

**INS OVERSIGHT:
THE CRIMINAL RECORD VERIFICATION PROCESS
FOR CITIZENSHIP APPLICANTS**

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

ON

REVIEWING CERTAIN ACTIVITIES OF THE IMMIGRATION AND NATU-
RALIZATION SERVICE, FOCUSING ON THE CRIMINAL RECORD VER-
IFICATION PROCESS FOR CITIZENSHIP APPLICANTS

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CONTENTS

STATEMENTS OF COMMITTEE MEMBERS

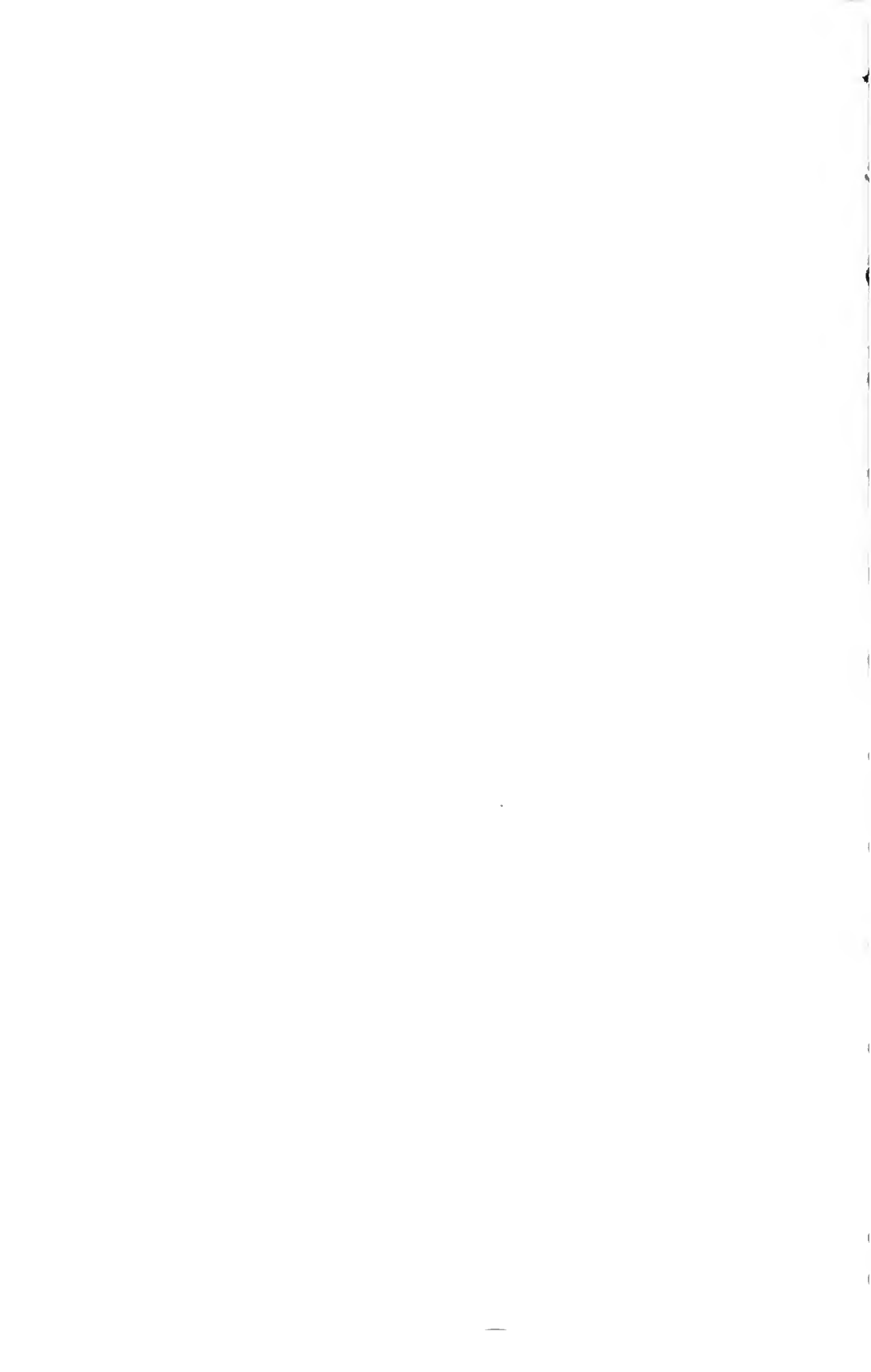
	Page
Abraham, Hon. Spencer, U.S. Senator from the State of Michigan	1
Kennedy, Hon. Edward M., U.S. Senator from the State of Massachusetts	6
Durbin, Hon. Richard J., U.S. Senator from the State of Illinois	39

CHRONOLOGICAL LIST OF WITNESSES

Panel consisting of Stephen R. Colgate, Assistant Attorney General for Administration, Justice Management Division, U.S. Department of Justice, Washington, DC; Gary M. Ahrens, KPMG Peat Marwick, L.L.P., Washington, DC; Michael R. Bromwich, Inspector General, U.S. Department of Justice, Washington, DC; and Richard M. Stana, Acting Associate Director, Administration of Justice Issues, General Government Division, U.S. General Accounting Office, Washington, DC	8
Panel consisting of Doris Meissner, Commissioner, Immigration and Naturalization Service, Washington, DC; and Charles W. Archer, Assistant Director, Criminal Justice Information Services Division, Federal Bureau of Investigation, Washington, DC	40

ALPHABETICAL LIST AND MATERIAL SUBMITTED

Ahrens, Gary M.:	
Testimony	16
Prepared statement	17
Archer, Charles W.:	
Testimony	48
Prepared statement	50
Bromwich, Michael R.:	
Testimony	18
Prepared statement	21
Colgate, Stephen R.:	
Testimony	8
Prepared statement	10
Responses to questions from Senator Abraham	13
Responses to questions from Senator Kennedy	14
Stana, Richard M.:	
Testimony	23
Prepared statement	25
Meissner, Doris:	
Testimony	40
Prepared statement	43



INS OVERSIGHT: THE CRIMINAL RECORD VERIFICATION PROCESS FOR CITIZENSHIP APPLICANTS

THURSDAY, MAY 1, 1997

**U.S. SENATE,
SUBCOMMITTEE ON IMMIGRATION,
COMMITTEE ON THE JUDICIARY,
*Washington, DC.***

The subcommittee met, pursuant to notice, at 11:34 a.m., in room SH-216, Hart Senate Office Building, Hon. Spencer Abraham (chairman of the subcommittee), presiding.

Also present: Senators Grassley, Kyl, Kennedy, Feinstein, and Durbin.

OPENING STATEMENT OF HON. SPENCER ABRAHAM, A U.S. SENATOR FROM THE STATE OF MICHIGAN

Senator ABRAHAM. We will get started today. I welcome all of you to our first INS oversight hearing by the subcommittee in this Congress. Obviously, we have a lot of ground to cover today and will try our best to be expeditious and get through at a reasonable hour.

Due to the fact that there was a Judiciary Committee markup earlier, we were forced to do two things, one, to begin the hearing at 11:30 instead of an earlier time, and also to have it in this room, which is normally associated with somewhat larger audiences and more media. But notwithstanding that, we will try to get done in a timely manner so as to give people a chance to make afternoon appointments and lunches and things of that sort, if we can. We will not be taking a break, though, because I think it is important that we press ahead.

I am going to make an opening statement here and Senator Kennedy has one and then we will proceed to the first panel and hear from you.

My comments here will also include a little bit of background, which may sort of be precursors to what, at least, Mr. Colgate and Mr. Ahrens are going to be talking about, as well, but I did think it might be helpful to begin by putting things a little bit into context.

First, I just want to say that as I indicated in our last hearing, citizenship and the immigration process is important. I believe citizenship is the most precious gift and honor that our Nation can bestow on those who seek it. At the last hearing, I, in fact, had with me the actual citizenship papers of my own grandparents, which

obviously are very precious items in my family. So I think when we talk about the naturalization process, we are talking about something that is extraordinarily dear.

We should note that the vast majority of citizenship applicants are law abiding, legal immigrants with every right and desire to become full-fledged American citizens. At the same time, we must recognize that all of us, those who are citizens, whether they are native-born Americans or naturalized citizens, have, I think, the right to know that the process by which others gain their citizenship is a process that is conducted in a credible way, in an accurate way, and in a way that only permits those who are eligible and who play by the rules to become citizens. So, certainly, our goal here today and in further hearings is going to be to try to take actions that make sure that that is the way the process is functioning.

Unfortunately, there have been problems in the naturalization process which have been observed, causing those who are not eligible, those with criminal backgrounds, to be naturalized. I want to stress and make this point, that these are not new problems. They are not ones that just came to light in the last few weeks or few months. In 1988, a Department of Justice audit found no record of fingerprint checks requested or mailed to the FBI in something in the vicinity of 47 percent of the files reviewed, and I think we will be hearing more about that.

Similarly, in 1989, a DOJ audit found almost a complete absence of evidence on criminal background and fingerprint checks being completed in cases, and we will hear about that, as well, but on the story goes.

In 1994, an inspector general's report as well as a DOJ study found the INS had not verified various prints on cards as belonging to the applicants themselves. There was no way to try to address that or to discern that. Further, they discerned that the INS had failed to ensure that fingerprint cards could be properly processed by the FBI. We will be hearing about all of this, in this first panel.

The fact is that there has not been a sufficient response to these problems, either in the past or more recently. The INS has continued to permit applicants to submit their own fingerprints. The INS continued to submit incomplete and poor quality fingerprint cards to the FBI. The INS continued the policy of proceeding with naturalization after 60 days, regardless of whether an FBI response had been received, and that is the history that we have as a backdrop here today.

The more recent attention that has been focused on this issue first came about in conjunction with the Citizenship USA 1995-96 naturalization process, where more problems were observed. The preliminary information from the Peat Marwick review in Lincoln, NE, which I know we will hear about, as well, shows that of some 1.4 million aliens naturalized between August 1995 and September 1996, on 180,000, or roughly that amount, criminal background checks were failed to be completed on that number and that perhaps as many as 71,000 applicants with criminal records were naturalized.

In response to this, the INS in November 1996 issued a specific detailed memo from the Commissioner. The memo was supposed to

go to all INS offices and to be effective immediately and it provided that no naturalization should go forward without a response on the fingerprint from the FBI and unless other new naturalization policies and procedures were in place.

In an effort to try to determine how that was working, the Peat Marwick review which we will hear about was then conducted. It determined that of 23 offices reviewed, only 1 was found compliant with the new procedures. Fifteen were found noncompliant. Seven were found only marginally compliant. One district office and two Citizenship USA sites could not produce a correct version of the November 29 policy memo, and a variety of other concerns, as well, were discerned from that study, which we will be hearing about.

I noticed, by the way, that the only office that was compliant was the one in Massachusetts, in Boston—

Senator KENNEDY. I was waiting to hear that from my Chairman. [Laughter.]

Senator ABRAHAM. I was going to say that you are a useful model for those of us who are junior members in terms of the appropriate level of Senatorial oversight. [Laughter.]

We will learn from you, Senator.

But kidding aside, we cannot allow this to continue, and so today, we begin the process of oversight with two goals. First and foremost, to prevent ineligible aliens from naturalizing and to maintain a zero-tolerance level for criminal alien naturalization, and yesterday when the Attorney General was in this very room, she reiterated again her commitment to achieving that objective, and I feel that we have no greater goal here in this subcommittee than the one of trying to make sure this process is one that all Americans can feel is working properly.

At the same time, we want to make sure the process for those who are eligible does not turn into an impossible bureaucratic nightmare, and so that is a challenge we will have.

The inquiry will begin today looking at the criminal background check, certainly the most critical part of the naturalization inquiry, and we will be hearing, as I say, both from Peat Marwick and the others here, the GAO and the inspector general and the Department of Justice, about the status of things, the results of the audit, and the history of these problems. Then later, we are going to be hearing also from Commissioner Meissner as to the actions that have been launched in response to the audit that has been conducted.

For the purposes of information, in the future, we are going to continue this process, looking at the Lincoln, NE, review of the Citizenship USA cases. I want to look further at the DFS, or designated fingerprint service system which has been put into effect on March 1 in an effort to try to bring some rationality to the process by which fingerprints are acquired for those seeking to be naturalized, whether or not the process is going to work and how we can make it more effective, as well as the progress of the investigations that are being launched at the Department of Justice by the inspector general, which we will be hearing about. I think it is imperative that we do that as well as review as thoroughly as possible on a case-by-case basis exactly what has been going on since

the November 29 memo was sent and the policies were attempted to be changed.

Again, I stress our goal is to make this process work right. I am deeply committed to making sure that this is a priority for this committee over the next 2 years and we look forward to working with all parties concerned to achieve that objective. I think it is obviously a serious challenge, and based on the response that we have seen so far, I think that there are a lot of interested people who are committed to addressing it. But I think what has happened is not tolerable and has to be, to the degree possible, changed and changed immediately.

[The prepared statement of Senator Abraham follows:]

PREPARED STATEMENT OF SENATOR SPENCER ABRAHAM

Good morning. I would like to welcome our distinguished panelists and the members of the Subcommittee. I appreciate all of you being here for this hearing at which we will examine the criminal record verification process for citizenship applicants.

Citizenship is the most precious gift and honor that our nation can bestow. I have spoken before about my own grandparents' experience of immigrating to America. Their citizenship papers give me a particular pride, and I know what citizenship papers mean to my own family and for millions of others across America. The vast majority of citizenship applicants are law-abiding legal immigrants who have every right and desire to become full-fledged American citizens. But to cheapen the citizenship process and to provide these papers to undeserving criminal aliens is inexcusable.

Unfortunately, very serious failings in the naturalization process, in particular with the criminal background verification process, have been observed. Many of those are not new. Reports from the Justice Department and from the General Accounting Office repeatedly found significant faults with the fingerprint check process. A 1988 DOJ Audit, for example, found that, in 47 percent of files that they reviewed at random, there was no record that a fingerprint check had been requested or no record of when fingerprints were mailed to the FBI. In a 1989 report, the DOJ Audit staff discovered in reviewing adjudications cases an almost complete absence of evidence that background checks and fingerprint checks were conducted. A 1994 report of the Inspector General's Office found that the INS did not verify that fingerprints submitted with an application actually belonged to the applicant and documented that the Service failed to ensure that fingerprint checks were able to be completed by the FBI. A 1994 GAO report disclosed similar findings.

Despite such observations and disclosures, the INS continued to permit applicants to submit their own fingerprints without providing for any verification as to whether the prints belonged to the applicant, and fingerprint cards submitted to the INS often contained incomplete or inaccurate information. The INS also continued with its questionable policy of permitting naturalizations to go forward after 60 days following the submission of fingerprints to the FBI without having a definitive response from the FBI on the fingerprint check.

In 1996, weaknesses in the criminal history validation process received renewed attention in the midst of the President's "Citizenship USA" program, a roughly one year effort to increase the pace of naturalizations significantly. Those weaknesses were exacerbated as pressure grew to increase naturalizations. As a result of various severe problems that came to light, a number of investigations, audits, and reviews into the naturalization process are now taking place.

As many of my colleagues are aware, the Department of Justice's Justice Management Division, in conjunction with KPMG Peat Marwick and with some participation from the General Accounting Office, is conducting an ongoing review in Lincoln, Nebraska of the roughly 1.4 million cases of aliens naturalized under Citizenship USA. Preliminary results have indicated that INS failed to complete criminal background checks on some 180,000 immigrants who were naturalized between August 1995 and September 1996, and that more than 71,500 applicants who did undergo background checks had criminal records and were naturalized anyway. That Lincoln, Nebraska review is not before us today, but provides some background as to the Justice Management Division's and Peat Marwick's involvement.

Also in response to Citizenship USA, on November 29 of last year, the INS finally changed its criminal background verification procedures in an effort to respond to

some of the serious and ongoing problems in that area. The Service did so through a policy memo announcing new "Naturalization Quality Procedures." That memo went out—or was supposed to go out—from the Commissioner to all INS regional, district, and local offices. That specific and detailed memo, to be effectively immediately, provided that no naturalizations were to go forward without a response on the fingerprint check from the FBI and unless the new policies and procedures were in place.

Unfortunately, we now have indications that the Administration's policy has failed to go into effect as mandated by the Commissioner. On April 17, Peat Marwick issued its report based on its review of the INS's management and implementation of the new criminal record verification guidelines. The information to be discussed at this hearing by Peat Marwick and JMD indicates some very serious problems with new INS procedures that were designed to respond to faults disclosed earlier. Peat Marwick rated only one INS office of the 23 it reviewed as "compliant" with the new procedures. Of the 22 others, 15 were found "noncompliant" and 7 "marginally compliant." One District Office and two Citizenship USA sites could not produce the particular policy memo they were supposed to be implementing. Numerous offices were sending fingerprint cards to the wrong FBI address, fingerprint cards were completed incorrectly, and worksheets that were required to be dated and initialed showed no evidence of key tasks being completed. These are not minor problems.

Today, we begin the process of oversight. In so doing, two goals are paramount: first, preventing ineligible aliens from being naturalized; and second, ensuring that the naturalization of those who are eligible for naturalization does not become a nightmare.

I strongly support a zero tolerance approach to the naturalization of ineligible criminal aliens and would like to see it implemented. Nevertheless, that approach is only a minimum standard that the agency should be able to meet, and that alone does not define a well-functioning naturalization process. At the same time that the agency is showing zero tolerance for criminal aliens, it ought to be capable of processing naturalizations in a timely fashion. This should not ultimately involve any sort of a trade-off between naturalizing criminals or not processing naturalizations. In the long run, a well-functioning naturalization process should be able to do both, and should be able to do it without requiring audit upon audit and hearing after hearing. Citizenship for those who wish to become Americans and are eligible to do so should not be an impossible, bureaucratic ordeal.

We will particularly examine what happened at INS and why it happened, especially after the Administration provided repeated assurances that aliens would not be naturalized without a proper criminal background check.

The criminal background check is the most important check performed as part of the naturalization process. The integrity of that fingerprint process and its results—from ensuring that the prints on a card belong to the applicant, to providing that the card is properly filled out, to guaranteeing that the FBI check is completed and making sure the appropriate INS personnel receive the results to review—is absolutely critical to the proper conduct of the INS's criminal background check process.

The criminal background verification process relies heavily on an FBI fingerprint check. For the fingerprint check, a fingerprint card, the "FD-258," is filled out and fingerprints are placed on the card. That card is then submitted to the FBI, which in turn reports back to the INS as to whether the applicant has a criminal history or what is called an "IDENT."

Today, we will examine the full background of problems with the criminal record verification process and will look into responses to those problems that the INS developed, with particular regard to the Commissioner's November 29 policy change. We will hear the findings of Peat Marwick's review of the implementation of that policy, examine INS's and the Department's immediate responses to that review, and begin to explore long-term solutions that will be required if these longstanding problems are ever to be definitively resolved once and for all.

In the future, the Subcommittee will continue to follow the results of the ongoing review of Citizenship USA cases that is taking place in Lincoln, Nebraska. That itself is a large issue on its own.

In addition, the Subcommittee will also examine the new "DFS" or Designated Fingerprint Service system, which went into effect on March 1, 1997 and under which some 3,000 private, nonprofit and government entities have been approved to take fingerprints for INS applicants for citizenship and other immigration benefits. While our hearing today will bring up issues related to the DFS system, much more remains to be learned about weaknesses in the DFS system itself.

Finally, the Inspector General's extensive investigation into Citizenship USA will continue to be of interest in all its aspects, including that part of the investigation

into efforts to politicize the naturalization process, whether from within or outside the Department. Depending on where the facts lead, of course, there may be some jurisdictional or other limits that might hinder the IG's investigation and that the Subcommittee may have to examine.

As for what we will conclude today, I believe that we must have a case-by-case review of naturalizations following the November 29, 1996 policy change to determine whether any aliens were naturalized who should have been barred from citizenship on the basis of a criminal record.

Stopgap measures to cure some management and implementation problems immediately are also required. The findings of Peat Marwick's Report are especially disappointing because this is a high profile area that many of us in the Congress and many of us on the Subcommittee have had concerns about for some time. This is an area that has attracted a great deal of interest among the public. And yet, troubling deficiencies in even the most basic implementation of the new policy have emerged. Immediate action must be taken to ensure that no citizenship application is processed without the required fingerprint checks.

Encouraging yet another change in policy or imposing statutory additional requirements on the INS will not alone solve these longstanding and ongoing problems at INS. The inability of the Service to carry out even a basic implementation of an important and high-profile policy is deeply troubling. A serious look at the fundamental structure and operations of the INS will be necessary.

Senator ABRAHAM. With that, I will turn to Senator Kennedy.

**STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR
FROM THE STATE OF MASSACHUSETTS**

Senator KENNEDY. Thank you, Mr. Chairman. I am grateful to you for having these hearings about this extraordinarily important issue. The issue of naturalization is really the defining issue about who we, as a country, are going to welcome here to the United States. We are proud of our immigrant heritage and history and proud that immigrants continue to revitalize and strengthen our Nation for the future.

Like yourself and others in Congress, I was disturbed to learn the potentially large number of persons who should not have received citizenship that were naturalized last year, some, as you pointed out, with criminal records. Commissioner Meissner has ordered specific steps to improve the procedure that caused the mistakes, and we learned just two weeks ago that the mistakes are far from corrected. Also, the KPMG report you referred to, found the new naturalization procedures were only implemented in the one office. We are glad that Boston and the officials there are doing their job.

The issue is now being reviewed, as you pointed out, in detail by the top officials in the Justice Department's Justice Management Division, the immigration judges from the Executive Office for Immigration Review, the Justice Department IG, GAO, and two independent management consulting auditing firms. So these efforts demonstrate the seriousness with which the Department and the INS view their responsibilities.

Today, we will hear some recommendations from an expert witness on further steps that may be needed. I think we need to set specific criteria for the program, including efficiency, accuracy, oversight, and innovation.

We need to strengthen the fingerprint collection process, specifically the use of outside organizations, to make certain that no criminals or anyone else is able to alter their fingerprint charts. Our ability to ensure that criminals are not naturalized is not secure if the fingerprint collection process is not secure.

We need to do more to expedite the naturalizations of qualified immigrants who need the citizenship to retain public assistance benefits. On August 1, just 3 months from now, the SSI payments to 500,000 legal immigrants will be cut off. Many of them are refugees who were disabled in political prison camps and deserve help. Others are legal immigrants who worked hard in this country but were injured on the job. They, too, deserve help. So I hope that in the short time between now and August 1, Congress will be able to act.

Clearly, the criminals who were wrongly naturalized should have their citizenship revoked and the INS has already taken steps to do so. That is no excuse for the unwarranted harassment of innocent new American citizens and it may well be unconstitutional. Such harassment is an insult to the million immigrants who legitimately became citizens last year and proudly took an oath of allegiance to the United States. New citizens should not be forced to live in constant fear of immigrant agents armed with excessive denaturalization powers. That is not the kind of America these new Americans are part of.

I commend you, Mr. Chairman, for convening this important hearing. I look forward to the testimony, and regret that I cannot be here for the entire hearing. I think it would be helpful, as we work with INS Commissioner Meissner, and I want to join in welcoming her here today, could provide us with a time table of when we can expect certain progress in addressing the problems in the naturalization program. That way, the committee and the American people can know what to expect and when. Perhaps either she can comment on it today or submit something later on, if that is agreeable.

Senator ABRAHAM. I would also say that, of course, we will keep the record open for questions that you might want to submit.

Senator KENNEDY. Yes. Thank you very much, Mr. Chairman.

Senator ABRAHAM. We were planning to go to the panel, if that would be okay with the two Senators who have joined us, and I thank you both for coming here.

Senator GRASSLEY. I may leave some questions to be answered in writing, because like Senator Kennedy, I will not be able to be here for very long.

Senator ABRAHAM. I thank you for coming, Senator.

