I. Interviews and Adjudications

A. Introduction

At the heart of the congressional allegations was also the question of whether, *for any reason*, INS had watered down the criteria by which it evaluated an applicant for naturalization. In this chapter we address those concerns and examine the naturalization evaluation process and the standards by which INS adjudicators evaluated naturalization applications during CUSA.

Contrary to some allegations, the evidence does not indicate that INS purposefully rescinded eligibility standards during CUSA. However, we found that INS' application of eligibility standards was already inconsistent—and known to be so—before it launched CUSA, and INS officials did nothing to improve the known weaknesses before the program began. INS failed to provide its adjudicative corps with appropriate guidance concerning issues bearing on the determination of eligibility for naturalization both before and during CUSA. Thus, when INS augmented its adjudication workforce with hastily trained new officers, and the pressure to complete cases intensified, these weaknesses became more pronounced. This, in conjunction with INS' failure to ensure that the officers had the tools they needed to ensure a quality adjudication—like applicant files and results of criminal history checks, as discussed in subsequent chapters—led to a processing system during fiscal year 1996 that was deeply flawed.

The flaws in that processing system were all ones that tended to make adjudications more superficial. Brief training prevented new adjudicators from examining applications in great detail, even if they had been provided the time to extend the length of naturalization interviews. The lack of adjudicative guidance concerning more complex issues prevented those issues from being adequately explored. Since issues in an applicant's background that could potentially lead to disqualification often could only be revealed as a result of greater exploration, where that exploration was curtailed the issues would simply not arise. Thus, although not a deliberate goal of the program, naturalization processing during CUSA was more heavily weighted in favor of approval, not denial, of applications for naturalization.

We note at the outset that it is impossible to quantify the number of CUSA eligibility determinations that were affected by the deficiencies we describe in this chapter concerning naturalization interviews and adjudications.

We cannot establish how many applicants who were approved for naturalization would have been found ineligible had better training, better guidance, and better tools been available. Although audits can—and have—revealed the extent to which objective measures like disqualifying criminal histories were ignored,[1] no amount of after-the-fact study can determine what might have been revealed to a fully trained, supervised adjudicator who had the opportunity to conduct an interview of sufficient length and depth. Accordingly, we focus on the degree to which the system that was in place failed to safeguard naturalization integrity, and do not offer evidence of the exact extent to which particular adjudications was incorrect.

We begin this chapter by describing the interview and adjudication process. We then describe some of the adjudication practices that existed prior to fiscal year 1996 in order to provide a benchmark against which to measure the changes that occurred specifically during CUSA.

We then turn to interviews and adjudications during CUSA. We offer a detailed review of INS' training of the temporary adjudications officers it hired to meet the goals of CUSA. The evidence shows that the training program was designed to prepare new officers to adjudicate simple, pre-screened cases in an environment of ample supervision. However, the evidence also shows that INS Headquarters did nothing to ensure that the new officers were deployed in a manner consistent with their training, and we found that these new officers were sent to work in a variety of environments and expected to handle a wide array of naturalization cases. As a result, new officers were not adequately trained for the job they were expected to do.

We then discuss the several aspects of naturalization eligibility that INS had recognized before fiscal year 1996 as sources of confusion for its adjudications staff, and about which INS Headquarters nevertheless failed to provide guidance before launching CUSA. INS recognized that the "good moral character" standard itself—the standard at the heart of the determination of naturalization eligibility—was understood and applied differently throughout INS. INS had also confirmed that its testing procedures for English-language proficiency and knowledge of U.S. government and history

[1] See our discussion of the KPMG-supervised criminal history reviews in our chapter on criminal history checking procedures.

varied in the Field. Although INS recognized the need for articulated standards in these areas, it provided none.

In addition, INS Headquarters knew that the Field needed guidance on how to respond to cases in which officers suspected fraud in the administration of the INS language and government tests by outside testing entities. The guidance Headquarters provided in this area came only belatedly and was not accompanied by sufficient resources to permit the Field to undertake the recommended efforts. Finally, INS was aware that a significant number of applicants who would apply for naturalization during CUSA were applicants who might have obtained their permanent residency through fraud, and yet INS nevertheless failed to give the adjudicators any guidance concerning what to do in such circumstances.

The next part of the chapter examines the guidance INS Headquarters did provide concerning how to conduct naturalization interviews and the resulting adjudications. The evidence shows that the emphasis in Headquarters' communications with the Field was almost exclusively on increasing the rate of production, streamlining the adjudication process, and working in cooperation with community-based organizations (CBOs). The combined effect of this continued emphasis on production, of the rapid deployment of an inexperienced and quickly trained workforce, of the failure to provide guidance, and of the failure to provide the fundamental tools required for a thorough naturalization adjudication was to encourage approvals of naturalization applications and to discourage the more time-consuming pursuit of potentially disqualifying issues. We provide examples of what happened across the country as Field managers attempted to meet the ambitious production goals of the CUSA program. These examples illustrate the ways in which INS emphasized quantity over quality and by doing so exposed naturalization processing during CUSA to many potential errors in adjudication.

B. Background on the naturalization interview

1. Introduction

The nature of the naturalization interview was at the heart of many of the congressional questions during hearings on the CUSA program in 1996. Both Members of Congress and INS officials recognized the interview as the fundamental investigative tool in the naturalization process. It was the point at

which the standards for eligibility for citizenship were measured against the applicant's history to determine whether he or she qualified for citizenship.

During the 1996 congressional hearings, INS employees testified that the interview process had been compromised during CUSA with the applicant interview itself becoming short and perfunctory. They described situations in which supervisors prevented adjudications officers from requesting corroborating documents to establish that applicants had paid their federal income taxes, met child support obligations, or were otherwise law-abiding residents eligible for naturalization. These allegations caused concern that INS had lowered the standards for eligibility in order to increase the number of persons naturalized during CUSA.

To understand what changes in the application of eligibility criteria occurred during CUSA, we first must describe what the naturalization interview looked like before the program began. At times during the 1996 hearings, witnesses critically compared CUSA practices to adjudication practices that had existed many years ago, when INS conducted detailed background reviews and applicants produced witnesses who vouched for their good character. In reality, the longer judicial or quasi-judicial interview process had already become an anachronism long before the mid-1990s. A comparison of CUSA interviews to the evaluations that were conducted many years ago unfairly implies that the transformation of the process from a judicial inquiry into a quick administrative task occurred only recently, and for the purpose of increasing the number of persons who could be approved for naturalization. However, the modern naturalization interview had already become, long before CUSA, a relatively brief question-and-answer session, guided primarily by the written answers to questions the applicant had submitted in his or her application for naturalization.

This is not to say that CUSA did not add additional pressures on the naturalization interview that further curtailed the inquiry. Indeed, as discussed throughout this chapter, the implementation of CUSA did have an adverse impact on the quality of naturalization interviews. But it is necessary to establish a baseline by which to distinguish what happened during fiscal year 1996 from interview practices that existed before CUSA. The record shows that the quality of INS interview practices that existed before CUSA had been highly dependent on the experience, training, and supervision of the adjudications officers who conducted the interviews. The rapid infusion of new, inexperienced, and superficially trained officers, coupled with the

production pressures of the CUSA program, resulted in an adjudication process highly vulnerable to error.

2. The interview process

In our chapter providing background on the naturalization process, we described the general requirements for naturalization and the steps an applicant takes in order to apply for citizenship. Here, we address the procedures that INS followed once the applicant appeared for his or her naturalization interview. The procedures described here were those generally followed in the years immediately before and during CUSA.

Naturalization applicants are required by law to appear in person before an INS District Adjudications Officer (DAO, formerly called an "Immigration Examiner") for an "examination under oath." That examination or interview is "an inquiry concerning the applicant's residence, physical presence in the United States, good moral character, understanding of and attachment to the fundamental principles of the Constitution of the United States, ability to read, write, and speak English, and other qualifications to become a naturalized citizen as required by law." In practice, the bulk of this interview consists of reviewing information in the Form N-400, the application for naturalization. During CUSA, if necessary, the DAO would correct written answers on the application to conform to the applicant's responses at the interview.

According to the traditional model of the naturalization interview, the interviewing DAO would have the opportunity to review the applicant's permanent file prior to the interview. A well-trained adjudicator could often identify potential eligibility issues from the documents in the file. Based on the review of the file, the answers on the N-400, and the discussion during the interview, the DAO would verify that the applicant met the residency and physical presence requirements, taking into account the date of admission as a lawful resident and any subsequent periods of travel outside the United States.

An applicant had to demonstrate a level of knowledge in certain subjects in order to be approved for naturalization. The naturalization interview, therefore, also included a "testing" element. Most applicants had to demonstrate proficiency in written and spoken English (the English test) and all applicants had to demonstrate a basic knowledge and understanding of U.S.

history and government (the Civics test).[2] Before and during CUSA, applicants had the option of being tested on these subjects by a DAO during the interview or taking a standardized test from one of many private companies authorized to conduct such testing. If the applicant passed the test at an outside testing entity (OTE), he or she would be given a certificate indicating that the Civics and *written* English portion of the testing requirement had been satisfied. The applicant then would present the certificate to the DAO at the time of the interview.[3] Applicants who presented such certificates were still required to demonstrate in the interview the ability to speak and understand English.

Applicants who did not use an OTE were tested on their written English proficiency by the DAO during the interview. The English test generally consisted of writing one to three sentences as dictated by the officer and demonstrating, through the answers provided to questions asked during the interview, the ability to speak "words in ordinary usage in the English

---

[2] According to the statute, the following persons did not need to demonstrate an ability to speak, understand, or write English or a knowledge and understanding of Civics: a person physically unable to comply with the literacy requirements due to a permanent disability, such as blindness or deafness, a person over 50 years of age who had been living in the United States as a permanent resident for at least 20 years, or a person over 55 years of age who had been living in the United States as a permanent resident for at least 15 years. The N-400 form used during CUSA incorrectly stated that to benefit from the age/residency exemption the applicant had to meet the requirements as of the date of the interview. In fact, the law required that the applicant had to meet the requirements as of the date of application.

In regard to the testing of Civics only, the INA allowed the Attorney General to treat differently applicants who, at the time they applied for naturalization, were over 65 years old and had been in the United States for at least 20 years. INS permitted such applicants to take the Civics test in their native language, and only required them to answer six of ten questions correctly. The ten questions were chosen from a list of 25 simple Civics questions.

[3] Applicants who had obtained lawful permanent residency through INS' Legalization program in the mid-1980s (see discussion in our chapter "The Implementation of CUSA: an Overview" and below) and who, at that time, demonstrated English-language proficiency in reading and writing and knowledge of the government and history of the United States through either an examination by INS or through a standardized test at an OTE were exempt from having to be examined on such skills as a prerequisite for naturalization. However, the applicant still had to "establish eligibility for naturalization through testimony in the English language."

language." The English test did not require fluency or grammatical precision, but a more general ability to function in a limited way where the topic was familiar and the language relatively simple. The Code of Federal Regulations (CFR) required that INS' written tests be taken from authorized federal textbooks written "at the elementary literacy level," and many INS personnel told the OIG that the minimum competency expected was that of a third-grade student.

The applicant also was asked approximately ten Civics questions taken from a published list of 100 questions developed by INS. The applicant was usually required to answer 60 or 70 percent of the questions correctly in order to pass this portion of the test. If the applicant's English ability or Civics knowledge was not sufficient to pass the interview, the case was continued for a second interview or "reexamination," and the applicant was given a second (and final) opportunity to pass.

If the applicant passed the English and Civics tests, or presented a passing certificate from an outside testing entity, the DAO then determined whether the applicant had been and continued to be a person of "good moral character" and a person who was "attached to the principles of the Constitution" during the statutorily prescribed period.

The prescribed period for "attachment to the Constitution" was ten years before the filing of the application through the date of the administration of the oath of citizenship. An applicant ordinarily demonstrated this "attachment to the Constitution" by responding affirmatively to questions in the N-400 concerning allegiance to the United States and a denial of membership in the Communist Party or in "any other totalitarian organization."[4] The "good moral character" inquiry was more detailed.

Federal regulations provide a list of elements that preclude a finding of "good moral character," many of which pertain to an applicant's criminal record. However, the regulations also specifically state that the absence of a precluding factor does not necessarily mean that the applicant is, in fact, of "good moral character." The period prescribed by statute—often referred to as the "GMC period"—was from five years before the date of application through

[4] Statutory exemptions were provided for applicants who were involuntary members of such organizations, including those for whom membership in the proscribed organization was necessary to obtain the "essentials of living."

the date on which the oath was administered. Earlier conduct could be considered if "relevant" or if the applicant showed no evidence of "reform."[5] Although the law provided DAOs with guidance concerning the boundaries beyond which an officer could *not* find that an applicant was of "good moral character," within those boundaries the evaluation of the applicant's character was left to the discretion of the officer.[6]

As in the case of an applicant who failed the testing portion of the interview, an officer could continue a case for a second interview, "to afford the applicant an opportunity to overcome deficiencies on the application that may arise during the examination." In such cases, the DAO typically made a final decision after the second interview. Sometimes an issue arose during the interview that could be resolved only by the production of additional documents. For example, an applicant whose criminal history report or "rap sheet" (resulting from the applicant fingerprint check required as part of the

---

[5] According to the regulations, "the Service shall evaluate claims of good moral character on a case-by-case basis taking into account the elements enumerated in this section and the standards of the average citizen in the community of residence. The Service is not limited to reviewing the applicant's conduct during the five years immediately preceding the filing of the application, but may take into consideration, as a basis for its determination, the applicant's conduct and acts at any time prior to the period, if the conduct of the applicant during the statutory period does not reflect that there has been reform of character from an earlier period or if the earlier conduct and acts appear relevant to a determination of the applicant's present moral character."

[6] For example, an applicant who had been convicted of two misdemeanor thefts within the statutory period would be statutorily precluded from establishing "good moral character." An applicant who had committed only one misdemeanor theft would not be statutorily precluded, provided that for the offense he or she had not been sentenced to a "term in excess of six months."

However, if the applicant had one misdemeanor theft conviction within the statutory period, and two others *outside* the statutory period, and if he committed the second or third offenses while on probation for a previous offense, the DAO might nevertheless consider denying the applicant on the grounds of a lack of "good moral character." The DAO would have to evaluate this evidence in the context of all other evidence reasonably bearing on "character" that was presented in the application and at interview. Evidence of reform might tip the balance in favor of finding "good moral character." Conversely, evidence of repeated theft arrests since the date of the last conviction might weigh in favor of a determination that the applicant lacked "good moral character." The act of discretion that the law entrusted to the adjudicator was this weighing and balancing of all favorable and unfavorable facts in order to make the "good moral character" determination.

application) showed an arrest might be asked to provide court documents showing the disposition of the arrest. Other documents that were sometimes requested included proof of federal income tax filings (the N-400 posed two questions concerning compliance with federal income tax laws) or proof of a marital union (for applicants applying under special provisions for spouses of U.S. citizens). In such instances, the case would be continued for a period of between 60 and 120 days, at which time the additional documents had to be produced before the application could be reviewed and adjudicated.

The law required the DAO to determine, after the interview, whether the application should be granted or denied "with reasons therefor." In practice, if the application for naturalization were granted, the DAO would simply stamp the application "approved" and return it to the naturalization applications clerks, who prepared the file for the oath ceremony. If the DAO determined that the application should be denied, the DAO prepared a written explanation of the factual basis for the recommended denial. Denials were reviewed by a supervisor and signed by the District Director or his designee.[7]

3. The "good moral character" standard and changes in the naturalization process

Naturalization in the United States had a long history as a judicial function. This judicial process involved objective determinations such as whether the candidate met minimum residency requirements, but it also required that the prospective citizen meet certain requirements that necessarily required a more subjective inquiry. The naturalization applicant has been required to demonstrate his or her "good moral character" and "attachment to the Constitution" of the United States since the original naturalization statute was enacted in 1790. Until 1990, the federal courts were charged with reviewing all the relevant evidence and making a final determination concerning a candidate's qualifications for citizenship.

