

Families in Limbo: The Biden Administration Must Address Delays in Refugee and Asylee Family Reunification

During the difficult, sometimes chaotic flight to safety, refugee families are often separated and unable to travel together. Acknowledging this reality, the Follow-to-Join (FTJ) process was built into the U.S. refugee system to create an immigration pathway specifically for refugee and asylee family reunification. Through this process, the refugees already in the United States can petition to have their spouses and children abroad join them by filing a Form I-730 with the U.S. Citizenship and Immigration Service (USCIS). However, the Trump Administration’s four-year targeted campaign against refugees introduced layers of hurdles that exponentially increased FTJ processing times¹ and dramatically ballooned the backlog.² As a result, thousands of refugee families have been separated for years, often living in precarious conditions as they wait to reunify.³

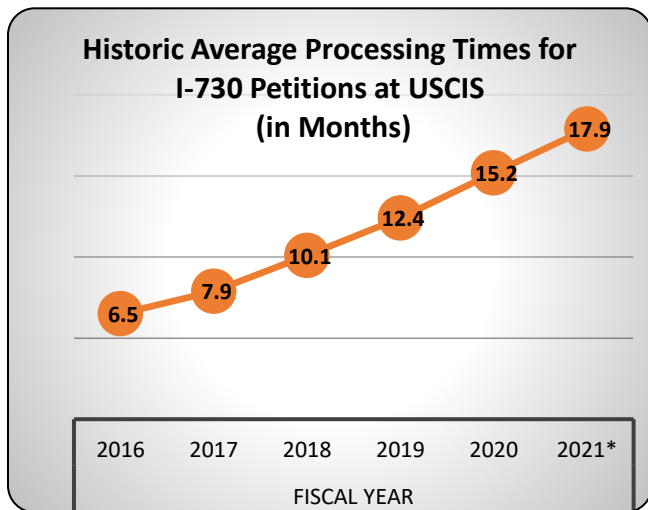


Figure 1 Historical Average Processing Times for I-730 Petitions at USCIS (in Months). Data available at sources cited *infra* note 1.

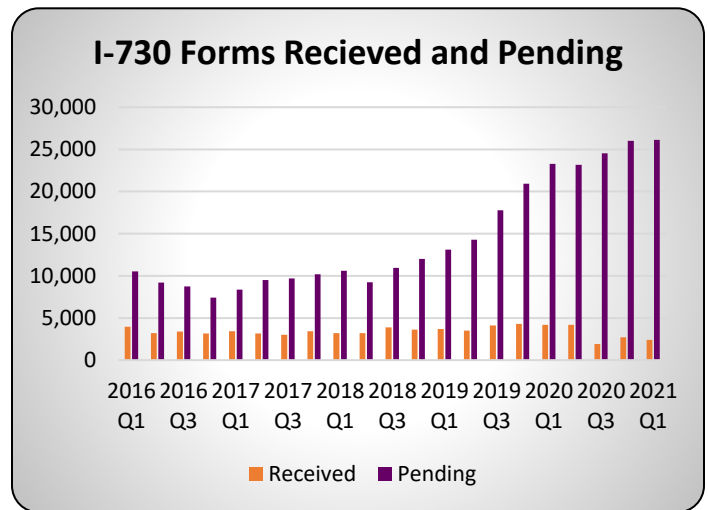


Figure 2 I-730 Forms Received and Pending each fiscal quarter 2016-2021. Data available at sources cited *infra* note 2.

¹ USCIS, Historical National Median Processing Times (in Months), available at <https://egov.uscis.gov/processing-times/historic-pt> (last visited June 18, 2021); USCIS, Historical National Average Processing Time (in Months), available at <https://www.uscis.gov/archive/historical-national-average-processing-time-in-months-for-all-uscis-offices-for-select-forms-by> (last visited June 18, 2021). *Data complete through Fiscal Year (FY) 2021 First Quarter (Q1).

