

Statement of
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On
Safeguarding the Integrity of the Naturalization Process

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of the
Committee on the Judiciary
of the
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Mr. Chairman and Members of the Subcommittee, I am Rosemary Jenks, a Senior Fellow at the Center for Immigration Studies, a non-profit, non-advocacy research institution. Thank you for the opportunity to appear before you to discuss an issue that is central to our national identity, the bond that holds us united as one people: United States citizenship. United States citizenship is the most valuable and the most cherished privilege our nation can bestow upon an individual. It is a privilege that is sought by millions around the world. It carries with it the right to travel freely, to hold certain public offices and to petition for the immigration of family members. Most importantly, however, it carries with it the right, and the responsibility, to take part in shaping and securing the future of this country by voting for elected officials at all levels of government.

The requirements for naturalization are set out in the Immigration and Nationality Act. Among other things, applicants are required to submit an application form, the N-400, a copy of their alien registration card, the "green card," fingerprints, photographs and a fee of \$95 to the INS. In general, they must prove that they are at least 18 years of age; that they have resided in the United States as lawful permanent residents for a minimum of five years (unless they marry a U.S. citizen, in which case it is three years); that they are able to read, write, speak and understand English; that they have at least a minimal knowledge of U.S. history and government; that they are of good moral character; and that they do not have a serious criminal record. Upon receiving the N-400 and the accompanying paper work, INS enters the information into an INS database and forwards the fingerprints to the FBI for a criminal record check. As of November 29, 1996, INS

policy is to wait for a definitive response from the FBI regarding the criminal record check before scheduling an interview with the applicant. During the interview, INS examiners (or District Adjudications Officers, DAOs) review the information on the N-400 and test the applicant's knowledge of English, history and civics, unless he or she presents a certificate from one of the non-government testing entities. If all the requirements are met, the application is approved and the applicant is scheduled for a swearing in ceremony. Otherwise, the application is either denied or continued, depending on the nature of the problem.

Citizenship USA

At the start of FY 1994, when Commissioner Meissner took office, some 270,000 N-400 applications were pending (not including any that had been received, but not been entered into the computer). The number of N-400 applications received in FY 1994 (543,353) surpassed FY 1993 receipts (521,866) by only 21,487. At the beginning of FY 1995, however, the backlog of applications had grown to more than 314,000 and INS expected a surge in new applications because of a combination of factors, including the 2.7 million beneficiaries of the 1986 Immigration Reform and Control Act (IRCA) amnesty becoming eligible based on the five-years residence requirement, the passage of Proposition 187 in California in November 1994, and legislative proposals to bar noncitizens from certain means-tested welfare benefits.

To prepare for this expected surge, an INS working group conducted a survey in June 1994 of ways to streamline the naturalization process. Then, in April of 1995, Commissioner Meissner contracted a management consulting firm, PRC, to work with INS staff to overhaul the naturalization process. PRC and the INS staff conducted a four-week review of the process and produced a "radical redesign" of naturalization. The final report, issued in May 1995, is called *Results in 30 Days: Re-Engineering the Naturalization Process*. Among other things, it recommends that INS develop strong partnerships with "Service Providers"--community-based organizations (CBOs) and voluntary agencies (VOLAGS)--which would involve "total sharing of information, joint decision making, and aggressive coloration aimed at best meeting the needs of the applicant." It recommends the introduction of high-tech, fully automated and integrated systems to facilitate data entry and criminal background checks, in addition to automatically triggering "pre-qualified 'invitations' to immigrants as they become legally eligible for citizenship." It adds that "long-standing interpretations of eligibility laws and regulations will be reviewed to...[focus] upon meeting the demands of today's eligible customers." Finally, it concludes that processing time from submission "to approval will be reduced to 'same day service' for 80% of the applicants."