Concerns about how INS evaluated applicants' "attachment to the Constitution" were not included among the allegations made about the CUSA program. The inquiry into "good moral character," however, was a topic of intense congressional scrutiny during the hearings on CUSA. Accordingly, our

[7] Applicants who were denied citizenship were entitled to a hearing by making a written request within 30 days of receipt of the notice of denial.

review here of the history of the subjective portion of the naturalization process is limited to a discussion of this requirement.

Having established that prospective citizens must show "good moral character," the legislature left to the courts the task of identifying the requirement's meaning and scope. By definition, the standard invited differing interpretations depending on the particular case before the court. Courts also did not agree on whether the applicant's conduct was to be viewed against the prevailing moral attitude of the nation as a whole or measured against the standards of the community in which the applicant resided.[8] Also, even similar conduct within jurisdictions was subject to varying interpretations, as an array of extenuating or sympathetic individual circumstances gave rise to conflicting results.

In 1952, congressional concern over the disparate determinations of "good moral character" that had emerged from judicial decisions led to the passage of the Immigration and Nationality Act of 1952, which continues to this day to form the basis for immigration law in the United States. Congress did not define "good moral character" in this legislation, but did enumerate, for the first time, certain acts or conduct that precluded such a finding. These acts included the commission of murder, and, during the 5-year period immediately before the application for naturalization, habitual drunkenness, adultery, polygamy, and prostitution, gambling as a livelihood, false testimony to obtain immigration benefit or the commission of specified criminal offenses.

However, in the absence of any of these specific disqualifications, the ultimate determination remained vested in the discretion of the decision-maker. As noted by the U.S. Court of Appeals for the Ninth Circuit in *Torres-Guzman v. INS*, 804 F.2d 531, 534 (9th Cir 1986), in addressing the determination of "good moral character" under the INA, "the inquiry into human character is an inherently open inquiry. The ingredients of human character may not be exhaustively specified." Congress did not purport in the INA to identify the full range of conduct that would demonstrate an absence of "good moral character." Instead, the law established minimum standards of conduct. Within the boundaries of these minimum standards, the courts still had to

[8] Pursuant to 8 CFR § 316.10(a)(2), INS now assesses the applicant's character against the backdrop of his or her community of residence.

consider all relevant facts to make the determination of whether the applicant was qualified.

Over the years, although the judiciary retained the legal authority over granting naturalization, INS controlled more and more of the process.[9] Since the 1920s, naturalization processing had depended to a large extent on the judgments and recommendations of administrative officers. The courts' dependence on this assistance grew over the years as the number of applicants increased. In 1926, Congress instituted a system that created naturalization examiners who were designated by the courts to hear evidence in naturalization cases and to make appropriate recommendations to the courts. Over time, courts commonly would defer to the recommendation of the naturalization examiner.

Consistent with the quasi-judicial nature of the work being done by immigration examiners, for many years INS required that examiners be attorneys. During the era of the attorney-examiner, applicants (then called "petitioners") were required to present character evidence through witnesses or affidavits.

Over time, however, although the legal requirement to conduct a case-by-case evaluation of the applicant's character did not change, the examination or interview process shed many aspects of its judicial character. The requirement of character witnesses was eliminated by statute in 1981. In 1983, INS began hiring "Immigration Examiners" (who were later redesignated as District Adjudications Officers) who were not required to have a law degree. This change in qualifications for the job of Immigration Examiner reflected the changes that were occurring in naturalization administration generally as the process moved from a judicially based system to an exclusively administrative one.

---

[9] The Bureau of Immigration and Naturalization of the Treasury Department administered immigration and naturalization functions until 1913 when these functions were transferred to the Department of Labor. Although the same Department administered the two functions—immigration and naturalization—they were overseen by separate Commissioners, both of whom answered to the Secretary of Labor. The consolidated Immigration and Naturalization Service was created as an independent agency in 1933. President Roosevelt recommended to Congress that INS be transferred from the Department of Labor to the Department of Justice and that transfer occurred on June 14, 1940.

The Immigration Act of 1990, which amended the INA, made the *de facto* shift in naturalization from a judicial process to more of an administrative one explicit by transferring naturalization authority from the judiciary to the Attorney General. This transfer was generally regarded as caused by the huge demand for naturalization and the notion that an administrative procedure would be able to process cases more quickly than a judicial one.

Although the entity responsible for making the adjudicative determination changed, the substantive requirements, including the broad "good moral character" test, remained much the same. The INA continued to list essentially the same acts or conduct which precluded a finding of "good moral character" as were enumerated in the original version of the law.[10] The Act also noted that the absence of specifically listed conduct "shall not preclude a finding that for other reasons such person is or was not of good moral character." Thus, although the administration of naturalization was no longer a judicial responsibility, the fundamental nature of the inquiry required an exercise of discretion after a review of all relevant information. This determination, originally entrusted to a judge, was now entrusted to the DAO.

By the 1990s, the naturalization interview process thus consisted of the DAO's review of the answers submitted to INS by the applicant on the Form N-400. While the N-400 covered topics that could potentially preclude an applicant from qualifying for citizenship, the DAO was expected to test those answers in a face-to-face interview to determine whether any areas required further exploration. How far the DAO should or could go in seeking information from the applicant beyond the pages of the N-400 was not defined, but was left to the discretion of the officer guided by experience, training, and supervision. This evaluation was not informed by information from INS-conducted background investigations; by 1991, the requirement of a personal investigation in the vicinity of the applicant's neighborhood and workplace

[10] Over time since 1952, various laws were passed that eliminated specific preclusions to the finding of "good moral character." For example, in 1981 Congress eliminated the preclusion for those who committed adultery, although it may be considered in the general assessment of good moral character. Federal regulations now only consider adultery as a precluding factor if the applicant "had an extramarital affair which tended to destroy an existing marriage," unless the applicant "establishes extenuating circumstances." Despite changes in the particular provisions concerning conduct that precludes a showing of good moral character, the essential requirement of good moral character has remained the same.

could be waived by the district director, resulting in INS' abandonment of neighborhood investigations altogether.

We found, however, that INS Headquarters never provided specific guidance in this area. Even before CUSA the scope of the naturalization interview was defined differently in different offices and by different supervisors, with some being more aggressive than others about potentially disqualifying issues. For example, some DAOs believed that if they had any questions whether the applicant had filed income tax forms or paid child support they could continue the case and request that the applicant supply corroborating documentation. Other DAOs believed that absent concrete evidence of a possibly disqualifying issue, no further documentation should be required. This lack of a uniform view of the scope of the naturalization interview led to disparate practices in the Field.

The labor-intensive demands of CUSA were imposed onto these disparate practices, as discussed in the remainder of this chapter. Weaknesses that were already apparent—the lack of uniformity in decision-making and the lack of guidance concerning how to exercise discretion in evaluating an applicant's "good moral character"—were tested even further by an increase in the number of inexperienced officers conducting interviews and the time pressures that discouraged the pursuit of potentially disqualifying issues.

C. Training for CUSA adjudicators

1. Introduction

As discussed above, the quality of the naturalization interview, to the extent that it was more than just a cursory review of the N-400, depended on the training, judgment, and experience of the adjudications officer. During CUSA, a majority of INS' naturalization officers in the Key City Districts were new, temporary employees who had received abbreviated training in a course designed specifically for them.[11] The premise of their training was that these new officers would adjudicate only pre-screened, simple cases in a supervised environment.

[11] As we noted in our overview chapter, adjudicator staffing increased 400 percent for CUSA.

However, the premise of this training program was not communicated to the Field. Shortly after their training, these new officers were immersed immediately in a variety of naturalization adjudications with little time to learn the ropes. As a result, they were unprepared to handle the job they were assigned.

In the discussion that follows, we address the CUSA training program and focus in particular on the disparity between its design and the manner in which it was actually implemented. Although CUSA project managers asserted to the OIG that they had taken adequate steps to insulate naturalization adjudications from the predictable mistakes that might be made by the inexperienced workforce it engaged for CUSA, the record shows they failed to do so. The failure was caused by INS Headquarters' poor communication with and supervision of the Field during a period when all resources were being poured into reaching the production goals of CUSA.

2. DAO training before CUSA

Immigration Examiners and, later, District Adjudications Officers received training at the Immigration Officer Basic Training Course (IOBTC), much like all other immigration officers (e.g., deportation officers and immigration inspectors). This training, offered at the Federal Law Enforcement Training Center (FLETC) facilities in Glynco, Georgia, lasted 16 weeks.[12]

The naturalization-specific training offered to adjudicators at FLETC was not much more extensive than that later offered to temporary officers hired for CUSA. At FLETC, adjudicators received 24 hours of instruction on nationality law[13] and five hours on the N-400 application. For CUSA trainees, the hours devoted to naturalization were similar, although the focus was reversed. CUSA trainees received 18 hours of instruction on the N-400 and 3 hours on nationality law. Neither training specifically taught adjudicators how to

---

[12] The 16 weeks of training included 3-4 weeks that were devoted to a Spanish immersion course that could be waived if the officer demonstrated proficiency in the language.

[13] The nationality law course covered the various provisions in the law under which a person qualifies as a citizen through birth to a U.S. citizen and through other familial relationships, as well as the provisions under which a person can qualify to apply for naturalization (e.g., spouse of a U.S. citizen).

identify and evaluate the many factors that they should weigh and balance in determining "good moral character."

On the other hand, the 24 hours of instruction on nationality law at FLETC for permanent DAOs were supplemented by 80 additional hours of instruction on immigration law compared to the 4-hour block provided to CUSA trainees. The 80-hour course defined various immigration law terms and reviewed the INA, relevant sections of the Code of Federal Regulations and court decisions and also covered topics such as deportation and exclusion. In addition, FLETC provided six hours of instruction on criminal law, a resource unavailable to CUSA trainees. Overall, the 16-week FLETC course immersed the student in all aspects of INS' work and provided the new employee with the larger immigration context in which to understand his or her specific role. This training on other aspects of immigration, including understanding how a person enters the United States and becomes a permanent resident, helped naturalization adjudicators understand applicants' backgrounds and the contents of applicants' files.[14]

CUSA planners did not question the superiority of the longer academy training to the abbreviated CUSA course for preparing the DAOs. From the outset, INS Headquarters had planned that the temporary CUSA officers would only be assigned to adjudicate the simplest of naturalization cases and thus would not need the more thorough FLETC training.

3. Temporary officers could only receive abbreviated training

The evidence establishes that INS' deployment of a large, temporary workforce with limited training contributed to a diminution of naturalization processing integrity during the CUSA program. The weakness of the strategy did not lie solely in the decision to hire temporary, rather than permanent, workers. Instead, it rested on INS' decision to hire such large numbers of new officers (making them the majority in the CUSA Key City Districts) and INS' expectations that, shortly after entering on duty and without appropriate training or supervision, the new officers could meet the high production

[14] Familiarity with other aspects of immigration law helped adjudicators identify naturalization cases that involved potential fraud in obtaining permanent residency. See our discussion later in this chapter of INS' failure to give guidance concerning how to detect previous immigration fraud.

expectations of CUSA. The major flaw in INS' plan was how it trained and deployed these employees and not in the choice of temporary workers *per se*.

However, the decision to provide CUSA officers an abbreviated training course was integrally tied to INS' decision to use a temporary staff in the first instance. In other words, the type of training the officers received flowed directly from INS' decision to meet CUSA's goals by relying on temporary DAOs. Because this decision informed subsequent training decisions, INS' reasoning for using temporary officers bears some commentary here.

a. The reasons for choosing a temporary workforce

INS officials interviewed by the OIG, including Deputy Commissioner Sale and Associate Commissioner Crocetti, said they recognized that using permanent officers rather than temporary employees would have been a better option in terms of the quality of naturalization adjudications. They contended, however, that the decision to use temporary officers was not a matter of choice but was instead a requirement forced on INS during budget negotiations with the Office of Management and Budget (OMB) and with Congress. Sale and Crocetti contended that their CUSA initiative relied to a large degree on temporary workers because they knew Congress would not otherwise approve their second reprogramming request submitted in November 1995. A congressional staff member involved in these budget negotiations told the OIG she strongly disagreed with this assessment.

Regardless of this conflict, a more fundamental point is clear—any detailed debate about the use of temporary versus permanent employees took place within INS and not between INS and congressional appropriations committees.[15] INS did express a preference to Congress for hiring permanent employees, but not because of any concern about the quality of the temporary

---

[15] INS officials said that including temporary officers in its reprogramming requests to Congress was considered the "conservative" way to approach the budget issue. As one Office of Programs employee told the OIG, there was the sense among the budget officials at INS that the reasons being cited for needing increased resources, like the rise in N-400 receipts, might not be sustained over time. INS Headquarters officials discussed the "volatility" of the workload and the continued appropriateness of relying on career civil servants. INS budget officials and Deputy Commissioner Sale argued for a year-by-year approach so as not to overstate the need. Commissioner Meissner similarly suggested to the OIG that budgeting for temporary employees fit the way in which INS, like other federal agencies, had to allocate resources and tie them to the work of a particular fiscal year.

officers' work; rather, INS only cited its anticipated difficulty in retaining the new employees. Internally, INS officials spent more time discussing the attrition rate of temporary officers and the extent to which the Service would be required to continue to hire new people and process their security clearances rather than the new employees' ability to evaluate an application for naturalization. INS' reprogramming request in November 1995 was predicated on the belief—and INS gave Congress no reason to question the assumption—that temporary officers could be appropriately deployed to adjudicate naturalization applications.

Indeed, using temporary adjudicators was more consistent with INS' philosophy of backlog reduction and naturalization streamlining that eventually led to the CUSA initiative. CUSA was never intended to permanently swell the ranks of INS adjudicators. Instead, it was a program designed to address the backlog and reach "currency" in naturalization applications so that in the future a new, "reengineered" naturalization process could become reality. This reengineered naturalization system of the future would depend even less on adjudicators. In the reengineered process, interviews would be waived for qualified candidates (see discussion of waived interviews, below), testing would be standardized and handled by outside agencies, and increased participation by CBOs would reduce to a minimum the amount of time an INS adjudicator would have to spend face-to-face with the applicant. A huge, permanent adjudication workforce would be obsolete in such an environment. Consequently, INS' decision to deploy a workforce of temporary workers that could address the backlog (using some techniques borrowed from "reengineering" discussions) and then disband it was exactly what some INS Headquarters officials had in mind.

b. Previous experience with adjudicators who were not academy-trained

At the heart of INS' belief that it could address naturalization backlog reduction with a temporary workforce was its experience with the Legalization (or "Amnesty") program of the 1980s. During the Legalization program, INS opened multiple regional processing facilities separate from its district offices and deployed hundreds of temporary adjudicators who played a major role in adjudicating approximately three million applications for adjustment of status. This experience with temporary adjudicators provided INS officials with a sense of security that again, for a short time, it could rely on such workers to help get an adjudications crisis under control. The temporary legalization

workforce, like the CUSA trainees, had received a focused, abbreviated training program designed to teach the new employees how to perform the single task for which they had been hired.[16]

In addition, INS had experience using officers who had not been trained at IOBTC to adjudicate cases. Because FLETC had to prioritize training requests from many federal agencies, FLETC could not always immediately accommodate all of the INS training needs in the years preceding CUSA. District Adjudications Officers, therefore, did not always receive formal training before they began their duties.[17] Under such circumstances, officers received such informal on-the-job training as was offered at their district until space at FLETC became available. In some cases, the adjudicator did not attend the FLETC academy until many months after assuming his or her duties in the Field. While INS officials agreed that this was not the ideal way to train new employees, it proved a workable compromise since permanent,

---

[16] The choice of the Legalization program as CUSA's model for deploying a temporary workforce was telling. On the one hand, it was a major production effort and by that measure was highly successful. However, it was also a program, particularly in regard to the Special Agricultural Worker (SAW) provisions, which, by 1995, was widely regarded as having been characterized by unchecked fraud (for more details about SAW fraud, see our discussion later in this chapter concerning Headquarters' failure to provide adjudicative guidance to the Field). In other words, the temporary workforce had succeeded at adjudicating three million legalization applications, but lacked either the ability or training to distinguish between cases in which the criteria were legitimately met and those in which supporting documentation was fraudulent.