Senator Durbin, we welcome and thank you for being here, as well.

Our first panel will now be heard from. We begin, to my right, with Stephen Colgate, who is the Assistant Attorney General for the Justice Management Division. Mr. Colgate has been tasked by the Attorney General to examine the INS's conduct of the naturalization process and the administration's Citizenship USA initiative.

We will then hear from Gary Ahrens, who is from KPMG Peat Marwick, the firm the Justice Department has contracted with to review and audit various aspects of the naturalization process.

Next, we will hear from Michael Bromwich, who is the Inspector General of the Department of Justice, whose office has reported in the past on deficiencies in the criminal background verification

process and whose office has recently expanded its investigation into abuses connected with the naturalization process.

Finally, we will hear from Mr. Richard Stana on behalf of the General Accounting Office concerning GAO reports on the INS's fingerprinting practice over a fairly lengthy period of time.

We are going to have the light system here and, because of our time today, try to enforce it to around 5 minutes. I do suspect perhaps Mr. Colgate and Mr. Ahrens may have to go a little over that in terms of just giving the reports on what they have been involved with, but we will then go to questions from the panel.

Mr. Colgate, we thank you.

PANEL CONSISTING OF STEPHEN R. COLGATE, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION, JUSTICE MANAGEMENT DIVISION, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC; GARY M. AHRENS, KPMG PEAT MARWICK, L.L.P., WASHINGTON, DC; MICHAEL R. BROMWICH, INSPECTOR GENERAL, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC; AND RICHARD M. STANA, ACTING ASSOCIATE DIRECTOR, ADMINISTRATION OF JUSTICE ISSUES, GENERAL GOVERNMENT DIVISION, U.S. GENERAL ACCOUNTING OFFICE, WASHINGTON, DC

STATEMENT OF STEPHEN R. COLGATE

Mr. COLGATE. Mindful of your time, sir, I will try to keep it brief. I do want to put some statistics in perspective and I would like my full statement to be submitted for the record.

Senator ABRAHAM. Without objection, it will be included. Thank you.

Mr. COLGATE. Thank you, Mr. Chairman.

Last fall, the Attorney General asked me to help the Immigration Service respond to questions raised by others concerning whether persons with disqualifying criminal records were improperly granted citizenship. At that time, I recommended that an independent accounting firm review and certify the appropriateness of INS case review processes. KPMG Peat Marwick was subsequently tasked with this project. In addition, KPMG was also tasked to conduct an internal control implementation review at INS field sites to assess whether the naturalization quality procedures INS developed last fall were in place and working.

Between September 1995 and September 1996, INS naturalized 1,049,872 individuals. INS, with the aid of the FBI, is attempting to determine the number of these persons that had FBI records. Based on the best accounting we have today, 752,073 persons have been identified as having no FBI criminal history records; 71,557 persons have been identified as having FBI records, which include INS administrative actions, misdemeanors, felony arrests, and convictions.

There are 113,126 persons who have not had the definitive criminal history checks conducted because their fingerprint cards were rejected by the FBI because their poor quality rendered them unclassifiable; 66,398 persons for whom it cannot be determined whether or not FBI record checks were ever conducted; 44,145 were elders and minors for whom INS policy does not require FBI

records checks, and 2,573 persons whose records checks were still being processed by the FBI at the time this data was produced.

The FBI has produced approximately 71,000 rap sheets for the individuals as identified as having FBI records. Our current estimates are, and these will change, that 34,700 individuals have been arrested only for INS administrative violations, 25,500 individuals have been arrested for at least 1 misdemeanor but no felonies, and 10,800 individuals have been arrested for at least 1 felony.

INS has assembled a naturalization review team consisting of skilled INS adjudicators to review the case files and independently determine whether the applicants were eligible to be naturalized based on statutorily defined residency and good moral criteria. KPMG is providing quality control and validation during the entire review process. The Department's Executive Office for Immigration Review is also assisting in the process by providing an independent validation of the decisions the naturalization review team is making.

As of February 27, 1997, a total of 9,573 case files have been reviewed. In 6,605 cases, which represent 69 percent, the naturalization review team adjudicators found that the statutorily defined residency and good moral character criteria were met. In 168 cases, which represent 2 percent, the adjudicators found that the statutorily defined residency and good moral character criteria were presumptively not met, and in 2,800 cases, 29 percent, the adjudicators found that they could not validate that the statutorily defined residency and good moral character criteria were met based on the information contained in the case files.

On November 29, 1996, INS instituted new naturalization quality procedures covering seven key enhancements. To assess whether these new procedures were implemented correctly, KPMG conducted NQP implementation reviews at 24 INS field sites that account for approximately 85 percent of the naturalization workload.

On April 17, 1997, KPMG reported that the NQP increased internal control and significantly reduced the risk of incorrectly naturalizing an applicant, but it also reported that the criminal history validation, a key control of the process, remains ineffective. KPMG also found that the standards were unevenly applied across INS as a result of the lack of standardized training and ineffective communication of the new requirements. Because of these findings, KPMG could not provide assurance that INS is not continuing to incorrectly naturalize aliens with disqualifying conditions.

In response to the KPMG report, INS is revising these standards and will soon train field representatives on the revised procedures. KPMG will conduct a more formal and detailed follow-up audit beginning in mid-summer to assess the implementation of these revised standards. The Department is taking a number of other actions to further strengthen the naturalization process.

First, the Attorney General and Commissioner Meissner assigned two individuals to assist INS in improving the integrity of the naturalization system. Robert Bratt, currently the Department's Criminal Division Executive Officer, has been assigned to INS to serve as the Executive Director for Naturalization Operations. Working directly under the Commissioner, he will oversee the oper-

ations of the naturalization program and develop an action plan to correct the systemic problems within the program. The Attorney General and Commissioner Meissner have pledged to give Mr. Bratt whatever resources he needs to get the job done.

Charles Bowsher, former Comptroller of the United States, will serve as a special advisor to the Commissioner on a part-time non-compensated basis. He will assist in the development of the action plan and advise the Commissioner on the best ways to implement the new procedures.

Second, the Attorney General recently established the Fingerprint Coordination Group. I chair monthly meetings of the group, which consist of high-level officials from the INS and the FBI. The group is dedicated to identifying ways to expedite the criminal background checks performed as part of the naturalization application process and ensure that INS is provided with accurate and timely information on each applicant. The group's efforts will ensure an integrated approach to all process improvements and automation efforts.

Third, the Department and INS are taking a major step toward safeguarding the integrity of the citizenship program while ensuring that INS customers receive competent and timely consideration of their applications. This will be accomplished through the joint Department of Justice/INS Reengineering and Change Management Project.

The accounting and consulting firm of Coopers and Lybrand was selected to lead a reengineering effort to revamp the entire naturalization system. The scope of this strategic effort—reengineering, implementation, training, and evaluation—is significant and the project will last 18 to 24 months. The data gathering phase will include the solicitation of views from this committee.

It is critical to maintain the integrity of the naturalization process, providing reasonable assurance that all persons naturalized will meet the legal and regulatory requirements. The Department will dedicate whatever resources are necessary to reinvent and strengthen the naturalization process. Our work is still underway and we are committed to this task.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Colgate follows:]

PREPARED STATEMENT OF STEPHEN R. COLGATE

Mr. Chairman and Members of the Subcommittee: I am pleased to appear before you today to discuss our efforts to assist the Immigration and Naturalization Service (INS) in its efforts to improve the naturalization program.

Last Fall, the Attorney General asked me to help INS respond to questions concerning whether persons with disqualifying criminal records were improperly granted citizenship. To assist INS in undertaking its case review effort, and to avoid questions being raised concerning its methodology, I recommended that an independent accounting firm review and certify the appropriateness of INS' revalidation process. KPMG Peat Marwick LLP (KPMG) was subsequently tasked with this project. In addition, KPMG also asked to conduct an internal control implementation review at INS filed sites to ensure that the Naturalization Quality Procedures INS developed last Fall were in place and working. KPMG would then conduct a more detailed follow-up audit at any sites where shortcomings were found.

I would like to describe for you the general process we are following as we work with INS on this issue.

During the 13-month period, from September 1995 to September 1996, INS naturalized 1,049,872 individuals. INS, with the aid of the Federal Bureau of Investigation (FBI), is attempting to determine the number of these persons that had FBI

records. This process has largely consisted of comparing FBI billing records with INS naturalization records. The following six categories have evolved.

752,073 persons have been identified as having no FBI criminal history records. 71,557 persons have been identified as having FBI records which include INS administrative actions, misdemeanor and felony arrests and convictions.

113,126 persons have not had definitive criminal history checks conducted because their fingerprint cards were rejected by the FBI because their poor quality rendered them unclassifiable. For each person in this category, a subject search was done of the FBI criminal history database using their name and other descriptive information. This type of search, while helpful in identifying some persons as having FBI records, is not considered reliable for confirming that FBI records do not exist.

66,398 persons for whom it cannot be determined whether or not FBI records checks were ever conducted.

44,145 were elders and minors (75 years of age and older, and 14 years of age and younger) for whom INS policy does not require FBI records checks. INS policy notwithstanding, 445 of these individuals were fingerprinted and found to have FBI records. These 445 are included in the 71,557 previously mentioned.

2,573 persons whose records checks were still being processed by the FBI at the time this data was produced.

While INS and the FBI continue their attempts to match their data systems in order to properly categorize all the cases, we have made significant progress in reviewing the cases that we know involved individuals with FBI records. The FBI has produced approximately 71,000 rap sheets for these individuals. These rap sheets have been sent to the INS Northern Service Center in Lincoln, Nebraska, where they have been separated by INS, under KPMG's supervision, into three categories: 34,700 individuals have been arrested only for INS administrative violations; 25,500 individuals have been arrested for at least one misdemeanor, but no felonies; and 10,800 individuals have been arrested for at least one felony.

So far, the focus of the case review in Lincoln has been on the felony arrest cases. INS has assembled a Naturalization Review Team (NRT), consisting of skilled INS adjudicators, to review the case files and independently determine whether the applications are eligible to be naturalized based on statutorily defined residency and good moral character criteria. KPMG, as the assurance provider, is providing quality control and validation during the entire review process. KPMG will validate and document the procedures used during the conduct of the review. At the request of the Attorney General, the Department's Executive Office for Immigration Review (EOIR) is also assisting in this process by providing an independent validation of the decisions the NRT is making. EOIR is working closely with KPMG in this regard.

As of February 27, 1997, a total of 9,573 case files had been reviewed. The results of that review are as follows:

In 6,605 cases (69 percent), the NRT adjudicators found that the statutorily defined residency and good moral character criteria were met.

In 168 cases (two percent), the NRT adjudicators found that the statutorily defined residency and good moral character criteria were presumptively not met. This category of cases has been deemed "presumptively not met" because it is possible that an affected individual could produce documentation that could render the original decision as proper, such as evidence that an otherwise disqualifying felony conviction was overturned on appeal.

In 2,800 cases (29 percent), the NRT adjudicators found that they could not validate that the statutorily defined residency and good moral character criteria were not met based on the information contained in the case files the NRT has in Lincoln. This category of cases is problematic in that the files must be returned to the appropriate INS field offices in order to gather necessary information and documentation, such as obtaining court disposition record on a felony arrest. In addition, some of these cases contain no evidence of arrests for any statutorily disqualifying crimes, but they require further review regarding potential intentional misrepresentations by the applications regarding other crimes. This effort could take months before we know whether the original decisions can be validated or not.

All the numbers previously mentioned in this testimony were produced in January or February, and they were cited in testimony that I gave before two House Subcommittees on March 5, 1997. While some of these numbers could be updated, we do not have a complete updated accounting of all the numbers. INS and FBI continue their attempts to match their data systems in order to properly categorize all the cases and minimize the number of cases for which we have insufficient information about the individuals' criminal history. In addition, the case review process in Lincoln has not been designed to produce daily accounts. Please be assured that I will provide a full accounting of all the numbers when the case review is completed.

As we conclude the review of cases involving persons with felony arrest records, INS, with KPMG's oversight, will review a stratified random sample of the 1,049,872 naturalization cases approved during the period in question. This review is being conducted at the Department's direction in order to assess whether INS procedures were correctly followed throughout the naturalization adjudication process, not just limited to the process for checking an applicant's criminal history. Members of my staff, KPMG personnel and representatives from the General Accounting Office have met several times to discuss methodological and sampling issues to ensure that this particular case review effort will address your concerns as well as ours. A report on this review is intended to identify other process or systemic problems that INS and the Department need to address in this important program.

In addition to overseeing the case review process, the Department also tasked KPMG to conduct an internal control implementation review in INS field offices. On November 29, 1996, INS instituted new Naturalization Quality Procedures (NQP) covering seven key enhancements, including: (1) standardization of work process; (2) fingerprint check integrity; (3) enhanced supervisory review; (4) instructions regarding temporary file use; (5) implementation of a standardized quality assurance program; (6) guidance regarding revocation proceedings; and (7) requirements for increased monitoring of outside English and Civics test sites. To assess whether these new procedures were implemented correctly, KPMG conducted NQP implementation reviews, between February 19, and March 26, 1997, at all four INS Service Centers, eight Citizenship USA sites and 12 other District Offices, which together account for approximately 85% of the naturalization workload.

On April 17, 1997, KPMG issued its report. It stated that while the majority of the field sites were implementing the intent of the NQP, implementation of the required procedures was very inconsistent. The most critical finding related to the quality of fingerprint cards received by INS and forwarded to the FBI for criminal background checks.

The KPMG report indicates that the NQP increased internal control and significantly reduced the risk of incorrectly naturalizing an applicant. But the report also states that the criminal history validation, a key control of the NQP, remains ineffective. KPMG also found that the NQP standards were unevenly applied across INS as a result of the lack of standardized training and an ineffective communication of the NQP requirements. Because of these findings, KPMG could not provide assurance that INS is not continuing to incorrectly naturalize aliens with disqualifying conditions. Mr. Gary Ahrens will discuss the KPMG report in more detail.

In response to the KPMG report, INS is revising its NQP and will soon train field representatives on the revised procedures. Commissioner Meissner will describe the INS response in more detail. KPMG will conduct a more formal and detailed follow-up audit, beginning mid-summer, to assess the implementation of the revised NQP.

I would also like to speak to several other actions the Department is taking to further strengthen the naturalization program. First, as announced last Friday, the Attorney General and Commissioner Meissner have assigned two individuals to assist INS in addressing the need to improve the integrity of this naturalization system.

Robert Bratt, currently with the Department's Criminal Division, has been assigned to INS to serve as Executive Director for Nationalization Operations. Working directly under the Commissioner, he will oversee the operations of the naturalization program and develop an action plan to correct the systemic problems within the program. His first priority will be to ensure that current naturalization case processing complies with the revised NQP requirements. Mr. Bratt will directly manage the field operations staff responsible for implementing those procedures. He will also supervise implementation of recommendations stemming from the ongoing INS and Commissioner Meissner case review. The Attorney General and Commissioner Meissner have pledged to give Mr. Bratt whatever resources he needs to do the job.

Charles Bowsher, former Comptroller General of the United States, will serve as Special Advisor to the Commissioner on a part-time, non-compensated basis. He will assist in the development of the action plan and advise the Commissioner on the best ways to implement the new procedures.

Second, the Attorney General recently established the Fingerprint Coordination Group. I chair monthly meetings of the Group, which consists of high level officials from INS and the FBI. The Group is dedicated to improving the processing of INS fingerprint cards, the largest single customer of the FBI's Criminal Justice Information Services Division. Through exchanges of information regarding each organization's processes, sharing of technical expertise, increased reliance on automation, and assignment of personnel to the other agency's facilities, these two organizations

are identifying ways to expedite the criminal background checks performed as part of the naturalization application process and ensure that the INS is provided with accurate and timely information on each applicant. The group's efforts will ensure an integrated approach to all process improvements and automation efforts. The resulting improvements will help both INS and FBI reduce current workload backlogs.

Third, the Department and the INS are taking a major step toward safeguarding the integrity of the citizenship program while ensuring that INS customers receive competent and timely consideration of their applications. This will be accomplished through the joint DOJ/INS Naturalization Reengineering and Change Management Project.

On March 20, 1997, the Attorney General announced that the accounting and consulting firm of Coopers and Lybrand (C&L) had been selected to lead a reengineering effort to revamp the entire system through which immigrants become U.S. citizens. The scope of this strategic effort—reengineering, implementation, training and evaluation—is significant. The project will last 18–24 months and consist of three phases: data-gathering and process redesign, implementation, and evaluation.

As we envision it, the reengineering project will look at all aspects of the naturalization process, from the initial contact by an applicant, through case adjudication and the swearing-in ceremony, to the retirement of case records. The goals of this project are to enhance the integrity of the naturalization program, streamline the process, reduce paperwork, and improve customer service.

Since this project is still in the early stages of data-gathering, there is little to report. Please be assured that the data-gathering phase will include the solicitation of views from Members of Congress.

During the life of the project, C&L will examine many aspects of the naturalization program including program organization, technology, facilities, organizational culture, internal and external communications practices, management structure and planning capacity. They will also look at civics and language testing, partnerships between INS and community-based organizations, operating guidelines and employee training. The Attorney General has specifically directed that C&L focus its attention on the coordination between INS and FBI related to criminal background checks.

The Department's Justice Management Division is responsible for the overall administration of the C&L contract. However, we are working closely with INS management, key staff and a full-time team of INS naturalization experts who are responsible for the substantive areas of the project.

It is critical to maintain the integrity of the naturalization process by providing reasonable assurance that all persons naturalized meet the legal and regulatory requirements. The Department will dedicate the resources required to reinvent and strengthen the naturalization process. Our work is still underway, and we remain committed to the task.

Mr. Chairman, this concludes my prepared statement. I would be happy to answer any questions.

RESPONSES OF STEPHEN COLGATE TO QUESTIONS FROM SENATOR SPENCER ABRAHAM

Question 1. Are you planning to conduct a case-by-case review of those applicants naturalized under the new procedures, which were specified in the Commissioner's November 19, 1996 Policy Memo, to determine whether any statutorily barred criminal aliens were in fact naturalized?

Answer 1. As you know, it was originally decided that INS and KPMG Peat Marwick (KPMG) would conduct a review of cases of persons naturalized between August 31, 1995, and September 30, 1996. Subsequently, that period was extended to include a "transition" period, encompassing cases of those receiving oath between October 1 and December 31, 1996. The transition period was established to account for cases adjudicated before the Naturalization Quality Procedures issued by INS Commissioner Doris Meissner on November 29, 1996 were implemented.

In light of KPMG's findings of inconsistent implementation of the procedures outlined in the November 29 memo, the Department of Justice has decided to extend the joint INS/KPMG case-by-case review to include cases adjudicated between November 29, 1996, the time the instructions took effect and April 14, 1997, when INS instituted a re-verification requirement in the wake of the KPMG Report.

The extended review, like those of the original period and the transition period, will involve a 100 percent review of all felony, CIMT (Crimes involving moral turpitude), and deportation-related cases, to ensure that any improper naturalization decisions, based on the good moral character criteria, could be identified and corrected.

Question 2. More fundamental structural reform of the Agency may be required. Peat Marwick's report demonstrates that, in 22 of 23 INS offices, a major policy initiative failed to be implemented, and that it failed to be implemented in 22 different ways and 22 different degrees. What are your views? Will the Department look at structural reform and reorganization?

Answer 2. Evidence suggests that the weaknesses described in the KPMG Peat Marwick Final Report of the INS Naturalization Quality Procedures Implementation Review, dated April 17, 1997, were the result of weak oversight processes, faulty communication, and inadequate quality controls, exacerbated by an extraordinarily demanding workload. In my mind, there is insufficient reason at this time to entertain the idea of major structural reform in INS to rectify the problems identified by KPMG in that report.

At the Naturalization Program level, however, consideration of a better oversight and management structure is in order. In the short term, as you know, Attorney General Janet Reno has assigned Robert K. Bratt of the Justice Department's Criminal Division, to INS to serve as Executive Director for Naturalization Operations. Mr. Bratt, in turn, has established a working organizational structure to address the many issues which have recently arisen regarding naturalization.

On the longer term, in its Naturalization Reengineering and Change Management Project, Coopers & Lybrand (C&L) will examine, among other things, the structure which supports the administration and oversight of the Naturalization Program, including program organization, organizational culture, internal and external communications practices, management structure, and planning capacity. Should they be warranted, reforms in the Naturalization Program's structure, rather than in INS's fundamental structure, will be effected to improve the program.

Question 3. Will the ongoing Coopers & Lybrand review and other reviews by the Department give serious and thorough consideration to fundamental structural and organizational reform of the INS?

Answer 3. As we envision it, the reengineering project will look at all aspects of the naturalization process, from initial contact with an applicant through the retirement of case records. This involves study of the fingerprint process, coordination between the INS and FBI, civics and language testing, partnerships between INS and community-based organizations, operating guidelines and employee training.

As indicated in the response to Question 2, C&L will also examine the aspects related to the administration and oversight of the Naturalization Program, including program organization, organizational culture, internal and external communications practices, management structure, and planning capacity. The goals of this project are to enhance the integrity and efficiency of the whole Naturalization Program, including its structure, where appropriate. The scope of this strategic effort, though broad, does not extend to a consideration of INS's overall organizational structure. However, the lessons learned in this project could be applied to other INS benefit programs, at a minimum.

The project will last 18-24 months and consist of three phases: data-gathering and process redesign, implementation, and evaluation. We anticipate that the first phase, which will present a complete process re-design, will be completed by September 1997. At that time, we will have a good idea as to what the new system will look like. Then, for the next 18 months, we will implement the new design throughout the entire INS system and then evaluate the implementation. As I also mentioned in my statement, C&L will be soliciting the views of Members of Congress during this process.

RESPONSES OF STEPHEN COLGATE TO QUESTIONS FROM SENATOR EDWARD M. KENNEDY

Question 1. I recently sent a letter to Commissioner Meissner with some of my suggestions on where the naturalization program should lead. You should have received a copy of this letter. What are your comments on my naturalization proposal? Do you agree with these goals? Is there anything you would add to the proposal?

Answer 1. The Department of Justice and the Immigration and Naturalization Service support the goals and action steps laid out in your Naturalization Plan. As I indicated in my statement, DOJ and INS, through Naturalization Reengineering and Change Management Project, are taking a major step toward safeguarding the integrity of the citizenship program while ensuring that INS customers receive competent and timely consideration of their applications.

The reengineering project will look at all aspects of the naturalization process, from the initial contact by an applicant, through case adjudication and the swearing-in ceremony, to the retirement of case records. The goals of this project are to

enhance the integrity of the naturalization program, streamline the process, reduce paperwork, and improve customer service. The accounting and consulting firm of Coopers and Lybrand has been selected to lead this reengineering effort to revamp the entire system through which immigrants become U.S. citizens. The scope of this strategic effort—reengineering, implementation, training and evaluation—is significant.

The project will last 18–24 months and consist of three phases: data-gathering and process redesign, implementation, and evaluation. We anticipate that the first phase, which will present a complete process re-design, will be completed by September 1997. At that time, we will have a good idea as to what the new system will look like. Then, for the next 18 months, we will implement the new design throughout the entire INS system and then evaluate the implementation. As I also mentioned in my statement, C&L will be soliciting the views of Members of Congress during this process, and I will share with them your correspondence to the Commissioner.

Question 2. In my letter to Commissioner Meissner, I also suggested two safeguards for the DFS program which are that fingerprint cards should be sent directly to the FBI by DFS sites, and that organizations authorized to take fingerprints under DFS should be limited to INS, law enforcement agencies, and non-profit organizations under the close supervision of INS. In light of the KPMG review of the DFS system, do you think my proposals would be more effective in mitigating against fraudulent applications?

Answer 2. Although your suggestions to improve the DFS process appear to have merit, I prefer to defer judgment until the several initiatives now under way within DOJ and INS to improve the fingerprint process are further developed. Among these initiatives is a Joint Fingerprint Process Work Group involving both the INS and the FBI. The group is chaired by the FBI; each component is dedicating at least three employees to the effort.