In June, 1995, Commissioner Meissner submitted a request that the naturalization program be designated as a "Reinvention Lab" under the auspices of Vice President Gore's National Performance Review (NPR). Her request letter and subsequent INS documentation make clear that the PRC report was to provide the basis for the "re-

engineering" of the naturalization process.

In the meantime, N-400 applications were on the rise and examiners were being overwhelmed. District Offices lacked the equipment they needed to process N-400s efficiently. Many offices did not have access to the Naturalization Automated Case System (NACS) database, and those that did were experiencing problems with it.

Commissioner Meissner unveiled the "Citizenship USA" (CUSA) initiative on August 31, 1995. The stated objective of CUSA, at least initially, was "to become current" on N-400 applications, meaning that applications would be processed from start to citizenship within six months, by the end of FY 1996. INS designated five "CUSA cities," including Los Angeles, San Francisco, New York, Miami and Chicago, which had the largest numbers of pending cases when the program started. Resources, including personnel, equipment and building space, were to be funneled into these five cities, which would serve as the "Reinvention Labs."

The naturalization initiative was approved as an NPR Reinvention Lab on September 5, 1995. On September 11, Commissioner Meissner forwarded to all field offices the executive summary of the PRC report with a memo explaining its origin and asking for comments. She wrote that "wherever possible, we will use validated re-engineering techniques as outlined in the PRC report to attack the caseload." She added that the report

offers "a basic road map for change."

In January 1996, INS implemented a "Direct Mail" initiative in all the CUSA cities except San Francisco. Under this system, N-400s are mailed directly to one of the four INS Service Centers (Vermont Service Center (VSC), Nebraska Service Center (NSC), Texas Service Center (TSC) and California Service Center (CSC)) instead of being submitted to District Offices. The Service Centers are supposed to enter the application data into NACS and pull the fingerprint cards and submit them daily to the FBI.

The implementation of the Direct Mail initiative resulted in almost immediate chaos. Neither Service Center staff nor District Offices fully understood the new procedures. INS offices around the country were being overwhelmed by the increase in N-400 applications--the largest group of aliens amnestied in 1986 had met the five-year residence requirement by December 1995. CUSA offices, in addition to being inundated with backlogged and new cases, were attempting to adopt the new "re-engineered" and streamlined adjudication process, thus compounding the confusion. Non-CUSA offices had been forced to detail some portion of their resources, mainly personnel, to the CUSA offices, so they, too, were falling behind. The number of N-400 applications pending on October 1, 1995 surpassed 800,000, and new applications were being received in record numbers.

On May 1, 1996, INS Associate Commissioner for Examinations Louis Crocetti announced in a memo to all field offices that the "new ideas and innovative procedures" that were tested at CUSA sites with "remarkable results," were to be expanded Servicewide to all offices. As the nationwide expansion of these "Streamlining Initiatives" was predicated on the "remarkable results" of the pilots in the CUSA cities, a brief look at those results is warranted.

Adjudication Speed--The five CUSA cities managed to accelerate naturalization processing times from more than one year in many cases to six months. This allowed the INS to meet its goal of adjudicating more than one million naturalization applications in FY 1996, but only at great cost to the integrity of the system.

FBI Fingerprint Checks--A February 1994 report from the Office of the Inspector General (OIG) of the Justice Department identified three major problems with the INS policy on fingerprint checks: 1) the INS had no way to verify that the fingerprints submitted by an applicant actually belonged to that applicant since the INS was no longer taking the fingerprints itself; 2) some applications were wrongly approved because the FBI had not completed the criminal history check before the interview was scheduled or because the FBI "hit" had not been properly filed; and 3) INS often did not resubmit new fingerprint cards when the FBI rejected the original set as illegible. OIG found that 5.4 percent of aliens submitting applications for benefits had an arrest record. The top reasons for arrest were immigration violations/deportation proceedings (32%),

assault/battery/rape (19%), theft/robbery/burglary (18%) and drug possession/distribution (10%). A December 1994 General Accounting Office (GAO) report identified the same problems with the INS fingerprint policy.