We are not suggesting that the temporary legalization officers intentionally allowed the fraud to flourish, but the evidence does indicate that by turning to the program that was universally acknowledged as one in which the adjudicator had not played a standards-enforcing role as a model to meet CUSA's staffing needs, INS was again assuming that the adjudicator's role was to simply process cases and not to deliberately and carefully evaluate the applicant's eligibility.

As Deputy Commissioner Sale told the OIG, "there is no question that the management focus was on production, that the agenda, as described, was not to clean up the citizenship problem because we had processing vulnerabilities. I mean that wasn't the problem that was defined. The problem that was defined was that we were falling further and further and further behind in the face of ever increasing volume of receipts; and that we needed to catch up."

[17] A few of the larger districts developed an internal training program and maintained a training officer position.

experienced officers outnumbered the new hires and were available to provide guidance and supervision. Even before CUSA, therefore, it was not unusual for a DAO to begin adjudicating naturalization cases without having had formal academy training. CUSA planners thus believed that hiring a temporary staff and providing at least some naturalization training before they began work would be an improvement over INS' previous practice.[18]

4. Exportable or "modular" training

The position-specific training program for temporary CUSA adjudicators also was consistent with the training philosophy that was then emerging from INS' reassessment of its use of academy training. In 1994, when INS was working on plans to expand the Border Patrol, it began to examine whether it was cost-efficient to provide everyone in its officer corps the same training, from carrying firearms to adjudicating applications for naturalization. INS officials began to focus on the possibility of revising the Immigration Officer Basic Training Course to eliminate portions superfluous to certain jobs, such as weapons training for adjudicators. In addition, INS' Training Branch proposed the development of basic training "modules" that would be exportable to sites other than the FLETC academies in Glynco and Artesia, New Mexico.[19]

5. The CUSA training design

On September 26, 1995, CUSA organizers assembled in Washington a team of INS employees from each of the Key City Districts and an instructor from FLETC to develop a training program that could be used in the Key City Districts to train prospective CUSA adjudicators to handle "routine naturalization applications." The new adjudicators' work would be limited to "routine" cases by two strategies. First, the cases assigned to them would be "pre-screened" before scheduling to ensure that only simple cases were assigned to new adjudicators. Second, naturalization adjudication under CUSA

---

[18] During CUSA INS could not rely, as it had in the past, on several months of on-the-job training for new adjudicators until formal academy instruction began. As Crocetti acknowledged, the huge numbers of new employees would dwarf the existing staff, making informal on-the-job training very difficult.

[19] After CUSA, INS adopted the "modules" approach and IOBTC offered position-specific training. Consequently, adjudicators were no longer required to undergo the law enforcement officer training.

would take place in a "primary/secondary" setting in which the new or "primary" adjudicator would have the option of referring a case that appeared too complex to a more seasoned or "secondary" officer. According to the minutes of this meeting and Paul Pierre (the group leader and the instructor from FLETC), INS Headquarters did not specify the length of the proposed training. The group was told that the training program should "take as much time as necessary to effectively prepare [the] recruits to produce quality work."

INS officials told the OIG that there was never any question that a certain percentage of naturalization cases would require experienced personnel to adjudicate the application. For that reason, as Commissioner Meissner told the OIG, the temporary officers' training was predicated on the premise that the new adjudicators would be given only "straightforward, routine work" because they were not "full-blown" examiners. As David Rosenberg, the INS Headquarters official in charge of training for CUSA explained, new adjudicators "were supposed to be assigned to what was called routine or simple cases where the evidence was fairly clear with the documents." CUSA organizers believed that most of the cases that would be adjudicated during CUSA would, in fact, be "routine," and this belief was evident in the fact that the new recruits would outnumber the existing adjudications staff in the Key City Districts by a ratio of almost three to one.

For these new recruits, then, INS essentially followed the theory of "modular" training and based the CUSA training curriculum on the portion of IOBTC that focused on naturalization. The design team met for three days and debated, among other things, about how long the training course needed to be. Ultimately, they decided on a 40-hour training package for new CUSA adjudicators.

Almost half the training was devoted specifically to the N-400, including topics such as "basic procedures," "scheduling practices," and "commonly raised issues." The training also included four hours on interview techniques, three hours on ethics, four hours on basic immigration law, and three hours on nationality law. The CUSA course devoted more time (18 hours) to adjudication of the N-400 than did IOBTC (5 hours) but, as noted at the outset of this chapter, much less time to general nationality law (3 hours versus 24 hours) and immigration law (4 hours versus 80). The training contemplated on-the-job training for new adjudicators after the completion of the classroom training, although no specific period of time was identified.

According to Pierre, the leader of the group that developed the CUSA training curriculum, INS' plan to "pre-screen" cases before they would be assigned to a temporary adjudicator resulted in the group's decision to omit various aspects of the immigration process normally covered in IOBTC. Because the new adjudicators were not expected to handle cases involving anything out of the ordinary, the CUSA training program did not include training on deportable offenses or, with a few exceptions such as conviction for an aggravated felony, on the factors that precluded an applicant from being eligible to naturalize. As noted previously, like the IOBTC, CUSA training also did not include specific instruction for new recruits on exercising discretion in the determination of "good moral character."

Pierre said that the training did not prepare adjudicators to operate effectively in an environment where they were required to adjudicate more complicated cases. Therefore, unless cases were pre-screened the training was inadequate to permit adjudicators to discharge their duties responsibly. In addition, even with pre-screening, some cases would not be recognized as problematic until after an interview had begun. New officers also had to be able to refer those cases to a more experienced "secondary" officer.

The minutes of the training group's September meeting, as well as interviews of Rosenberg and Pierre, revealed that the notion of "pre-screening" cases assigned to the new CUSA adjudicators was fundamental to the success of the abbreviated training program. Pre-screening, however, was not an aspect of the training program that was developed by the group at their September meeting. Instead, the training group assumed that the more complex cases would be screened out "way in advance" of the interviews and the group's focus was only on creating a training program that would prepare new examiners to handle their relatively "simple" interviews.[20]

The participants at the September meeting did not consistently recall any emphasis on putting the new adjudicators to work in a primary/secondary-processing environment. Most remembered the issue being discussed at some point after CUSA had been implemented, but most also believed it had no practical application for his or her district. In other words, most of the Key

[20] Indeed, most Key City representatives at the meeting did not recall any particular emphasis on pre-screening.

City representatives at the training meeting had heard about the idea but had not paid much attention to it.

Thus, the people who developed the training package for temporary CUSA adjudicators did not concentrate on how to ensure that the new adjudicators would be placed only in an environment in which their training would be appropriate. Instead, they focused on what the training should be assuming that the appropriate conditions in the districts existed. As Rosenberg pointed out to the OIG, exactly how cases were to be "pre-screened" or otherwise assigned to adjudicators was viewed as a "local issue" within the authority of the districts. However, INS Headquarters failed to engage the Field in discussions about whether "pre-screening" would be feasible either before or after the September planning session. Further, the Field was not effectively advised of the fundamental assumptions underlying the new officers' training and, therefore, was not warned about the critical importance of pre-screening cases. We found that INS Headquarters essentially left to chance whether the Field would employ the temporary adjudicators in a manner that was consistent with their limited training.

6. Training implementation

Although many witnesses told the OIG that one week of classroom training for a naturalization adjudicator could never be adequate, for purposes of our report we assume that the temporary training program designed for CUSA could have been an effective and responsible approach if INS had ensured that it was implemented in a manner consistent with its design. In other words, it is beyond the scope of this report to determine whether the training model developed could have been sufficient. What is more appropriately addressed here is the manner in which the model was actually implemented and the effects of INS' failure to ensure that temporary adjudicators would be used only in a manner consistent with the limitations of their training.

a. "Train the Trainer"

The first step in the implementation of the CUSA training program was the "Train the Trainer" session held in Glynco from January 23-25, 1996. The CUSA training design group had determined that the program would be implemented by training employees from each of the Key City Districts and then relying on those trainers to return to their districts to teach other

employees. INS had previously employed this "train-the-trainer" approach in order to offer courses in district offices. The design group assumed that the INS employees attending the Glynco meeting would be the lead trainers in their home districts.

The purpose of the Glynco session was to familiarize the officers who would train the new adjudicators with the course materials, and by so doing standardize the instruction the new-hires would receive. The session also included a "speak well" program designed to teach the trainers how to deliver the training materials effectively. Although the issue of on-the-job training was not addressed specifically at the January session, the trainers in attendance at Glynco agreed among themselves that new adjudicators who completed this 1-week course should also complete one week of on-the-job training.

Pierre, the FLETC instructor who chaired the September meeting, taught approximately half of the January "train-the-trainer" session. He told the OIG that the participants were instructed that the CUSA training course they were being trained to facilitate had been designed only for temporary DAOs who would be handling simple, pre-screened applications. He also noted to the OIG, however, that his role in the process had been limited to developing the training package, and it was clear to him that how it would be applied was up to INS Headquarters and the Field.

Although we do not doubt that "pre-screening" was mentioned at the January session, the evidence indicates that the limitations of the training course under discussion were not conveyed effectively. Trainers from the Key City Districts told the OIG that they did not learn at the session that temporary DAOs should get "pre-screened" cases or that the adjudication process contemplated a "primary/secondary" review system. The lack of emphasis on this fundamental aspect of the CUSA training program was consistent with the training design group's sense that, although they were to convey the training curriculum to participants at the January meeting, its implementation was the Field's responsibility.

b. Failure to emphasize the specific limitations of CUSA training

INS Headquarters did not, however, instruct the Field about the limitations of the new officers' training and the need to assign these temporary adjudicators only routine naturalization cases. Rosenberg suggested to the OIG that this lack of action on Headquarters' part was out of respect for or

deference to the Field. According to Rosenberg, by the December 1995 meeting in Washington, D.C., Headquarters was already experiencing some resistance from the Field about CUSA and, in his opinion, "there would have been a walk-out" if Headquarters had told the Districts exactly what procedures to follow. He noted that procedural matters regarding how cases are processed and assigned were matters traditionally left to the discretion of the district. So, instead of instructing the Field that the new officers were to be assigned only routine cases, the deployment of the temporary officers was "discussed" with Field managers. Rosenberg said assigning the new officers only to simple interviews "was certainly the direction, the emphasis [Headquarters] wanted people to have."

We found that INS Headquarters went so far in deferring to local autonomy that it did not even advise the Field of the fundamental assumptions underlying the CUSA training approach. In general, trainers and managers in the Field knew that the new officers would be best suited to adjudicate simpler cases, but that was more a function of common sense and not Headquarters' instruction. Field managers did not widely understand that INS had deliberately designed the training to equip the new officers to process only simple cases; instead, they inferred from the brevity of the training that this was all the temporary officers were likely to competently undertake. The problem was that instead of being encouraged, much less instructed, to create an adjudication system to accommodate the new personnel—e.g., instituting systematic file reviews and having primary and secondary officers available at an interview site—the Field was left alone to use the new employees in whatever way it deemed appropriate. Some offices recognized and responded to the limited nature of the temporary employees' training and made adjustments to their methods of assigning cases.[21] Others, however, understood the message from Headquarters differently. These offices did not believe that Headquarters was asking that they change their methods; they believed that Headquarters was essentially demanding that they increase their rate of production, and that they were to do this using new, inexperienced, lower-grade, temporary officers who in every district outnumbered the more experienced staff.

---

[21] In addition, a number of CUSA trainers, recognizing the weaknesses of the training program they were asked to present, supplemented the national curriculum with their own materials.

c. Temporary officers did not adjudicate cases in the setting contemplated by the CUSA training program

As previously discussed, the CUSA training program assumed that temporary officers would be assigned pre-screened cases that they could refer to a more experienced adjudicator if need be. The evidence shows that most CUSA offices did not implement these procedures or, for that matter, any quality-control measures to help ensure that temporary officer were appropriately adjudicating cases. Where such measures were implemented, they were not the product of any leadership provided by INS Headquarters, but rather resulted from local managers' independent efforts to improve the adjudication process.

(1) Pre-screening not implemented

The first quality control measure contemplated by the CUSA training curriculum—the pre-screening of cases assigned to temporary adjudicators—was never implemented. For the most part, we found that trainers and managers in the Key City Districts were unaware that the CUSA training design depended on pre-screening of the assigned work. No Key City District implemented a pre-screening process. Indeed, given the nature of the pre-screening concept, it is difficult to view its implementation as a serious proposition. Pre-screening would have required that each naturalization case undergo not just one but at least two reviews. The first review would have to be done by an employee who had enough experience to separate the simple cases from those that were complex, consuming a great deal of time and tying up one or several experienced adjudicators. At a time when the Field was trying to find ways to process cases more quickly, adding another level of review was likely to be perceived as counter-productive.[22] Rosenberg told the OIG that even though Headquarters had "assumed" there would be some pre-assignment review of cases, he thought cases had most likely been assigned to adjudicators in the conventional "rotational order."

---

[22] "Pre-screening" cases was often discussed in the abstract as part of the reengineering of naturalization and was discussed at the July 1995 backlog reduction meetings as a possible method of streamlining adjudications. It was also the foundation for the "interview waiver" strategy discussed below. In that context, unlike here, pre-screening would save time because, as a result, the interview could be omitted altogether.

(2) Primary/secondary strategy implemented in one CUSA office

Only one CUSA site—the El Monte office in the Los Angeles District—implemented the second quality-control measure, the adjudication of naturalization cases in a primary/secondary setting. Temporary adjudicators at the El Monte office were arrayed like tellers at a bank. When an adjudicator became available, a clerk would deliver a file along with the next applicant. The temporary officer conducted the preliminary interview. If a problem arose that required more in-depth questioning or pertained to an issue outside the officer's expertise, the applicant was directed to a secondary officer who would conduct a longer interview with the applicant.

The Los Angeles District did not design the El Monte system because of the limited CUSA training. Rather, the District adopted the system to increase production and modeled it after airport inspections because local officials viewed this as an efficient method of processing people more quickly. The "next available officer" approach meant that an applicant did not have to wait until a particular adjudicator, who might have been delayed with another applicant, was free. Nevertheless, Los Angeles was the only Key City District to create in one of its offices—albeit unintentionally—an adjudication environment that resembled the setting for which the temporary officers' training was designed.

i. Primary/secondary without prior review of the file incorrectly assumed that primary officers could always identify the "complex" case

The effectiveness of the primary/secondary examination approach as a quality-control measure was limited in the absence of prior review or pre-screening. The primary/secondary strategy was to be used *in addition to* the pre-screening of cases despite the obvious inefficiencies. Not every case that might strike an adjudicator at interview as complex could be weeded out in advance, and thus the primary/secondary format gave the temporary officer a method of handling a case that had not been initially considered complex but was recognized as such at the interview. Without pre-screening, the primary/secondary strategy assumed that the temporary adjudicator had enough training to recognize a complex case. That assumption, however, was misplaced. According to Pierre, new officers trained for the CUSA program would not necessarily be able to discern such issues.

Some, including Rosenberg, argued that in many instances any adjudications officer would be able to determine whether a case was straightforward or complex by reviewing the documents in the file. Clearly, if an applicant's file was thick with previous deportation orders or arrest warrants, even an adjudicator who had not been trained about such matters would be on notice that the case could be "complex." The ability to make even that determination, however, was dependent on the adjudicator having access to the applicant's file. As discussed elsewhere in this report (see our next chapter on A-file practices), temporary adjudicators during CUSA often had to make their determinations without the benefit of reviewing the permanent file. At the El Monte site, because of its "next available officer" design, the temporary adjudicator did not have an opportunity to review the application or the file before the applicant arrived in front of him or her for an interview. Even on those occasions when the permanent file was available at the interview, it was not possible to review it before the interview began. In any event, even if a file was available, and even if the adjudicator had time to review it, these new officers had not been trained to understand the significance of most of the documents it contained.

ii. Primary/secondary strategy did add some quality control during times of high production demands

Temporary adjudicators and supervisors who worked at El Monte criticized the working conditions at that site, as described later in this chapter. However, despite the pressure the officers were under, the evidence shows that the El Monte officers were more likely to refer a case about which they had questions to a senior adjudicator than were Los Angeles adjudicators in other locations that did not employ a primary/secondary strategy.