² See USCIS, Number of Service-wide Forms By Quarter, FY2018-2021, available at [https://www.uscis.gov/sites/default/files/document/reports/Quarterly All Forms FY2021Q1.pdf](https://www.uscis.gov/sites/default/files/document/reports/Quarterly%20All%20Forms%20FY2021Q1.pdf) (FY2021Q1), [https://www.uscis.gov/sites/default/files/document/reports/Quarterly All Forms FY2020Q4.pdf](https://www.uscis.gov/sites/default/files/document/reports/Quarterly%20All%20Forms%20FY2020Q4.pdf) (FY2020), [https://www.uscis.gov/sites/default/files/document/reports/Quarterly All Forms FY2019Q4.pdf](https://www.uscis.gov/sites/default/files/document/reports/Quarterly%20All%20Forms%20FY2019Q4.pdf) (FY2019), [https://www.uscis.gov/sites/default/files/document/data/Quarterly All Forms FY18Q4.pdf](https://www.uscis.gov/sites/default/files/document/data/Quarterly%20All%20Forms%20FY18Q4.pdf) (FY2018) (last visited June 18, 2021). Data reflected *infra* Figure 2.

³ IRAP, *Families in Limbo: What the Biden Administration Can Do Now to Address Unreasonable Delays in Refugee and Asylee Family Reunification* (March 2021), available at <https://refugeerights.org/wp-content/uploads/2021/03/FTJ-Report-FINAL-1.pdf>.

What is Causing these Delays?

The delays in FTJ processing are the result of suspensions of the program under President Trump’s Muslim Ban; repeated transfers of responsibility within or between the federal agencies involved—USCIS and the U.S. State Department; unnecessary, confusing, and sometimes unannounced changes to the process; and inefficient and ineffective changes to security vetting and background checks, including the expansion of the Security Advisory Opinion (SAO) vetting.⁴

What can the Biden Administration Do About it?

President Biden campaigned on a promise to welcome refugees, and has acknowledged that expediting refugee family reunification is in the national interest.⁵ In March 2021, IRAP published a comprehensive report⁶ detailing how the Biden Administration should uphold its promise to reunify refugee families:

1. Roll Back Trump-Era Agency Actions Causing Delays

President Biden should reverse the Trump-era agency actions at the root of the FTJ delays. These actions include increased data and documentary requirements, as well as the unnecessary expansion of interview requirements. The Biden Administration should also address the fall-out of the repeated transfers of responsibility for processing FTJ cases by making clear that USCIS has primary responsibility for these cases, ensuring all adjudicators are properly trained, and surging agency resources to address the current backlog.

2. Streamline Processing & Increase Transparency

FTJ processing can and should be streamlined and transparent: statutory eligibility criteria for adjudication are straightforward, and refugee FTJ approvals are non-discretionary. The Biden Administration should review every step of the FTJ process to ensure that each stage adds quality or efficiency, and should make the policies and procedures governing FTJ adjudications publicly available on agency websites.

⁴ IRAP, *Debunking “Extreme Vetting”: Recommendations to Build Back the U.S. Refugee Admissions Program* (Revised June 2021), available at <https://refugeerights.org/wp-content/uploads/2021/06/Vetting-Report-2020-v6-REVISED-JUNE-2021.pdf>.

⁵ “Executive Order on Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change on Migration,” Exec. Order No. 14,013, 86 Fed. Reg. 8839 (Feb. 4, 2021), available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/04/executive-order-on-rebuilding-and-enhancing-programs-to-resettle-refugees-and-planning-for-the-impact-of-climate-change-on-migration/>.

⁶ See *supra* note 3.

3. Increase Overseas Processing Capacity & Ensure Uniformity

In order to alleviate delays and backlogs in overseas processing of FTJ petitions, the Biden Administration should:

- Make USCIS responsible for managing all aspects of FTJ processing to increase uniformity and clarity. All other agencies involved should be accountable and follow the process that USCIS establishes.
- Reopen and expand USCIS International Offices (IOs) to add overseas processing capacity. Where IOs do not exist, USCIS should expand the use of video-conference technology for FTJ adjudications.

To the extent that the State Department is involved in overseas processing, USCIS should:

- Provide regular trainings to improve quality of overseas FTJ adjudications by State Department officials.
- Standardize interview procedures across embassies and consular posts.
- Establish a mechanism for responding to inquiries, providing status updates, and publicizing average processing times.
- Provide sufficient notice to clients and their legal representatives when additional evidence is requested or when a case is returned to USCIS for further processing.

4. Expand Use of Humanitarian Parole

The Secretary of Homeland Security has the authority to use humanitarian parole on a case-by-case basis to assist individuals in need of humanitarian protection. The Biden Administration should automatically consider FTJ cases pending longer than two years, and cases involving unaccompanied children, for humanitarian parole. This would permit separated family members to reunify via parole while the agencies complete processing of their pending FTJ petitions.