The "streamlined" naturalization process did not address any of these problems, but instead, exacerbated them. The INS still had no way to verify that the fingerprints an applicant submitted actually belonged to the applicant. In May 1995, the INS published a proposed rule to require that all applicants have their fingerprints taken by an INS-certified "designated fingerprint service" (DFS). Personnel at these DFSs would be properly trained to take fingerprints and fill out the necessary paperwork, and they would be required to ask for identification showing that the person named on the fingerprint card was the same person being fingerprinted. The final rule, however, was not published until June 1996, and final implementation was delayed from November 1, 1996 to March 1, 1997 to insure that INS had certified an adequate number of DFSs.

Fingerprint cards were supposed to be mailed by the Service Centers to the FBI on a daily basis to insure that the FBI had adequate time to run the criminal history check. In March 1996, however, the FBI did a sampling of receipts from 20 INS offices. Over 60 percent of the fingerprint cards received from Los Angeles had been at the Los Angeles office for more than 30 days before they were submitted. For the New York City office, 90 percent had been at the office for more than 30 days. At the same time the INS was dramatically

increasing the workload of the FBI, it was, in practice, cutting the FBI's response time.

The preliminary results of the INS internal review of naturalization applications approved during CUSA, as presented to the Subcommittee by Assistant Attorney General for Administration Stephen Colgate clearly show that the problems were severe. Of the 1,049,872 immigrants granted U.S. citizenship under CUSA:

71, 557 were found to have FBI criminal records, including INS administrative actions (e.g., deportation proceedings or other immigration violations), and misdemeanor and felony arrests and convictions;

Of these 71,557, 10,800 had at least one felony arrest, 25,500 had at least one misdemeanor arrest, but no felonies, and 34,700 had only administrative actions initiated against them;

113,126 had only name checks because their fingerprint cards were returned to the INS by the FBI because they were illegible;

66,398 did not have FBI criminal record checks because their fingerprint cards were never submitted to the FBI by the INS; and

2,573 were still being processed by the FBI.

As of late February 1997, 168 of these new citizens had been found to be "presumptively, statutorily ineligible" for naturalization based on their criminal record, and in another 2,800 cases, it could not be determined based on available information whether they were eligible or not.

It is important to note that none of the numbers given above indicates the degree to which applicants for naturalization lied on their applications, thereby committing perjury, which should make them ineligible for naturalization. They also do not indicate the number of applicants who may have submitted someone else's fingerprints to avoid having their criminal record revealed. Finally, for the 180,000 applicants whose fingerprints were illegible or never submitted, the INS has no way to go back and check because it is not legally allowed to require citizens to resubmit their fingerprints. Thus, unless these new citizens volunteer to have their fingerprints taken, we will never know if they were actually eligible or not.

Personnel--Temporary workers comprised most of the additional personnel for CUSA. Some 900 temporary adjudicators and clerical workers were hired by INS to accomplish the goal of naturalizing over a million people in FY 1996. As of June 1996, the Inspector General was investigating the training standards for these temporary workers, along with those workers who were detailed from other agencies or offices. In August 1996, the INS conducted an evaluation of the CUSA training program and found two major deficiencies in the program: 1) personnel were poorly trained in doing the computer checks that,

among other things, tell whether an applicant is in deportation proceedings or has had other administration actions taken against him or her; and 2) training in the procedures to deny an application were inadequate at best.