In interviews with the OIG regarding the quality of the adjudicative process, several "primary" adjudicators who worked at El Monte specifically noted that they would refer cases to another officer if the applicant had a criminal conviction. In the primary/secondary setting, it was easy to get another officer's evaluation of a case because the senior officers were available at the same site on the same day. Upon referral, the secondary officer could make a determination of the applicant's eligibility or, if the applicant needed to provide additional documents, could continue the case for a "reexamination" on another date. Although temporary officers at other locations also could refer a question about an applicant's criminal history to another adjudicator,

that referral would constitute a continuance of the case for reexamination on another date at the Continued Unit downtown. Temporary officers at El Monte thus had access to a second opinion without having to continue a case to another examination date. Although we found no evidence that any Los Angeles officer was explicitly instructed to adjudicate a case about which he or she had an eligibility-related question, continuances were discouraged both by on-site supervisors and by the District's Continued Unit, which was swamped with work. In contrast, the temporary officer in the primary/secondary setting had the opportunity to obtain another officer's view of a case without feeling pressure for continuing a case.[23]

Having access to more experienced officers was particularly useful to the primary adjudications officer when an applicant failed to admit an arrest that was reflected in his or her FBI criminal history report. In Los Angeles locations that operated under the traditional model, the interviewer could recommend a denial if the applicant failed to admit an arrest and the interviewer determined that the applicant deliberately was misrepresenting his or her history. Such a denial required that the officer take a statement from the applicant to document the misrepresentation before continuing the case. In the primary/secondary setting, an officer faced with an applicant who did not admit an arrest could refer the case to a secondary officer. In such cases, the primary officer was not required to prepare an applicant statement. The secondary officer, generally a more experienced interviewer, either could clarify any misunderstanding with the applicant or better document the misrepresentation and thus support the denial. Again, although primary officers were not encouraged to shift responsibility to secondary officers, the primary/secondary system afforded them an option short of continuance for handling the more complicated case.

The El Monte example illustrates the way in which the primary/secondary process could improve quality control. However, it was not a processing model that inherently was more reliable than the traditional model of preliminary interview followed by reexamination if necessary. Under both strategies, applications that raised questions for a temporary officer could be

---

[23] El Monte primary adjudicators were expected to complete their share of cases each day and referrals to secondary adjudicators did not count as "completions." Accordingly, we found some implicit pressure not to refer a case for secondary review. Such pressure undermined the usefulness of the primary/secondary system.

assigned to a more experienced adjudicator. In times of great demand for naturalization interviews and pressure to complete as many cases as possible, however, continuances undercut the timely attainment of the CUSA objective. Aside from the fact that a reexamination was inconvenient to applicants who had already waited a long time for the initial interview, rescheduling inherently was less efficient than completing the case on the day it was first scheduled. Beyond these intrinsically inhibiting factors, we found that during CUSA continuances were explicitly discouraged. Even in an environment where continuances were implicitly or explicitly discouraged, the availability of secondary officers meant that cases too complex for the new adjudicator could nevertheless be referred to an officer with greater experience.

Outside of El Monte, no CUSA office instituted a primary/secondary adjudications strategy.

(3) New officers were not adequately supervised

Headquarters officials' position that a temporary workforce could be deployed quickly and appropriately for the CUSA project rested not just on the assumption that a tailored training course could be designed and implemented, but also on the premise that these new employees would be adequately supervised. As Deputy Commissioner Sale told the OIG, "it's not as though you started from zero and built an entire organization with all temporary employees, all of whom knew nothing and had never sort of worked here before. There was a structure that had, that presupposed journeymen supervision on the part of experienced personnel." Similarly, Commissioner Meissner told the OIG that CUSA relied on the "supervisor structure to work the way it should work." At the same time, INS Headquarters recognized that temporary officers would require more supervision than permanent, fully trained officers. The adequacy of this supervision, like other aspects of new adjudicator training discussed above, was left to Field managers' discretion with little input from Headquarters. With the huge influx of new personnel and the resulting lack of proportion between experienced and inexperienced staff, however, few offices succeeded at offering adequate supervision.

Managers in two Key City Districts, Miami and San Francisco, took it upon themselves to enhance the basic new officer training by making adjustments that were geared toward providing new employees more access to supervisors or senior staff. Even in these districts, however, the number of new employees was too great to permit adequate supervision, particularly during a

time when experienced personnel were focused primarily on meeting production goals. In contrast, the New York District's CUSA office was staffed almost exclusively with temporary personnel, and the District provided even less supervision to these new recruits than it had in previous years to its permanent staff. The evidence shows that the goal of increasing production overshadowed the attention that INS should have paid to supervising these new officers.

i. Districts that made efforts to add local quality-control

(a) Miami District's two-tier processing

No Miami District manager or trainer we interviewed was aware that CUSA training presumed that new adjudicators would be assigned to work only on simple cases or that they were supposed to "pre-screen" cases. Even though the Miami representative at the September training design session did not become a trainer of CUSA hires when she returned to her district, it would not have mattered—she told the OIG that she did not recall any discussion of "pre-screening" cases and only remembered occasional mention of the "primary/secondary" adjudication system.

The Deputy Assistant District Director for Naturalization (DADDN), Elaine Watson, and several supervisory DAOs told the OIG that they were very concerned that temporary adjudicators hired "off the street" with no immigration experience would be adjudicating N-400s. DADDN Watson told the OIG that she knew it was impossible to hire and train new employees for applicant interviews in such a short period of time. Because of these concerns, Miami naturalization managers created a two-tier system for interviews in which temporary officers conducted initial or preliminary interviews and the more experienced adjudicators conducted reexaminations. When the temporary officers needed additional information or when a question arose that they could not answer, they continued cases for a reexamination on another day. In addition, we found that these temporary officers in Miami were encouraged to ask questions of the more experienced officers and, in contrast to the Los Angeles District, to continue cases about which they had questions or doubts. In part, DADDN Watson implemented this two-tier system because she doubted the temporary adjudicators' ability to assess eligibility and therefore wanted to limit their discretion.

Despite Watson's concern, the effectiveness of the Miami District's response—the two-tier system—was limited by the system's dependence on the presumption that a temporary officer with minimal training would be able to recognize a complex issue in a naturalization case.[24] This shortcoming in the system was true especially by the late summer in the Miami District, when adjudications were often conducted on the basis of temporary files (see our next chapter concerning A-file policy and practices). Moreover, encouraging the new hires to ask questions of their supervisors often yielded only frustration to the temporary officers because of the disproportionate ratio of temporary officers to supervisors. DAOs told the OIG that the constant line of people waiting to ask questions was a disincentive to temporary officers because the time spent waiting for an answer was time that could not be spent conducting interviews.

The effectiveness of Miami's attempt to bolster a training program it considered inadequate also was undercut by the District's resource limitations. Before CUSA, Miami District employed approximately ten permanent DAOs, seven of who conducted naturalization interviews. The seven permanent DAOs, who all had considerable experience in naturalization, were supervised by one SDAO. Throughout most of CUSA, when the number of inexperienced adjudicators had increased seven-fold, only two supervisors devoted all of their time to supervising the temporary adjudicators. By June 1996, the Miami District Office was scheduling interviews for 50 temporary officers six days a week. A third experienced supervisor helped to supervise these officers in addition to making caseload assignments and handling complaints from the public.[25] Thus, during CUSA the ratio changed from 1 supervisor for 7 experienced officers to 2 or 3 supervisors for 50 inexperienced officers.

---

[24] For example, certain visas to enter the United States have been available only to persons who were unmarried and who had no dependents. If an applicant who entered on such a visa revealed at the naturalization interview that he had been married for many years—since before the entry visa was issued—that could arouse the suspicion of previous immigration fraud in an experienced examiner. The CUSA examiner, untrained in various visa classifications, would not notice such an issue.

[25] Miami had a total of five SDAOs during CUSA. In addition to the three mentioned, one SDAO was assigned to supervise the clerical staff that were located on a different floor than the examinations staff and were moved to a night shift. The fifth SDAO was reassigned around May 1996 to supervise the permanent DAOs who conducted

DADDN Watson and two of the three SDAOs who supervised the temporary officers acknowledged in interviews with the OIG that they did not have enough supervisors to adequately supervise the new hires. One SDAO reported that supervisors raised this issue to DADDN Watson and CUSA site coordinator John "Jack" Bulger at the time, but that Watson and Bulger replied that there was nothing they could do to obtain more supervisors. Bulger informed the OIG that the issue was raised with the Eastern Regional officials who advised that more supervisors would not be authorized.

(b) Supervision in the San Francisco District Office

Miami District's two-tier system recognized the limitations of the new officer training even though it ultimately foundered on the lack of supervision and its faulty assumption that new examiners could recognize potentially disqualifying issues. The San Francisco District, reacting to the same problem, devised a useful supplement to the 40 hours of classroom training: a mentor program in which senior DAOs in the San Francisco District Office were excused from interviewing in order to monitor the work of new hires. The new temporary adjudicators had to present every case to their assigned mentor and were not permitted to approve cases on their own until they reached an acceptable level of competence. The two San Francisco trainers also produced weekly continuing education briefs that included feedback on common mistakes noted by mentors and supervisors. Several DAOs and managers specifically cited the mentor program to the OIG as a needed quality-control measure.

Unfortunately, this effort to address the limitations of the new officer training was not implemented uniformly throughout the District. New adjudicators in Sub-offices throughout the District grappled with interviews without the benefit of the main office's mentoring program.[26] ADDA David

---

reexaminations and wrote denials. These officers were located on the opposite side of the building from the temporary adjudicators.

[26] The San Francisco District hired approximately 85 to 90 new adjudicators for CUSA (INS could not confirm the exact number). Of those, approximately half were assigned to the San Francisco District Office (including the Oakland satellite office) and four were assigned to the Sacramento Sub-office. The balance was divided between the San Jose and Fresno Sub-offices.

Still, although he considered himself in charge of CUSA, told the OIG that he did not discuss San Francisco's mentoring program with the Sub-offices and did not suggest that they implement the same system. He stated that ensuring adequate training and supervision of temporary officers was the job of the Officer-in-Charge at each Sub-office. We found no indication, however, that these Officers-in-Charge understood CUSA training to be their responsibility. Consequently, the San Francisco District mirrored within its boundaries the same laissez-faire approach to training that existed between INS Headquarters and the Field.

Working conditions in the San Francisco District's Sub-offices made it less likely that they spontaneously would adopt enhanced training or monitoring procedures during CUSA. Personnel in these Sub-offices were under greater time pressure to process cases than staff at the District Office. The District Office had more clerical and managerial resources and reached its goal of naturalization backlog "currency" by the beginning of the summer of 1996. Managers in the District Office could afford to spend more time supervising the temporary officers because the main office was not struggling as hard to meet CUSA's production goals as were the Sub-offices.

Indeed, in contrast to the mentoring program in San Francisco's main office, the admittedly inadequate CUSA training was not even wholly implemented in one of the Sub-offices. We found that new adjudications officers assigned to the Fresno office received only three days of the five days of classroom training followed by two or more days observing senior adjudications officers.[27] No senior DAO (other than the temporary supervisors) was stationed at the Fresno site to mentor or otherwise assist the temporary officers. Assistant District Director for Adjudications David Still

---

[27] In addition to the Fresno example, other CUSA hires received less than the 40-hour training package. Los Angeles trainers recalled having to release some students before their weeklong course was over because they were needed to begin work at El Monte. In the Chicago District, after a 40-hour class and three to four days of on-the-job training was provided to the first group of new officers, new staff who entered on duty one or two at a time thereafter were provided an abbreviated combination of classroom work and on-the-job training that consisted of a total of three days to one week. As alleged by Thomas Conklin, one of two Chicago trainers, when he testified at the September 1996 congressional hearings, the first and only full-length training class in Chicago was offered to approximately eight temporary officers and six or eight newly hired permanent DAOs. See our discussion of CUSA training in Chicago, below.

said that he had suggested transferring some experienced adjudications officers from the main Fresno office to the CUSA site to help the temporary employees, but Donald Riding, the Officer-in-Charge in Fresno, declined. Riding told the OIG that he made the decision not to place senior DAOs in the CUSA office to process naturalization applications because Fresno's main office had a large backlog of adjustment of status applications that were more difficult to adjudicate and required the attention of experienced DAOs.[28]

The effect of limited resources also was felt in the San Jose office, which attempted to implement a modified monitoring system. CUSA training in San Jose consisted of 40 hours of classroom education followed by a week of on-the-job training. During that week, the new officers were assigned to adjudicate ten cases per day. At the end of each day, the CUSA trainer reviewed their files and provided feedback. As the size of the classes grew larger, the trainer selected a sample of each person's work or asked each new officer to show her a case in which he or she had questions.

The San Jose trainer, however, was promoted in May 1996 and assumed supervisory duties over the temporary officers at the CUSA site (where one other SDAO was assigned). During CUSA, the same trainer/TSDAO also served as the point of contact for both the Designated Fingerprinting Services (DFS) program and the Fingerprint Clearance Coordination Center. As CUSA advanced, she began receiving huge stacks of fingerprint cards and rap sheets from the FBI several times a week. She personally reviewed the rap sheets and made queries for each in INS databases. As a result of her increased responsibilities, she told the OIG that she was "swamped" in her various duties and could not devote as much time to training as she would have liked. The only other on-site supervisor told the OIG that the temporary adjudications officers in San Jose were not well monitored, noting that she, too, had scheduling and other administrative responsibilities unlike first-line supervisors in the District Office.

[28] Chicago managers echoed Riding's belief about competing demands for adjustment adjudicators during CUSA (see our discussion of this issue in the chapter on CUSA's effects on adjustment of status processing).

ii. The failure to provide adequate training and supervision: the New York District's Garden City CUSA site

The potential vulnerability of INS' strategy of using a large number of inexperienced officers to meet CUSA's production deadlines was most fully realized at the New York District's CUSA site in Garden City on Long Island. Without explicit guidance from INS Headquarters about how to deploy the temporary adjudications staff, local management made personnel assignments—such as staffing a new office almost entirely with temporary staff—that failed to provide the new employees with adequate supervision.

Because the new adjudications officers at the Garden City site completed thousands of cases per week, Garden City was considered at the time a CUSA success story. This level of production, however, was achieved using newly hired officers who were under-trained and under-supervised and yet expected to handle the same number of cases as experienced officers. INS management's perception that Garden City was a success illustrates CUSA's focus on production at the expense of quality.

Although District management had first-line responsibility for the staffing decisions made in the New York District, the Garden City story cannot fairly be described as solely the failure of local management, as was asserted by INS Headquarters officials in interviews with the OIG once Garden City-style processing had been soundly criticized in the wake of CUSA. We found that the decisions made by managers in New York were consistent with what Headquarters had encouraged Field offices to do with respect to CUSA production.

(a) Choosing the Garden City site and staff

Before the opening of its CUSA site, New York District's naturalization adjudications took place at the District's offices in Manhattan and Brooklyn. The Brooklyn office was the larger of the two sites. In selecting a new location for a CUSA office, District managers chose Garden City on Long Island because, according to ADDE Richard Berryman, the existing INS offices had no room to expand and 70 percent of the New York District's applicants came from Long Island.

Although the ADDE reported that District managers always had intended to staff any new site primarily with temporary officers, other managers,

including District Director Edward McElroy, advised the OIG that they intended the new site to have a good mixture of temporary and permanent personnel. No New York manager told the OIG that he or she was aware at the time that CUSA adjudicators were specifically trained to handle only routine, pre-screened cases or for adjudications only in a primary/secondary setting. These managers told the OIG that their presumption about mixing experienced and inexperienced staff at the new site was simply a function of common sense. This common sense principle, however, was not enforced.