That group will present to me its findings and recommendations regarding: (1) immediate solutions, such as improving the quality of print submissions to the FBI, ensuring the authenticity of submitted prints, and ensuring consistency of the A-number between an applicant's FD-258 fingerprint card and N-400 naturalization application; (2) short-term solutions, including an examination of the impact of the FD-258 tracking system and the Machine Readable Data process on INS-FBI matching efforts, and improvements to the DFS Program, including its training and quality assurance elements; and (3) long-range plans, concerned principally with the transition from manual to electronic print-taking and checking.

In the meantime, INS will detail quality-assurance staff to the FBI Fingerprint Processing Center in Clarksburg, West Virginia, to monitor and review fingerprint submissions for naturalization applications. The FBI, for its part, will provide on-site assistance to key INS district offices to provide training and assistance in preparing and handling fingerprint cards.

Two contract consultants are also studying the fingerprint issue, from two different perspectives. KPMG Peat Marwick is reviewing current fingerprint policies and procedures and will develop suggestions for improvement. Preliminary discussions with KPMG indicate that they are evaluating, among the tentative options, the mailing of new prints directly to the FBI, as well as limiting the organizations authorized to take prints. Finally, DOJ has contracted with Coopers and Lybrand for its support of the Naturalization Program Reengineering Project. In that role, C&L will examine and redesign all aspects of the naturalization process. Since fingerprint-taking and fingerprint-matching are such crucial elements in the granting of citizenship, C&L will perform thorough analyses and redesign of that process. Now in the first of three phases, the data-gathering and process redesign phase, C&L has made site visits to several INS field offices, as well as the FBI Fingerprint Lab in Clarksburg, West Virginia.

Question 3. There has been an unprecedented effort to sort out the events of last year, to determine who should not have been naturalized, and how naturalizations should be conducted in the future. Everyone on this panel has been intimately involved in this process. This panel consists of the experts on last year's events. In your opinion, is there anything more that should be done that isn't being done already to get the naturalization program on sure footing?

Answer 3. I believe at this time that everything that should be done to get the naturalization program on sure footing is being done through the concerted efforts of the Department of Justice, INS, and the Congress. To achieve this, we are carefully considering mistakes of the past, rectifying procedures in current operations, and reengineering the entire process for efficiency, security, and stability in the long term.

As you state, extensive efforts have been expended to sort out the events of last year; to identify the problems and their impact; and to take steps to revoke the citizenship of persons found to have been wrongfully naturalized where, in the Department's judgment, a denaturalization effort is likely to be successful.

To prevent errors from recurring, the Commissioner has issued detailed standard operating procedures, which, in the judgment of KPMG Peat Marwick, "if properly implemented * * * should significantly reduce the risk of improperly naturalizing an applicant for citizenship." To ensure proper implementation, formal training will be given to all examiners and support staff in these procedures. KPMG will conduct an audit of the implementation of the new procedures to determine whether INS sites are properly following the new guidelines.

Finally, for the long-term, DOJ has contracted with Coopers and Lybrand for its support of the Naturalization Program Reengineering Project. In that role, C&L will examine and redesign all aspects of the naturalization program, including program organization, technology, facilities, organizational culture, internal and external communications practices, management structure and planning capacity. C&L will also look at civics and language testing, partnerships between INS and community-based organizations, operating guidelines and employee training. The Attorney General has specifically directed that C&L focus its attention on the coordination between INS and FBI related to criminal background checks. As I also mentioned in my statement, C&L will be soliciting the views of Members of Congress during this process, and I will share with them your correspondence to the Commissioner.

Senator ABRAHAM. Mr. Colgate, thank you very much.
Mr. Ahrens, welcome.

STATEMENT OF GARY M. AHRENS

Mr. AHRENS. Chairman Abraham and members of the subcommittee, I am Gary Ahrens, a principal in KPMG Peat Marwick's public services practice. I am the firm's senior representative responsible for the INS's naturalization quality procedures implementation review recently completed for the Department of Justice.

Mr. Chairman, between February 19 and March 26, 1997, we conducted a review for the Department of Justice of the INS's implementation of its November 29, 1996, naturalization quality procedures, or NQP. It is important to emphasize from the onset that this was a review and not an audit. This review was intended to provide the Department of Justice with a snapshot look at the progress INS was making throughout the country with respect to implementing its newly instituted NQP requirements.

As you will see from the results of our findings released in our final report to the Justice Department on April 17 and provided to this subcommittee, the INS is a vastly decentralized organization, partially explaining its problems in fully implementing the NQP, which were issued on November 29.

Although these controls are a significant improvement over previous methods, they are not without potential error. Because FBI billing information may need to be manipulated into the INS tracking systems, potential errors remain a possibility. Specifically, we have identified the INS's lack of quality control and the processing of FD-258 fingerprint cards as the root cause of potential matching errors between the FBI and the INS. Matching failures have resulted in a growing backlog of INS cases classified as not found.

Further, to ensure that no pending cases are processed until a definitive criminal history response from the FBI is received, a unique system-generated control number has been required. However, in our review, we were unable to verify that the mandatory check had always taken place. Since this is a validation step of this

critical control, we feel this constitutes a material weakness in the criminal history validation process. To further compound this validation problem, it is important to note that both State and local agencies are not required to report criminal arrest data to the FBI.

As you will see from our report, our remaining findings reveal two other areas of concern, dissemination of the new procedures and staff training.

With respect to the dissemination of the new NQP issued last November, we discovered three different versions of the memorandum had been distributed throughout INS. Further, upon reviewing the training records related to the NQP memorandum, we discovered that INS had decentralized NQP training down to the individual office level. As a result, we have concluded that the NQP standards outlined in the implementation memorandum have been unevenly applied across the INS, perhaps as a result of the lack of standardized training and an inability to communicate effectively the importance of the NQP requirements or their intended purpose.

While I cannot emphasize enough the importance in clarifying that this review of the INS was by no means a complete and thorough audit of its operations, internal systems, methodologies, or controls, a number of general conclusions can be surmised from this review process. Generally, due to the potential weakness in the FBI and INS matching procedures and the continued lack of adequate controls with the fingerprint process, as well as the overall implementation of the NQP.

KPMG cannot provide this committee with any assurances that the INS is not continuing to incorrectly naturalize aliens with disqualifying conditions.

[The prepared statement of Mr. Ahrens follows:]

PREPARED STATEMENT OF GARY M. AHRENS

Chairman Abraham and members of the subcommittee, I am Gary Ahrens, a principal in KPMG Peat Marwick's Public Services practice based in our Dayton, Ohio office. I am the firm's senior representative responsible for the Immigration and Naturalization Service's (INS) Naturalization Quality Procedures implementation review recently completed for the Department of Justice. I appreciate the opportunity to appear before you today, and I am prepared to answer any questions you may have about the work that we performed during this review project.

KPMG Peat Marwick LLP is one of the world's largest and most diversified professional firms, with more than 76,200 professionals in 147 countries and annual revenues in excess of \$8 billion. KPMG's Public Services practice, where I am engaged, employs more than 2,300 people and operates in 90 geographic locations throughout the United States. The Public Services line of business is dedicated to serving the diverse needs of federal, state, and local governments.

From a more personal perspective, I have been with the firm for more than 7 years where I have developed considerable expertise in the areas of management improvement, business process re-engineering, information systems, financial modeling, organizational analysis, and the development of financial and organizational policies and procedures. This expertise has led to extensive hands-on experience in various organizational and process improvement initiatives in both government and industry.

Because of the extensive level of experience that KPMG has throughout the public services sector, the Department of Justice had engaged our services under federal contract to perform a number of INS specific review tasks. Between February 19 and March 26, 1997, we conducted a review for the Department of Justice of the INS' implementation of its Naturalization Quality Procedures (NQP).

It is important to emphasize from the onset that this was a review and not an audit. By its very nature, this review was intended to provide the Department of

Justice with a "snapshot" look at the progress INS was making throughout the country with respect to implementing its newly instituted NQP requirements.

As you will see from the results of our findings released in our final report to the Justice Department on April 17th and provided to this subcommittee, the INS is a vastly decentralized organization, partially explaining its problems in fully implementing the Naturalization Quality Procedures (NQP) which were issued by memorandum on November 29, 1996.

Our review further indicates that, of seven areas addressed in the November 29th memorandum, the INS continues to have significant control problems with its fingerprint process and the identification of statutorily-barred applicants. For example, a key control implemented under the NQP is the establishment of a data match between INS naturalization tracking systems and the Federal Bureau of Investigation (FBI) billing system to identify aliens with a disqualifying criminal history. This procedure is intended to prevent the INS from scheduling interviews for or granting citizenship to any applicant before first being notified of the applicant's FBI criminal history record.

Although this control is a significant improvement over previous methods, it is not without potential error. Because the FBI billing information might need to be manipulated to fit into the INS tracking system, potential errors remain a possibility. Specifically, we have identified the INS' lack of quality control in the processing of FD-258 fingerprint cards as the root cause of potential matching errors between the FBI and the INS. Matching failures have resulted in a growing backlog of INS cases classified as "not found."

Further, to ensure that no pending cases are processed until a definitive criminal history response from the FBI is received, a unique system-generated control number has been required. However, in our review, we were unable to verify that this mandatory check had always taken place. Since this is the validation step of this critical control, we feel this constitutes a material weakness in the criminal history validation process. To further compound this validation problem, it is important to note that both state and local agencies are not required to report criminal arrest data to the FBI.

In addition to the review findings summarized above, our remaining findings revealed two other areas of concern: dissemination of the new procedures and staff training. With respect to the dissemination of the new NQP issued last November, we discovered three different versions of the memorandum had been distributed throughout INS. Furthermore, upon reviewing the training records related to the NQP memorandum, we discovered that INS Headquarters had decentralized NQP training down to the individual office level. As a result, we have concluded that the NQP standards outlined in the implementation memorandum have been unevenly applied across the INS, perhaps as a result of the lack of standardized training and an inability to communicate effectively the importance of the NQP requirements or their intended purpose.

While I cannot emphasize enough the importance in clarifying that this review of the INS was by no means a complete and thorough audit of its operations, internal systems, methodologies or controls, a number of general conclusions could be surmised from this review process. Generally, due to the potential weaknesses in the FBI and INS matching procedures, and the continued lack of adequate controls within the fingerprint process as well as the overall implementation of the NQP, KPMG cannot provide this committee with any assurances that the INS is not continuing to incorrectly naturalize aliens with disqualifying conditions.

Again, I appreciate being able to appear before you today, and I will be happy to answer any questions you may have about this review project.

Senator ABRAHAM. Thank you very much, Mr. Ahrens.
Mr. Bromwich, welcome.

STATEMENT OF MICHAEL R. BROMWICH

Mr. BROMWICH. Thank you. Mr. Chairman and members of the subcommittee, it is my pleasure to appear before you today. You have asked that I summarize for the subcommittee past studies of the way INS uses fingerprints to verify criminal history records regarding applicants for citizenship. I am happy to do so and I have done so at length in my prepared statement that I would like to be admitted for the purposes of the record.

Senator ABRAHAM. Without objection, it will be.

Mr. BROMWICH. I would like to focus in this short statement primarily on the inspection report we issued in February 1994. While recent attention has focused on the use of fingerprints in the citizenship process, essentially the same practices are used by INS as part of the provision of a wide variety of important immigration benefits.

In addition to citizenship, green card applicants, individuals seeking asylum and refugee status, American citizens seeking to adopt foreign children, and applicants for suspension of deportation must all submit a fingerprint card that is processed as part of a criminal history check. There are additional fingerprint criminal history checks in other INS programs, as well, including checks on job applicants.

The integrity of the fingerprint process employed by INS is critical to its ability to make informed and appropriate decisions regarding applications for naturalization. In reviewing past studies of how this process has worked, two features of the program recur as issues of concern. First, do the fingerprints actually get to the FBI and the results back to INS for use in the evaluation of the application? Second, are the fingerprints that are submitted actually those of the applicant or do they belong to someone else?

In brief, the studies show too many opportunities for a naturalization decision to occur without benefit of a completed criminal history check and they show an absence of effective precautions against the substitution of fingerprints.

We reported in our February 1994 report that INS did not verify that the fingerprints submitted by the applicants actually belonged to the applicants. At the time of our report, INS and most police departments had stopped providing fingerprinting service to applicants and INS had no effective controls over the organizations and persons that were being used by applicants to get fingerprinted. While many are reputable, nonprofit organizations, their objective is to provide assistance to the alien rather than to detect fraud.

We also obtained information that certain fingerprint providers operated fly-by-night operations, including operating businesses out of the trunks of cars, or exploited aliens by charging an additional fee that purported to be for the cost of the fingerprint card which they, in fact, obtained for free from the INS.

We further found that INS examiners were approving applications, unaware that the applicants had criminal arrest records. We started by obtaining from the FBI all arrest reports produced in July 1992 in response to requests for fingerprint checks for applications from INS from four district offices in INS, which we visited in order to examine the application files. We found that the FBI report of criminal history, which we had already confirmed existed, was missing from almost 30 percent of our sample of application files that had been adjudicated.

Another significant deficiency in the fingerprint verification program stemmed from the poor quality of the fingerprints that were submitted. In fiscal year 1993, 11 percent of the fingerprint cards submitted by INS were returned as unclassifiable. Out of over 91,000 cards that were returned for this reason, only 1,313 were resubmitted by INS. We found several offices where the practice was to burn or discard rejected cards. The remainder would have

been adjudicated based only on a name check in the FBI's records. The failure to obtain readable prints and to take corrective action when they were unclassifiable remains a continuing threat to INS's naturalization operations.

Our recommendations in the February 1994 report focused on two actions, first, that INS ensure that fingerprint cards were promptly sent to the FBI and responses from the FBI were filed before the application was decided. Second, that INS institute effective controls over the source of applicant fingerprints to ensure that they belong to the applicants.

Additionally, in response to our report, INS agreed to tighten its processes when fingerprints are returned as unclassifiable. By March 1994, INS had issued instructions to its field offices to require that all new fingerprint cards be transmitted to the FBI on a same-day basis and to ensure that adjudicators are informed of criminal history reports and rejected prints.

In addition, INS transmitted to each office a computerized FBI report listing the status of fingerprint requests so that each district could evaluate its own situation and required each office to report in 60 days on corrective actions and operating plans to ensure compliance with the directive. On the basis of this action, we closed this recommendation in June 1996.

The second recommendation that we made concerned the strengthening of controls over the entities that now provide most fingerprinting for alien applicants. INS first promised to formulate a policy on fingerprint execution control by March 15, 1994. In May 1994, INS advised us that its new policy formulation would be by formal rulemaking, anticipated for January 1995. The proposed rule eventually issued in May 1995. The final rule projected first for January, then April 1996 was promulgated in June 1996. It provided for a transition period until December 1996, which eventually ended on March 1, 1997, over 3 years after our report was issued.

Thus, from 1988 to 1997, a 10-year span, our reports as well as others revealed fundamental deficiencies and significant risks in INS's checks of fingerprints and criminal histories. The effort to identify applicants who are wrongly naturalized is a major undertaking that the INS, Justice Management Division, and KPMG Peat Marwick continue to address.

While my office is also monitoring that work, there are several other issues that call for further attention. I would very briefly like to describe what my own office is doing in those respects.

Senator ABRAHAM. Please.

Mr. BROMWICH. First, there are still open questions about what happened during Citizenship USA and who, if anyone, should be held accountable. More investigation is needed to fully understand and assess allegations of program abuses, of systemic shortcuts, and of instances in which citizenship standards may have been eviscerated. It is important to obtain a broader fact-based understanding of what happened in that program and to assess questions of individual culpability and accountability.

In addition, my office will be looking at allegations of false testing and of reprisals against INS employees who cooperated with prior congressional inquiries.

Earlier this week, I announced a broad-scale investigation at INS headquarters and at the major centers that processed and decided citizenship applications. The undertaking will involve hundreds of interviews, the review of thousands of documents, and a review of operations in a number of different cities. I could not undertake this assignment without funding assistance from the Congress and from the Attorney General, which, I am pleased to report, should soon be forthcoming.

I also could not undertake this without the formation of a truly superior investigative team. My present intention is to assign approximately 19 investigators, 5 auditors and analysts, and 3 to 4 attorneys to lead and direct the investigation and to prepare the public report of its findings.

Thank you, Mr. Chairman and other members of the subcommittee. I will be pleased to answer any questions that you may have. [The prepared statement of Mr. Bromwich follows:]

PREPARED STATEMENT OF MICHAEL R. BROMWICH

Mr. Chairman and Members of the Subcommittee: It is my pleasure to appear before you today to address some of the critical issues associated with the Immigration & Naturalization Service (INS) naturalization program, particularly as implemented in the initiative known as "Citizenship USA." Specifically, you have asked that I summarize for the subcommittee past studies of the way INS uses fingerprints to verify criminal history records regarding applicants for citizenship. I am happy to do so and will answer any questions the subcommittee may have.

I would like to start by reminding the subcommittee that, while recent attention has focused on the use of fingerprints in the citizenship process, essentially the same practices are used by INS as part of the provision of a wide variety of important immigration benefits. In addition to citizenship, applicants for permanent residence (to get a green card), individuals seeking asylum and refugee status, American citizens seeking to adopt foreign children, and applicants for suspension of deportation must all submit a fingerprint card that is processed as part of a criminal history check.

In addition, fingerprint criminal history checks are required of all participants in INS's initiatives to develop accelerated or commuter lane bypasses at land ports of entry and interior checkpoints—i.e., those seeking to drive a vehicle through an entry point or checkpoint without the normal inspection.

Finally, although there are some differences in handling and processing, fingerprint cards are required to obtain a job at INS. In addition, all persons who will take fingerprints for submission to INS under the designated fingerprint program must themselves submit fingerprints.

In sum, the integrity of the fingerprint process employed by INS is a critical determinant in whether an applicant receives an immigration-related benefit. In reviewing past studies of how this process has worked, we would highlight two features of the program that recur as issues of concern: First, do the fingerprints actually get to the FBI and the results back to INS for use in the evaluation of the application? Second, are the fingerprints that are submitted actually those of the applicant, or do they belong to someone else?

One of the earliest studies to look at INS fingerprint cards was issued in 1988 by the predecessor of my Audit Division, at that time called the Audit Staff of Justice Management Division. Entitled, "Audit Report of I-551 Card Processing Controls of the Immigration and Naturalization Service," No. 88-1 (1988), the report looked at the processing controls over Immigrant Visas and applications for adjustments of status to become permanent residents—the application for a green card.

At the time of this study, the FBI did not report to INS when a fingerprint check uncovered no prejudicial information. Since 1982, the FBI has only reported when a criminal history check resulted in a match that disclosed a criminal history. INS requested this change in order to eliminate the routing and filing of approximately 500,000 fingerprint cards annually. Accordingly, the procedure in effect at the time of our 1988 audit was that INS would wait 60 days after the fingerprint cards were sent to the FBI in order to allow for a possible report from the FBI before adjudicating the application. If no response was received within 60 days, INS presumed that the applicant had no criminal history.

Our auditors found, however, that INS's policy was not risk-free. They found that in 47 percent of the files they randomly selected for review, there was no record that the fingerprint/background checks had been requested or no record of when the fingerprints were mailed. Apparently, INS was applying the presumption even though it had not assurance that a criminal history check had been initiated and no evidence to show that 60 days had passed. The report concluded with a recommendation that INS must establish adequate controls, tracking, and accountability to ensure that prejudicial information is properly considered when cases are adjudicated.

In 1989, shortly after taking office, Attorney General Richard Thornburgh requested a top-to-bottom review of INS. ("Special Audit of the Immigration and Naturalization Service," Rep. No. 89-09 (Feb. 1989)). Because the Attorney General imposed a 45-day deadline, normal audit standards and testing were necessarily truncated. Nonetheless, the report discussed some testing that was performed in the INS adjudications program. In a sample of adjudications cases, we found virtually a complete absence of evidence that background investigations and fingerprint checks were conducted.

In 1994, we conducted our most in-depth review of INS's handling of fingerprints. ("Alien Fingerprint Requirements in The Immigration and Naturalization Service," Rep. No. I-9C-13 (Feb. 1994)). The report is a useful primer into how criminal history checks are supposed to be conducted in the examination process. However, our inspection found extremely serious problems with the way the process actually operated.

We found that INS did not verify that the fingerprints submitted by the applicants belong to the applicants. At the time of our report, INS and most police departments had stopped providing fingerprinting services to applicants, and INS had no effective controls over the organizations and persons that were being used by applicants to get fingerprinted. While many are reputable nonprofit organizations, their objective is to provide assistance to the alien rather than to detect fraud. We also obtained information that certain fingerprint providers operated out of the trunk of their car or exploited aliens by charging an additional fee that purported to be for the cost of the fingerprint card, which they in fact obtained for free from INS.

We further found that INS examiners were approving applications unaware that the applicants had criminal arrest records. We started by obtaining from the FBI all arrest reports produced in July 1992 in response to requests for fingerprint checks for applications from four district offices, which we visited in order to examine the application files. We found that the FBI report of criminal history, which we had already confirmed existed, was missing from almost 30 percent of our sample of applicant files that had been adjusted.

Another significant deficiency in the fingerprint verification program stemmed from the poor quality of the fingerprints that were submitted. In FY 1993, 11 percent of the fingerprint cards submitted by INS were returned as unclassifiable. Out of over 91,000 cards that were returned for this reason, only 1,313 were resubmitted by INS. (We found several offices where the practice was to simply burn or discard rejected cards.) The remainder would have been adjudicated based only on a name check in the FBI's records. The failure to obtain readable prints, and to take corrective action when they were unclassifiable, remains a continuing threat to INS's operations. About 90,000 applicants did not get fingerprint checked that year.

Our recommendations focused on two actions:

That INS ensure that fingerprint card were promptly sent to the FBI and responses from the FBI were filed before the application was adjudicated.

That INS institute effective controls over the source of applicant fingerprints to ensure that they belong to the applicant.

Additionally in response to our report, INS agreed to address its failure to obtain and submit new fingerprints when a first set was returned unclassified as part of the review and new policy guidance INS proposed to issue. In fact, by March 1994, INS had issued instructions to its field offices to require that all new fingerprint cards be transmitted to the FBI on a same day basis and to ensure that adjudicators are informed of criminal history reports and rejected prints. In addition INS transmitted to each office a computerized FBI report listing the status of fingerprint requests so that each district could evaluate its own situation and required each office to report in 60 days on corrective actions and operating plans to ensure compliance with the directive. On the basis of this action, we closed this recommendation in June 1996.

Later that same year, however, GAO conducted a review to assess how well INS had implemented the corrective actions promised in response to our report. Entitled, "INS Fingerprinting of Aliens, Efforts to Ensure the Authenticity of Aliens' Fingerprints," GAO/GGD-95-40 (Dec. 1994), GAO reported that INS had not monitored

the field offices to ensure that they implemented the corrective policies. GAO reported that the field offices were still not filing criminal history records in the application files, and that they rarely submitted new fingerprints if the first set were returned as unclassifiable. GAO recommended that the Attorney General direct the Commissioner to monitor district office progress to ensure timely transmission of fingerprints to the FBI, immediate filing of criminal history results, and submission of replacement prints for rejected prints. GAO also recommended that INS obtain from the FBI both negative and positive criminal history checks and communicate the results to its examiners. GAO reported that INS agreed with its findings, conclusions, and recommendations.

The second recommendation that we made concerned a strengthening of controls over the entities that now provide most fingerprinting for alien applicants. INS first promised to formulate a policy on fingerprint execution control by March 15, 1994. In May 1994, INS advised that its new policy formulation would be by formal rule-making, anticipated for January 1995. The proposed rule eventually issued in May 1995; the final rule, projected first for January, then April 1996, was promulgated in June 1996. It provided for a transition period until December 1996, which eventually ended on March 1, 1997—over three years after our report was issued.