These results point to a larger problem that has since been confirmed by INS employees and by the recent KPMG Peat Marwick review of the implementation of the November 29, 1996 naturalization policy changes. A training program that teaches personnel good customer relations, but not how to do computer checks or deny applications sends an implicit message that it is more important to keep the applicant happy and approve the application than it is to maintain the integrity of the process and demand compliance with the regulations. This is precisely the message that many INS adjudicators received, not only from their training, but also from their supervisors. A number of INS employees testified, under oath, last fall that adjudicators feel pressured by their supervisors to "approve, approve, approve;" that good moral character standards are being ignored; that representatives of Community Based Organizations (CBOs) complain to supervisors about adjudicators who continue or deny applications, and that sometimes those adjudicators are removed from their duties; that adjudicators who go on outreach interviews have to provide copies of their tally sheets (showing approvals, denials and continuations) to the CBO representatives; that adjudicators have been told by their supervisors that they are not IRS agents and so shouldn't concern themselves with possible tax fraud, even though it is inconsistent with the good moral character requirement.

Volunteer workers were also utilized by many INS offices. These volunteers included members of CBOs, family members of INS employees, and, in at least one case, legal permanent residents. These volunteers performed clerical duties, including filing, mailed naturalization certificates, and collected Alien Registration Cards and distributed naturalization certificates at citizenship ceremonies, among other things. According to INS employees, this practice continued even after INS Headquarters Counsel notified Regional Directors that it is a violation of Federal law for a government agency to use volunteers to perform duties that are normally performed by agency personnel, as it constitutes an unauthorized augmentation of the agency appropriation.

Testing Fraud

In addition to internal INS problems with the naturalization process, there is well-documented evidence of widespread fraud in the testing of naturalization applicants by outside (i.e., non-government) testing entities (OTEs). In 1991, the INS established criteria under which OTEs, including for-profit businesses, could be authorized to administer standardized tests to determine a naturalization applicant's ability to read and write in English, along with his or her knowledge of history and civics. The INS criteria do not require that administrators of the tests be U.S. citizens or have criminal history checks in order to be approved.

The tests are comprised mainly of multiple choice questions, but applicants also have to write two simple sentences that are dictated to them. Five OTEs currently are authorized

to administer these tests: Educational Testing Service (ETS), Comprehensive Adult Student Assessment System (CASAS), Southeast College, Marich Associates and American College Testing (ACT). (There was a sixth OTE, Naturalization Assistance Services (NAS), until earlier this year when its authorization was terminated after repeated instances of fraud.) These OTEs in turn may license community based organizations (CBOs) and other affiliates to administer the tests on their behalf. However, neither INS, nor the individual OTEs, are able to monitor all the affiliates to ensure that requirements relating to the security of the tests or the integrity of the testing are met.

Reports of testing fraud at affiliates of the OTEs, which first surfaced in 1992, began to increase dramatically in late 1994. INS examiners came across increasing numbers of naturalization applicants who, despite having an OTE test certificate, were unable to communicate in or understand English. Some affiliates were charging as much as \$850 to prepare and test immigrants. Examples of documented fraud during the administration of the tests include test proctors pointing to the correct answers on the answer sheet, tests being given in the applicants' native language instead of English, and the sentences being written on a blackboard so applicants simply have to copy them. Some affiliates guaranteed that, as long as applicants could sign their names in English, they would pass the test. Affiliates were using print media--often ethnic newspapers--radio and television ads to advertise their services. Some ads included false promises and/or blatant lies, but there were no regulations governing the ads' contents.

In April 1996, INS Headquarters sent instructions to the field offices on procedures to follow to report and initiate investigations of complaints of testing fraud. In May 1996, after it was notified of an investigation into testing fraud by the television show "20/20," INS Headquarters sent a memo to field offices with guidelines on conducting unannounced on-site inspections of testing sites. The guidelines required each District Office to visit one site per quarter.

During the past couple of months, I have been contacted by the directors of two separate testing affiliates operating in separate regions of the country. Both told me that fraud in the outside testing entities continues, with unauthorized groups administering tests and issuing counterfeit certificates, applicants cheating on the tests, tests being given in the applicants' native language, and in one case, the director of an authorized affiliate simply filling out the answer forms for the applicants. They also told me about designated fingerprint services (DFSs) selling clean fingerprints to applicants, accepting inadequate identification, such as letters from family members or friends attesting to the person's identity, and accepting blatantly false identification.