According to Rose Chapman, the New York District's Naturalization Section Chief, the selection of Garden City as the District's CUSA site was a crucial factor in the New York District's failure to staff the site with officers of different experience levels. When the Garden City site opened in April 1996, it was already behind schedule as were many other INS naturalization offices opened during CUSA.[29] New York District managers attempted to recruit volunteers from its journeyman staff to work in Garden City. Because it was a difficult commute to the Long Island site for employees who worked and lived closer to Brooklyn and Manhattan, and because Garden City was in a geographical area with a lower pay scale, only a few permanent employees (who lived on Long Island) volunteered for reassignment. Anticipating objections from the union that represented the adjudications officers, New York management did not transfer permanent employees against their wishes.[30]

As a result, Garden City was staffed with more than 100 temporary officers and 60 temporary clerks. The only permanent staff assigned to Garden City were the site manager, two recently promoted temporary supervisory adjudicators with no previous supervisory experience, and a clerical supervisor. Later, in June 1996, a third temporary SDAO was assigned and a permanent

---

[29] One month earlier, representatives of NPR and INS Headquarters officials visited the New York District and discussed with local managers the number of cases the District needed to complete by the end of the fiscal year to meet their CUSA goal. The group also discussed strategies for quickly recruiting new officers (see the chapter "White House/NPR Involvement in the CUSA Program" for more details on this visit).

[30] Naturalization Section Chief Chapman had some preliminary discussions with the employees' union about forced transfers of permanent employees. When union representatives balked, the decision was made to solicit volunteers. When few volunteers were forthcoming, however, New York management did not pursue the transfer issue any further with union representatives.

adjudicator was added in July. Two additional acting supervisory adjudications officers were assigned to Garden City, but their duties did not include supervision of temporary officers (one supervisor was in charge of closing out cases and the other one acted as a senior adjudicator).

The two newly appointed, temporary SDAOs told the OIG that they were expected to provide supervision to the more than 100 temporary officers. Instead of the ratio of one supervisor for every 10-15 experienced officers to which they were accustomed, they each assumed their duties with more than 50 inexperienced officers to supervise. Although these temporary officers had received the full 40-hour CUSA training course, many managers within the District regarded the training as insufficient to prepare officers to adjudicate the wide variety of naturalization cases in an environment like Garden City. Consequently, one of the Garden City supervisors told the OIG that he had little time to do anything other than spot-check the new employees' work.

(b) District-level management of Garden City

The Garden City supervisors and the site manager all told the OIG that they frequently complained to Naturalization Section Chief Chapman that they needed additional supervisory staff. When none came, they devised their own makeshift mentoring program, using temporary officers who had at least a few weeks' experience to review the newest employees' work. They designated "team leaders" for each team of temporary officers and the team leader had the responsibility to bring the team's questions to the supervisor. The District Director learned of this practice when he was asked about it in his interview the OIG, and in response he said it was "like becoming a platoon leader because you're the only one left alive." For their part, the temporary officers resented this structure as an inadequate substitute for real supervision, and the practice was stopped in June 1996.

In interviews with the OIG, New York managers engaged in a certain amount of finger pointing about where the responsibility lay for the decision to staff Garden City almost exclusively with temporary personnel. Although the evidence is clear that the Garden City supervisors and site manager reported their concerns up through their chain-of-command, the record contains conflicting evidence once the issue reached the Naturalization Section Chief. Section Chief Chapman told the OIG that she discussed with ADDE Berryman her concerns about Garden City's staffing, but that the discussion ended without any progress when it became clear that she already had unsuccessfully

attempted to solicit more journeyman volunteers. The ADDE, on the other hand, denied that his subordinates had explicitly advised him that Garden City required more journeyman officers. It is far from clear, however, that he would have regarded such discussions as necessitating remedial action because he believed that the temporary officers did not need much supervision to adjudicate N-400s. In fact, he told the OIG that he believed that assigning four SDAOs to Garden City was sufficient, despite his recognition that this did not conform to the customary INS ratio of supervisors to adjudications officers. He explained that he would not have been concerned about this ratio absent learning that things in Garden City had been "grossly amiss."

Deputy District Director Mary Ann Gantner, who acknowledged that she was aware that very few journeyman officers volunteered to go to Garden City, said she was never informed that Garden City needed additional permanent staff. District Director McElroy said he was unaware that Garden City was staffed almost exclusively with temporary officers and said that the first he learned of it was when he was interviewed by the OIG in 1998. He told the OIG that it was wrong to have allowed Garden City to operate in this fashion and stated that learning of it made him "angry." He said he had specifically asked his senior managers, although he could not recall who,[31] to ensure that Garden City was staffed by a mixture of permanent and temporary personnel. Although he made two trips to the Garden City site during CUSA, he told the OIG that he had not been made aware of the staffing situation during those visits.

The Garden City situation was, in some respects, a microcosm of the development and implementation of CUSA generally. The District Director (the top level of management) readily condemned the situation, but maintained that he had no idea what was happening in his District, despite ample opportunities to observe the situation first-hand and a clear responsibility to be aware of significant issues in the District. The ADDE, whose responsibility for field practices was more direct, simultaneously defended Garden City's unreasonable supervisor-to-officer ratio while blaming his subordinates for not advising him that the situation needed to be corrected (although the subordinates insist that they told him). Finally, the field-level supervisor

[31] District Director McElroy believed it likely that he had addressed these comments to the Deputy District Director and the ADDE "collectively." The ADDE was the primary official in charge of the CUSA program at the district level.

(Section Chief Chapman), once she had voiced her concerns, felt that the circumstances afforded her little choice but to implement the policy set forth by her superiors. Thus, the on-site supervisors did what they were told and managed as best they could while higher level district officials appeared oblivious or indifferent to problems that should have been self-evident. Management was detached from obvious problems and thus failed in its duty.

(c) Headquarters-level management of Garden City

In interviews with the OIG, INS Headquarters officials condemned the Garden City situation but asserted that it was caused by the failings of local management. Rosenberg characterized it as "appalling" but asserted that he had not known about it at the time and that, in any event, the New York District managers would not have been receptive to intervention by Headquarters. As he put it, there was a saying at INS that there was a "right way, the wrong way, [and] the New York way." Crocetti said he learned about the Garden City staffing situation when he visited the site after CUSA in early 1997. He told the OIG that he would not have chosen to staff Garden City in the same way and asserted that, when he returned to Washington, he made efforts to improve their supervisor-to-officer ratio. Commissioner Meissner said she was unaware of the Garden City situation until she was interviewed by the OIG and she reacted to the information by telling the interviewers that such a disproportionate ratio of supervisors to inexperienced personnel was simply "wrong."

Although we found no evidence to contradict the contention of key CUSA managers at Headquarters that they were unaware of the staffing situation in Garden City, the lack of awareness was itself a management failure that again typified Headquarters' focus on production rather than on careful adjudications. Headquarters officials knew that opening Garden City would almost immediately triple the number of interviews in New York to more than 2,000 per day, an increase in production that would be primarily borne by inexperienced adjudicators. Although Headquarters officials may not have specifically anticipated the Garden City situation, we found the risk that new adjudicators would operate under circumstances that failed to recognize their limitations was foreseeable. Moreover, some information that the New York District was having difficulties staffing Garden City with permanent officers did reach Headquarters senior Field Operations personnel without prompting any reaction or intervention from Washington.

Apart from generalized discussions at the December 1995 meeting, INS Headquarters did not emphasize to the Field the importance of establishing appropriate working environments at the CUSA sites. During Rosenberg's March 1996 trip to New York before Garden City opened, his emphasis was not on the training or supervision of the new officers even though 118 temporary adjudicators would be added to a naturalization staff that had previously numbered 24.[32]

The circumstances under which adjudications were conducted in Garden City reflected INS Headquarters' same failure to monitor implementation of a new program that afflicted the CUSA training program described earlier. Even assuming that Headquarters' most optimistic expectations about the training and abilities of new adjudicators were accurate, the success of these new employees was dependent upon their proper deployment and adequate supervision. In the absence of deployment that recognized the new adjudicator's limitations, a decline in the quality of adjudications was inevitable. As one Garden City supervisor who harshly criticized the training and supervision of new adjudicators told the OIG, "the government got what it paid for."

d. Lack of monitoring and evaluation of the CUSA training program

The failure to deploy temporary adjudicators during CUSA in a manner consistent with their training reflected, in part, an absence of monitoring or evaluation. CUSA Headquarters managers viewed such efforts as unnecessary while the Training Branch believed such efforts were needed. Paul Pierre, who chaired the group that developed the 40-hour CUSA curriculum, told the OIG that the "disconnect" between the model for which he designed the training and

---

[32] One of the persons who spent time in Garden City and learned about its problems was Laurie Lyons from the NPR staff. In a June 1996 e-mail message she was advised by a DAO acquaintance that "the operation at Garden City is known as a soft touch in the immigrant community and a significant part of the problem is the pressure to produce numbers. 6 Weeks [sic] into the program and you have DAO's [sic] who are still unaware of what documents are required to qualify applicant's [sic]. They do now [sic] the number of cases required to keep their temporary jobs and how best to get to that number." Lyons' interaction with the New York District staff and the broader involvement of NPR in the CUSA program are discussed in our chapter on White House/NPR involvement in the CUSA program.

the actual circumstances under which temporary officers conducted adjudications occurred because too much autonomy was given to the Field and no one was directed to monitor the program. Pierre told the OIG that he asked to travel to Field offices to evaluate the program but was told that there was no budget for such an effort. As a result, according to Pierre, the program basically had no oversight. Vance Remillard, who was named INS' Director of Training shortly before the September 1995 meeting to design CUSA training, agreed that the training program should have had an implementation plan and "should have been done differently." Rosenberg, on the other hand, told the OIG that no evaluation of the training program was undertaken because the course materials were essentially those that permanent adjudications officers received at FLETC and also because CUSA was viewed as a temporary program.

In lieu of on-site evaluations, Pierre asked that questionnaires be distributed to the Field to evaluate the training program. That request resulted in a report by the Research and Evaluation Section of the Training and Development Branch in August 1996, one month before the end of the CUSA year. The report acknowledged that the perceived urgency to develop an abbreviated training program had resulted in a "collapsed development process that did not permit a formal needs analysis." The omission of this step, the Training Division concluded, "was a flaw of HQ planning."

Surveys were initially distributed on May 6, 1996, and because of a low response rate the return date was extended to July 12. Even with this extension, however, the survey yielded only 20 responses or a total survey return of 26.9 percent. According to the Research and Evaluation Section's report, a minimum return rate of 80 percent was considered necessary to have a high level of confidence in the survey results.

Nevertheless, the Training Branch reached several conclusions based on the limited information. Noting that the comments of training program graduates raised concerns about the brevity of the program, the lack of standardization, and the quality of the work product, the Training Branch concluded that "[t]here is a need for a thorough review of the training provided to personnel enrolled in the CUSA training program." By that time, however,

it was August 1996, one month from the end of CUSA. No review was undertaken.[33]

(1) Chicago District did not implement the training program as designed

In the absence of oversight from INS Headquarters, the Chicago District failed to implement even the limited CUSA training program for its temporary adjudicators. The truncated course offered in Chicago meant that the new officers there had even less training than new officers in other districts.[34]

We found that the Chicago District provided the full, 40-hour CUSA training session for only its first group of new adjudicators. Thereafter, according to the adjudications officer responsible for training new recruits, the training was limited to two or three days for one or two adjudicators at a time. By reducing the training time, Chicago was able to train new examiners as soon as they came on board and at the same time ensure that the trainer, who had other responsibilities, remained available for his collateral duties. The principal supervisory adjudications officer for the naturalization unit told the OIG that the individual attention the trainer could give to the one or two new officers compensated for the compressed teaching time.

The notion that a compressed period of individual training could substitute for the full classroom curriculum was not shared by everyone in Chicago.[35] The Chicago representative at the September 1995 meeting at INS Headquarters during which the training was devised told the OIG that the 2- or 3-day training sessions were plainly insufficient.

---

[33] In October 1996, prompted by a request by the OIG for information about the CUSA training program, INS disseminated to approximately 200 adjudicators the same questionnaire originally distributed in May. Although no formal report of the survey's findings was ever prepared, the Headquarters staff member responsible for dissemination of the survey told the OIG that the survey results showed that the training should have been longer.

[34] Although, as noted above, some new officers in other districts received a shortened training program, in Chicago this was the rule and not the exception.

[35] In addition to the lost classroom time, the abbreviated on-the-job training often consisted of new temporary adjudicators observing slightly more experienced temporary adjudicators.

D. INS' failure to provide adjudicative guidance

1. Introduction

It was not just the newly hired staff to whom INS Headquarters failed to provide adequate guidance before expecting them to carry out the CUSA mission. INS Headquarters also failed to provide all of its staff—veteran and inexperienced alike—with appropriate guidance concerning aspects of evaluating naturalization eligibility that already had been revealed to INS as misunderstood or inconsistently interpreted. In this regard, CUSA did not usher in a new way of doing business. Instead, many of the old ways of doing business continued unrepaired, despite the fact that these failures would be magnified by the more than one million naturalization adjudications INS would undertake during fiscal year 1996.

In the discussion that follows, we address INS' failure to provide guidance in three areas: evaluating an applicant's "good moral character," the English and Civics "testing" portion of the interview, and evaluating the applicant's immigration history and its relevance to the naturalization adjudication. We concentrate on these areas because many of the allegations about CUSA made to and by Members of Congress implicated these three aspects of naturalization adjudication. INS' failure to provide adequate guidance in each area tended to preclude adjudicators from finding additional grounds on which to disqualify applicants and thus contributed to making CUSA a naturalization program weighted in favor of approvals rather than denials.

2. No guidance provided concerning the evaluation of "good moral character"

As discussed at the outset of this chapter, by the 1990s the naturalization adjudication had devolved to a review of the applicant's N-400 at a face-to-face interview. However, neither the law nor INS training specifically dictated when or how far an adjudications officer should probe beyond the questions listed in the application.

INS Headquarters never provided specific guidance in this area. As a result, even before CUSA the boundaries of the naturalization interview were defined differently in different offices and by different supervisors, with some

offices more circumspect than others about raising potentially disqualifying issues.[36] As New York Naturalization Section Chief Rose Chapman advised the OIG, it was not unusual to find adjudicators using different standards and criteria for assessing "good moral character." Standards varied from office to office, and even from one officer to another within the same office. Chapman told the OIG that some officers examined only the applicants' arrest records to determine "good moral character," while others considered factors such as misrepresentations in the immigration visa application or failure to pay child support or to file income taxes. The director of Chicago's naturalization operation told the OIG that INS had long needed better guidelines to determine "good moral character." In her view, the many gray areas and the breadth of an adjudicator's unguided discretion were unfair to both the adjudicators and the public. The vagueness of the "good moral character" evaluation not only left the door open to many different interpretations, but also made the process vulnerable to manipulation—that is, applicants could be treated differently depending on who was adjudicating the case.

INS Headquarters officials were aware before CUSA of the inconsistencies that existed throughout the Service in the application of eligibility criteria. Although she was not addressing solely adjudication standards, Commissioner Meissner told the OIG that her reengineering efforts in 1995 were prompted by the fact that it was "legendary" within INS that offices around the country all had their own way of doing things. Among the aspects of naturalization adjudication recognized as needing standardization was the application of the "good moral character" evaluation. A law professor's review of the naturalization process commissioned by INS through the Administrative Conference of the United States in early 1995 noted that INS needed "a clearer understanding of what is required for good moral character." He recommended that INS promulgate clear guidelines on how to treat issues like receipt of welfare benefits and production of documentary evidence like tax returns.

---

[36] As discussed in detail in our chapter on criminal history checking procedures, by the time CUSA began officials at INS Headquarters viewed naturalization applicants as a group as persons at low risk for disqualifying criminal histories. This view also was manifested in the degree to which various INS managers felt naturalization applicants' answers on the N-400 needed to be corroborated by additional documentation. If a group was viewed as a "low-risk" population, further inquiries were not encouraged. Other managers, deeming themselves more "enforcement-minded," felt that corroboration was often appropriate.