Thus, from 1988 to 1997, a ten-year span, three reports from my office and one from GAO have revealed fundamental deficiencies and significant risks in INS's checks of fingerprints and criminal histories. What I have described today is the prologue. You have heard or will hear from other witnesses who will describe how each of these flaws boiled over in the high volume pressure cooker called Citizenship USA in ways we are still trying to determine and measure. The effort to identify applicants who were wrongly naturalized is a major undertaking that the INS, JMD and KPMG Peat Marwick continue to address. While my office is also monitoring that work, there are several other issues that call for further attention. I would like to describe what my own office is doing in those regards.

First, there are still open questions about what happened during Citizenship USA and who, if anyone, should be held accountable. More investigation is needed to fully understand and assess allegations of program abuses, of systemic shortcuts, and of instances in which citizenship standards may have been eviscerated. It is important to obtain a broader, fact-based understanding of what happened in that program and to assess questions of individual culpability and accountability.

Second, there are a number of allegations involving false testing results, in both language proficiency and knowledge of American government, sometimes paid for with bribes, that appear to be fairly few in number but that must be investigated.

Third, a number of INS employees came forward to report on the abuses and deficiencies they observed in the program. Some have now reported that they are the subjects of retaliatory actions that could chill future whistleblowers from coming to an Inspector General or to a congressional committee to report on wrongdoing and other abuses.

The largest task is obviously the first—to determine accountability. Earlier this week, I announced a broad-scale investigation at INS headquarters and at the major centers that processed and adjudicated citizenship applications. The undertaking will involve hundreds of interviews, the review of thousands of documents, and a review of operations in a number of different cities. I could not undertake this assignment without funding assistance from Congress and from the Attorney General, which I am pleased to report should soon be forthcoming. I also could not undertake this without the formation of a truly superior investigative team. My present intention is to assign approximately 19 investigators, 5 auditors and analysts, and 3-4 attorneys to lead and direct the investigation and prepare the public report of their findings.

In addition to core investigative work, I plan to employ my auditors and inspectors to evaluate discrete portions of the citizenship program that warrant further inquiry and that may yield improvements in INS's operations.

That concludes my prepared statement. I will be pleased to answer any questions you may have.

Senator ABRAHAM. Thank you, Mr. Bromwich.
Mr. Stana, welcome. Thank you for being here.

STATEMENT OF RICHARD M. STANA

Mr. STANA. Thank you. Mr. Chairman and members of the subcommittee, I am pleased to be here today to discuss INS's process for naturalizing aliens, including its fingerprinting procedures. My

prepared statement discusses the problems that we and others have identified with those processes and the changes INS has made, including the internal controls INS has designed in its revised processes. I would like to have that statement included in the record and summarize the main points here.

Senator ABRAHAM. It will be included, without objection.

Mr. STANA. In 1994, both we and the Justice IG identified problems with the fingerprinting processes. For example, we reported that under INS's procedures at that time, examiners could not determine whether FBI fingerprint checks had been completed because, at INS's request, the FBI returned a report only if a criminal history record was found.

Accordingly, we recommended that INS obtain the results from the FBI of all its record and fingerprint checks, including those for aliens who did not have criminal history records. We also recommended that INS monitor the district offices' progress to comply with INS directives. At that time, INS agreed to implement both of these recommendations.

Mr. Chairman, if INS had implemented the IG and GAO recommendations before September 1995, it could have avoided many of the problems associated with the Citizenship USA initiative. However, it was not until November 1996, after problems with Citizenship USA were disclosed, that INS established procedures that were designed to deal with the problem we identified in December 1994.

The Commissioner ordered that no aliens were to be approved for naturalization until INS positively knew that they had no disqualifying felony convictions. The Commissioner also ordered that no naturalization cases were to be scheduled for hearings or oath ceremonies until these changes were in place and working.

The IG's February 1994 report recommended needed changes to the fingerprint process. In May 1995, INS issued proposed changes. The final changes were not announced until June 1996. Basically, INS implemented a system that relies on a combination of its own offices and Designated Fingerprint Services, DFS's, which are law enforcement agencies and private fingerprint entities that INS would certify as being acceptable. This system became effective on March 1, 1997, when INS began accepting fingerprint cards prepared only by designated services.

As previously mentioned, in November 1996, the INS Commissioner issued instructions for Naturalization Quality Procedures designed to enhance and monitor the quality of the present naturalization process. However, Peat Marwick's report 2 weeks ago showed that INS had not ensured that its field offices were carrying out the Commissioner's instructions. It also highlighted the need for INS to do a better job of monitoring its field offices to ensure that they are properly and completely meeting the Commissioner's expectations.

We have not examined the extent to which INS has carried out its plans to monitor the performance of the outside organizations involved in the naturalization process. However, our past work on the fingerprinting aspects of the process and other aspects of INS management, as well as the recent Peat Marwick report, raise questions about the extent to which INS can today assure itself

and the Congress that it is granting citizenship to only those applicants who qualify for it.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions you or other members may have.

[The prepared statement of Mr. Stana follows:]

PREPARED STATEMENT OF RICHARD M. STANA

SUMMARY

Aliens who apply to the Immigration and Naturalization Service (INS) to become naturalized citizens have to meet certain requirements, such as being of good moral character (e.g., not being convicted of certain felonies). To determine whether aliens applying for citizenship have been convicted of a crime that would preclude them from being naturalized, INS submits the aliens' fingerprints to the FBI, which is to determine if the person with those fingerprints has a criminal history record on file.

Between September 1995 and September 1996, some aliens with certain disqualifying criminal felony convictions were improperly naturalized probably because INS adjudicators were not made aware of the results of the FBI check of the aliens' criminal history records. In addition, both the Department of Justice's Inspector General and GAO have identified problems with the fingerprinting component of the process. For example, individuals intent on hiding their criminal records could have had someone else complete the INS fingerprint card and then submit the prints as their own.

In November 1996 the INS Commissioner announced changes designed to enhance the naturalization process in several key areas. To try to deal with the problem of adjudicators making decisions without having a definitive response from the FBI on the completed criminal history checks, the Commissioner ordered that no aliens were to be approved for naturalization until INS positively knew that they had no disqualifying felony convictions. In addition, the Commissioner ordered that no naturalization cases were to be scheduled for hearings or oath ceremonies until all changes were "in place and working." Previously, INS had issued regulations establishing internal controls to help ensure that people applying for naturalization were using their own fingerprints. However, an April 17, 1997, report by Peat Marwick showed that INS has not ensured that its field units were carrying out the Commissioner's instructions.

GAO believes that its work on the fingerprinting aspects of the process and other aspects of INS management, and the Peat Marwick report, raise questions about the extent to which INS can today assure itself and the Congress that it is granting citizenship to only those applicants who deserve it.

Mr. Chairman and Members of the Subcommittee: I am please to be here today to discuss the Immigration and Naturalization Service's (INS) process for naturalizing aliens, including its fingerprinting procedures. My statement will outline the problems that we and others have identified with these processes and the changes INS has made, including the internal controls INS has designed in its revised processes.

To prepare this statement, we reviewed (1) INS regulations and internal instructions regarding the naturalization and fingerprint processes; (2) the February 1994 report issued by the Justice Department's Inspector General (IG) and our December 1994 report on the fingerprint process; and (3) the April 17, 1997, report by Peat Marwick on INS' implementation of changes to its naturalization process. We discussed a draft of this statement with INS officials and incorporated their comments where appropriate.

BACKGROUND

Aliens who apply to INS to become naturalized citizens have to meet certain requirements, such as residing in the United States for at least 5 years as legal permanent residents, demonstrating a knowledge of the English language and American civics, and being of good moral character (e.g., not being convicted of certain felonies). To demonstrate adequate knowledge of English and civics, aliens are tested by either INS or testing entities approved by INS. To determine whether aliens applying for citizenship have been convicted of a crime that would preclude them from being naturalized, INC submits the aliens' fingerprints to the FBI, which is to determined if the person with those fingerprints has a criminal history record on

file.¹ Depending on the severity and timing of their felony convictions, aliens with criminal history records may be denied citizenship.

Aliens applying for naturalization are to be scheduled for hearings after they submit their applications. According to INS, the current policy is that the hearing dates are not to be set until a definitive response has been received from the FBI on completed criminal history checks.

PROBLEMS WITH THE NATURALIZATION PROCESS

Between September 1995 and September 1996, INS received about 1.3 million naturalization applications; almost 1.05 million aliens were naturalized. During that period, INS initiated a number of changes to its procedures in an effort to streamline the process and reduce growing backlogs. While these changes greatly increased the volume of applications processed and approved, some aliens with certain disqualifying criminal felony convictions were improperly naturalized probably because INS adjudicators were not made aware of the results of the aliens' criminal history records.²

In addition, other problems associated with the naturalization process have been identified. Media reports in mid-1996 alleged that the private companies on which INS relied to test applicants' knowledge of English and civics had been submitting fraudulent results; in congressional testimony last September, INS acknowledged that it had a problem.³

PROBLEMS WITH THE FINGERPRINT PROCESS

Prior Justice IG and GAO audit reports have identified problems in the naturalization process that relate to obtaining and checking fingerprints. In February 1994 the IG reported that (1) individuals intent on hiding their criminal records could have someone else complete the INS fingerprint card and then submit the prints as their own, (2) INS examiners had inappropriately approved some applications after assuming that applicants had no criminal history because no criminal history records were included in the aliens' files when the examiners adjudicated the cases, and (3) INS frequently did not submit new sets of fingerprints to the FBI when the original sets of prints were rejected by the FBI as illegible.⁴

In our December 1994 report,⁵ we described how INS was planning to correct the problems reported by the IG. We noted, however, that INS had not been monitoring its offices' progress in correcting the problems. We also pointed out that INS' assumption that no record of a criminal history in an applicant's file meant that the person had no record could prove to be incorrect because the results of criminal history reports might have been delayed or not filed in a timely manner. We found that under INS' procedures at the time of our review, examiners could not determine whether FBI fingerprint checks had been completed because, at INS' request, the FBI returned a report only if a criminal history record was found. According to INS district officials, without a control to ensure that the FBI had completed a fingerprint check, some aliens with disqualifying felony convictions had their naturalization applications inappropriately approved.

Accordingly, we recommend that INS obtain the results from the FBI of all its record and fingerprint checks, including those for aliens who do not have criminal history records. Because INS had told its district offices to correct problems identified by the IG but had not monitored the district offices' efforts to follow those instructions, we also recommended that INS monitor the district offices' progress to comply with INS directives. At that time, INS agreed to implement both of our recommendations.

CHANGES TO THE NATURALIZATION PROCESS

In a November 29, 1996, memorandum, the INS Commissioner announced changes designed to enhance the naturalization process in several key areas. To try to ensure that the problems discussed previously had been corrected, the Commis-

¹INS charges a fee to process aliens' applications. Included in the fee is a charge by the FBI for checking its records for a possible criminal history of the alien.

²Justice has an ongoing study to determine the extent to which aliens were improperly naturalized.

³Statement of T. Alexander Aleinikoff, Executive Associate Commissioner for Programs, before the House Committee on Government Reform and Oversight, Subcommittee on National Security, International Affairs and Criminal Justice, September 10, 1996.

⁴U.S. Department of Justice Office of Inspector General, "Alien Fingerprint Requirements in the Immigration and Naturalization Service" (Feb. 16, 1994).

⁵INS Fingerprinting of Aliens: Efforts to Ensure Authenticity of Aliens' Fingerprints" (GAO/GGD-95-40, Dec. 22, 1994).

sioner ordered that no naturalization cases were to be scheduled for hearings or oath ceremonies until all changes were "in place and working." To try to deal with the problem of adjudicators making decisions without having a definitive response from the FBI on the completed criminal history checks, the Commissioner ordered that no aliens were to be approved for naturalization until INS positively knew that they had no disqualifying felony convictions. In addition, the Commissioner's memorandum ordered the following controls:

Adjudicators were to complete a work processing sheet for all naturalization applications to record the specific steps taken during the naturalization process (e.g., that the adjudicator determined that the alien met the English requirement).

Supervisors were to conduct enhanced supervisory reviews for such situations as applicants with criminal histories or complex cases involving other statutory determinations.

Quality assurance reviews were to be conducted monthly until a permanent quality assurance program was developed and validated by the Office of Programs. The interim program was to involve, among other things, a review of the procedures and eligibility determinations of a number of randomly selected cases at every INS site processing naturalization applications. A headquarters team was to visit each of the five major naturalization sites (Chicago, Los Angeles, New York, Miami, and San Francisco, which processed about 75 percent of all pending naturalization cases) and other offices as deemed necessary to review the quality assurance program and completion of the checklists.⁶

In September 1996 INS established controls regarding the process for testing applicants' knowledge of English and civics. The national organizations INS relies on to conduct the testing were ordered to strengthen their monitoring and quality control plans, submit monthly reports to INS, and conduct at least one annual inspection visit to each testing site. Further, INS hired a contract inspection service to conduct about 80 site inspections during 1996.

Finally, Justice contracted with Peat Marwick to review the implementation of the November 1996 changes to the naturalization process and with Coopers and Lybrand to propose an overall redesign of the naturalization program.

CHANGES TO THE FINGERPRINT PROCESS

On June 4, 1996, INS issued regulations regarding who could take fingerprints of applicants for immigration benefits. Basically, INS implemented a system that relies on a combination of its own offices and "designated fingerprint services"—law enforcement agencies and private fingerprint entities that INS would certify as being acceptable.⁷ Beginning March 1, 1997, INS was to accept fingerprint cards prepared only by designated services.⁸

The regulations establish the conditions under which the private entities are to be certified. For example, each employee who would be allowed to take fingerprints had to be trained in fingerprinting procedures by INS or the FBI. In addition, these employees were to undergo an identification and criminal history check. The regulations also provide instructions on how to verify the identity of the person being fingerprinted.

Also, INS set up several internal controls to help ensure that fingerprints are properly taken:

Employees of the outside organizations must receive the training from INS or the FBI to properly take aliens' fingerprints.

Monitoring is to be done by INS district and regional directors and by the national contractor INS hired to provide monitoring support.

People who take aliens' fingerprints are to check their identity by comparing the information on the aliens' fingerprint card with the aliens' passport, a driver's license or state-issued photo identification, or some other INS-acceptable document.

⁶Subsequently, according to INS officials, the Peat Marwick review was substituted for the INS headquarters team review.

⁷On July 14, 1994, the Senate Committee on Appropriations directed that INS implement a fingerprint collection system which permits only trained INS employees, recognized law enforcement agencies, or INS-certified outside entities to take fingerprints.

⁸The June 1996 regulations called for INS to begin accepting fingerprints from only designated facilities as of January 1, 1997. According to INS officials, the effective date was slipped to March 1.

PEAT MARWICK'S REPORT

On April 17, 1997, Peat Marwick issued its report on its interim survey of selected INS offices'⁹ implementation of the changes ordered by the Commissioner last November. Among its findings were:

There was continued lack of quality control in the completion of the fingerprint cards. Peat Marwick reported that INS was experiencing a growing backlog of cases that were classified "not found" as a result of the failure of the matching effort between INS and FBI.

The use of the designated fingerprint services had done little to increase the accuracy of the data on the fingerprint cards.

Despite the requirement that adjudicators were not to schedule a naturalization case for a hearing until they received a definitive response from the FBI regarding the criminal history record search, Peat Marwick was often unable to verify that this control was being followed by the adjudicators.

In addition, Peat Marwick identified two other findings dealing with the dissemination of the November 1996 procedures and staff training. First, Peat Marwick discovered three different versions of the procedures had been distributed throughout INS.¹⁰ It pointed out that generally staff at the first-line supervisor level and below were not informed of the reasons for the changes. Second, with respect to training, Peat Marwick reported that there were no policies or curriculum established regarding the recording of attendance for accountability purposes. According to the report, this was a major contributing factor in INS' inability to implement fully the November 1996 procedures.

As a result of Peat Marwick's report, INS announced that it would be making improvements in three general areas to ensure that each district is effectively implementing the November 1996 procedures: (1) strengthening communication, coordination, and oversight; (2) improving training of all staff involved in implementing the new procedures; and (3) improving fingerprint processes. According to INS, a full-scale, 60-day audit is being planned.

OBSERVATIONS

The Peat Marwick report shows that INS has not ensured that its field units were carrying out the Commissioner's instructions. It also highlighted the need for INS to do a better job of monitoring its field offices to ensure that they are properly and completely meeting the Commissioner's expectations.

We have not examined the extent to which INS has carried out its plans to monitor the performance of the outside organizations involved in the naturalization process. However, our past work on the fingerprinting aspects of the process and other aspects of INS management, and the recent Peat Marwick report, raise questions about the extent to which INS can today assure itself and the Congress that it is granting citizenship to only those applicants who deserve it.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions.

Senator ABRAHAM. Thank you. I thank the whole panel.

Mr. Ahrens, let me just begin with you and ask initially here this question. Can you maybe elaborate on what went wrong here in terms of the efforts to implement the November 29, 1996, policy?

Mr. AHRENS. It is probably a number of factors, as I said in my statement, one of those being there are potentially three areas that you look at from the implementation standpoint. Headquarters developed and issued the policies. The district director is responsible for receiving those and implementing them, and then down at the working level, to understand and implement. To characterize it, it

⁹According to the Peat Marwick report, between February 19 and March 26, 1997, it visited 4 INS service centers, and 20 sites which represent about 85 percent of INS' naturalization processing capacity. It assessed the (1) dissemination of the Commissioner's November 29 memorandum throughout the organization, (2) quantity and quality of training conducted to facilitate understanding of the memorandum, and (3) degree to which the policies and procedures had been implemented.

¹⁰One version was a copy of the memorandum signed by the Commissioner, another was an unsigned electronic version of the memorandum with different attachments, and the third was an early version drafted for the Deputy Commissioner's signature.

is probably at each one of those three points where the potential problem lies.

Senator ABRAHAM. But it is the case, you indicated, that, No. 1, that the policy being distributed to different places was different policies, is that correct, and how so?

Mr. AHRENS. Correct. When we went to one of the Citizenship USA locations in the San Francisco area, they actually had a previous version of the memorandum and had not received the signed version from the Commissioner yet.

Senator ABRAHAM. Is it true that some offices did not even have or could not at least produce a copy of the new policy when you visited?

Mr. AHRENS. They had previous versions. They had an older draft.

Senator ABRAHAM. You also mentioned that as a consequence of this, you do not feel at this point that you have confidence today, at least, that we are not naturalizing people with criminal records?

Mr. AHRENS. Yes, sir.

Senator ABRAHAM. Could you elaborate on why you feel that?

Mr. AHRENS. Primarily, if I may, the controls that we reviewed prior to the Commissioner signing them out, we feel were good controls. However, based on the fact that they were not implemented correctly, that is the basis for us not being able to provide assurance. The controls were good. They were not implemented correctly. Therefore, we cannot provide assurance that that is not continuing to happen.

Senator ABRAHAM. Obviously, you had a focused investigation here. To any extent, are you in a position to comment on other parts of the naturalization process, as to where there might be additional areas of deficiency?

Mr. AHRENS. The majority of our review was focused in the seven areas that the memorandum covered. Primarily, the areas that we saw problems with were in the fingerprint and the overall processing of N-400 applications.

Senator ABRAHAM. Thank you very much.

Let me ask you, Mr. Bromwich, you indicated that you have launched a new effort to try to determine what happened and who might have done things inappropriately along the way. How broad will that investigation be?

Mr. BROMWICH. It will be very broad. We will try to address a number of the specific allegations that have been made over the last 6 months or so about defects in Citizenship USA and we will try to examine carefully how the Citizenship USA program was developed and formulated at INS headquarters and then how it was implemented in the field, focusing on what are called the five first-tier cities, namely Miami, New York, Chicago, Los Angeles, and San Francisco.

Senator ABRAHAM. Will the focus be exclusively within the INS or will you be looking outside of the INS at other—

Mr. BROMWICH. We will also be looking at any collateral influences on the formulation of the Citizenship USA program.

Senator ABRAHAM. Obviously, some questions have been raised along those lines—

Mr. BROMWICH. Yes.

Senator ABRAHAM [continuing]. As to whether the INS had been in some ways pressured or encouraged to do things. Do you feel you have the authority under the statutes to proceed beyond the scope of the Department of Justice?

Mr. BROMWICH. I am confident that we do. In many investigations that we do, we do not technically have the power to compel cooperation from other agencies or people outside the Government, but in most circumstances, we have had very good success in getting the voluntary cooperation that we need to fill out this picture and I hope and anticipate that we will be getting that kind of cooperation in this venture, as well.

Senator ABRAHAM. Thank you. Would you be able to provide the committee with some notice if there are difficulties that you are encountering in terms of being able to obtain the information or the testimony that you are looking for? Could we ask you today to keep us apprised?

Mr. BROMWICH. Absolutely.

Senator ABRAHAM. Then if there are limits to what you find yourself able to pursue, I think it would be very helpful to us to know that.

Mr. BROMWICH. I am happy to do that.

Senator ABRAHAM. Thank you.

Mr. Colgate, let me just go back to your chart here. On table 2, you have made an estimate, I guess, is that correct, of how the cases would be distributed?

Mr. COLGATE. Correct.

Senator ABRAHAM. Could you just tell me what you base that estimate on?

Mr. COLGATE. Essentially, the 71,000 are FBI idents, which represent rap sheets, and as of the date that we prepared this chart, and we are continually getting additional rap sheets. I think we are in the neighborhood of 80,000-some right now. We go through those rap sheets and we sort those into the three piles, INS administrative, misdemeanor, and felony, and if a rap sheet has multiple issues on it, we always move it into the most severe pile.

So, for example, if a rap sheet showed there was an INS administrative as well as misdemeanor as well as a felony arrest, we would characterize it as a felony. So, essentially, Mr. Chairman, this represents at the time our sorting in these various different categories.

Senator ABRAHAM. OK. But my question is, you have made an estimate here. You have already broken them down into these categories?

Mr. COLGATE. That is correct.

Senator ABRAHAM. So, in other words, we already have three piles—

Mr. COLGATE. That is correct.

Senator ABRAHAM [continuing]. And approximately how many fit into each—

Mr. COLGATE. That is correct.

Senator ABRAHAM. You have not gone through each case within the file, except to just determine the criteria you used—

Mr. COLGATE. Actually, in the case of the felonies, we will essentially take anyone that is in the felony pile and then actually pull the A file so that we can go through and make this review. This

was our best estimate at a time period. We are constantly getting in rap sheets from the FBI as we continually try to narrow down the universe of those that we are missing and those that were rejected. We will look at every FBI ident that we get. We are getting some duplicates in there and that is why we have just used this as an estimate.

What we have found since we did this estimate, that the general parameter is still illustrative and we are still getting the breakdown—

Senator ABRAHAM. OK. I just was not quite clear on what we had here. Are you also, then, looking at the number of people naturalized since November 29, when this policy went into effect?

Mr. COLGATE. We will look at those—we wanted to look at those individuals in the first quarter of fiscal year 1997, as well, to give us an idea what happened in that window, as well.

The other thing I did not mention in my testimony, Mr. Chairman, that I think may be significant to the committee is that we are also, in consultation with GAO and others, we are doing a stratified sample of the whole universe that, essentially, we are pulling in excess of 6,000 cases of the 1,042,000, and essentially, we will look at them all. So we will even look at cases where there was no FBI ident, so we will see if other requirements, such as English and residency and those types of things were addressed.

So we are focusing on an individual basis, anyone who had a felony arrest, but we are also doing a stratified sample, which we believe will give us a real sense of what happened in the entire universe, as well, and I did not mention that in my testimony.

Senator ABRAHAM. I think we would like to certainly know, because of the issues raised by the Peat Marwick study, how the breakdown is with respect to the people who have been naturalized since that November 29 memo on a case-by-case level.

