

A quiet change in US policy threatens immigrants who apply for a change in status

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CASE STUDY



Taking away the American dream. (Reuters/Shannon Stapleton)

It went largely unremarked, just another bland procedural decision from a government agency. But a quiet policy change at the United States Citizenship and Immigration Services last month is the next step toward a nationwide purge of non-citizens.

On June 28, [USCIS announced](#) that non-citizens who apply for a “benefit”—such as an extension or change of status, a green card, or citizenship—would be placed in deportation proceedings if that benefit is denied. For years, a criminal conviction has been required to be fast-tracked for deportation. Now, merely losing your petition for visa extension, being charged with a crime, or doing something DHS considers to be criminal (even if never arrested or charged) places you on the same fast-track.

Once in deportation proceedings, the non-citizen must prove she is eligible to stay in the United States. She will not be provided a lawyer; she may be detained, sometimes with no bond. There is no right to a speedy trial, nor trial by jury. Here are a few examples highlighting the full extent of the new rule.

Jack, a foreign student, files for an extension of his visa. He’s always been in status. He moves off campus, and properly files a change of address with USCIS

(he even gets the receipt). Later, the agency sends a request for evidence to his old address anyway. Jack never receives it. USCIS denies the extension of status for failure to respond. Jack now faces deportation.

Maria is in the US on a fiancée visa and files for a green card. Her US citizen husband has a good job with health insurance. Before the green card interview, Maria is diagnosed with breast cancer. The officer finds out and denies Maria's green card, saying [she's likely to become a public charge](#). Maria now faces deportation.

Sam is a software engineer. His employer sponsors him for a green card—but is then acquired by another firm. USCIS denies the petition, saying there is insufficient proof the new employer can continue the sponsorship in the shoes of the old employer. Sam now faces deportation.

Nancy is disabled and came to the US lawfully on a “medical visit” visa. Her doctors need her to stay for another 6 months of treatment. Once it finishes, she can return home, but leaving early will endanger her health. USCIS denies the extension request, saying doctors didn't adequately explain the need for her to stay in lay terms. Nancy now faces deportation.

Jen was abused by her spouse and files for protection under the Violence Against Women Act (VAWA). She suffers from severe chronic depression, and misses the deadline for a request for evidence, asking for a doctor's report detailing the abuse. As a result, her petition is denied. Jen now faces deportation.

It's not always easy to stay in status. Life happens. Deporting everyone who fails to dot every “i” and cross every “t” is shelling a peanut with a sledgehammer. Under the new USCIS policy change, the United States' already unforgiving system will become draconian.

While the USCIS has always had some authority to initiate deportation proceedings, [the last policy guidance on deportation, issued in November 2011](#), centered on criminals, fraud, and other negative eligibility indicators. That guidance has been canned. This new policy greatly expands the categories of “enforcement priority” to most of the people trying to navigate a byzantine immigration system.

It is becoming [harder and harder to comply](#) with the immigration law. Asylum law is being gutted. Immigration judges [are being robbed](#) of the little independence they had, and pressured to order removals. Families have been ripped apart to “send a message” for the “crime” of exercising their human and legal right to seek asylum. There is now a task force [dedicated to taking citizenship away from people](#). Millions of Muslims are now legally banned from entry. The list of countries designated for Temporary Protected Status continues to shrink, and the Dreamers who grew up in this country remain in limbo.

It's no coincidence that brown and black people bear the brunt of these attacks. This is the result of years of nativist, protectionist rhetoric peddled by groups like the

Federation for American Immigration Reform, the Center for Immigration Studies, and NumbersUSA. Their work hasn't been cheap: [hundreds of millions of dollars have been poured into this effort](#) since the inception of FAIR in 1979. Born from white nationalism, such groups have beaten the drums of war against imaginary hordes of brown and black invaders for decades.

Immigration courts currently face [a staggering backlog of over 700,000 cases](#), and the Trump administration has complained extensively about the bureaucracy required to deal with them. Paradoxically, USCIS will now pump in another stream of cases. This system is going to explode. When it does, the next step in the white nationalist agenda will be to replace it with a new version, stripped of the due process of law.

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