

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

CENTER FOR IMMIGRATION	)	
STUDIES,	)	
1629 K Street, NW, Suite 600,	)	
Washington, DC 20006,	)	Civil Action No. 18-1669
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
U.S. CITIZENSHIP AND	)	
IMMIGRATION SERVICES,	)	
20 Massachusetts Ave., NW,	)	
Washington, DC 20001,	)	
	)	
Defendant.	)	
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**COMPLAINT**

Plaintiff Center for Immigration Studies (“CIS” or “Center”) brings this action against U.S. Citizenship and Immigration Services (“USCIS”) to compel compliance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. Plaintiff alleges the following grounds:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

**PARTIES**

3. Plaintiff CIS (“Plaintiff”) is a non-profit, research and educational foundation organized under the laws of the District of Columbia and having its principal place of business at

1629 K Street, NW, Suite 600, Washington, D.C. Plaintiff seeks to educate immigration policymakers, the academic community, news media, and concerned citizens with reliable information about the social, economic, environmental, security, and fiscal consequences of legal and illegal immigration into the United States. In furtherance of its public interest mission, Plaintiff regularly requests access to the public records of federal agencies, entities, and offices, and disseminates its findings to the public.

4. Defendant USCIS is an agency of the U.S. Government and is headquartered at 20 Massachusetts Ave., NW, Washington, DC 20001. USCIS is a component of the U.S. Department of Homeland Security (“DHS”). USCIS has possession, custody, and control of certain public records to which Plaintiff seeks access.

#### **STATEMENT OF FACTS**

5. In October 2017, Plaintiff submitted a FOIA request to USCIS, by mail, requesting that USCIS produce, in Microsoft Excel format, information answering the following set of questions pertaining to the Deferred Action for Childhood Arrivals application, form I-821:

##### **A) Requests relating to Questions in Part 1 of Form I-821D**

1. Total number of applicants who answered “Yes” to question 5, concerning removal proceedings.
2. Number of applicants who checked Box 5d, “Subject to a final order.”
3. Number who reported having a Social Security number (question 7).
4. Breakdown of all dates of birth by monthly cohorts, with the number of applicants in each cohort (question 8).
5. Number of applicants by each municipality of birth (10a)
6. Number of applicants by marital status (question 13).

##### **B) Requests relating to Questions in Part 2 of Form I-821D**

1. Number of applicants who answered “No” to question 1.
2. Number of applicants in each zip code reported in question 2f.

C) Requests relating to Questions in Part 3 of Form I-821D

1. Breakdown of responses to date of arrival (question 2) by yearly cohorts.
2. Breakdown of responses to place of entry (question 3) by state.
3. Breakdown of responses to questions 4, by response, e.g. "No lawful status," etc, including responses not suggested on the form.
4. Breakdown of responses to question 6, by response.

D) Requests relating to questions in part 4 of the I-821D

1. Number who answered "Yes" to questions 1-7, including all sub-questions.

E) Requests relating to questions in Part 5 of the I-821D

1. Number who checked the box in question 1a.
2. Num[b]er who checked the box in question 1b, and the responses accompanying the box, broken down by language.

F) Requests relating to questions in Part 6.

1. Number who reported using an interpreter as listed in Part 6.

G) Requests relating to questions in Part 7.

1. Number who reported using a preparer as listed in Part 7.

6. Plaintiff received an acknowledgement letter dated October 16, 2017 from Defendant confirming receipt of Plaintiff's FOIA request on October 12, 2017, and assigning the request control number COW2017001264.

7. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant was required to determine whether to comply with Plaintiff's FOIA request within twenty (20) working days after receipt of that request and to notify Plaintiff immediately of its determination, the reasons therefore, and the right to appeal any adequately specific adverse determination. Accordingly, Defendant's determination of Plaintiff's FOIA request was due by November 9, 2017, at the latest.

8. As of the date of this Complaint, USCIS has failed to: (i) determine whether to comply with Plaintiff's FOIA request; (ii) notify Plaintiff of any such determination or the

reasons for such determination for the FOIA request; (iii) advise Plaintiff of the right to appeal any adverse determination of the FOIA request; or (iv) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

9. Because Defendant has failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A) with respect to the FOIA request, Plaintiff is deemed to have exhausted any and all administrative remedies with respect to that request, pursuant to 5 U.S.C. § 552(a)(6)(C).

**COUNT 1**

(Violation of FOIA, 5 U.S.C. § 552)

10. Plaintiff re-alleges paragraphs 1 through 9 as if fully stated herein.

11. Defendant is unlawfully withholding public records requested by Plaintiff pursuant to 5 U.S.C. § 552.

12. Plaintiff is being irreparably harmed by reason of Defendant's unlawful withholding of the requested public records, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct a search for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order Defendants to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA request and a Vaughn index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: July 16, 2018

Respectfully submitted,

/s/ Julie B. Axelrod  
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