I think the clock got a little bit askew here, so I am just going to ask Mr. Ahrens one or two more quick questions here. Based on your analysis of these offices, I know among the problems were included such things as the fact that fingerprint cards were being sent to the wrong FBI address. What was the reason that was happening?

Mr. AHRENS. I am not sure of the background. A question we asked of each site, of where are you sending your fingerprint cards, that was the address that was provided us at the time of our review. I am not sure exactly why they had a previous address.

Senator ABRAHAM. So your study did not go beyond asking—

Mr. AHRENS. No.

Senator ABRAHAM. You did not ask the reason that the mistakes were being made. You just asked the—Mr. Colgate, do you want to add something?

Mr. COLGATE. Maybe I just could clarify. Essentially, the district officers were using the old address. The ident function was centralized for a number of years in the FBI headquarters building. It has since moved to Clarksburg, WV. They were shipping them to headquarters and then headquarters were transferring those cards to Clarksburg.

Senator ABRAHAM. OK. I think, as I said, I may have gone over a little bit here, so I will turn to Senator Feinstein and let her begin.

Senator FEINSTEIN. Thank you very much, Mr. Chairman.

What I am hearing today causes me very deep concern and kind of reinforces a lack of confidence, that the problems continue even after orders were given to make changes. Let me ask a few quick questions.

Do you gentlemen have any numbers of people who were naturalized and they had criminal records? This morning's press said that 180,000 of those people from August 1995 to 1996 and then says an additional 71,500 had criminal records. The 180,000 did not undergo complete FBI screening and then 71,000 on top of that who received citizenship had FBI records. Do you have a number?

Mr. COLGATE. Maybe I could clarify it for you.

Senator FEINSTEIN. Please.

Mr. COLGATE. There were 180,000 individuals who did not have the full benefit of the completed FBI criminal history check. Now, of that 180,000, approximately 113,000 of that 180,000 were cards that were rejected for some type of reason, whether there was an incomplete data field or there was a smudge on one of the ten of the prints.

We did do a name check against those 113,000 and some of those name checks have resulted in rap sheets being produced. There were about 66,000 individuals who the FBI has no record of ever receiving the cards from the Immigration Service.

Senator FEINSTEIN. I am trying to get a hard number. Of the 1,049,000 people naturalized in this period, how many had a criminal record?

Mr. COLGATE. Of that period, we have a universe of about 71,000 individuals who have FBI idents; 34,700 of them were for an INS-related charge; 25,500 were related to a misdemeanor.

Senator FEINSTEIN. Stop there. You are giving me more than I want to know.

Mr. COLGATE. OK.

Senator FEINSTEIN. Are you saying that the total number out of 1,049,000 was 71,000?

Mr. COLGATE. That have produced an FBI record of some kind, and that is as of the end of January. We are still manipulating those numbers.

Senator FEINSTEIN. So let us say it was 75,000 out of a million. Mr. Bromwich, could one assume that this would be the continuing ratio, then?

Mr. BROMWICH. I do not have the basis for making that assumption, Senator. Just to clarify, of the number that Mr. Colgate gave, and we do not have an independent count. We have been regularly getting information from Mr. Colgate, the INS, and Peat Marwick, that of the, I believe, 71,000, the 34,000 are INS-related violations, that is, administrative-type violations.

So is there a record? Yes. Is it what we would call a criminal record? It is unclear. You would have to say what you mean by criminal. Then, in addition, 25,000 of that 71,000 involve 1 or more misdemeanors. It is the smaller group, that is, approximately 10,800, in which the rap sheet reflects at least 1 felony.

Is that right, Mr. Colgate?

Mr. COLGATE. Felony arrest, correct.

Mr. BROMWICH. Felony arrest.

Senator FEINSTEIN. My understanding is that the INS is proceeding to denaturalize these people, is that correct?

Mr. BROMWICH. The INS has in place revocation procedures, yes. I do not know—we have not looked at the extent to which those revocations are actually taking place.

Senator FEINSTEIN. Would that be possible for you to, as you continue your investigation, to do so?

Mr. BROMWICH. Sure.

Senator FEINSTEIN. I would be most interested in how many actually are being revoked, to see whether there is follow-up.

One of you gentlemen mentioned reprisals against INS agents who cooperated with congressional inquiries.

Mr. BROMWICH. I did. There are allegations that there have been retaliations or reprisals against INS employees who have come forward with information. We are exploring those allegations.

Senator FEINSTEIN. What kind of reprisals would those be?

Mr. BROMWICH. They include, among other things, alleged demotions, deprivation of certain privileges as employees, and so forth.

Senator FEINSTEIN. Let me ask this question. How did it happen that obtaining criminal information was disregarded? Were there ever instructions given to do so, any direct standing orders given to do so, any established policy to do so? How did it happen that this would be the case?

Mr. COLGATE. Let me. I think that, unfortunately, the policy since 1982 was one of exception reporting. If you did not hear within a certain period of time, you assumed that there was no issue. So no news was good news was the situation, and that is a fundamental lack of control, because, essentially, if the fingerprint got lost in the mail, you would not have had the benefit of the check. We have now corrected that fundamental deficiency.

Senator FEINSTEIN. I have a hard time believing that, that this is the only thing that was there, because it seems to me that this would be an operating standing order of the Department not to naturalize people with felony records and that it would be enforced. What you are saying is it was not, if I understand you correctly, that was not an operating standard of the Department, it was not enforced, it was not supervised, and it was not really looked for.

Mr. COLGATE. Essentially, what you have since 1982 is if INS was aware and it received the record that there was a statutorily-barring offense, the naturalization, your application would, of course, be rejected. But what happened in this situation was because of the fact that it was exception reporting, in other words, if the case adjudicator had not heard back from the FBI, they assumed that everything was all right. We got ourselves in a situation where there were individuals, about 18 percent, who had been naturalized without the benefit of a completed criminal history check.

Mr. BROMWICH. To address your question, Senator, I think there was an operating standard but it was very imperfectly implemented because it was based on the kind of exception or presumption of reporting that Mr. Colgate has identified.

Senator FEINSTEIN. How many naturalizations, Mr. Bromwich, have been revoked to date?

Mr. BROMWICH. I do not have the answer, Senator. I do not know.

Senator FEINSTEIN. Apparently a newspaper in Dallas has reported two convicted child molesters who are now fugitives. Do you happen to know if their naturalization status has been revoked?

Mr. BROMWICH. I do not have the answer, Senator, no.

Senator FEINSTEIN. May I ask you to obtain it?

Mr. BROMWICH. Sure, although I think you may be able to get that information from people in the INS, but I will independently try to get it, as well.

Senator FEINSTEIN. I appreciate it very much, because, you see, it would seem to me that INS would know that and would take immediate action to make the revocation and I think that would be a good indication to me of the seriousness with which they take this issue. I must say, I am very disappointed to hear all of this.

Thank you very much, Mr. Chairman.

Senator ABRAHAM. Thank you, Senator.

We will go to Senator Kyl. Thank you for being here.

Senator KYL. Thank you, Mr. Chairman. I apologize to the witnesses that I did not hear your oral presentation, though I was briefed on the written statements of three of the four of you and I will review all of that material.

I think my first question is probably for Mr. Ahrens. Under the Peat Marwick conclusions, and I am quoting now, the Phoenix office has a very significant 99-percent error rate in the processing of the N-400 processing worksheet. Can you tell me what that 99 percent error rate means? Is it just the combination of all the little minor errors or does it include the big errors? What is the significance of that conclusion?

Mr. AHRENS. Specifically, what that is talking about is one of the new controls that the INS instituted was a processing worksheet that required dates and initials for when specific actions were completed in the processing of a naturalization application. That 99 percent reflects the number of cases that we reviewed that that processing worksheet had not been correctly processed. Specific actions could not be validated that they had occurred.

Senator KYL. And this is an error rate of 99 percent. In other words, in virtually 100 percent of the cases, there were errors.

Mr. AHRENS. Yes, sir.

Senator KYL. To go on in your report, this, combined with the lack of formal training and lack of required SDAO review results in this site being deemed noncompliant. What is the significance of the site being deemed noncompliant?

Mr. AHRENS. Let me put the answer to my question in a certain context. What we tried to do as the purpose of our review was provide INS and DOJ management with a heads-up review. This is where potential problem areas are. We tried to quantify those from management in the form of a scale, if you will, of those that had fully implemented the procedures, those that were borderline, and those that, based on our review, there was a problem area.

So based on the significance, it is just that, that based on our review, there is potential significant problems in the Phoenix office, and—

Senator KYL. That is a fairly generous way of putting it, is it not, with a 99 percent error rate?

Mr. AHRENS. Yes, sir. [Laughter.]

Senator KYL. Let me try to understand the significance of the statistics that were discussed a moment ago. Under this table that I have reviewed, there is an indication of 71,500 persons as the so-called idents, persons as having FBI records. Those are then broken down into misdemeanor, felony, and administrative violations in the way that you have indicated, 34,700 administrative, 25,500 misdemeanor, and 10,800 felony, and those are people arrested for at least 1 felony.

So you have at least already 10,800 people who have been at least arrested for at least 1 felony who were naturalized, is that correct?

Mr. COLGATE. Correct, and I would like to clarify something because I may have given Senator Feinstein a misimpression. These were 71,000 individuals who had an FBI ident. That does not mean that they would be disqualified from citizenship. For instance, you could have a misdemeanor, or depending on the time frame, you could have even had certain felony convictions that would have not automatically been barring for naturalization purposes.

Senator KYL. Right. There were two things that I wanted to get clarified. While the yellow light is still on, I will ask the question and then maybe you can answer it for me.

Mr. COLGATE. Sure.

Senator KYL. First of all, there is a whole other group out here that is still up in the air, that is to say, that you have not resolved yet. As I mathematically compute it, it is in the neighborhood of 183,000 people of either unclassifiable, not found, or pending, and out of those 3 categories, you could come up with additional people who could be disqualified from naturalization, is that correct?

Mr. COLGATE. That is correct. We have done name checks, and there are about 113,000 of those individuals. That is not as complete as doing the 10-print comparison, and that has resulted in—and that is why the 71,000 number will go up as far as the number of idents. That will produce and has produced some additional rap sheets.

Senator KYL. OK. I think this question is to you, Mr. Colgate. As a legal question, could you edify the committee on the legal test for naturalization? It is my understanding that INS has discretion to allow people who are on this ident list to be naturalized and that maybe even in the case of a felon, there is some discretion, but could you clarify for us what the law is in that regard, or is there someone else who could?

Mr. COLGATE. I am going to have to be honest with you. I am not an attorney.

Senator KYL. Would anyone else on the panel like to describe the law to us?

Mr. BROMWICH. I am an attorney, but I do not have the answer for you, Senator. [Laughter.]

Senator KYL. I think, from what I read here, there is some discretion, but that would not extend to certain people who are convicted of felonies, certainly.

May I just ask one final question, Mr. Chairman?

Senator ABRAHAM. Go ahead.

Senator KYL. Does anyone here have a breakdown of that 10,000-plus persons accused of a felony to know how many of them were convicted of at least 1 felony?

Mr. COLGATE. No, not convicted. These are just arrests. That is part of the work that we are doing, is that we do not have final disposition of the felony. We are sending it back to INS to get final disposition information. On 168 individuals, there was clearly disposition information. A lot of the files, we could not tell that there was final disposition and that is work still ongoing.

Senator KYL. Excuse me. I am not sure I understand the language. When you say final disposition, you mean a determination of whether or not there was actually a conviction on a felony charge?

Mr. COLGATE. That is correct.

Senator KYL. Is it not the FBI that has those records, or is it the Department of Justice? It is not INS, is it?

Mr. COLGATE. We will have to——

Senator KYL. Where does that information come from?

Mr. COLGATE. The FBI rap sheet does not necessarily show final outcome of the law enforcement process.

Mr. BROMWICH. In most cases, it does. In some cases, it does not.

Senator KYL. So to determine that, you would first check the FBI rap sheet and then if you could not confirm it from that, Mr. Bromwich, where would you try to go next?

Mr. BROMWICH. I am just sort of relying on my experience as a prosecutor. I have not done it in this context, but what you could try to do is certainly go to the clerk of the court in the district in which the arrest was made and determine from court records whether, in fact, there had been a conviction.

Senator KYL. Is that right, Mr. Colgate?

Mr. COLGATE. That is correct. But Mr. Archer is on the second panel, head of CJIS. He could clarify what exactly is on the rap sheet. But it is my understanding from the staff review that quite a bit of these rap sheets did not show final disposition.

Senator KYL. So, to conclude, of this 10,800, does anybody have a ballpark guess at this point of what percentage of those might have convictions of at least 1 felony?

Mr. COLGATE. The only thing I can say is that we know 168 of them had it. We are sending about a third of the work completed to INS to get the final disposition information. I just do not have that statistic.

Senator KYL. Do you have any idea how long it will take to check out these 10,000?

Mr. COLGATE. I would like to get back to you and give you an answer on the record. I would like to consult with the Immigration Services.

Senator KYL. Fine. Thank you, Mr. Chairman.

Senator ABRAHAM. Thank you very much, Senator Kyl.

Senator Durbin.

Senator DURBIN. Thanks, Mr. Chairman.

I am going to try to get three questions in a short period of time, and some of them may be a little involved. First, I can detect and read here the dramatic increase in applications for naturalization, 300,000 just a few years ago up to 1.3 million in 1996 and projected to go to 1.8 million in 1997. Apparently, an awful lot of people want to be American citizens. Some of them have been frightened into it by statements that have been made by elected officials and policies adopted in Washington. Others want to be American citizens for the same reason as the folks who came to this country for the last 200 years.

I am trying to figure out while the number of citizenship applications has increased, has our policy in terms of collecting and processing fingerprints changed over the last several years. Are we taking this more seriously now? I mean, someone suggested to me that it used to be the case that fingerprints would be sent in and if you did not hear back from the FBI in 60 days, you proceeded. Are we now in a position where you have to have or should have an affirmative response under the law, and if so, when did that come about?

Mr. COLGATE. When we issued the November 29 guidelines, we require an affirmative notation in the file that the FBI check had been complete with a separate identifier number so that you can even go back in order to ensure that that has gone forward.

Senator DURBIN. Is this affirmative response a new policy?

Mr. COLGATE. It was a part of our November 29 guidelines.

Senator DURBIN. Was it mandated by Congress or a decision by Justice?

Mr. COLGATE. It was issued by the Commissioner of the Immigration Service.

Senator DURBIN. Based on what?

Mr. COLGATE. To address this fundamental internal control weakness that had been identified.

Mr. STANA. Senator Durbin, we identified that as a major problem back in 1994 and suggested that that change be made then.

Senator DURBIN. OK.

Mr. STANA. At that time, the INS agreed to do it, but it just did not get done.

Senator DURBIN. So my next question is, once this fingerprint is submitted into the FBI's system, our goal is to keep dangerous people from becoming citizens. I am trying to figure out what the likelihood is that we can be successful in identifying dangerous people? Also, how many "dangerous people" are identified?

Mr. Colgate, I listened to your testimony, and I hope I got some of this right, and I tried to follow what Senator Kyl has said, but are you saying that after you have gone through all of the statistics of the million-plus applicants for naturalization, that some 10,800, or about 1 percent, turn out to have been accused of a felony, is that correct?

Mr. COLGATE. If you take out the individuals whose prints were rejected or those that were just missing, that is correct.

Senator DURBIN. OK.

Mr. COLGATE. That is essentially a felony arrest.

Senator DURBIN. A felony arrest, all right. And of those 10,800, you are saying that 168 have been found to have been convicted of a covered felony, a felony covered under the law here?

Mr. COLGATE. As part of this review, 168 were defined as being presumptively ineligible. In other words, the paper, the file that we have in front of us shows that the individual was convicted of a statutorily barring offense.

Senator DURBIN. And I will accept your premise that of that total universe, 180,000 did not get into the system for a variety of reasons. Of those who got into the system, we found 168 out of about 900,000 to have been guilty of a felony, a covered felony.

Mr. COLGATE. This is still work in review. One of the areas that we are looking at is that those individuals who made misrepresentations about their felony arrest, which we view will be a barring situation. As well, we are doing additional work on individuals who had orders of show cause and orders of deportation, will also increase those numbers, as well, sir.

Senator DURBIN. I will allow someone who has mathematical skills or a calculator to figure out what 168 out of 900,000 turns out to be, but it is a very small percentage who actually come out of this process being identified as actually—

Senator FEINSTEIN. So far.

Senator DURBIN [continuing]. So far, covered felony.

Mr. COLGATE. I just, because this is a work in progress and when we have the final statistics, I just do not want to speculate and we do not want anybody to draw conclusions against this 168 because we know that we will get additional individuals as it relates to misrepresentation as far as their felony arrests—

Senator DURBIN. Sure.

Mr. COLGATE [continuing]. And we know we will get individuals who have outstanding orders of show cause of deportation that will also increase these statistics. So I do not want to leave the panel with the impression that you can extrapolate that number to the final outcome.

Senator DURBIN. I am out of time. I am going to pose my last question to you anyway, because I think it may be short. I hope the answer is brief, and perhaps it is an answer better given by Mr. Archer in the next panel.

We charge \$95 for processing naturalization cases?

Mr. COLGATE. Correct. This is a fee-for-service program.

Senator DURBIN. Right. And I assume—maybe I should not assume. Does that include the cost of processing fingerprints?

Mr. COLGATE. Yes.

Senator DURBIN. What is that number? What number do we attach to the processing of fingerprints?

Mr. COLGATE. The FBI, who receives reimbursement from INS, receives \$18.

Senator DURBIN. They receive \$18? Thank you.

[The prepared statement of Senator Durbin follows:]

PREPARED STATEMENT OF SENATOR RICHARD J. DURBIN, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Thank you Chairman Abraham for holding this hearing on this very important topic.

As I was preparing for this hearing, one question keep reoccurring to me—"Is the United States really a proud nation of immigrants?" Sadly, the answer to this question was the unfulfilling and ambivalent, "I don't know." I'm stuck by the anti-immigrant feelings that have infected the country. From proposition 187 in California to the deprivation of Social Security Income to elderly and disabled legal immigrants, we may be turning our backs upon the immigrants who have helped to make this country great.

Yet, there is also evidence that we still applaud and welcome legal immigrants. I know the other members of this Subcommittee and I feel this way.

This positive attitude toward legal immigrants was perhaps best exemplified by last month's Subcommittee hearing in which legal immigrants from across the country testified about how they had not only made a good life for themselves, but how they had, through their entrepreneurial efforts, created numerous jobs for "native" Americans. I was truly touched by those legal immigrants—touched by their commitment to succeed, by their hard work, but mostly by their sincere love of this nation.

It is precisely this sentiment that makes this hearing regarding KPMG's review of the INS's criminal record verification process so troubling for me. While I realize that the naturalization process is quite a daunting task—indeed, about 1.8 million people are expected to file for citizenship in the current fiscal year, almost 25% more than last year's record of 1.3 million and a six-fold increase from just five years ago—I also believe that it is one of our nation's most important tasks.

These people for the most part apply for citizenship in good faith and should receive an efficient and accurate citizenship process in return.

I am troubled by the KPMG report for two reasons. First, and most obviously, I am deeply concerned that the shortcomings in the INS's criminal background procedures have failed to catch a few naturalization applicants who do not deserve to be U.S. citizens because they have committed serious felonies. Theoretically, this country can absorb only a finite number of legal immigrants, and this finite number should not be stolen by convicted felons.

Second, if the INS's criminal background check is not secure—if the American public is not confident in the INS—it taints the citizenship of those people who are legitimately naturalized. In other words, it allows those people who are anti-immigrant to question each and every newly naturalized citizen as a potential criminal.

On a related matter, I am also disturbed by the growing naturalization backlog around the nation. Obviously, such a backlog could not come at a worse time as many legal immigrants are attempting to become citizens in an effort to protect their SSI and food stamp benefits.

Such a backlog is being reported in Chicago. As noted by many Illinois immigrant advocacy groups and the Chicago Mayor's office, the backlog is occurring at two different stages of the process: the application stage and the swearing in stage. First, unofficial reports estimate that a person applying for citizenship in Chicago today will not complete the process for 18 to 36 months.

Second, the INS in Chicago, which already has a "swearing in" waiting list of more than 8,000, has stopped their traditional large swearing in ceremonies. They currently have only two ceremonies a week for a mere 130 applicants, or about 1,000 per month. At this rate, the INS in Chicago will reportedly incur an additional backlog of over 4,000 people per month to add to the existing 8,000.

All that being said, we must move on. I know the INS is making a dedicated effort to improve its naturalization process. In addition, the Department of Justice has demonstrated a similar commitment through its appointment of Robert Bratt and Charles Bowsher to assist the INS in its revamping of the process.

Indeed, I want to emphasize one point. We are here to help you. We all care deeply about this issue and, in particular, about improving the security of and confidence in the naturalization process. I see the improvement of the naturalization process as a partnership between the INS, the DOJ, the FBI, this Subcommittee, and myself.

Our society benefits dramatically from the rich and diverse influx of legal immigrants into our culture, because they bring with them a dedication to hard work, education, family, and religion. We must work together to ensure that we do not taint the image of legal immigrants and to ensure that the most deserving naturalization applicants become citizens.

Thank you.

Senator ABRAHAM. Thank you very much, Senator.

I want to thank this panel for being with us today. In light of the fact that there are some scheduling conflicts, I know on your side soon, I am going to call the next panel. We probably will have some additional questions that we will be submitting in writing, and again, our appreciation for you being here today.

Commissioner Meissner, welcome. I appreciate your being here today, and Mr. Archer. Just briefly, I think the panel is well known. We have Doris Meissner, who is the Commissioner of the Immigration and Naturalization Service, and Charles Archer, who is the Assistant Director in charge of the FBI.

I would like to particularly extend a welcome to Commissioner Meissner for what will be her first appearance here during the 105th Congress. We look forward to working with you and the INS as we go about our business on a variety of fronts.

At this time, I will ask Commissioner Meissner to make her opening statement, and then Mr. Archer. As a consequence of some scheduling conflicts, we will turn to Senators Feinstein and Durbin, who I believe have a conflict. We will let them ask questions first on this panel and then come back on our side.

So Commissioner Meissner, if you would proceed. Thank you for being here.

PANEL CONSISTING OF DORIS MEISSNER, COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, WASHINGTON, DC; AND CHARLES W. ARCHER, ASSISTANT DIRECTOR, CRIMINAL JUSTICE INFORMATION SERVICES DIVISION, FEDERAL BUREAU OF INVESTIGATION, WASHINGTON, DC

STATEMENT OF DORIS MEISSNER

Ms. MEISSNER. Thank you. Good morning, Mr. Chairman, members of the subcommittee. I would like to begin this morning by providing some information and background about the state of the Nation's naturalization system and the progress that we are making toward improving its integrity while responding to historic numbers of applications.

First, the naturalization agenda at the Immigration Service has always been my agenda. When I took over as Commissioner at a time when the Nation's eyes, Congress' focus, and most of the new resources flowing into INS were aimed at bringing control to the Southwest border, I continually stated that it was imperative to bring a renewed focus to our naturalization efforts.

The Citizenship USA program grew out of that dedication to ensuring that as applications reached an unprecedented level, legal immigrants who played by the rules would not have to endure an unconscionable 2- to 4-year wait for citizenship.

In the face of extraordinary workloads, INS has continuously made significant improvements to the citizenship process that had existed. Last November, I announced further sweeping changes designed to strengthen the integrity of the naturalization process. No one is more disappointed than I that we have not made greater progress in implementing those new quality assurance procedures and no one is more committed to doing it right than I am.

The initial KPMG review that we are discussing here provided us with an opportunity to see where and why problems are occurring. While the KPMG team spent only 1 day in each district office it reviewed, the report has been a valuable tool in helping us to determine corrective actions that are needed. Fortunately, the KPMG review affirms that the November 29 procedures that we developed to ensure the quality of the process are, indeed, sound. The difficulty lies in executing the procedures fully and uniformly and in assuring proper guidance, coordination, and oversight of field operations to effectively ensure their implementation.

