



**Written Testimony of the
Jewish Council for Public Affairs**

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For a Hearing on
Birthright Citizenship: Is it the Right Policy for America?

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Subcommittee on Immigration and Border Security

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Chairman Gowdy, Ranking Member Lofgren, and members of the Subcommittee on Immigration and Border Security: Thank you for extending the opportunity to submit testimony concerning the importance of defending the birthright citizenship provisions of the United States Constitution.

The Jewish Council for Public Affairs (JCPA) is the American Jewish community's umbrella agency for multi-issue organizations engaged in public policy and community relations. Our membership includes 16 national organizations and 125 local affiliates. We work with government representatives, the media, and a wide array of religious, ethnic, and civic organizations to address a broad range of public policy concerns and share the Jewish community's consensus perspectives.

The JCPA strongly opposes efforts to amend or circumvent the birthright citizenship provisions of the Constitution. The Fourteenth Amendment to the Constitution affirmed the concept of birthright citizenship, i.e., determining a person's citizenship by place of birth. Section 1 of the Fourteenth Amendment provides "All persons born or naturalized in the United States, and subject to the jurisdiction

thereof, are citizens of the United States and of the State wherein they reside.”¹ This constitutional provision insures “that all native-born children, whether members of an unpopular minority or descendants of privileged ancestors . . . have the inalienable right to citizenship and all its privileges and immunities.”² It reflects the American Dream—that only hard work and ability, not ancestry or class, should determine one’s achievement in our nation. This concept, reflected in inspired words by the Jewish American poet Emma Lazarus, was cast into the base of the Statue of Liberty, welcoming nearly twelve million aspiring Americans (including almost three million Jews) who came through Ellis Island, and the statue bearing these words remains a beacon of opportunity for immigrants to this day.³

In the past, Congressional and state-level legislation has been proposed that would redefine citizenship, weakening birthright citizenship by imposing additional requirements. Many of these proposals and the political arguments supporting them willfully ignore the historical meaning and clear judicial precedents interpreting Section 1 of the Fourteenth Amendment. Supporters of these proposals maintain, erroneously, that the language of the Fourteenth Amendment has been misinterpreted, and that undocumented immigrants are not “subject to the jurisdiction of the United States” because they are citizens of, and owe allegiance to, their countries of origin.

By making citizenship depend even in part on ancestry, rather than objectively on place of birth, all citizens and their descendants would lose the ability to prove their citizenship by their birth certificate alone. They would need additional documentation of the United States citizenship of one or more of their ancestors, and perhaps multiple generations of ancestors. In time, proof of their citizenship would prove to be an unfair, expensive administrative nightmare for millions of Americans. Studies show that repeal of the birthright citizenship provisions would actually increase the number of undocumented aliens in the United States and create an unprecedented permanent, self-perpetuating class of unauthorized immigrants with hereditary disadvantages.

The JCPA believes that important battle lines are being drawn, both in Congress as well as on the state level, on the matter of birthright citizenship. Defending birthright citizenship is of vital concern to the

¹ The principal purpose of Section 1 was to explicitly overrule *Dred Scott v. Sandford*, 60 U. S. 393 (1856) which held that U.S.-born Negroes whose ancestors were slaves could never become citizens of the United States regardless of the state in which they were born or resided. It majestically and explicitly rejected the racist reasoning of that case. The Fourteenth Amendment also provides for its enforcement by Congress, not the states, and explicitly provides that no State may deprive any citizen of any of the privileges and immunities of a citizen, of life, liberty or property without due process, or of the equal protection of the laws.

² Wydra, Elizabeth, “The Fourteenth Amendment’s Guarantee of Birthright Citizenship” (The Constitutional Accountability Center 2009).

³ “Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tost to me,
I lift my lamp beside the golden door!”

interests and moral imperatives of the Jewish community. Efforts to amend the federal Constitution or to interpose legislation to force a judicial challenge to settled law concerning the meaning of the Fourteenth Amendment pose a profound danger to the rights of citizens, to the ability of all of our citizens to prove their citizenship without undue administrative burdens, and to our country's core values. Often politically motivated, these efforts threaten to undermine our historic role as a welcoming nation, attracting the finest minds in the world to become productive, innovative citizens here without distinction in class or rights from those who are native born or whose ancestors immigrated earlier.

The birthright citizenship provisions of the Constitution echo the founding precepts of our Declaration of Independence that, endowed by their Creator with inalienable rights, "all men are created equal." They embody the elegant thoughts of Abraham Lincoln in his July 4, 1858 speech, and later the Gettysburg address,⁴ that those who were not blood descendents of the nation's founders and the drafters of our Declaration and Constitution were nevertheless every bit the equal of these blood descendents once they claimed those moral principles as their own.

Thank you for allowing us to present our perspective on the danger of amending the birthright citizenship provisions of the Fourteenth Amendment or legislative attempts to circumvent the current understanding of the clause. Birthright citizenship is a unique expression of the American Dream and a critical protection of our national values of equality, opportunity, and justice.

⁴ In his 1858 speech, Lincoln pointed out that those who were not blood descendents of the nation's founders and the drafters of our Declaration and Constitution were, nevertheless every bit the equal of these blood descendents once they claimed the moral principles of the Declaration of Independence and the Constitution as their own. Discussed and quoted in Gary Wills, *Lincoln at Gettysburg* (Simon & Schuster 1992) at 86-7.