Despite the need, INS Headquarters failed to issue guidance to help Field staff determine "good moral character" of naturalization applicants. As late as May 1996, with the publication of the Naturalization Process Changes memorandum (discussed in detail later in this chapter), INS Headquarters continued to cite the vagueness of "the criteria used to determine 'good moral character'" as one of the "procedural barriers" in the way of an improved naturalization process. At that time, the Office of Examinations promised "a policy memorandum defining 'good moral character' in clear terms" that would be published "in a check list form, so applicants and examiners [would] know the requirements." However, no such policy memorandum, checklist, or other guidance was published during fiscal year 1996.

As a result of INS Headquarters' inaction, the disparate adjudication practices taking place before CUSA continued unchecked during CUSA. As production pressure mounted and the emphasis on speed in interviewing increased, discretionary forays beyond the bounds of the specific N-400 questions generally were discouraged. In every Key City District, employees described an interview process that focused on the statutory minimum requirements for citizenship. Many adjudicators told us that they were instructed to explore only those crimes that precluded naturalization or that had been committed within the previous five years, and not to explore older criminal histories.[37] Officers were discouraged from obtaining additional documents, like proof of payment of child support, to corroborate the applicants' statements. We found that during CUSA, most officers did not use the naturalization interview to determine whether an applicant was affirmatively *eligible*; rather, they used the interview only to ensure that the applicant was *not ineligible.*

It was to this discouragement of more wide-ranging inquiry that several INS employees testified during the 1996 congressional hearings into the CUSA program. Such discouragement was not in contravention of the letter of the

---

[37] This instruction meant that adjudicators should not consider crimes outside the 5-year period that did not *preclude* naturalization. According to this instruction, the adjudicator would not have engaged in the type of "good moral character" determination we described in a previous footnote, where we offered the example of an applicant who only had one misdemeanor petty theft conviction within the 5-year period but two outside that statutory period. If the adjudicator did not consider crimes outside the statutory period that were not precluding, this applicant would be evaluated as if he had only sustained the one petty theft conviction, and the history of offenses would not be explored.

law because the law itself did not specify the boundaries of an adjudicator's inquiry. This approach, however, contributed to many adjudicators' sense that inquiries they believed appropriate were being curtailed. Because these inquiries often were directed at exploring potential areas of *disqualification*, their discouragement by management contributed to officers' sense that INS' emphasis during CUSA on completing applications was tantamount to an incentive to *approve*.

Even after CUSA, INS Headquarters officials continued to note the need to clarify the "good moral character" standard but did little to address that need. In response to allegations made by witnesses from Chicago at the September 1996 hearings, INS Headquarters dispatched a "review team" that visited the Chicago District from October 1-3, 1996. The draft report of this review noted that "Chicago employees at the congressional oversight hearing expressed concern about how their district was interpreting regulatory requirements for Good Moral Character." However, the only recommendation the team made concerning these employees' concerns was to "agree that the employees' concerns are valid" and to further note that the "regulation that defines good moral character is vague." The report recommended that "HQ naturalization should review the GMC questions and should issue clear regulatory/policy interpretation. [sic]" The report was silent about the way in which CUSA time pressures contributed to the adjudicators' difficulties in assessing an applicant's "good moral character."

The review team correctly concluded that adjudicators at INS needed clear guidance about how to exercise their discretion in determining whether an applicant demonstrated "good moral character" as required by the Immigration and Nationality Act. What was missing from their review, however, was any acknowledgement that INS had recognized the need for such guidance well before launching the CUSA program and again with publication of the "Naturalization Process Changes" memorandum of May 1996. Similarly, the review team failed to acknowledge that by not issuing such guidance before launching the largest naturalization program in INS' history, INS had predictably exacerbated the problem.

3. No guidance concerning the testing of English and Civics

Of the allegations made concerning CUSA's weakening of adjudicative standards, none was more frequently cited than the charge that INS had compromised the educational requirements for citizenship. From Chairman

William Zeliff's letter of inquiry to Commissioner Meissner dated July 9, 1996, through an entire House Subcommittee hearing devoted to naturalization testing practices in September 1996, to Senate Subcommittee hearings in October 1996, Members of Congress repeatedly questioned INS' procedures for the testing of English-language proficiency and knowledge of Civics.[38] For this reason, in the discussion that follows we address INS' testing procedures in considerable detail.

The central allegation boiled down to a claim that INS had watered down its language and government testing standards during CUSA. Because no concrete standards governing this aspect of naturalization adjudication existed before CUSA, it is impossible to determine that such a non-standard was "lowered" during fiscal year 1996. However, the lack of testing standards together with the absence of oversight of off-site testing entities during a year of high-volume, fast-paced processing inevitably made the weaknesses in INS' language and government testing program more obvious and more widespread. These weaknesses, in turn, along with the absence of guidance concerning other aspects of the naturalization adjudication, contributed to many officers' perception that the pressure they were under was, in fact, pressure to *approve* applications and not just to complete as many naturalization cases as possible.

a. Regulations concerning English literacy and knowledge of Civics

As noted previously, applicants for naturalization had long been required to demonstrate "an understanding of the English language, including an ability to read, write, and speak words in ordinary usage," and "a knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States." These statements embodied the "English" and "Civics" requirements of the naturalization adjudication.

The regulations governing the English literacy requirements before and during CUSA provided that an applicant's ability to speak and understand English was to be evaluated "from the applicant's answers to questions

---

[38] William H. Zeliff, Jr., was Chairman of the Subcommittee on National Security, International Affairs, and Criminal Justice of the House Committee on Government Reform and Oversight, before which a hearing devoted to testing practices was held on September 10, 1996. The Senate hearings were on October 9 and 22, 1996, before the Senate Judiciary Committee's Subcommittee on Immigration.

normally asked in the course of the examination."[39] The applicant's reading and writing abilities were to be tested using "Service authorized Federal textbooks" written at the "elementary literacy level." Civics questions also were to be drawn from authorized textbooks.[40] For this test, however, the regulations provided that "consideration" was to be given to "the applicant's education, background, age, length of residence in the United States," and other factors "relevant to an appraisal of the adequacy of the applicant's knowledge and understanding."

b. English and Civics testing before CUSA

As discussed below, these seemingly objective criteria were, in practice, unevenly administered throughout INS well before implementation of CUSA. As Commissioner Meissner told the OIG, "the whole area of testing, whether it was done outside or inside of the agency, [had] been problematic for decades." Because INS had not trained its officers on how to test, the Commissioner said that INS had a "long litany of examples of arbitrary and untrained testing procedures on the part of the people in the agency, all the way from asking loaded political questions [of] applicants to simply not doing it in the same way."

---

[39] In his July 9, 1996, letter to INS requesting information about CUSA practices, Chairman Zeliff referred to an allegation that INS had changed the standard for applicants tested in their native languages. According to federal regulations, if the applicant satisfied the English literacy requirement but the officer determined that "an incomplete record of the examination" would result from conducting an examination on "technical" or "complex issues" in English, the rest of the examination could be conducted in the applicant's native language. While the OIG received occasional complaints by DAOs that examinations were being frequently conducted in languages other than English, we did not find significant evidence to suggest that this was occurring at times that were not permitted by regulation.

[40] The textbooks were study guides prepared for INS and published by the Government Printing Office. One such guide included simple sentences as examples of what the applicant would be required to write. The other was a text on U.S. history and government and covered topics that might be included in the Civics test.

(1) Testing practices at the interview

i. English literacy

Unlike the evaluation of a naturalization applicant's "good moral character," the determination of an applicant's literacy was not, as described in the law, a test that should have depended to a large extent on an officer's discretion. However, because the determination of proficiency depended on a clear understanding of the standard involved and the ways in which that standard could be met, language testing also was vulnerable to disparate practices in the absence of objective criteria. Because INS failed to provide adjudicators with adequate guidance for either the standard or for gauging achievement of that standard, INS' literacy testing practices had been already recognized before CUSA as widely variable.

Federal regulations required the adjudications officer to use the applicant's ability to understand and respond to questions during the naturalization interview as an indication of the applicant's verbal English literacy. INS offered no other standard to assess an applicant's ability to speak and understand English except for this basic "ordinary English" guideline. DAOs often used the "elementary level" standard in the regulation concerning the applicant's reading and writing skills as the standard for spoken English as well, but that standard was not further defined.

Because the N-400 contained questions which could be difficult to understand by an applicant who understood only "ordinary English" or English at an "elementary level," the difficulty of this portion of the test would vary depending on the adjudicator's sense of the standard and his or her willingness to make the question understandable to the applicant.[41] One adjudicator might strive to make the test even simpler than that required by law, while another might have an exaggerated idea of what constituted ordinary or elementary-level English.

In addition to speaking with the applicant at the interview in order to gauge his or her spoken English proficiency, DAOs generally asked the

---

[41] For example, questions 3-5 on the N-400 are: "If the law requires it are you willing to bear arms on behalf of the United States? Are you willing to perform non-combatant services in the Armed Forces? Are you willing to perform work of national importance under civilian direction?"

applicant to write one to three simple sentences to establish written English skill. Again, INS had no national standard for demonstrating written English competence and left this determination to the discretion of the examiner.[42]

INS was aware of the vulnerabilities of its English-language testing procedures. In fact, the desire to establish a more standardized approach had been part of INS' impetus for expanding the "outside testing" program that it had used during the Legalization program for naturalization. INS also had contracted with the Center for Applied Linguistics (CAL) in 1995 to develop a "draft description of the minimum passing performance on the oral English portion of the citizenship examination." CAL's November 1995 report confirmed that disparate standards existed throughout INS, noting that researchers "were very surprised at the disparity among INS offices and examiners" in testing language proficiency.[43] They also found that "not one office or examiner . . . had the same philosophy as the next" and found that attitudes among officers "ran the gamut from: 'they're all cheats' to 'it's not my job to deny them.'" The report recommended not only the development of a standardized oral English test, but also improved training for adjudicators.

ii. Civics testing

On the other hand, the regulations explicitly encouraged officers to exercise discretion in Civics testing after giving due consideration to the applicant's "education, background, age, length of residence in the United States" and the "opportunities and efforts made to acquire the requisite knowledge." Even considering this acknowledged discretion, however, INS recognized that in practice these tests inappropriately varied in difficulty depending on the examiner or on the office.

INS adjudicators drew Civics questions for naturalization applicants from a list of 100 questions that had been culled from the Federal Citizenship Textbook series by INS employees for testing applicants during the

---

[42] Although, as noted above, the federal textbook series offered examples of simple sentences that an applicant might be required to write, our investigation found that only a few DAOs were aware that such exemplars existed.

[43] The CAL report said that some officers asked simple "yes" or "no" questions before switching to the applicant's native language for the rest of the interview while other officers asked more open-ended questions and conducted the examination entirely in English.

Legalization program of the 1980s. An adjustment to permanent residence status under the Legalization program required applicants to demonstrate that they either already met the English and Civics requirements that would be required for naturalization, or were pursuing a course of study to that end. These 100 questions ranged from those as simple as "what are the colors of the flag?" to the more difficult "who becomes President of the United States if the President and Vice-President should die?" One of the INS employees who chose the original questions told the OIG that the first 50 questions on the list were considerably less difficult than questions 51-100. This was not a purposeful attempt to offer different applicants questions of different levels of difficulty but rather reflected the fact that two different people compiled the questions.

While the regulations instructed officers to tailor the Civics test to the applicant's background, they did not dictate how many questions should be asked or what would be considered a "passing" score. When the list of 100 questions was distributed to INS field offices during legalization, however, Headquarters specified that "no more than 10" questions should be asked and a passing score should be "at least 60 percent." Thus, some officers believed that there was a specific passing percentage (although they disagreed as to whether it was 60 or 70 percent), while others believed that the regulations and INS policy gave them more latitude. This discrepancy was not clarified before CUSA.

(2) Outside testing of English and Civics before CUSA

i. Background on outside testing for naturalization

Testing moved outside INS for the first time in response to the Immigration Reform and Control Act of 1986 (IRCA), which, as noted above, required applicants for permanent residence to pass an English literacy and a Civics test or show that they were pursuing a relevant course of study.

In 1991, INS decided to expand the use of outside testing entities to naturalization applicants and published a notice in the Federal Register requesting written proposals from entities interested in participating in a standardized testing program. Under the program, INS would accept test results from an approved entity as evidence of a naturalization applicant's ability to read and write English and his or her knowledge of the government

and history of the United States. Before CUSA began, approximately ten percent of the English and Civics tests for naturalization applicants were conducted by outside testing entities.

INS authorized the two outside organizations originally involved in administering tests for adjustment of status applicants, Educational Testing Service (ETS) and Comprehensive Adult Student Assessment System (CASAS), to conduct naturalization testing beginning in 1991 and 1992. In 1994, INS authorized three additional organizations to administer the test: Southeast Community College, The Marich Associates, and the Naturalization Assistance Service (NAS). A sixth entity, American College Testing (ACT), was authorized by INS in October 1995. These national organizations, in turn, relied upon hundreds of local affiliates—often CBOs—to actually conduct the tests. INS placed a ceiling of $30 on the fee a company could charge for the test, but placed no limit on the amount that affiliates could charge applicants to prepare them for the test.

INS' original notice in the Federal Register had provided only cursory criteria for testing entities. For example, the Notice of Program provided that "the testing entity shall provide test security and test integrity subject to review and approval by the Service." Beyond this, the notice did not identify specific security requirements or standards for integrity. As an attorney in INS' Office of General Counsel noted in May 1996 in response to an Office of Programs proposal about INS' testing program, "except for verification of an alien's identity, the 1991 Notice of Program does not delineate the specific quality control factors which INS will focus on and presumably take action against the entities for failure to comply." As an INS policy paper on testing summarized in July 1996, INS contributed to the "many problems" in the testing program through an original program notice that "was poorly written, with only cursory criteria for testing entities, and without performance standards, criteria for local affiliates, program procedures, monitoring requirements, or proper procedures for suspending/terminating test centers and test entities."

In a similarly broad manner, the Notice provided that "the Service reserves, without notice, the right of onsite inspection to determine the continued reliability and integrity of the test and testing procedures," without specifying the nature of such oversight. However, we found that INS failed to develop any type of monitoring, inspection, or fraud prevention strategy or, for that matter, any effective oversight strategy. Finally, the Notice failed to

provide for any method of revoking an entity's authority to conduct citizenship tests.

ii. The Field's efforts to address testing fraud

The absence of a clear program Notice was compounded by Headquarters' failure to fill in the blanks over time. Not only did districts not know what standards to apply to policing outside testing entities, but they also interpreted the absence of standards as an expression of Headquarters' lack of interest that, in turn, justified their own inaction.

Reports of improprieties in the outside testing program began to surface as early as 1992 and continued throughout CUSA. For example, a 1992 San Francisco internal memorandum noted that it "frequently seem[ed] to be the case" that letters from ETS indicating passing test scores raised serious questions by adjudicators because the applicants who presented the certificates could not answer any questions in English at all. Even early in the outside testing program reports of outside testing fraud included allegations that testing entities allowed applicants to cheat during tests, and that they issued passing certificates to people who did not even take the test.

In August 1993, in a memorandum acknowledging that proper oversight of outside testing entities "appear[ed] to be lacking," INS Headquarters established a requirement that Field offices compile a monthly "Citizenship Test Site Report." In April 1994, then-Acting Associate Commissioner Crocetti issued the memorandum stating that the Field was responsible for identifying and reporting suspected testing fraud to Headquarters and for taking corrective action. Crocetti instructed the field offices to submit a monthly "regional analysis, identifying any and all problems or potential problems as well as the corrective action taken." According to the memorandum, Headquarters Office of Adjudications would analyze the information and provide monthly feedback to the Field. Additionally, Crocetti noted, "…we recognize the need to develop an effective revocation process, and will be working on this in the near future."