Despite those difficulties, it is important to note that the naturalization system today is stronger than ever before. We have more work to do on quality assurance and ensuring fingerprint integrity, but we have more safeguards now than we have ever had in the past.

At the same time, I take full responsibility for the problems that are outlined in the KPMG report. I have taken both immediate and longer-term steps to ensure that the people upon whom I rely to handle the day-to-day operations do what is required of them.

First, I brought every district director to Washington to discuss one-on-one, office by office, with Peat Marwick where the shortfalls were and what caused them. This was a critical meeting because field managers were put on notice that I expect effective execution as a benchmark of their performance as managers. The KPMG report tells us that every office made real attempts to implement the quality assurance procedures correctly. However, they will certainly be held accountable for the next step in the process, which is a formal audit.

Second, I ordered that no individual be naturalized without a supervisor re-verifying the application. This revalidation of all applicants prior to oath is a temporary measure until we overcome the important deficiencies that the KPMG report brought to our attention.

Third, I directed our Office of Internal Audit to provide immediate support and feedback to field managers as to how well they are implementing the quality assurance procedures.

Fourth, I have brought new leadership and talent, as well as new accountability, into the direction of the naturalization program. A single person is now responsible for managing the naturalization quality assurance process. The Attorney General and I agreed that the Department of Justice would loan INS a senior manager with a record of success in managing complex systems and serving as an effective troubleshooter.

Robert Bratt, who has been awarded for his accomplishments as the Executive Officer of the Department's Criminal Division, started in the role of Executive Director for Naturalization operations, a new position, on Monday. He reports to me and he directly supervises all headquarters naturalization staff working on the implementation of the quality assurance efforts. He will be responsible for evaluating their performance. He will also have input into the performance ratings of those in the field responsible for quality assurance implementation.

Finally, I have also asked the former Comptroller General of the General Accounting Office, Charles Bowsher, to assist in our devel-

opment of an action plan and to advise me on how best to execute the new procedures.

I am optimistic that this addition of talent, energy, and management expertise addresses the coordination and oversight problems that have been obstacles to effective implementation. Some of the difficulties that we have experienced in implementing the quality assurance procedures are due to deeper management, structural, and communications problems that have existed for some time at the INS and that must be addressed in the longer term.

We need to make changes to strengthen our headquarters-field relationship. I will soon be forwarding to the Congress a plan that strengthens our chain of command at INS and provides more clear support and oversight of field activities.

In addition, within the next few months, we will be hiring a new team for the most senior field management positions in the agency, that is, our head of field operations and three regional directors. We have opened recruitment to career public servants from other agencies, including the law enforcement community across the Nation.

I have also made some immediate personnel changes, bringing four highly respected field managers to Washington to improve coordination. Mr. Bratt, Mr. Bowsher, and this team have as one of their first priorities appropriate training of the field in the quality assurance measures. This basic need has not been properly addressed.

Formal quality assurance reviews of the magnitude that we are today implementing are new to this agency and they represent a dramatic, positive change. Never before have we put a comprehensive system like this into place to randomly double-check our work to ensure that our cases are processed uniformly throughout the agency.

Thousands of employees require training to learn and successfully apply these new procedures. This type of retooling, especially with staff that has been accustomed to procedures that have been in place for decades, cannot be accomplished overnight. I wish we were further along, but I also recognize that proper training requires time, constant monitoring, and follow-up.

In addition to improved coordination and training, the naturalization quality procedures require us to take a long, hard look at the designated fingerprint services system. While DFS is a significant improvement over a system in which no controls at all existed, we are well aware of its limitations and are aggressively pursuing short- and long-term options to strengthen the reliability of the fingerprint process.

In closing, I wish again to state that I wish our progress on quality assurance measures had been greater by this point. At the same time, the KPMG report has been a valuable early warning. With the action steps I have outlined and the new personnel on board, I believe we are taking the necessary corrective actions to effectively implement the quality assurance procedures. Thank you, Mr. Chairman.

[The prepared statement of Ms. Meissner follows:]

PREPARED STATEMENT OF DORIS MEISSNER

Good morning, Mr. Chairman and Members of the Subcommittee.

I welcome the opportunity this morning to outline for you INS' fingerprinting process and the measures INS will continue to undertake to ensure the integrity of that process. At the outset, let me assure you that no one is more committed to ensuring security and integrity in the fingerprinting process, and in the naturalization process as a whole, than the Immigration and Naturalization Service. Citizenship is the most precious benefit that our government, through my agency, can bestow. We are taking firm, swift, and responsible steps to rectify long-standing systemic problems that the enormous surge in immigration applications have brought to the surface and to ensure that our fingerprinting processes meet the highest standards of security, quality, and service.

My testimony today will focus on describing INS' fingerprinting processes now and where we plan to go in the future.

FINGERPRINT CARDS—WORKFLOW

Applicants must submit fingerprints to obtain a variety of INS benefits, including citizenship, adjustment of status, and adoption and asylum cases. The fingerprint card has two parts: the bottom part where the impression from inked fingers are placed and the top part, showing biographical information about the applicant.

Each naturalization applicant between the ages of 14 and 75 must submit a fingerprint card to INS with his or her application. The district office or service center sends the fingerprint card to the FBI. The FBI reports to INS as to whether there is a match with its criminal files, and where there is a match, FBI provides the record to INS. We receive a positive response, or "IDENT" from the FBI in only a small percentage of cases. Since the FBI database includes not only convictions, but also records of arrests and administrative processing by INS, the number of records which represent disqualifying convictions that would bar naturalization are a fraction of the "IDENTS." Notwithstanding, all "IDENTS" are reviewed by the adjudicator and scrutinized to determine bearing on "good moral character."

In the 1970s, the standard procedure for fingerprint checks was for INS to submit the fingerprint card to the FBI and then to wait for a response either in the form of an FBI rap sheet or an indication that the FBI has no record on file. This process historically took about 30 to 60 days.

By the early 1980s, INS found that the routing and associated filing of all FBI responses was more than most offices could effectively handle. So in January 1982, INS changed this practice and advised the FBI to forward only matched records (rap sheets) and rejected fingerprint cards to local offices. At that time, INS adopted a policy presuming the absence of an FBI record if INS did not receive a rap sheet or rejected card within 60 days. Due to increased processing of applications, this time period was extended to 120 days in September 1996. In November 1996, INS dropped this presumptive policy altogether, instead instituting a system which requires the completion of the FBI fingerprint check before an applicant can go forward. This policy remains in effect today.

In February 1994, the Department of Justice Office of the Inspector General (OIG) completed a review of INS' fingerprint clearance procedures and identified several weaknesses. The OIG concluded that procedures were not in place to ensure that the fingerprints submitted were those of the applicant, that the processing of rejected fingerprint cards had a number of weaknesses, and that there were instances in which rap sheets were not being placed in case files before decisions were made on the applications. INS advised local offices of the OIG findings so that interim corrective steps could be taken locally to improve the process.

In June 1996, INS established the Fingerprint Clearance Coordination Center (FCCC) at the INS Service Center in Lincoln, Nebraska to centralize the receipt and processing of all FBI responses. This has allowed us to coordinate internal agency processing of fingerprint cards and to make sure that the FBI record is sent immediately to the responsible field office for matching with the applicant's file. The FCCC also communicates directly with applicants who submit unclassifiable fingerprints, relieving the district offices of this administrative task. The new centralized system allows for data collection and analyses that were nonexistent under the prior process. Through this centralization, we now know that "IDENTS" are reaching the district offices adjudications are finalized.

We implemented another improvement to the fingerprint process on March 1, 1997, when INS began to require that fingerprint cards must be prepared by INS or by Designated Fingerprint Service (DFS) providers, including recognized law enforcement agencies. This is the first time that INS has regulated who takes fingerprints.

When INS receives the application, we check to make sure that the envelope containing the fingerprint card has not been tampered with and that it has been properly prepared. We further check to make sure that the card is complete and legible, and that the biographical information shown on it matches the information shown on the accompanying application.

Our employees may make minor typographical corrections to either the fingerprint card biographical information or the application as necessary to make them consistent, if we can do so without changing the substance of the information submitted by the applicant. It is essential that the biographical information on the fingerprint card match the information on the application in order for our computer systems to match the result received from the FBI.

When the FBI receives the fingerprint card, if the masthead is missing key pieces of information, the FBI will reject the card immediately. If not, the FBI will "classify" the fingerprint, which involves analyzing the specific patterns of the fingerprint. After classification, the prints are compared to prints contained in the FBI's finds a match or "IDENT," the FBI forwards the fingerprint card along with a paper record, or "rap sheet," to INS. If there is no match, the card is identified as "non-IDENT." Some fingerprints are returned to us as "unclassifiable." This may be the case if they are smudged or if the fingerprints themselves are unreadable because of old age, years of manual labor, certain skin diseases, or other conditions. In this case, the FBI will run the a "name check" using the biographical information on the card against their criminal database. If a match is identified, the FBI will use as much information from the card and compare it with the "IDENT" card. If a hit is confirmed, the case will be an "IDENT". If not, the FBI returns the unclassifiable card to the INS's FCCC, which then notifies the applicant directly and requests that he or she provide a new set of fingerprints. When INS receives the new prints, they are attached to the old prints and sent to the FBI. The FBI does not bill INS a second time for checking the new fingerprint card.

It should be noted that "IDENTS" include both criminal arrest records and records of administrative actions taken by the INS. The actual dispositions of the FBI records are often not included, and it is not uncommon to find that a criminal arrest was not followed by a conviction. One cannot conclude without knowing the final disposition of these records whether the applicants committed crimes that would make them ineligible for the benefit for which they have applied. Similarly, INS administrative records may not necessarily have bearing on applicants' eligibility for the benefit for which they are applying.

INS obtains results from FBI through the "FBI Query" screen, a computer system which displays the results of the FBI fingerprint check. Under our quality assurance procedures of November 29, 1996, we are required to ensure that a definitive response from the FBI, identified through a unique number from the FBI Query screen, has been placed in each file before a decision is made on that case.

The opportunity for a "mismatch" of the FBI and INS information occurs because the biographical information is not always exactly the same. While INS clerks are instructed to compare the information on the fingerprint cards and applications before the cards are sent to the FBI, minor differences will result in a mismatch, since INS uses an extremely strict matching method in order to prevent the attribution of a given FBI result to the wrong individual.

It is important to know that the occurrence of a mismatch does not mean that the case will proceed to interview or to the granting of the benefit. The result is simply that the case will be more difficult to find in the FBI Query screen and that the applicant's case will be delayed. In all cases, we withhold decision making on a case until a definitive response is received and confirmed from the FBI. As part of our quality assurance procedures, the FBI Query screen generates a unique number, and the INS employee must note this number on a worksheet, indicating that an affirmative check of the FBI results occurred before the case went to interview.

IMMEDIATE STEPS

I would now like to concentrate on the comprehensive measures we are undertaking that specifically address the integrity of the naturalization process—an effort that, as I stated earlier, represents the most significant management challenge the agency faces at this time.

In December 1996, DOJ and INS announced a series of initiatives to improve and strengthen the naturalization program in response to systemic weakness that emerged from the Citizenship USA program.

These initiatives include:

Hiring of KPMG Peat Marwick to oversee an INS audit of naturalization cases during the Citizenship USA program, an effort that is being monitored by DOJ's Office of the Inspector General.

A comprehensive reengineering of the naturalization program by INS and an outside consulting group, Coopers & Lybrand.

Implementation of new procedures to strengthen the current process, including specific guidance that no individual would be naturalized without verified completion of fingerprint check by the FBI.

Beginning with the instructions that I directed be issued on November 29, 1996, the Service put in place new quality assurance procedures:

Use of a uniform worksheet by every INS district to document that all clerical processing and statutory eligibility determination steps have been completed;

Mandatory supervisory review of every case involving criminal history or other complex issues regarding eligibility;

Quality assurance review in every office by INS officers not directly involved in the naturalization program, using a random sample of cases at four different stages in the process;

Field visits by teams of experienced INS adjudicators and managers under the INS Office of Internal Audit to examine the accuracy of overall processing activities;

Tightening of procedures for processing cases when relying on temporary files; and

Updating of the INS Examiner's Handbook, which guides field personnel in processing naturalization applications, using a team of expert adjudicators and supervisors.

In using these new procedures to process naturalization cases, the worksheets require evidence that an FBI response had been received and acted upon prior to interview. We also required that the monthly quality assurance reviews of each office's naturalization cases employ a standardized checklist to ensure consistency. The completed checklists are sent on a monthly basis to the regions for analysis. The enhanced guidance has improved the process for reporting on the results of the monthly quality assurance reviews. The procedures allow the districts, regions and the INS Office of Internal Audit (OIA) to analyze information in more detail to highlight repeated problems and trends toward improvements that are identified by the reviewers. The districts can focus directly on specific problems to allow for an immediate fix. The regions can assess office compliance with guidance, and the OIA can identify from a Service perspective progress toward compliance and problems that require a national solution.

INS has never before had a quality assurance program. Thus, this program is a major improvement that also represents a significant change that will take time to properly institutionalize. We plan to request resources for the districts to establish permanent quality assurance positions to ensure continuous review of all adjudication processes in the district offices.

We asked that KPMG conduct an early-term review of the implementation of the procedures and any proposed changes to them that they recommended. On April 17, KPMG delivered a report that reviewed our progress in implementing the Naturalization Quality Procedures (NQPs) that we issued last November to improve the naturalization process. KPMG, which is working under contract to DOJ, performed on-site reviews of naturalization application processing at 24 key INS districts and service centers over the course of 5 weeks. DOJ and INS had asked KPMG to conduct the interim review so that the firm could objectively assess field implementation of the NQPs, and we could get early feedback on our progress.

When I first learned the general nature of KPMG's findings, I found the results extremely troubling. I ordered a series of actions, which I will describe below, that are designed to correct deficiencies and to ensure that the Service fully implements the most critical quality assurance procedures. I did so, frankly, because if these naturalization quality assurance procedures were implemented in a deficient way, then the integrity of the entire naturalization process was in question—and INS must be able to assure the American public that INS is committed to upholding the integrity of the naturalization program.

KPMG has reaffirmed that the quality assurance procedures themselves are sound. At the same time, there have been some serious lapses in implementation, and there must be immediate and substantial improvements to ensure that each office was effectively implementing the NQPs. I took the following actions immediately following our receipt of the draft KPMG report:

I ordered that each naturalization applicant scheduled for a swearing-in ceremony would be required to have his or her application worksheet reviewed and reverified by supervisory adjudicators to ensure that quality assurance steps have been followed, including a verified fingerprint check.

I called the directors of all INS regional offices, district offices and service centers to INS headquarters on April 15-16 for face-to-face briefings by KPMG on the review and to develop aggressive corrective action plans to fully implement the NQP.

To improve training of all staff involved in implementing new procedures, we will be conducting training for adjudicators, clerks, and records personnel from all INS district offices and centers. The training is being designed to address the problems encountered to date and strengthen compliance with quality assurance procedures.

To improve the fingerprint process, we have now readied our ability to assign a unique identifier, in the form of a bar code, to each fingerprint card. INS also sends the fingerprint biographical information on a tape to the FBI using the Machine Readable Document (MRD) FBI format. These new procedures reduce paperwork errors, improve tracking and processing efficiency, and provide a clear link for matching fingerprint check results with the appropriate application. The bar coding program is presently installed at the Vermont Service Center and will be expanding this summer to INS' other three service centers in Laguna Niguel, California; Dallas, Texas; and Lincoln, Nebraska.

INS will detail quality-assurance staff to the FBI Fingerprint Processing Center in Clarksburg, West Virginia, to monitor and review fingerprint submissions for naturalization applications. In addition, the FBI will provide on-site assistance to key district offices to provide training and assistance in preparing and handling fingerprint cards.

PERSONNEL IMPROVEMENTS

Last Friday, April 25, the Attorney General and I announced the appointment of two distinguished administrators to further help INS achieve our goals. Robert K. Bratt, who has spent 19 years at the Department of Justice, most recently as executive officer of the Criminal Division, began serving at INS this week as Executive Director for Naturalization Operations. Reporting directly to me, he will oversee the naturalization program and develop an action plan to correct existing problems. In addition, Charles A. Bowsher, retired Comptroller General of the United States, will serve as my special adviser in a part-time, unpaid contract position. He will assist in the development of the action plan and advise me on the best ways to implement the new procedures. I also have decided on immediate personnel changes within the Office of Field Operations that include bringing four highly respected field managers to Washington on extended detail to improve support to the field. Effective May 15, Brian R. Perryman, Acting District Director for the Chicago District, will become Acting Executive Associate Commissioner for Field Operations, replacing J. Scott Blackman who is serving on an interim basis. Mary Ann Gantner, Deputy District Director, New York District, will report to Mr. Bratt to assist with naturalization activities starting on April 28. Effective May 5, Joseph D. Cuddihy, District Director for the Rome District, will report to Mr. Perryman as Acting Associate Commissioner for Field Operations. Also effective May 5, Joseph R. Greene, District Director in Denver, will manage enforcement activities in the Office of Field Operations. Each of these highly experienced professionals will strengthen communication and coordination between headquarters and the field, and will increase oversight and accountability, with particular emphasis on naturalization quality assurance procedures.

WHO TAKES THE FINGERPRINTS—INS' DESIGNATED FINGERPRINT SERVICE (DFS) PROGRAM

An essential element in the review of a naturalization application is the fingerprint check with the FBI.

At one time, INS took all fingerprints. Large increases in the numbers of people filing for benefits made this impractical, so, since at least 1982, law enforcement agencies, community-based organizations, and other entities and individuals had been permitted to take fingerprints. The OIG, the General Accounting Office, and the Senate Appropriations Committee specifically recommended that INS create a system by which fingerprints would be taken by entities authorized by INS. INS' DFS program grew out of these recommendations. The INS' DFS program, implemented March 1, is intended to promote security, quality, and service in the fingerprinting process. The primary "security" concern is to ensure that the prints submitted are those of the actual applicant. The key "quality" concern is to minimize the number of fingerprint cards rejected because the biographical information included on the fingerprint card is incomplete or inaccurate or because the fingerprints are not of sufficiently high quality to be classified by the FBI. The key "service" concern is to ensure that applicants have reasonably convenient access to fingerprinting services.

The DFS program allows us to regulate, monitor, and audit fingerprint takers for the first time. While the DFS program is an improvement over the past, when there were no controls over fingerprinting, we are aware of the program's limitations. In the first few weeks since the program began on March 1, we have seen a high fingerprint card rejection rate at some of our service centers. These rejections were mostly related to technical deficiencies, such as the failure to sign across the envelope seal. We expect many of these problems to resolve with additional training.

Let me take a moment to explain how the DFS program works.

Under the current regulation, individuals and organizations may become DFS entities by paying a \$370 fee, obtaining training on fingerprint security and quality, and by undergoing an FBI fingerprint check. DFS entities must operate at permanent business locations and be licensed as businesses by State or local government agencies. We have certified approximately 3,000 DFS entities across the country. Thirty percent of these are law enforcement agencies, 17 percent are not-for-profit organizations, and 53 percent are for-profit organizations. INS also continues to take fingerprints, subject to available resources.

To obtain fingerprints, the applicant must show the DFS entity an INS-approved form of identification. The DFS entity then prepares the card and packages it as described above.

INS monitors DFS entities through direct inspections carried out by a compliance contractor, who uses former law enforcement officers for this purpose. This contractor has already completed more than 300 inspections. Inspection worksheets are returned to district office staff for follow-up. We are now in the process of developing a program of inspections carried out by INS field staff to supplement our contractor's inspections. These will be both random and targeted inspections intended to follow up on specific complaints and intelligence reports. DFS certification may be suspended or revoked for failure to cooperate with inspections or to comply with our procedural requirements.

We have already taken steps to further improve the program. We convened a workgroup to develop methods to strengthen the existing system. We also organized a second workgroup to focus on potential alternatives to DFS. This second workgroup included representatives from INS and consultants from the FBI, KPMG Peat Marwick, and EDS' Government Consulting Services.

Since we now believe that there are sufficient DFS entities to meet applicants' needs, we plan to issue a Notice which sets a moratorium on approval of any new DFS entities (with the exception of law enforcement agencies). We are preparing an Interim Rule that will impose new eligibility and performance standards on DFS entities. We are also detailing people to perform quality assurance at the FBI facility in Clarksburg, West Virginia and at our four service centers and selected district offices to monitor cards produced by DFS entities. The FBI will also provide on-site assistance to key district offices to provide training and assistance in preparing and handling fingerprint cards.

We are developing tough national standards and will suspend or revoke certification for entities that do not meet these standards. We are preparing a compliance monitoring and site inspection plan for local district offices which increases the number of random inspections by INS officials, and we are considering increasing the number of inspections performed by our compliance contractor. Finally, we are upgrading training materials for DFS entities to help improve the quality of cards submitted.

It is important to bear in mind that there have been weaknesses in the fingerprint process for many years at that DFS is a brand-new program. Even as we take steps to strengthen the program and to develop alternatives, we are placing a top priority on gathering the information we need to evaluate the program and to benchmark any vulnerabilities that may exist. We want to make sure that any substantial changes or alternatives we commit to have gone through a businesslike analysis and that we have taken full account of the strengths and weaknesses of all feasible options. The integrity of the fingerprint process is our top priority.

We are currently developing a range of alternatives that have the potential to greatly enhance the security of the fingerprinting process. Each of these options will require substantial investments of time and resources. The alternatives we are considering include the following:

First, DFS entities would continue to take all fingerprints, but we would add an automated biometrics system by which the applicant's fingerprints would be taken a second time at the interview and compared to a scanned copy of the fingerprints that were sent to the FBI. This approach would virtually guarantee security in the fingerprint process, regardless of who took the fingerprints or who controlled them before they were submitted to INS. The biometrics verification by INS will also provide us with the capabilities to submit fingerprints electronically to the FBI using

EFIPS day one and IAFIS in the future. This biometrics verification approach can be applied with any of the alternatives under consideration. A variation of this approach would involve management of the DFS program by a small number of contractors—say 1 to 3—who would run the program for the entire country. We are now beginning a joint review project with the FBI in which we will conduct biometrics verification on a random basis. We plan to publicize this program widely in order to deter fraud.

The second alternative we are evaluating involves increasing the role of law enforcement agencies in taking fingerprints.

The third alternative involves INS taking all fingerprints.

We are now finalizing the cost and feasibility of these alternative approaches.

FUTURE IMPROVEMENTS TO THE FINGERPRINTING PROCESS

INS naturalization experts are also working closely with Coopers & Lybrand, an independent accounting and management consulting firm, to enhance the integrity of the naturalization program, streamline the application process, reduce paperwork, and improve customer service. That contract, which is expected to last 18–24 months, was announced in March by the Department of Justice. The steps now being taken, including the findings from the KPMG review of quality assurance procedures and the experience of the new naturalization executive team, will be incorporated into Coopers & Lybrand's redesign work.

CONCLUSION

We continue to face an enormous challenge in implementing improved procedures in the face of a huge demand. But, as I have stated often, it is vitally important that Congress and the American people have confidence in the integrity of the naturalization process. I feel confident that the scope of our management reforms, new appointments of exceptionally capable senior managers, and a strengthened organizational structure are the right measures to bring about the necessary improvements. Our work on naturalization is a work in progress. Even now, Coopers & Lybrand is in our field offices soliciting their views on how the naturalization process works now and how it can be improved. I hope the scope of the improvements now underway and the actions that we are undertaking demonstrate the seriousness of our intent. I look forward to continuing to work closely with the Committee in this commitment to the American people. I will be glad to take any questions you have at this time.

Senator ABRAHAM. Thank you very much, Commissioner Meissner.

