that it addresses a documented gap in existing screening. Absent such proof, expanding vetting only adds cost, delay, and confusion—without improving safety.
- **Respect for Existing Law and Adjudications:** The government should adhere to Constitutional standards, faithfully apply statutory vetting standards, and respect adjudications made under those standards, rather than reopening cases wholesale without individualized cause.

Effective and right-sized security and vetting processes will maintain the integrity of the legal immigration system, without sacrificing national security, public safety, or due process.

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[1] Biometrics typically require individual fingerprints, photographs, and signatures. USCIS recently proposed the increased collection of biometrics that involve collection of DNA, ocular image, palm print, and voice print.
[2] According to USCIS' Fiscal Year 2025, Quarter 3 report, over 11 million immigration benefit applications remain pending, many of which were filed by individuals from impacted countries.
[3] Based on USCIS quarterly data on all application and form types, between Fiscal Years 2021-2025, USCIS approved roughly 42,247,156 immigration benefit applications. Public USCIS data does not break down approvals by nationality.
[4] By way of example, USCIS's inability to adjudicate the high volume of asylum applications illustrates why reopening approved benefit requests is ill-advised. In 2024, the DHS Office of Inspector General reported that USCIS faced challenges with reducing its asylum backlog of over 1 million cases in fiscal year 2023. The 2024 CIS Ombudsman Annual Report states that USCIS was only able to complete processing for 54,211 affirmative asylum cases of the more than 455,000 cases received in fiscal year 2023.
[5] *See* INA 101(f) and 8 CFR 316.10.