Some districts interested in addressing issues of fraud explicitly asked Headquarters to provide more guidance. Los Angeles, in its August 1994 response to the Crocetti memorandum, advised INS Western Region officials that the District had identified questionable test results at some of the ETS sites. After District officials notified ETS about the problems, the ETS director recommended that ETS and INS establish a task force to develop procedures

that would "…eliminate the recurrent problem of individuals appearing for an interview who are unable to communicate in appropriate English." The memorandum from Los Angeles officials requested additional guidance from Headquarters: "it is not clear from the referenced Headquarters memo [April 21, 1994] exactly what corrective actions are permissible…" and "clarification of the process is requested before further action is taken."

The Acting Western Regional Director advised Headquarters that he concurred with Los Angeles' assessment that "there [was] no guidance as to what steps are acceptable and proper to correct the situation as required in [Headquarters'] directive." He pointed out that the Crocetti memorandum incorrectly assumed that the Field was in a position to adequately monitor and correct deficiencies discovered at local test sites. He went on to state that the Field was stymied by Headquarters' lack of guidance. "[U]ntil Headquarters takes steps to advise the field of acceptable performance standards and establishes monitoring and revocation procedures for individual test locations, this assumption [that the Field can undertake corrective measures] is unreasonable." Los Angeles DADDA Neufeld later told the OIG that the issue of monitoring testing outside of INS was another example of Headquarters telling the Field to "do," without any guidance and without providing someone in a position of authority to answer questions.

Ten months later, in June 1995, a Dallas District employee reiterated the same concerns to Headquarters, "[I]t is incumbent upon the Service," wrote a supervisory District Adjudications Officer to the Office of Examinations at Headquarters, "to establish some type of regular monitoring procedures of these organizations. The public has the right to demand this of the Service in order to prevent exploitation of innocent naturalization applicants, and to preserve the integrity of the naturalization process." To do anything less, the Dallas supervisor added, "would be an insult to the millions of persons who have already been naturalized under far stricter procedures."

Local efforts at policing outside testing entities were frustrated not only by the lack of specific guidance but also by the lack of resources. Adjudicators in the San Francisco District made sporadic attempts to collect suspicious testing certificates. One DAO even conducted an on-site inspection that resulted in a recommendation to disqualify a test center after he observed test takers openly assisting one another. But no other site inspections were conducted in San Francisco before CUSA and we found no follow-up investigation of the testing site reported by the DAO. When asked by the OIG

for an explanation, San Francisco managers stated that they did not have the resources to effectively monitor the outside testing program.

Headquarters' failure to respond to the Field's requests for guidance resulted in a perception that monitoring such sites was not a high priority for INS Headquarters.[44] According to the senior adjudications officer assigned primary responsibility at Headquarters for testing issues from 1995 through CUSA, most Districts stopped reporting suspected fraud by testing organizations when they saw that Headquarters was doing nothing about it.

c. English and Civics testing during CUSA

Thus, the record shows that well before CUSA began INS was aware that its language and government testing components of the naturalization interview were poorly and disparately administered. INS had not developed an objective standard or effective test for determining whether an applicant spoke English at the requisite minimum level. The integrity of the outside testing program had been questioned. INS recognized the need to improve in these areas as reflected in its 1996 Priority Implementation Plan that called for the development of both a standard and a test for spoken English, and a revised regulation to improve the administration of outside testing.

However, these new standards and improvements were not targeted for implementation in time to affect CUSA cases. In the meantime, adjudications officers continued to apply the same ambiguous standards, and increased production meant that many more cases would be affected. By the end of CUSA, as demonstrated by the testimony of EAC Aleinikoff on September 10, 1996, INS was still bemoaning the fact that "lack of standardization among INS offices [had], for some time, led to inconsistent standards" in the testing of English and Civics. However, INS had taken no meaningful steps to insulate CUSA adjudications from the adverse affects of the weaknesses it had identified before the program began.

---

[44] For example, the Miami District did not begin its monitoring efforts until after CUSA. Although the DADDN acknowledged that there was a significant problem with fraud in connection with the outside testing entities in the Miami District before and during CUSA, she stated that she did not become aware that monitoring by the districts was required until October 1996.

(1) English and Civics testing under the Priority Implementation Plan

The CUSA implementation plan identified development of "improved testing of English and civics" as "objective 2, task A." Headquarters officials assigned Acting Naturalization Branch Chief Pearl Chang as coordinator of this task. The implementation plan called for INS to develop a spoken English test, an improved Civics test, and an improved regulation governing standardized test administration. INS also hoped to improve training and consistency in testing by INS adjudicators.

However, inclusion of these tasks in the implementation plan did not mean that INS intended to delay the start of CUSA until the tasks had been completed. To the contrary, we found that INS did not intend to use the new tests at interviews or implement the new adjudicator training until September 30, 1996, the last day of the fiscal and CUSA year. INS did not plan to have a new regulation governing outside test administration in place until April 1996, by which time any applications INS intended to process during fiscal year 1996 already would have been filed and, presumably, most applicants intending to rely on standardized test administration already would have taken their English and Civics tests.[45] INS was setting its sights on improving the naturalization testing process of the future, not the one that would be relied on during CUSA.

---

[45] A standardized testing certificate was valid if the applicant had passed the test either within one year preceding the date on which the application for naturalization was filed or at any time after filing but before the final determination on the application was made by INS. We presume that most applicants obtained their testing certificates before filing their naturalization applications. However, some CUSA applicants may have gambled on the length of time it would take INS to schedule their first interview and could have postponed the test taking until after filing. These applicants might have benefited by a new regulation published in April as planned by project managers. However, even if INS intended to affect some CUSA cases by planning a new regulation for April 1996, it nevertheless failed to follow through: the regulation intended for April was never published. INS abolished its outside testing program in August 1998.

EAC Aleinikoff told the OIG that he had expected Rosenberg to ensure that a revised regulation was published during fiscal year 1996, and he was "frustrated" at Rosenberg's failure to get the regulation published despite Aleinikoff's repeated requests. However, the record—including testimony before Congress by Aleinikoff—shows that as fiscal year 1996 progressed, INS was considering whether to do away with the outside testing program altogether, and thus the publication of a new regulation would have been premature until the decision to keep the OTE program had been made (see below for further discussion

(2) Testing practices at the interview

i. English literacy

Absent an objective standard for determining the minimum level of spoken English required of an applicant, DAOs relied on the general guidance that governed their determination before CUSA—whether the applicant spoke ordinary English, or English at an "elementary" or third-grade level. Application of this general guidance was a judgment call.

While exercising this judgment would no doubt prove challenging to an experienced adjudicator, the overwhelming majority of CUSA adjudicators were new, temporary officers with no experience and with inadequate training to inform their judgments about applicants' ability to speak English.[46] Some temporary officers were creative in attempting to train themselves, like a Los Angeles officer who researched the language used in elementary school readers that she checked out of her local library in order to craft questions to use during naturalization interviews.[47] More often, however, officers had even less to go on, and they found their assessments of applicants' speaking abilities in conflict with their supervisors' views.

Lacking an objective standard against which to measure performance, we had no meaningful way to determine whether supervisors were too lenient or officers too harsh in their testing. However, we did find evidence of direct pressure on adjudicators to adjust their approach to testing. This occurred in a number of ways: officers' judgments that applicants could not speak English adequately were challenged or overturned by supervisors; officers were directed to make testing questions easier; officers were told to assist applicants with questions by making gestures. Officers indicated to the OIG that they

---

concerning what happened later in 1996 in relation to INS' outside testing program). Rosenberg, who drafted a detailed "options paper" on this subject in July 1996, disagreed that it had been his responsibility to ensure that such a regulation be published.

[46] The CUSA training manual instructed adjudicators that they were to "repeat questions to [the] applicant in different form and elaborate if necessary until satisfied that the applicant fully understands the questions or is unable to understand English."

[47] Literacy at the "elementary level" as specified in the regulations was presumed by INS adjudicators to mean English at the level of an elementary school education.

were otherwise made to understand that they should employ a standard below that which they believed was appropriate.

This did not mean, however, that supervisors were deliberately attempting to naturalize ineligible applicants, as would have been the case if they issued a blanket instruction to approve *all* cases regardless of qualifications. What it did mean was that supervisors often had a different sense of the appropriate standard by which to measure an applicant's ability to speak English than did adjudicators. At the same time, the repeated reminders from supervisors that adjudicators were being too strict in their interpretation of the spoken English requirement, combined with the more generalized pressure to complete cases more quickly, worked to favor the approval of a naturalization application. These officers found that supervisors would correct them only for being too harsh and not for being too lenient.

We offer below two examples of the ways in which INS practices suggested to some adjudicators the idea that the English-language requirements were not to be seriously enforced during CUSA.

(a) El Monte

A local policy adopted at the El Monte CUSA site in the Los Angeles District illustrates how supervisors' notions of spoken English proficiency clashed with those of adjudicating officers and contributed to the belief that INS was weakening English-language testing requirements.

With the exception of officers working at the El Monte site, officers in Los Angeles generally said that the standards for English-language and knowledge of Civics did not change during CUSA. Files reviewed by the OIG also showed many examples of applications denied because the applicant was unable to understand English at the reexamination interview. However, because Los Angeles had hired several officers whose own ability to speak and understand English was challenged by applicants and their representatives, District managers instituted a special policy at El Monte: if an applicant or applicant's representative believed that an applicant had been wrongly found not to pass the English-language requirements, he or she could raise the issue with the on-site supervisor who, in his or her discretion, could assign the case to another officer for retesting. ADDA Arellano confirmed that this policy

essentially gave the applicant another opportunity to pass the English test in addition to the two already provided by law.[48]

To explain why the District implemented such a policy, ADDA Arellano told the OIG that representatives of various CBOs had brought to her attention that some officers at El Monte did not speak English well, and that they believed it was unfair for those officers to evaluate an applicant's ability to speak or understand the language. One adjudicator from El Monte made a similar observation about fellow officers when he was interviewed by the OIG. The same adjudicator observed that some of his fellow officer trainees struggled during their training class because he did not think they understood English well enough to understand the course material.

ADDA Arellano explained that she learned that the officers whose English skills were being questioned were temporary officers who had not been interviewed by Los Angeles representatives before being hired, and thus District officials did not have an opportunity to evaluate their ability to communicate. According to ADDA Arellano, she, along with the other District managers, made the decision not to conduct interviews because they needed to bring officers on board right away. She justified this decision by noting that since the officers were only temporary employees, someone who could not perform adequately would not be renewed. Arellano said that the special El Monte appeal process was adopted out of recognition that the CBOs, with whom INS' cooperation was prioritized during CUSA, might have a legitimate complaint.

It was exactly in such circumstances that the Los Angeles District could have benefited by a clearer standard governing the level of spoken English proficiency required to become a citizen. With such a standard, Los Angeles managers might have more easily distinguished between applicants who had legitimate complaints about specific adjudicators and those who were simply challenging an officer's decision because they did not want to return for a reexamination. Without such a standard, and recognizing that they had taken shortcuts in hiring the new officers, Los Angeles managers adopted what they

---

[48] Deputy District Director Rosemary Melville told the OIG that she recalled being aware that applicants and CBO representatives had complained about the English speaking ability of some officers, although she said that she was not aware of the resulting policy. When told about the policy by the OIG, Melville said she was glad to hear that it had been implemented.

said was a fair solution from the applicant's perspective. By leaving the ultimate decision whether an applicant passed the test to the on-site supervisor, they also maintained the appearance that they were not lowering standards.

However, knowing as they did the production pressure that existed at the El Monte site, it is difficult to accept the proposition that District managers believed that El Monte supervisors would actually have time to review such cases and exercise thoughtful discretion. To the contrary, it was predictable that supervisors would take the least time-consuming approach and simply reassign to second adjudicator cases in which an applicant had complained concerning the evaluation of his or her ability to speak English.

Interviews with adjudications officers who worked in El Monte during CUSA corroborate the fact that the English-language standard was enforced less strictly there than at other locations within the Los Angeles District. Not only did El Monte officers consistently tell the OIG that their supervisors told them to lower their English-speaking standards and ask applicants easier questions, they also said that they raised the same complaints to their own managers during CUSA. While Arellano met with El Monte officers in late 1996 to hear these complaints, we found no evidence that these concerns had any impact on El Monte policy, unlike the complaints brought to the District's attention by CBO representatives.

(b) The example set by discouraging ceremony "pull-offs"

In the Los Angeles and New York Districts, we found evidence that during CUSA local managers discouraged a practice that formerly had been used to prevent applicants who could not speak English at the requisite level from naturalizing even if these applicants had "passed" the spoken language test at the interview. Actions of managers in these districts contributed to officers' perception that INS was not interested in properly enforcing the spoken English-language requirement for naturalization during CUSA.

Before and during CUSA, INS used the "pull off" or "motion" practice to remove an applicant from a naturalization ceremony if there was evidence that the applicant was not eligible or if something about the naturalization case required further review. For example, if INS received information between the date of the interview and the date of the ceremony that the applicant had a criminal record, the applicant could be "pulled off" and scheduled for a follow-up interview. Such motions also were used before and during CUSA to

remove applicants from ceremonies who did not speak or understand English at the requisite level.

Rose Chapman, Naturalization Section Chief in New York, told the OIG that during CUSA she saw more persons at ceremonies who did not appear to speak English at the requisite level than she had seen at any time in the past.[49] She recalled one ceremony in Garden City at which, upon being instructed to rise and take the oath, approximately half of the applicants remained seated, apparently unable to understand the English instruction. As a result, according to Chapman, many persons were removed from ceremonies during CUSA, consistent with the historical practice. Many other New York supervisors, however, told the OIG that they were discouraged from exercising the "pull-off" option because ADDE Richard Berryman considered it embarrassing to INS and because it subjected INS to complaints from CBOs. One adjudicator recalled that the staff was told by supervisory DAOs at Garden City to stop "motioning" applicants from ceremonies because attorneys were complaining that their clients were being discriminated against by being tested twice.[50] Officers told the OIG that this instruction against pull-offs contributed to their belief that INS had lowered its English-language testing standards during CUSA.

In Los Angeles, too, CBOs complained during CUSA about ceremony "pull-offs" on the grounds that the person about to be naturalized could not speak English. Much like in New York, Los Angeles management made it known that they found pull-offs at ceremony embarrassing. District managers instituted a policy that required supervisory pre-approval to pull-off an applicant and made it clear to staff that the time to fail an applicant for his or her lack of English proficiency was at the interview, not at the ceremony. Officers in Los Angeles, like their counterparts in New York, perceived these instructions as efforts to lower the English-language testing standard.

---

[49] By 1996, Chapman had been Naturalization Section Chief in New York for seven years. She began her work as a supervisor in the Naturalization Section in 1987. She had been an employee of the New York INS office since 1968.

[50] The risk of embarrassment was particularly pronounced at larger ceremonies attended by dignitaries and this situation persisted after CUSA. One supervisor, for example, said ADDE Richard Berryman specifically instructed her before a large ceremony attended by former New York Senator Alfonse D'Amato in the summer of 1997 that there were to be no "pull-offs."

We do not criticize the motives of managers in both districts to avoid unnecessary inconvenience to applicants and embarrassment to INS. However, the policies they adopted contributed to employees' perceptions that the spoken English proficiency requirement was not very important among the requirements an applicant had to meet to be naturalized. After all, managers in both districts observed applicants at ceremonies who could not speak English and did nothing to shore up adjudicators' language-testing practices. Instead, implicitly recognizing INS' failure to articulate clear standards, these managers took steps to minimize INS embarrassment and inconvenience to the affected applicants.

(c) Group testing

"Group testing" of applicants was another method by which INS allegedly had compromised naturalization testing standards. The evidence shows that while a group testing experiment took place in the Chicago District during CUSA, this did not further erode the existing language testing standards. This group testing experiment was the Chicago District's attempt to both streamline the naturalization interview process and at the same time eliminate the extent to which different officers applied different standards during the evaluation. The following discussion illustrates why this particular allegation concerning adjudicative standards during CUSA is unfounded.

In November 1995, Chicago District officials implemented group testing for written English proficiency and Civics at the recommendation of Jorge Eisermann, the CUSA site coordinator for Chicago. Chicago officials saw group testing as a means of making the interview process more efficient and allowing adjudicators to concentrate on other aspects of the interview. By testing in groups, INS was adopting the same approach employed by outside testing entities.