Mr. Archer.

STATEMENT OF CHARLES W. ARCHER

Mr. ARCHER. Good morning, Mr. Chairman and members of the subcommittee. I have a full statement for the record. I will do some paraphrasing.

Senator ABRAHAM. We will be happy to include it.

Mr. ARCHER. Thank you. As the Assistant Director of the FBI's Criminal Justice Information Services Division [CJIS], I am responsible as the Nation's innkeeper for criminal history information.

Our primary information is to provide the criminal justice community with fingerprint identification and related information services. This involves the positive identification of individuals based on fingerprints and the provision of criminal history information.

In 1924, the U.S. Attorney General was authorized by Congress to begin correcting fingerprint and arrest record information voluntarily submitted by the Federal and State and local agencies for arrest. Today, the CJIS Division is the world's largest fingerprint repository. Our current file holdings of fingerprint cards in our possession total over 219 million. These include over 132 million criminal cards and almost 87 million civil cards. The 132 million crimi-

nal cards represent 36.1 million individuals who have been arrested and/or convicted of a criminal offense. This figure grows by about 5,000 each day.

During fiscal year 1996, the CJIS Division received over 11.2 million fingerprint cards, both criminal and civil, an increase of 12.5 percent over the previous year. The processing of these fingerprint cards resulted in over 3.5 million identifications being made against existing records, including over 66,000 fugitives being identified.

Even though the submission of arrest and disposition data by contributing agencies is strictly voluntary, the volume of fingerprint and related data submitted for processing and associated with the CJIS Division database is unmatched anywhere in the world.

A criminal history record begins when an individual is arrested by a law enforcement officer. At that time, fingerprint cards are generally prepared by the arresting agency, one card eventually being submitted to the CJIS Division.

Once the arrest fingerprint card is received, it is compared against our criminal history database to determine if the individual has been previously arrested. When an existing criminal history is positively identified, the information pertaining to the new arrest is added to the already existing criminal record. If no match is made against an existing record, the new record is added to the file. Once the case is adjudicated, an appropriate disposition notice should then be sent to CJIS reflecting the final outcome of the case.

The FBI, under the auspices of Public Law 92-544, may provide criminal history record information stored in the identification record system to criminal justice agencies for criminal justice purposes and to noncriminal justice agencies for noncriminal justice purposes that have been authorized by Federal Executive order, Federal law, or State law approved by the U.S. Attorney General.

Today, the CJIS Division provides these critical identification services to over 70,000 authorized customers nationwide, including all level of criminal justice, licensing, and regulatory agencies. The CJIS Division also exchanges records with the military and agencies such as federally chartered or insured banking institutions, the securities industry, registered futures associations, and nuclear power plants.

Record checks are also conducted on individuals seeking employment as child care workers, educators, and foster care providers. These services play a vital role in the identification and apprehension of dangerous criminals, as well as being a critical component in the process of ensuring the safety and well-being of all of our citizens who come in contact with people in positions of trust and confidence in these agencies and institutions.

Title 8 of the Code of Federal Regulations requires aliens to submit a complete set of fingerprints when submitting applications for many purposes. Among them are naturalization, registration as a permanent resident, requests for asylum, and applications from American citizens seeking to adopt foreign children. FBI fingerprint checks are the only practical and positive means for determining if an individual has an arrest record on file with the FBI.

INS has historically been one of the largest contributors of fingerprint cards to the FBI's CJIS Division. In fiscal year 1996, INS

submitted 1.8 million fingerprint cards. For the first half of fiscal year 1997, we have received 1,367,000 fingerprint cards from INS. If this rate of submission continues, CJIS will receive approximately 2.8 million fingerprint cards from the INS during this fiscal year, an increase of about 35 percent over last year.

To address this burgeoning workload, CJIS is moving ahead with the development and implementation of the integrated automated fingerprint identification system, [IAFIS]. When fully operational in 1999, IAFIS will enable us to handle a larger workload and provide for a tremendous reduction in the time required to process and positively identify subjects based on fingerprint data. IAFIS is designed to respond to fingerprint submissions within a time frame of 2 to 24 hours.

In the interim, Director Freeh has authorized the hiring of 1,100 new employees to reduce the processing time. I am pleased to advise the subcommittee that, to date, 629 of our new employees have been hired and are now being trained to address the workload.

In closing, I would like to thank you for inviting me to testify before this subcommittee.

[The prepared statement of Mr. Archer follows:]

PREPARED STATEMENT OF CHARLES W. ARCHER

Good morning Mr. Chairman and members of the Subcommittee. I am Charles Archer, Assistance Director of the FBI's Criminal Justice Information Services Division, otherwise known as CJIS. We are now headquartered in our new complex in Clarksburg, WV. Our primary mission is to provide the criminal justice community with fingerprint identification and related information services. This involves the positive identification of individuals based on fingerprints, and the provision of criminal history information on a national and international basis to authorized users of our services.

In 1924, the U.S. Attorney General was authorized by Congress to begin collecting fingerprint and arrest record information voluntarily submitted for Federal and State arrests. The Attorney General then delegated this responsibility to the FBI. At that time, our operations began with 810,000 fingerprint cards. Today the CJIS Division is the world's largest fingerprint repository. Our current file holdings of fingerprint cards in our possession total over 219 million. These include over 132 million criminal cards and almost 87 million civil cards. The 132 million criminal cards represent 36.1 million individuals who have been arrested and/or convicted of a criminal offense in the United States. This figure grows by over 5,000 each day.

To capsule this data into a 1-year time frame, during fiscal year 1996, the CJIS Division received over 11.2 million fingerprint cards, both criminal and civil, an increase of 12.5 percent over the previous year. This was a significant milestone for us, marking the highest number of fingerprint card receipts since the height of World War II. The processing of these fingerprint cards resulted in over 3.5 million identifications being made against existing records, including over 66,000 fugitives being identified. Even though the submission of arrest and disposition data by contributing agencies is strictly voluntary, the volume of fingerprint and related data submitted for processing and associated with the CJIS Division's data base is unmatched anywhere in the world.

I would now like to briefly outline for you CJIS's role in maintaining and distributing criminal history records for authorized users. A criminal history record begins when an individual is arrested by a law enforcement officer. At that time, three fingerprint cards are generally prepared by the arresting agency. One card is kept at the local level. Two cards are forwarded to the State identification bureau for processing prior to one card eventually being submitted to the CJIS Division. Today, this fingerprint card contains the arrestee's inked and rolled or electronically scanned fingerprints, personal descriptive data, and relevant data identifying the arresting agency and the offense(s) charged. Once the arrest fingerprint card is received, it is compared against our criminal history data base to determine if this individual has been previously arrested. When an existing criminal history is positively identified, the information pertaining to the new arrest is added to the already existing criminal record. If no match is made against an existing record, the new record is

added to the file. Once the case is adjudicated, an appropriate disposition notice should then be sent to CJIS reflecting the final outcome. Upon receipt of this criminal history record information, the corresponding record is updated to include the most recent information.

The FBI, under the auspices of Public Law 92-544, may provide criminal history record information stored in the identification records system to criminal justice agencies for criminal justice purposes; and to noncriminal justice agencies for non-criminal justice purposes that have been authorized by Federal Executive order, Federal law, or State law approved by the U.S. Attorney General. Today the CJIS Division provides these critical identification services to over 70,000 authorized customers nationwide, including all levels of criminal justice, licensing and regulatory agencies. The CJIS Division also exchanges records with the U.S. military, and agencies such as federally chartered or insured banking institutions, segments of the securities industry, registered futures associations, and nuclear power plants to promote or maintain the security of these institutions. Record checks are also conducted on individuals seeking employment as child-care workers, educators, and foster care providers, among others. These services play a vital role in the identification and apprehension of dangerous criminals, as well as being a critical component in the process of ensuring the safety and well being of all our citizens who come in contact with people in positions of trust and confidence in these agencies and institutions.

Now that I've presented a brief synopsis of the work we perform in general within the CJIS Division, I would like to detail the type of work we perform at the request of, and in support of, the Immigration and Naturalization Service. Title 8 of the Code of Federal Regulations, Aliens and Nationality, requires aliens to submit a complete set of fingerprints when submitting applications for many purposes, among them are naturalization—citizenship—registration as a permanent resident, requests for asylum in the United States, and applications from American citizens seeking to adopt foreign children. It is under the auspices of this authority that the CJIS Division conducts fingerprint based record checks against its data base for the INS. FBI fingerprint checks are the only practical and positive means for determining if any individual has an arrest record on file with the FBI.

The INS has historically been one of the largest contributors of fingerprint cards to the FBI's CJIS Division. In fiscal year 1996, INS submitted 1,812,893 fingerprint cards to the FBI for checking against the CJIS criminal history data base. For the first half of fiscal year 1997, we have received 1,367,379 fingerprint cards from the INS. If this rate of submission continues CJIS will receive approximately 2.8 million fingerprint cards from the INS during this fiscal year. This represents an increase of over 35 percent in just 1 year. To address this burgeoning workload, the CJIS Division is moving ahead with the development and implementation of the integrated automated fingerprint identification system, known as IAFIS. When fully operational in 1999, IAFIS will enable us to handle a larger workload and provide for a tremendous reduction in the time required to process and positively identify subjects based on fingerprint data. IAFIS is designed to respond to fingerprint submissions within a time frame of 2 to 24 hours. In the interim, Director Freeh has authorized the hiring of 1,000 new employees to reduce the process time. I am pleased to advise the subcommittee that to date 629 new employees have been hired and are now being trained to address this heavy workload.

In closing, I would like to thank you for inviting me to testify before your subcommittee regarding fingerprint identification and related information services. I am ready to answer any questions you might have.

Senator ABRAHAM. Thank you, Mr. Archer.

In light of, as I said earlier, a conflict, I am going to ask Senator Feinstein and Senator Durbin to go first.

Senator FEINSTEIN. Thank you very much, Mr. Chairman. I really appreciate the thoughtfulness.

Commissioner Meissner, I must say, I am very concerned by this, and I know we all pressure you about the inordinant waiting lines and processing time, but let me begin with this question. How many naturalizations have been revoked by the INS because they were criminals who committed serious felonies?

Ms. MEISSNER. There are 72 revocations that are in various stages of the revocation process. Three are at this point a final revocation order has been issued. There will be more revocations that

flow from the review process that Mr. Colgate described here earlier, in other words, those 168 cases that are presumptively ineligible, in other words, where we have information that there is a criminal conviction for a crime that would be disqualifying for naturalization. Those will all be cases where we will initiate revocation procedures, as well.

Senator FEINSTEIN. Is the criteria for this just a conviction of murder, rape? It leaves out child molestation, for example.

Ms. MEISSNER. The statute is very clear on these points. We can revoke naturalization for commission of a crime or deny naturalization for commission of a crime as it is set forth in the statute. So for all crimes——

Senator FEINSTEIN. Would this include child molestation?

Ms. MEISSNER. I am sure that it does. I am sure that is a crime of moral turpitude, but we can verify that for you.

Senator FEINSTEIN. How did it happen that this kind of fingerprint situation apparently became chronic with no one really realizing it, with the huge error rate that has taken place?

Ms. MEISSNER. First off, we do not yet know what the error rate was. That is the whole purpose of the audit of last year's cases that is taking place. So far, as was said in earlier testimony, so far, we have 168 cases that are presumptively in error and we will move ahead on those cases. But until the full audit is complete, we do not know what the final outcome is in numerical terms.

Where the broader question is concerned of how did we get to this point, this is a history lesson in the way that this process has worked for now 15 years or more. In 1982, a decision was made at the Immigration Service no longer to receive from the FBI an answer in every fingerprint case. The INS decided in 1982 to ask the FBI to forward only information where a criminal history record existed and the FBI's standard for that has been, since then and still is, that that answer can be given within 60 days.

So because of a heavy paper-based process, the management decision was made, policy decision was made at INS in the 1980's to only receive on an exception basis, in other words, information where there was a criminal history. That is the system that we had in place and that is the system that we used in the naturalization program.

About a year ago, when we began to see rap sheets coming back after the 60 days, having already taken a series of steps to tighten up the process, we realized that this had to be addressed. So the step that we took was to lengthen the waiting time to 120 days in order, because of the volume of applications that we were using, to allow double the amount of time for the answer to come back. That was put into place last September.

It is clear that fundamentally operating on just the exception policy, in other words, hearing only when there is a record, is a serious flaw which then led us in November to change course entirely and require a 100-percent verification, in other words, an answer in all cases. That is the system that is presently in place. We get an answer in every single case and we are not allowing our examiners to move ahead with a decision until that answer, either yes or no, is in place. The computers are programmed to not release a name for an interview unless an answer has been given. So it is

a substantial, dramatic safeguard that exists today that did not exist a year ago or since 1982.

Senator FEINSTEIN. So you are saying categorically that today, no one can be naturalized with a criminal record?

Ms. MEISSNER. That is correct.

Senator FEINSTEIN. And this would have been effective from what date?

Ms. MEISSNER. November 29, 1996.

Senator FEINSTEIN. I think that is, to me, a very important point, and I commend you for this. It certainly has my full support and I believe it would of the American people, as well. Thank you very much.

Senator ABRAHAM. Thank you.

Senator Durbin.

Senator DURBIN. Thanks, Mr. Chairman.

Commissioner Meissner, to follow up, what you are saying is that no one can be—

Ms. MEISSNER. Could I just say, with a criminal record that is disqualifying for naturalization.

Senator FEINSTEIN. Would you allow me one more second?

Senator DURBIN. Sure.

Senator FEINSTEIN. I think that is what we need to take a look at, exactly what these disqualifications are, because—

Ms. MEISSNER. Well, but that is all in the statute. In other words, people can have committed a crime and be convicted and not be ineligible for naturalization because the statute does not make them ineligible.

Senator DURBIN. For which they have been fingerprinted.

Ms. MEISSNER. Yes.

Senator DURBIN. Mr. Archer, if I understand your statistics, you have 87 million fingerprints collected through civil process and 36 million through U.S. criminal convictions. Do I assume, then, the remaining 96 million are foreign?

Mr. ARCHER. No. That is 36.1 million individuals that we have criminal histories for, but because a number of people have been fingerprinted six or eight times, their jackets collectively make up the total number.

Senator DURBIN. I see. That is the point I want to get to, if I can. As I understand the law, a person must be a permanent resident in this country for 5 years before they qualify for naturalization, is that correct?

Ms. MEISSNER. That is correct.

Senator DURBIN. So if our system that we are relying on to detect criminal activity is based on U.S. criminal convictions, it would have had to have taken place sometime during their permanent residency, which could have been as brief as 5 years.

Mr. ARCHER. Correct.

Senator DURBIN. And that person could have lived any number of years in a foreign country, and been convicted of a crime there, but there would be no fingerprint, obviously, in our system that would tell us about that story in any way?

Mr. ARCHER. Correct.

Senator DURBIN. OK. So as good as our system may be—and you say it is the largest collection in the world—it still leaves out a

very important question as to whether or not this person might have been on good behavior or if he or she had a pretty serious criminal record in some other country and just lied about it.

Mr. ARCHER. That is correct.

Senator DURBIN. Is that not true, Commissioner Meissner?

Ms. MEISSNER. That is true. Obviously, we make every attempt to learn that information when the immigrant visa is issued in the first place, but—

Senator DURBIN. OK. Now, if I might ask Mr. Archer about the time it takes to process a fingerprint. You talked about the goal of 2 to 24 hours, which sounds great, but how long does it take to process a fingerprint now?

Mr. ARCHER. Approximately 50 days on a civil card.

Senator DURBIN. Five-zero, 50 days?

Mr. ARCHER. Five-zero.

Senator DURBIN. OK. And \$18 is the cost of processing that fingerprint?

Mr. ARCHER. Yes.

Senator DURBIN. How was that arrived at?

Mr. ARCHER. Element by element of everything that makes up the handling of that card. We are currently, with some help of GAO going through another audit to ensure that those are reasonable and prudent.

Senator DURBIN. And you are about to bring on 1,100 new employees that will help keep that flow of information going through the FBI.

Mr. ARCHER. Correct. Yes.

Senator DURBIN. Now, this new system sounds to me, can I characterize it as electronic fingerprinting as opposed to the hard card?

Mr. ARCHER. Yes.

Senator DURBIN. As you talk about implementing it in 1999, will you have a complimentary collection system through INS where the electronic fingerprints are collected on site, transmitted to the FBI, reviewed the 2- to 24-hour time period?

Mr. ARCHER. Yes. Actually, let me expand on that. A program called EFIPS is being piloted in Boston, MA, right now, very successfully. It is a bit of a store-and-forward program, but well before July 1999, INS is going to be obtaining live-scan technology in, I believe, initially 46 different locations within the next year and we are going to within a year be able to receive INS prints electronically and search our data bases. So the turnaround time for INS as well as the other entities that will be in these early delivery systems will vastly improve.

Senator DURBIN. Will you build in the capital cost to the fee that is charged to the INS applicants?

Mr. ARCHER. No. Right now, we get \$18 for processing a card plus \$6 for the automation initiative. INS is not charged that \$6. That does not go on to the applicant because it is being built principally as a criminal system.

Senator DURBIN. Thank you.

Mr. Chairman, I might conclude by saying I thank you for this hearing. It has been a very good one and I have learned a lot. I hope we have moved along in this process.

Commissioner Meissner and her workers have a daunting job, as does Mr. Archer. I still recall the person who came up to my restaurant table in Chicago with his application for naturalization in plastic. He was 65 years old and he said, "I do not know that I will ever become a naturalized citizen before I die." He wanted to, and we want him to if he meets all the criteria, but we certainly want to keep from that process those who might pose any danger to our people in this country. Thank you very much.

Senator ABRAHAM. Thank you, Senator Durbin.

Commissioner Meissner, obviously, there are a lot of problems here we have to try to address and we do want to work together to solve them. But when I heard and read through the Peat Marwick report, the thought that immediately came to my mind is, who is going to get fired? Who is it that we are going to identify? I mean, when you have this many people in this many offices that are not following the policy, is there somebody along the way here at the local level and the regional level?

I think you are going to bring a lot of people to Washington and have a lot of audits and so on, but it strikes me that at some point, there needs to be a really effective enforcement, that when you issue a policy, as you did on November 29, that it means something. I guess my question is, are you prepared to have a zero-tolerance policy toward insufficient actions on the part of the various regions and the local offices?

Ms. MEISSNER. I am absolutely prepared to take disciplinary action where it is warranted. The point of my talking this morning about people being on notice was to signal exactly that commitment.

The important point, though, about the Peat Marwick report where discipline is concerned is that in every case, they found a willingness and an attempt, albeit imperfect, to implement the quality assurance procedures, so that at this point, we do not have from the Peat Marwick effort any evidence of willful lack of compliance, malfeasance, misfeasance. We have ineffective performance. Part of that ineffective performance has to do with training needs that clearly were more stringent than those that we brought to the effort.

We actually brought a good deal of oversight and training to this effort. We did not simply issue a memorandum and expect people to follow it. We tracked very closely with our field managers in the subsequent weeks after the issuance of the memorandum what they were doing. We asked for verification on a whole range of points. We did institute training, but we clearly did not do enough and the importance of this report is that it tells us exactly where and in what instances we did not do enough.

As I outlined in my statement, I have taken a whole series of management actions to be sure that we can now and are ramping up dramatically to meet those needs. That will be followed up by a full and thorough audit and the results of that audit should give us the information that we need in order to judge performance.

Senator ABRAHAM. Let me just clarify, too. My point is not to suggest that I think that around the country there are people who are—I do not have an opinion of whether there is anybody who is intentionally or willfully trying to defy your edicts. I do not have

as many offices as you do back in my State, but I have a few offices back there and if I issued, especially in the wake of the concerns that had been raised, the kind of what I think was an onpoint memoranda as you did on November 29 and discovered that countless offices either did not even have the memoranda, had the wrong one, were not following it, were still submitting addresses to the wrong FBI address, or whoever, I would be gravely concerned.

I guess I would feel compelled to take, and again, you are the Commissioner here, but it just seems to me that some direct action is overdue, and I would hope that at least in the policies that you are going to be promulgating now to respond to the audit that there is going to be some pretty clear guidelines that if something does not happen there will be some consequences. At least for this one Senator on this subcommittee, that is what I would like to see. I mean, I would like to see the law laid down in a way that people understand, that the process is going to be done the right way or else we will find people that will run the offices the right way.

I guess I start there. I guess I also would like to follow up on your point, Senator Feinstein, because Mr. Ahrens indicated that he did not have confidence that today, people with criminal backgrounds were being denied naturalization, that he could not say with certainty that the process was working. You seem to be saying that you can with confidence state that it is. Can you tell us why your view is different than his?

Ms. MEISSNER. On the first point where effective performance is concerned, I endorse your statement. There is no question in my mind but that people must be accountable for these procedures and they know that and we will take action when it is required.

The reason that I state that, today, people are not being improperly naturalized is both because of the checks that exist in the scheduling system that we have for applications where receiving the FBI record is concerned that I explained but also because as part of the actions that I have taken since the Peat Marwick report came out, is a revalidation of all cases prior to oath so that we are asking for one more look by experienced supervisors at every case prior to the oath to be absolutely certain that the FBI record was reviewed and that the proper control number has been noted on the application to be entirely certain that a case could not go forward if there was a criminal record.

Senator ABRAHAM. So you have supervisors, in effect, with the checklists determining the extent to which the process has been followed. Is that being kind of retroactively applied to applications that were being processed prior to the Peat Marwick report?

Ms. MEISSNER. Any case, I mean, the oath is the final step, so any case that is scheduled for oath is being once more validated in addition to all of the other procedures that are in place along the way. But prior to oath, we have directed one more validation to be absolutely certain.

Senator ABRAHAM. So all of those red-striped offices on our chart there now have the right policy and have the right address. We can be certain of that. You can attest to their having that in—

Ms. MEISSNER. They had better.

Senator ABRAHAM. I will let Senator Kyl go, but I have a few more questions here and we can go back and forth for a while.

Senator KYL. Just to follow on, Mr. Chairman, Ms. Meissner, it is good to see you again. In the report from Peat Marwick, there is this conclusion. Due to the inherent weaknesses in the FBI and INS matching and the continued lack of control within the overall fingerprint process, we cannot provide assurance that the INS is not continuing to incorrectly naturalize aliens with disqualifying conditions. There is the further conclusion that no validation of the FBI check has been completed in some of these cases.

I would like to believe that not only will errors not occur in the future but that the cases in which oaths have already been given will be cleared up appropriately, and I have a concern in both of those areas. I think you have already spoken to the first one that I mentioned here, but at least according to Peat Marwick, they still do not have the confidence or the assurance that mistakes are not going to be made.

In my letter to you of October 29, when Senator McCain and I wrote, asking how many immigrants had been naturalized improperly, you replied on November 15 in a letter, which said, among other things, "Any instance of improper naturalization is of concern to us. If it is determined that improper naturalization has occurred, we will move quickly to institute denaturalization proceedings." How many denaturalization proceedings have you moved on so far to institute?

Ms. MEISSNER. There are 72 revocation proceedings in process. Of those, three have reached the point where we have issued a notice of revocation.

Senator KYL. You are saying revocation. Is that the same thing as denaturalization?

Ms. MEISSNER. Yes. Yes. Those should be synonymous terms.

Senator KYL. So there have been three cases in which you have notified the individual that the individual is to be deported, or—

Ms. MEISSNER. That the individual is to have the naturalization revoked.

Senator KYL. I am sorry. What would happen if the naturalization is revoked?

Ms. MEISSNER. Then the person becomes a permanent resident, and if the—some of those cases could result in deportation. Others might not result in deportation. It depends on whether the underlying crime was one that is subject to deportation.

Senator KYL. And you will make that determination, and in the case where it is appropriate for deportation, you will proceed on those?

Ms. MEISSNER. That would be the next step.

Senator KYL. OK. So of the 168 cases that you have initiated, those all appear to result from the conviction of felony category. Is that correct?