Like the criteria for OTEs, those for DFSs do not require that the person taking the fingerprints be a U.S. citizen or have a criminal record check done. While many of the DFSs are police departments, others raise questions about the judgement of the INS in the selection process. Some of the more interesting DFSs are: Harbor Liquors in Baltimore; Biscayne Haircutters in Miami; and Express Courier Service in Passaic, NJ. Hermandad

Mexicana Nacional in Ontario, CA and Pookies Post and Parcel in Pasadena, CA had applications pending at the end of February 1997.

INS Responds

The National Security, International Affairs and Criminal Justice Subcommittee of the House Government Reform and Oversight Committee held the first hearing on the Citizenship USA program on September 24, 1996, after it had subpoenaed and sorted through thousands of pages of INS documents, memos and e-mails detailing most of the problems described herein. Despite the evidence, CUSA Project Director David Rosenberg testified at that hearing that, as a result of CUSA, the INS had "successfully reduced processing times for citizenship applications nationwide to traditional levels while maintaining the integrity of the citizenship process. We have initiated major improvements to naturalization procedures and operations."

The Senate Immigration Subcommittee held a hearing on naturalization practices on October 9, 1996, in which the former Executive Associate Commissioner for Programs, Alexander Aleinikoff, testified that, as a result of CUSA, the INS had "reduced processing times for citizenship applications nationwide to traditional levels while maintaining the integrity of the citizenship process, and [had] initiated major improvements to naturalization procedures and operations."

On October 18, 1996, in an official INS response to Senator Alan Simpson regarding testimony I presented at the October 9 Senate hearing, Commissioner Meissner wrote that, under CUSA, the INS had "made numerous improvements to the [naturalization] process, and [had] addressed this workload with efficiency and integrity."

Sometime between late October and late November 1996, INS officials realized that the problems with the naturalization process could no longer be ignored. On November 29, 1996, Commissioner Meissner sent a memo to the field offices detailing new "Naturalization Quality Procedures." The memo outlined seven "key enhancements" to the naturalization process, including: 1) standardization of work process; 2) fingerprint check integrity; 3) enhanced supervisory review; 4) instructions regarding the use of temporary files; 5) implementation of a quality assurance program; 6) guidance regarding revocation procedures; and 7) requirements for increased monitoring of OTEs. The new procedures were effective upon receipt.

In a joint hearing before this Subcommittee and the National Security Subcommittee on March 5, 1997, Commissioner Meissner testified that the new procedures "have eliminated the possibility of naturalization cases being completed without verification of an FBI fingerprint check." She concluded by saying, "It is very important that Congress and the American people understand the validity of these corrections we have made to the naturalization process....We made mistakes in Citizenship USA...We have corrected those

mistakes and have put into place a series of new measures to prevent them in the future."

The recently-released KPMG Peat Marwick review of the implementation of these new measures brings into question the ability, and the willingness, of INS management to seriously address the problems with the naturalization procedures. The fact that three of the 23 offices surveyed did not even have the correct copy of the new procedures clearly points to a severe lack of communication between INS Headquarters and field offices. It is interesting to note here that, once a draft of the review was given to the INS, Commissioner Meissner called all the District Directors to Washington for a briefing and sent 200 naturalization personnel to a training course. Perhaps if those actions had been taken when the new policies were first implemented, the review would have found better results. Such actions also may have helped to communicate the sense of urgency the reviewers found lacking at the field level.

Despite the fact that field offices had been issued guidelines on monitoring outside testing entities in May 1996, as well as the "enhanced" monitoring procedures in the November 29 memo, the KPMG Peat Marwick review team was "frequently informed that INS Headquarters [not the field offices] was responsible for monitoring all outside testing agencies."

That three of the service processing centers, along with three field offices, had the wrong FBI address is patently absurd. Most worrisome is the report's conclusion that "the INS

continues to have the most significant control problems with the fingerprint process and the identification of statutorily-barred applicants."

