

Lawsuits Filed Against Department of Homeland Security Seek Greater Transparency

American Immigration Council Seeks Disclosure of Records Regarding Access to Counsel

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Washington, D.C.—The American Immigration Council’s Legal Action Center (LAC) this week filed two [lawsuits](#) [1] against the Department of Homeland Security (DHS) to compel the release of records relating to noncitizens’ access to counsel before U.S. Citizenship and Immigration Services (USCIS) and U.S. Customs and Border Protection (CBP). The LAC pursued disclosure of these records, as well as records from U.S. Immigration and Customs Enforcement (ICE), through Freedom of Information Act (FOIA) requests filed last March. To date, USCIS has failed to turn over any documents, and CBP has turned over only a few excerpts from its practice manuals. ICE has informed the LAC that it conducted a search for records, but that it is “unable to locate or identify any responsive records.” The LAC has filed an administrative appeal of ICE’s determination and will pursue litigation if necessary.

These FOIA requests were prompted by the results of a survey conducted by the LAC and the American Immigration Lawyers Association that revealed widespread restrictions on access to counsel before USCIS, ICE and CBP. Such limitations include bars on attorney presence at CBP inspections, limitations on the ability to consult with attorneys in ICE detention facilities and during questioning by ICE, and restrictions on attorneys’ ability to participate in interviews before USCIS. The survey also highlighted significant variations in policies and practices in DHS offices throughout the country.

The LAC has long advocated for the right to counsel in immigration settings, including meaningful access to an attorney. The LAC currently is pursuing administrative reforms to secure improved access to counsel in all DHS proceedings. The information sought through our FOIA requests will assist in this work and in advising immigration lawyers regarding how best to safeguard their clients’ right to counsel.

[Dorsey & Whitney LLP](#) [2] is co-counsel with the LAC on these FOIA cases.

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[1] <http://www.legalactioncenter.org/litigation/access-counsel-dhs>

[2] <http://www.dorsey.com/>

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[4] <http://www.americanimmigrationcouncil.org/sites/default/files/docs/Counsel-FOIA-suits-statement->

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