Ms. MEISSNER. Felony categories that are disqualifying for naturalization.

Senator KYL. Right. Are there other categories that would be disqualifying, as well? I think you testified to and others have also testified to?

Ms. MEISSNER. Yes.

Senator KYL. What are some of those?

Ms. MEISSNER. There is the category of misstatements.

Senator KYL. Giving false testimony?

Ms. MEISSNER. Giving false testimony, exactly.

Senator KYL. Right. And also, is there an additional category, or is part of that category the lack of good moral character?

Ms. MEISSNER. Good moral character fits within that category, I believe.

Senator KYL. So lying, for example, about one's criminal background, even whether one had been arrested for a crime, could fall into that category of providing false testimony?

Ms. MEISSNER. That is correct.

Senator KYL. Or lacking good moral character. Do you anticipate that there will also be a number of people who will be invalidated, was that your term?

Ms. MEISSNER. Disqualified?

Senator KYL. Revoked. I am sorry.

Ms. MEISSNER. Revoked. OK.

Senator KYL. Based on those kinds of disqualifications, rather than just a conviction of felony?

Ms. MEISSNER. Yes, we do.

Senator KYL. The figures that I gave before, and Senator Durbin asked some questions which, I think, cast some doubt about this, but let me go back and see if my understanding is correct. Out of the total million-plus people who were naturalized and the 752,000 that were nonidents, in other words, no FBI criminal history, and the 71,500 idents, there were also a group of people called unclassifiable, not found, and pending, the total of which is around 183,000 people in all 3 categories. There could be additional people falling into either the convicted felon or false testimony, lack of good character categories, is that correct?

Ms. MEISSNER. That is correct and that is part of the work in progress that is still underway.

Senator KYL. Yes.

Ms. MEISSNER. However, just to give you some orders of magnitude, typically, in our caseload, about 7.5 percent of the cases that we process actually result in some form of an FBI ident. It is a far smaller proportion that actually have a conviction of a crime that would be disqualifying. So that 7.5 percent, if one just were extrapolating, would be—the 180,000 would probably be reduced to something in the neighborhood of 7.5 percent, where we would find—

Senator KYL. Where there might be a disqualifying—

Ms. MEISSNER [continuing]. Where there might be a criminal record, and then you have to reduce down from that to a criminal record that would be disqualifying.

Senator KYL. Right, or someone having lied about their record.

Ms. MEISSNER. Or a misstatement.

Senator KYL. And it is also correct, is it not, that of that 10,800, that the 163 does not represent the totality of the people in the 10,800 category that could be eligible for revocation?

Ms. MEISSNER. That is correct. That is the number so far.

Senator KYL. Right. Boy, that went by fast.

Senator ABRAHAM. Let me do a couple and then I will go back to you.

Senator KYL. Yes. Go ahead.

Senator ABRAHAM. The testimony of Mr. Stana and Mr. Bromwich was, to me, quite striking because it seemed that their efforts and their reports and studies revealed virtually all of the kinds of concerns that have been now further, I think, brought to light here by the Peat Marwick study and certainly were the reasons ultimately for which you initiated your November 29, 1996, memo.

I think the point was made that if their recommendations had been put into effect, that this some 1 million or so cases that were addressed in this September 1995 and 1996 period would have all been handled appropriately. Why were the recommendations not put into effect?

Ms. MEISSNER. Well, actually, there have been a whole series of actions to move on those recommendations between the time that they were made and the change in policy that we issued in November. What we issued in November was an entirely different approach to dealing with the fingerprints, which is to say a 100-percent verification. We realized that that was really the only reliable way of addressing a systemic weakness that existed in the whole way that we were doing business.

However, the audit reports that were referred to in the earlier panel which talked about ways to improve the system that then existed, in other words, the exception only system, were acted upon. We did put into effect the designated fingerprint services concept for the purposes of improving the reliability and the security of the fingerprints.

We put a whole direct mail system into place for naturalization applications, through which we began then to centralize where we received the fingerprints and centralized our point of sending—the place from which we sent fingerprints to the FBI. That allowed us much more control over both the quality of the fingerprints, the timeliness with which they were submitted, and our tracking of them in response. We dealt with a whole series of training issues in our district offices, inputting the designated fingerprint services entities into existence.

So there have been a series of improvements. It has steadily become a better system. But the fact of the matter is that without a 100-percent verification, none of them has been as fully reliable as they should have been and the 100-percent verification that we are now putting into effect is the direction that needs to have been taken.

Senator ABRAHAM. Maybe I misunderstood, but did they not recommend that, as well?

Ms. MEISSNER. That was not recommended in those reports.

Senator ABRAHAM. Which of their recommendations, then, that they referred to did you not implement before September 1995, or did you fully implement all of their recommendations?

Ms. MEISSNER. The recommendations that had to do with the reliability of the fingerprints themselves, we began to implement by putting the DFS system into place. The recommendations that had to do with the—

Senator ABRAHAM. Were there any recommendations they made in their report that you did not implement until November 1996?

Ms. MEISSNER. We took steps to move on all of the points that they made. I believe, in retrospect, that they were too incremental and that the whole concept needed to change and we have changed the concept. But those reports dealt with ways to improve the system that was then in place, the exception reporting system, and there were actions taken to move on those points.

Senator ABRAHAM. But I am just asking, before November 1996, when you moved to the new approach, prior to that September 1995 period when the Citizenship USA program swung in, were there any recommendations that had been produced by the IG and the GAO reports that had not been implemented prior to that? I guess maybe I misinterpreted their testimony earlier, because I thought they were saying that had their recommendations been fully carried out, the issues that were raised in the Citizenship USA program, the problems would not have occurred. I am just wondering if there were recommendations that had not been implemented.

Ms. MEISSNER. Well, I believe that one of the GAO reports raised questions about the presumptive policy, per se, and I believe that that was an older GAO report. I believe that that was a report from the late 1980's that the agency had not acted on.

My memory of the 1994 IG report was that it dealt with the system of collecting fingerprints. It criticized the fact that people could go anywhere to get their fingerprints, and that is what we focused on in trying to put together the fingerprint—

Senator ABRAHAM. Let me say this, too. I recognize you do not have the 1994 report sitting directly in front of you, so let me put this maybe in a written form for you to refer to and respond to once you study it, but I would like to get both your perspective as well as, ultimately, the IG's in terms of that issue.

Why do I not just take about two more and then I will be finished here with respect to Commissioner Meissner, and I have one or two questions for you, Mr. Archer, which, given the time, I may put in writing because of our vote that is coming up now.

With respect to the designated fingerprint service, exactly who are the designees going to be and how are you developing that list? I know there are some concerns already being raised, and I think Senator Kennedy may have addressed that in a letter to you earlier this week, and I have some concerns, as well, that the establishments, particularly the for-profit establishments being selected may not be necessarily credible. So what is the approach you are taking?

Ms. MEISSNER. We published a regulation which basically set forth the application process that people would use to become a designated fingerprint service. They are law enforcement agencies, nonprofit organizations, as well as for-profit organizations have been allowed. They need to be properly licensed business enterprises by whatever the State or local authority is.

We have about 3,000 agencies now that have been approved as fingerprint gathering services. About a third of those are law enforcement agencies. Another number, which we have in the testimony, are not-for-profit, and then the remainder are for-profit organizations.

They are all trained. All of the staff who are in these services are trained by the Immigration Service on fingerprint gathering technique as well as on properly filling out the masthead to the fingerprint card. The FBI is going to be assisting us directly in the continuous training of those personnel. The personnel that gather the fingerprints are all subjected to a criminal history check themselves, a full fingerprint check with the FBI to be certain that they are clean. Then there is an ongoing monitoring contract that we have that allows for random visits as well as for scheduled inspections to be certain that they are operating properly.

We are about to issue a notice that puts a moratorium on the numbers of additional fingerprint services because we think we have enough at this point and we need to strengthen their performance. There is enough in terms of creating accessibility for the public that needs them, but we need to strengthen the training that they receive and the accuracy of what it is that they submit to us.

Actually, on accuracy, whereas we used to be having a rejection rate of about 20 percent of fingerprints, we now, and these, of course, have just been in effect since March 1, we now are seeing about a 14-percent rejection rate, so there is a slight improvement in the legibility of what it is that we are receiving.

But we are working on all of those strengthening mechanisms to be certain that they are performing properly. Ultimately, the answer here is the answer that Mr. Archer gave about the electronic systems that we will be putting into place. In that case, all of this laborious, tedious effort that we are talking about becomes superceded and so we are really working on parallel tracks to strengthen the DFS's while we put the electronic technology into effect.

Senator ABRAHAM. Mr. Archer, did you want to comment on this at all?

Mr. ARCHER. No. That is very accurate. We, the FBI, are going to send out a number of training teams to not only the regional offices but the collection centers, the fingerprint, the DFS's. We are going to go all the way back to them with INS folks to try to improve the ability of those people who take fingerprints.

We find in law enforcement when a criminal is arrested and fingerprints are taken by a law enforcement officer or someone in the police station, the rejection rate by the FBI is less than one-half of 1 percent of all of those fingerprint cards coming in, and when you match that up on the civil side, where rejection rates can be 12, 13, 14 percent. This is not brain surgery here. It is a matter of training and insisting through quality control that people do the job they are being paid to do.

Senator ABRAHAM. I just want to express that I share some of Senator Kennedy's concerns about some of the entities who will be conducting this who are not in the police and law enforcement community. Obviously, we do not want to make the process impossible for people seeking to get their fingerprints taken, but at the same time, the issues that have been raised in this hearing today and yesterday and so on are ones that seem to me to call for finding the most reliable institutions and those who are most dependable to provide the kind of security issues that we have.

Let me just finish, Commissioner Meissner, and just say this. I have several other things I will defer to either written questions or to some other occasion as we continue to monitor this process, but I have a whole array of specific kinds of concerns about how your new process is going to provide safeguards.

So I would appreciate as the process moves ahead and you begin to develop what I assume will be a set of procedures and safeguards that you share them with us as they are developed, and also, we will be submitting to you for your consideration some specific suggestions as to not only how to do it but areas that we would like to feel are being addressed with regard to the process, because I think it seems to me, just having become acquainted with this here as this has evolved, that there seem to be so many steps along the way and I feel we have to have some real dependability in terms of our addressing the process.

With that, we will turn to Senator Kyl, and I thank you both for being here.

Senator KYL. Thank you, Mr. Chairman.

When Richard Stana testified, he said that in the 1994 GAO recommendations, there were a variety of recommendations, and my note here is: that was not done. I think the exact quotation might have been that they were not done. I am not exactly sure his precise words.

But from your testimony to the chairman, it sounds like you are saying, no, he is incorrect. We took steps on all of the important recommendations, anyway. It does not seem to me from what I understood that you could both be correct. What do you want to say about that?

Ms. MEISSNER. The first thing I want to say is that I would like to provide detailed information on that when I have had a chance to look at it more carefully.

Senator KYL. That is fair enough.

Ms. MEISSNER. However, I would also like to say that we took a series of steps, as we have all along the way in naturalization, to strengthen and improve the program. Some of those steps were derived from the GAO and IG reports that have been submitted. Some of them have been a result of our own management actions and analysis.

Did we take as aggressive steps as we should have? Probably not. Did we move as quickly as we might have? There are all kinds of reasons why these things take time, but in retrospect, I wish that we had moved more quickly.

I think that the record will show that there are a series of actions that were taken that have strengthened the process. It is a vastly improved process. It was a vastly improved process 8, 10 months ago, 1 year ago, from what it had been 2 years, 5 years, 10 years before that. Today, it is a far more significantly improved process than it was 1 year ago.

But the critical point here has been to go to a 100-percent verification as compared with improving a process that operated on an exception basis, and that process that operated on an exception basis, although we were improving it, was insufficient.

Senator KYL. You must have concluded at a point in time that people were falling through the cracks, or to be more precise, that

people who might be disqualified for naturalization were, in fact, being processed because of your change in the policy in September 1996.

Ms. MEISSNER. We were beginning to see—I think the way one has to understand this is that when you have huge pending caseloads and you are not deciding cases for a year or two at a time, and that is how long in some cities people were waiting, 60-day period turnaround at the FBI is irrelevant because the case is sitting in our office for a year. If there is a rap sheet, it is going to catch up with the case.

What happened a year ago is that we began to actually process cases on a timely basis. We actually began to get to the point where the 60-day turnaround time from the FBI meant something in light of our overall processing. We were managing our caseload for the first time in a long time, and in managing that caseload, we began to receive FBI ident information, in some cases, after the 60 days. As soon as we determined that that was not just a fluke, that, in fact, this could be part of a pattern, because we were moving our caseload along, we changed to 120 days.

Senator KYL. And you were deliberately taking steps to move the cases forward faster.

Ms. MEISSNER. Absolutely. We were trying to deal with this caseload in a timely way that met the needs of applicants who had paid for a service, and in the process, we did a whole series of things that improved what we were doing, that improved our procedures, including the way we handled fingerprints, including the way that we processed the criminal history information, but we also doubled the amount of time that we allowed for that turnaround when we began to realize that we could not reliably count on the 60 days in all of the cases.

Senator KYL. You are familiar with some of the concern about the coincidence in timing here, that the new regulations were put into effect just a couple of weeks after last year's elections. I want to ask you a question and ask you to think about very carefully what the answer to it is.

My question is this: Can you tell us today that at no time and in no way did you ever discuss with anyone or consider the impact on last year's elections the manner in which you were implementing the naturalization laws? Now let me, before you answer that, tell you I am not asking you whether you made decisions under pressure from someone or whether you decided to do what you did because you intended a political result. What I am asking is whether you ever discussed it with anyone or ever considered the impact the way you were implementing this procedure might have on the elections?

Ms. MEISSNER. The origin of Citizenship USA was in 1995, early 1995. It was a response to a dramatic increased number of cases which we can chart and show anybody who wants to see it. Our goal was never a particular number of new citizens. Our goal was never a timeframe that dealt with the elections. Our goal was fiscal year 1996, which began in October 1995 and ended in September 1996, to in that timeframe be at a 6-month processing time, which had been the agency standard for 15 years.

The agency standard for processing naturalization applications had been 6 months from filing to oath for a very long time. Much of that time, that standard was honored in the breach. I attempted and, in fact, succeeded in making that standard for a period of time be real.

Did we receive questions along the way about the numbers that we would actually naturalize? Yes. Did the process become one of interest to people who had political interest? From reading the papers since and from seeing e-mails that were produced to the Congress, I now know that there were other interests than the interests that I had. But the program itself, the origins of the program, the execution of the program were a response to cases that applicants had filed and paid us a fee to handle.

Senator KYL. You discussed this program with the Vice President and with his staff, did you not?

Ms. MEISSNER. The Vice President's staff asked me questions about the program. Did I discuss this program with the Vice President—

Senator KYL. Maybe I should not have presumed. I had thought that you did. Let me rephrase it and just ask you, because I do not want to assume your answer. Did you discuss this program with the Vice President?

Ms. MEISSNER. I can recall one conversation in which the Vice President suggested to me that he had people on his staff who, from the standpoint of reinventing Government, had good ideas about how to operate efficiently and he wanted those people to meet with us and we met with them.

Senator KYL. You indicated in your answer to my question, did people ask questions, were there comments made, yes. I presume you mean regarding the impact on the elections. Did people raise questions with you? Did you discuss with people the potential—with anybody prior to the election—the potential impact on the election of the policies that you were implementing?

Ms. MEISSNER. I did not, and in answer to your earlier question where you said something about you assume what their questions were for, the conversations that I had with people about this program had to do with the program. They did not have to do with the elections.

Senator KYL. When I asked you the question, you said, were questions asked, yes. I assumed you meant, were questions asked about the subject of my question, which was the effect on the elections.

Ms. MEISSNER. No. Questions were asked about our processing, about what we were doing, about what cities we were working in, whether we would meet our goals. Questions were not asked of me about Citizenship USA vis-a-vis the elections.

Senator KYL. Did you ever consider in your own mind that some of those questions might have implications on the outcome of the election?

Ms. MEISSNER. I tried to do my job as I saw it, which was to run the naturalization program at the INS.

Senator KYL. I am sure that that is absolutely correct. What I am really asking, though, is whether there was ever a point in time in which you thought about this subject to yourself and considered

whether the implementation of the program might have an impact on the election, and not whether you made decisions based upon a desire to have an impact on the election, but whether, in fact, what you were doing or being asked to do might have an impact on the election?

Ms. MEISSNER. Nineteen-ninety-six was an election year. I mean, people in Washington were all preoccupied with the election. I had interest groups coming to me, letters written to me, questions asked of me all over the country about why are you not moving more quickly, advocacy groups that were directly interested in both parties in what we were doing.

I, of course, have to assume that they had an interest in what we were doing vis-a-vis the elections, but that was not my motivation. That was not what I was calibrating plans on. And, in fact, I said over and over in those meetings and in those situations, voter registration and voter behavior is not my business. My business is to run this agency and be certain that people are having their applications processed in a timely fashion. That is what we are trying to do.

Senator KYL. Voter registration is not your business, but there have been allegations, and you are aware of them, I presume, that voter registration was done literally in connection with naturalization proceedings. You are aware of that, are you not?

Ms. MEISSNER. I am certainly aware of those allegations. I was not at the time, of course.

Senator KYL. You would have wanted to ensure that there was no connection between naturalization and that kind of activity?

Ms. MEISSNER. Absolutely. Now, let me say also, however, that voter registration has traditionally in all administrations and in many other years been associated with naturalization ceremonies. Naturalization ceremonies typically are carried out by Federal judges. Federal judges, on their own motion, make voter registration information available in the courtroom or in the setting where a naturalization ceremony takes place. Local community groups, the DAR, the League of Women Voters, Veterans of Foreign Wars, typically work with us at naturalization ceremonies to make voter registration information available.

So that has always been somewhat associated with the oath taking, but not in a way, obviously, that involves the Immigration Service's responsibilities or authorities.

Senator KYL. But you would not wash your hands of any responsibility for any activity that came to your attention that might have been illegal or improper?

Ms. MEISSNER. Absolutely.

Senator KYL. Here is my point. I will conclude with a statement. If you wish to respond, go ahead and respond and then I will not have any more comments.

You have a situation where, I think, of the 23 sites, I think 15, Peat Marwick found not to be in compliance. In my own State, the Phoenix district office has a 99 percent error rate, according to the Peat Marwick study. You have questions being raised prior to the election. In fact, our letter to you was prior to the election. It was in October. You have a lot of news stories. As you note, people are asking questions. They are coming to you, and people, you acknowl-

edge, with political interests are coming to you, asking you why you are not making it happen faster or asking other kinds of questions about it.

You are clearly aware, and you acknowledge that you are aware of the potential impact on the election, and yet you have an error rate of 99 percent in the case of my city. Clearly, with knowledge of a potential impact on the election and the vote being one of our most sacred rights in this country, with a clear knowledge that people might be falling through the cracks here because of the large number of applications being processed, with knowledge of both of those things, rather than taking steps to ensure that mistakes were not made, it appears that exactly the opposite occurred when there is a 99 percent error rate.

So while one certainly can rationalize a position that one does not intentionally cause a problem, or certainly a violation of law, I think that you have a responsibility to answer the critics who say, if you knew of the problems, if people were coming to you with the questions, if you understood there were going to be people that were processed that should not have been, if you knew this could have an impact on the elections, then how could you say you did your job when you had the kind of error rates that existed here?

One would think you would bend over backward to be running around those offices, papering them with memoranda, pulling people on the carpet, maybe firing a couple of people, as Senator Abraham suggested might not have been a bad idea. Instead, it appears that a couple of weeks after the election, a decision was made to finally clean up the process, but in the meantime, this very high error rate was allowed to exist.

Ms. MEISSNER. I would like to answer that, please, because you are connecting two things that are not connected. The error rate that you are speaking about is derived from Peat Marwick's review which took place between February 19, I believe, and March 28 of this year, 1997. It was a spot check that was done to determine whether the procedures that we put into place on the 29th of November, the degree to which they are working.

So what we are talking about in the current discussion about Peat Marwick is something that has occurred post-November 1996.

Senator KYL. You are correct in that. My point is, though, that makes my case. This was after a determination that everything was going to be done right. This was after we fixed the problem, in your words, to say we are stronger now than ever before, and still you had that kind of rate. I mean, it could not have been much worse before.

Ms. MEISSNER. Well, but I think Peat would tell you, as well, that what they were looking at, for instance, the completions of a worksheet in the front of a folder, there should not be that kind of an error rate. However, you cannot—these are implementing procedures. These are new procedures that are being implemented. They are a dramatic change from the way in which processing requirements had taken place prior to the new procedures.

As I said, I wish that we were further along. On the other hand, there are literally thousands of employees involved in this process and they are not all trained the way they should be and they will become trained the way they are supposed to be.

Where the election is concerned and where the naturalization process that was used last year is concerned, it is a process that had been in place since 1982. It had been in place through a series of different administrations of both parties. We took that system and strengthened it. It was not a sufficiently strong system. We have made far more dramatic and sweeping changes since that time but we did nothing to weaken the system that was in place. We did nothing to shortcut the system that was in place.

We simply tried to make it operate on a timely basis and we improved it in substantial ways. We did not improve it as much as it is now improved and it is now not what it will be a year from now when we are doing electronic scanning of fingerprints. But we have been moving at every step along the way to improve it and we dealt in 1996 through a system that had been used, relied upon, and functioning for many administrations.

Senator KYL. Mr. Chairman, I just cannot resist one other comment. With all of those improvements, one wonders, why the significant number of errors? But leave that aside. Never before had you stressed the system the way you stressed it during this period, to set an arbitrary goal with the time line that you had, and that stressing of the system, you yourself acknowledged, was a big reason for the problem, was it not? So you—

Ms. MEISSNER. We can see that now.

Senator KYL. Yes.

Ms. MEISSNER. I mean, I think we all appreciate—I have testified to that. I have, as a manager, come to understand some things that I did not understand at the time. But we also were the recipients of triple the number of applications in a year that we had ever had before. We were all dealing in uncharted territory and we did everything that we could at the time to improve and strengthen what was an inherently weak system, and it is not a system that we created.

Senator ABRAHAM. Thank you.

I just want to go back for one more question to the issue that I was talking about during the end of my questions which was the GAO and IG reports, and now I actually have the testimony here in front of me that I was thinking about from Mr. Stana in which he refers to his December 1994 report and says that, among a number of things, that “we found that under INS procedures at the time of our review, examiners could not determine whether FBI fingerprint checks had been completed because, at the INS’s request, the FBI returned a report only if a criminal history record was found. According to INS district officials, without a control to ensure that the FBI had completed a fingerprint check, some aliens with disqualifying felony convictions had their naturalization applications inappropriately approved.”

“Accordingly, we recommended that INS obtain the results from the FBI of all its records and fingerprint checks, including those for aliens who do not have criminal history records. Because INS had told its district offices to correct problems identified by the IG but had not monitored the district office efforts to follow these instructions, we also recommended that INS monitor the district offices’ progress to comply with INS directives. At that time, INS agreed to implement both of our recommendations.”

Do you recall this?

Ms. MEISSNER. I simply have to check back on that. I do not. I do not recall it.

Senator ABRAHAM. It seems to me, and I appreciate that lots of recommendations presumably come by, but it does suggest here that you or someone at INS acting with authority had agreed to implement what would seem to me to have been the prophylactic step that now has been implemented and which would have, presumably, eliminated, if not all, most of the problem that we are here for today. I would appreciate a response to that.

Ms. MEISSNER. When I heard Mr. Stana give that testimony, I made a note to myself, because I do not recall that.

Senator ABRAHAM. All right. Let me thank this panel, the previous panel, and our guests today. We appreciate your all being here and we thank you very much. We look forward to continuing this.

The subcommittee is adjourned.

[Whereupon, at 2:05 p.m., the subcommittee was adjourned.]

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