Recommendations for Improvement

Congress and the American people were assured repeatedly by the INS over the last year that there were no major problems with the naturalization process under Citizenship USA. Then, we were assured that, if there were any problems, they had been fixed. Now, we know that these assurances were unfounded. The Justice Department is correct that the process needs a major overhaul from top to bottom. However, we must be somewhat cautious in our expectations of the re-engineering of the process by Coopers and Lybrand; after all, previous re-engineering efforts got us where we are today.

It is important to recognize that many of the problems with the naturalization process have existed for many years. It is equally important to recognize that any attempt to speed up the adjudication of applications without first addressing the underlying problems will only exacerbate them, as happened under the Citizenship USA program.

The INS was well aware at least as far back as 1993 that naturalization applications would rise dramatically in 1995 simply because the 2.7 million amnestied aliens would become eligible. And yet, all of a sudden in 1995, there was a frantic rush to hire new employees and accelerate an outdated system that had already reached its limits. Had the

millions of dollars now being spent on re-engineering, reviewing and auditing the naturalization process been invested in computer equipment, electronic fingerprint scanners and personnel training, we likely would not be having this discussion.

The Coopers and Lybrand review of the process is expected to take 18 months to two years to complete. The naturalization process cannot wait that long. The INS expects 1.8 million new applications this year, and they must not be adjudicated under the conditions described in the KPMG Peat Marwick review. There are a number of areas that need immediate improvement:

In order to process these applications, the INS desperately needs an updated and integrated computer system, just as any business needs to process orders. Scanners, which now have accuracy rates of 90 percent or better, could be used to minimize the data entry workload. Eventually, the INS needs to integrate some of its numerous data bases to facilitate status checks and ensure that immigrants being deported by one branch of the INS are not naturalized by another. Paper files must become a thing of the past. One of the biggest problems throughout the INS is its inability to locate paper files on a timely basis.

The INS also needs to prioritize its electronic fingerprint pilot program. Police departments around the country use electronic fingerprint scanners to identify criminals in a matter of minutes, rather than waiting anywhere from two to six months as the INS

does. Electronic scanners could reduce naturalization processing time to a matter of days.

Most importantly, the INS needs to train its personnel adequately. Each adjudicator must know how to use the computer system to check an applicant's status, to ensure the applicant is not in deportation proceedings, and to update the applicant's file.

Adjudicators must be trained not only in customer relations, but also in the procedures used to deny an application. They should have a clear understanding of what they should be looking for during the interview. Standardized interview guidelines would be helpful. Finally, every adjudicator must understand that the integrity of the naturalization process is always more important than expediency. INS Headquarters should strongly discourage supervisors from rating employees based on the number of applications they process, instead of the way in which they process the applications. A short delay in the process is a much smaller problem for the INS than the granting of citizenship to a child molester.

Crimes that constitute a lack of good moral character, including perjury, should be standardized, rather than being left to the discretion of individual adjudicators.

Both Congress and the INS must recognize that the INS will always have less control over the integrity of those parts of the process that it farms out to other organizations, such as testing and fingerprinting.

- If the INS is going to continue to use OTEs for language, history and civics testing, it must require: 1) that all administrators of the tests be U.S. citizens and undergo criminal background checks; 2) that the OTEs register all testers and insist that they wear photo identification badges while administering tests; and 3) proof from the OTEs that every affiliate has passed at least one undercover inspection each year.

- If the INS is going to continue to use DFSs to take fingerprints, it should certify only law enforcement agencies. INS adjudicators can use the interview to check an applicants knowledge of English, but there is no secondary check if an applicant submits someone else's fingerprints to avoid having a criminal record uncovered. This is too integral a part of the naturalization process to leave it to those who may have a vested interest, financial or otherwise, in allowing fraud.

I will be happy to answer any questions you may have.