Chicago Acting Deputy District Director Robert Esbrook organized a committee to review for clarity the 100 most frequently asked Civics questions and to create a list of appropriate words for the written English test. The committee consisted of Chicago adjudications officers and educators affiliated with the Illinois Coalition of Immigrants' and Refugees' Rights. All of the words selected for the written English examination—such as "United States," "president," "stars," and "elected"—related to the 100 Civics questions. During the group testing, one adjudicator read the questions to the assembled applicants while five other adjudicators served as proctors.

Testing applicants in groups eliminated the inconsistencies between adjudicators and, ultimately, was fairer to applicants. Group testing also avoided the need for supervisors to individually correct a particular officer's testing approach and resulted in less conflict between officers' and supervisors' views of the correct standard to apply compared to non-group testing.

While Chicago's practice established some degree of consistency in testing within a single district, it did so on the basis of a local judgment uninformed by national input. Although Aphrodite Loutas, the head of the naturalization unit, and other Chicago officials generally praised group testing, Loutas noted that the use of an exclusive word list arguably represented a narrowing of the scope of the written test (a complaint raised by some Chicago officers to the OIG**)**. However, the evidence does not show that Chicago's group testing approach made it any easier for applicants to pass the language requirement than it had been before the new strategy was implemented. More importantly, we found no evidence that the strategy was specifically implemented to lower testing standards.

ii. Civics testing at the interview during CUSA

The OIG also found that the manner in which the Civics test was administered during CUSA varied from district to district and even among adjudicators in the same district.

Adjudications officers in four of five Key City Districts generally reported that their districts had a set "passing" score for the Civics test. According to New York DAOs, applicants in New York were required to answer seven of ten questions correctly. This also was the rule in Los Angeles. In Miami and Chicago, on the other hand, most officers said applicants were required to provide only six correct answers. Meanwhile, San Francisco adjudicators were not guided by a required score—the passing percentage was not "chiseled in granite," as one adjudicator put it.

Even in districts with a fixed passing percentage, adjudicators had different views of the kinds of questions they should ask the applicant. In New York, one adjudicator told the OIG that some DAOs in the District offered the same questions to every applicant, with some DAOs routinely choosing ten very easy questions while others chose ten more difficult ones. In addition, adjudicators throughout the Key City Districts noted different understandings of whether they should help the applicant pass this part of the test. This could mean asking additional questions if the applicant did not answer enough

correctly after the first ten, asking leading questions, or asking questions not on the approved list, such as who was the popular mayor of the city.[51]

(3) Outside testing of English and Civics during CUSA

By the time of the September 1996 congressional hearings into the CUSA program, INS' outside testing program was under sharp attack in the media and by Members of Congress. INS attempted, in the face of this criticism, to defend its record. In his testimony before the Subcommittee, EAC Aleinikoff said INS had taken a "number of significant steps to improve the [outside testing] process." He pointed out that INS had "demanded and received monitoring plans" from testing entities, and had "instructed . . . field offices to undertake announced and unannounced visits to testing sites."

INS had indeed taken the steps reported by EAC Aleinikoff during fiscal year 1996. However, the record shows that these steps were insufficient to make any meaningful difference in the incidence of testing fraud of which Headquarters, as discussed above, was plainly aware. The instructions INS issued to the Field failed to promote substantive change because they were unaccompanied by either additional resources or guidance about how to address outside testing entities suspected of fraud.

In short, INS had known for several years that its outside testing program was deeply flawed, and yet it took no ameliorative action before launching CUSA. To the contrary, INS' plans called for an *expansion* of the outside testing program during fiscal year 1996. In 1995, five authorized testing entities operating approximately 550 outside sites examined approximately ten percent of all naturalization applicants. One year later during CUSA, however, six testing entities operating out of approximately 1,000 testing sites conducted 25-30 percent of INS' English and Civics testing involving some 300,000 applicants for naturalization.[52]

---

[51] According to one adjudicator, one of the problems stemming from the absence of standards was that a DAO could vary the degree of difficulty of the test depending on his or her own bias for or against the ethnic or racial group represented by the applicant.

[52] In 1995, the OIG opened an investigation into allegations that an outside testing affiliate was engaged in a fraudulent scheme to provide passing test scores to unqualified applicants. A 30-month investigation by the OIG Tucson Field Office and INS resulted in the indictment of 20 individuals on charges of conspiracy to defraud the government and unlawful procurement of citizenship. This investigation uncovered a nationwide scheme by

Outside testing was a "streamlining" measure that would help achieve CUSA's objectives because applicants with testing certificates could be interviewed more quickly than those who had to be tested by the DAOs. INS' encouragement of outside testing, while failing to take steps to safeguard the program from abuse, is but one example of many noted throughout this report of how the production priority overshadowed the integrity of the process.

In the discussion that follows, we review the actions INS took to address outside testing practices during fiscal year 1996. As alleged by Congressman Mark Souder at the September 1996 congressional hearing, we found that these actions were largely not of INS' own initiative, but were spurred by embarrassing reports that appeared in the media. By the time INS devoted attention to the issue, however, CUSA already was underway and the planned improvements were too late to influence the huge volume of cases. Finally, we offer a brief review of what we predictably learned in the Field: in the absence of effective remedial steps, DAOs continued to suspect a high incidence of unchecked fraud in the outside testing program.

i. Media reports underscore the problems with off-site testing entities

On November 15, 1995, a St. Paul, Minnesota, television station broadcast an expose of allegedly fraudulent practices by an NAS affiliate in St. Paul. The practices included providing correct answers to applicants, tutoring applicants on the specific test questions in advance, and permitting test-takers to amend their answers after time had expired. The Central Regional Director sent a videotape copy of the broadcast to INS Headquarters.

One week after the television report aired, Headquarters notified NAS of its intention to revoke their authorization to administer standardized tests on INS' behalf. While the revocation decision was pending, INS temporarily suspended NAS' authority to administer tests. On December 13, 1995, INS

---

private testing services that held subcontracts to administer the INS citizenship testing program. In exchange for fees ranging from $150 to $300, these testing services issued fraudulent passing grades to applicants seeking U.S. citizenship. As many as 13,000 applicants collectively paid over $3 million to the conspirators.

Of the twenty persons indicted, two are still scheduled for trial. Thirteen defendants have pleaded guilty. One defendant remains a fugitive, and charges against four defendants were dismissed.

reinstated NAS' authority to administer INS tests with the understanding that the NAS St. Paul affiliate would be closed. The INS Headquarters Senior Adjudications Officer assigned to work on testing issues told the OIG that INS' decision to reinstate NAS was influenced by legal concerns that the revocation letter was possibly unenforceable because of the absence of revocation standards under INS' original Notice of Program that established outside testing entities. According to this officer, INS was concerned that the regulation as it then existed would permit NAS to argue that they had been given insufficient due process under the Administrative Procedures Act.[53]

In April 1996, INS became aware of an investigation by ABC's *20/20*, a national television newsmagazine, into alleged fraudulent practices by NAS affiliates.[54] The prospect of a national scandal dramatically increased the visibility of the OTE program's problems at Headquarters.[55] Although the problem of widespread fraud by OTEs had gone unaddressed for years, the national exposure of the vulnerabilities in the outside testing program was viewed within INS as having "dramatically compromised" the credibility of the program with Congress and the public.

ii. Headquarters' response

In early 1996, Headquarters formed a team composed of staff from various Headquarters offices to determine how best to address what appeared to be increasing incidents of fraud by outside testing entities. Initially the team asked the six testing organizations to provide information on their practices for

---

[53] INS' Office of General Counsel had expressed similar reservations about termination procedures under the Notice of Program two months earlier in September 1995 in an advisory opinion to the Naturalization Branch. It recommended an amendment to 8 CFR § 312 to clarify the issue.

[54] In June 1996, ABC aired the program, which featured undercover footage of proctors pointing out correct answers to bewildered applicants.

[55] Congress expressed concern about the integrity of the standardized testing program immediately after the St. Paul broadcast. In February 1996, congressional staff asked INS about the measures that it had taken or planned to take to address outside testing fraud. The broadcast of the ABC program in June triggered greater concern by Congress, ultimately leading (along with other concerns about CUSA) to the congressional hearing in September 1996.

monitoring their affiliates and for uncovering fraud.[56] In April 1996, EAC Aleinikoff and EAC Slattery of Field Operations directed Field managers to establish a special 6-month pilot program to investigate fraud in the administration of naturalization testing by outside entities and their affiliates. The program called for adjudicators to report fraud to the Investigations Division at INS Headquarters, which would assess the cases. As Aleinikoff and Slattery's memorandum stated, Headquarters was calling for an "extraordinary effort in an area not previously anticipated when the Service's annual priorities were formulated."

On May 28, 1996, EAC Aleinikoff and EAC Slattery sent a memorandum reminding Field managers that the Notice of Program provided INS with the authority to conduct unannounced inspections of outside testing entities "in order to ensure the continued reliability and integrity of the naturalization test and testing procedures." The memorandum listed the basic quality-control factors staff should look for during an inspection and proposed an interdisciplinary district inspection team that would conduct at least one inspection per quarter for each district.[57]

A member of Headquarters' Investigations staff involved in this project noted, in an April 1996 e-mail message to an Investigations colleague, that such inspection teams were necessary because "INS failed to set up any type of monitoring/inspection or fraud prevention strategy (although the Notice of Program allowed for unannounced on-site inspections) to begin with." Unfortunately, INS Headquarters' long overdue attempt to address the issue coincided with the most intensive months of the CUSA naturalization effort when field offices were attempting to assimilate new adjudicators and meet ambitious production schedules. As one office responded when advised of the inspection requirement in Headquarters' April 1996 memorandum, "where do we get the resources?"

---

[56] A review of the monitoring was not completed until July. The review revealed that, although the monitoring provisions appeared sound on paper, there were also indications that the organizations relied more upon their affiliates to comply with the internal control than upon aggressive and ongoing field monitoring.

[57] INS Headquarters issued this memorandum almost two years after the Western Regional Director had advised Headquarters that the Field would not be in a position to address outside testing fraud unless Headquarters provided necessary guidance, such as establishing monitoring procedures.

To some extent, Headquarters recognized the Field's dilemma by proposing a modest number of inspections—one per quarter. In the same e-mail message referenced above, the Investigations official noted that Headquarters was asking for "just" four inspections per year. Another member of the Investigations Division sarcastically referred in another contemporaneous e-mail to the "whopping total" of four inspections per district per year (by comparison, Crocetti had suggested in April at least two checks per national outside testing entity per year). Despite this limited requirement, the Investigations official indicated in his e-mail message that the requirement would not be well received or fulfilled.[58] Even if fully implemented, the monitoring requirements would have meant only that less than one half of one percent of the testing sites would be inspected during CUSA, a figure unlikely to provide a meaningful deterrent.

In July 1996, INS met with the six national testing organizations to discuss their oversight of their affiliates. The organizations agreed that the hundreds of new testing sites required more frequent unannounced site checks, but they were reluctant to commit to a particular number of inspections.

On September 10, 1996, the day of the congressional hearing into outside testing fraud, INS notified the six testing entities that INS would require them to demonstrate greater vigilance in the selection and oversight of their affiliates. This oversight was to include demonstration of educational testing experience by all new affiliates, approval of new affiliates by INS Headquarters, and monthly reporting to INS by the six national organizations of the results of their own monitoring. However, it is unlikely that these measures would have had a meaningful ameliorative impact on testing fraud during CUSA since they were not to commence until October 1, 1996—the day after the CUSA year ended.

iii. Officers' perception of fraud in the off-site testing program during CUSA

More than 250 (approximately half) of the CUSA adjudicators interviewed by the OIG reported that they had encountered applicants who did not appear to be able to speak or understand English at the requisite level and

[58] His skepticism was borne out. By mid-March of 1997, almost one year after the memorandum, 20 of the 33 districts about which information was available had not conducted a single inspection. Most of the remaining 13 districts had conducted only one.

yet had passing certificates from testing entities. Adjudicators told the OIG that they often inferred that this was evidence of fraud or poor standards in the outside testing program. Adjudicators labeled the outside testing program a "joke," "bogus," "worthless," or a "besmirchment" on INS. While many other adjudicators reported that they suspected fraud only in a small percentage of cases, only a few adjudicators stated that they never had such suspicions.

We understand that there may be reasons other than fraud for an applicant who presents a "passing" certificate to appear unable to speak English at the interview. Some applicants, for example, possess greater skill at writing a language than speaking it. Others may have extremely limited English skills but study hard enough for the examination to squeak by. Still others may be overcome by nervousness at the interview and unable to demonstrate fairly their English speaking skills. That said, the consistent emphasis by officers in interviews with the OIG about their suspicions of fraud in the issuance of testing certificates served to corroborate a problem about which INS already was aware. As the Customer Service Branch of the Western Region wrote in July 1996 to the Senior Adjudications Officer at Headquarters who handled testing issues, "one thing is certain, the Standardized Citizenship Test program is lacking in reliability and integrity."

iv. Additional allegations concerning the relationship between testing certificates and the spoken English test at interview

Members of Congress inquired about the DAO's role in evaluating the certificate-bearing applicant's ability to speak and understand English during the September 10, 1996, hearing into INS' testing practices. On the one hand, Congressman Mark Souder alleged that INS had "put great pressure on its field offices to accept NAS testing certificates, even when the holders of those certificates [could] not speak or understand a word of English." On the other hand, EAC Aleinikoff insisted that applicants who could not "communicate in English to the adjudicator" and who were not exempt from the requirement were "not eligible for naturalization, even if they possess[ed] a certificate from a private citizenship testing organization."

The evidence shows that INS' spoken English requirement—i.e., applicants must demonstrate an ability to speak and understand English independent of whether they also have a testing certificate—was not repealed during CUSA. Even though several officers told the OIG that they believed or

had been instructed that the applicant's presentation of a certificate precluded any further inquiry into his or her English fluency, their assertions were contrary to the understanding of most of their colleagues in the same districts. The evidence suggests that the officers who believed they were required to pass applicants with certificates without further review had misunderstood their supervisors' instructions against retesting applicants on *written* English and Civics competencies in the absence of evidence that the testing certificate had been fraudulently obtained. While this directive could be misconstrued as an instruction not to test for spoken English either, it was an accurate summary of the relevant regulation, 8 CFR § 312.3(a)(3). We found that the gap between the adjudicators' understanding of their supervisors' instruction and the actual regulation spoke more to their inadequate training and the hectic pace of CUSA than to any unsavory motives on the part of their supervisors.

At the same time, the effectiveness of the INS-administered test of spoken English as a means of protecting the naturalization process from outside testing fraud was limited by the DAOs' inconsistent understanding and application of the English-language testing standard. As described above, that standard was problematic before and during CUSA, and consequently could not be viewed as an appropriate safeguard against fraudulent testing certificates.

4. No guidance concerning the adjudication of naturalization applications by those suspected of obtaining residency through fraud

As discussed in the overview chapter, the eligibility for naturalization of persons who obtained permanent residence under the Immigration Reform and Control Act (IRCA) of 1986 was, according to INS officials, one of the fundamental factors in the dramatic increase in naturalization applications that ultimately led to the creation of CUSA. Included in this group of eligible applicants were, by 1995, more than one million persons who had obtained their permanent residency through the "Special Agricultural Worker" (SAW) provisions of IRCA. However, it also was widely believed before CUSA that many SAW applicants had been approved for adjustment of status on the basis of fraudulent documents. Therefore, as these applicants became eligible to apply for citizenship, Congress directed INS to pay particular attention to applicants seeking to naturalize who may have already obtained one immigration benefit through fraud.

Despite its assurances to Congress, INS mounted no meaningful or effective effort to ensure that applicants who had obtained their permanent residency through fraud were prevented from becoming citizens. We found that Headquarters failed to provide any guidance to the Field concerning how to detect such fraud or what to do upon discovering it.

a. Background

(1) Special Agricultural Workers become eligible to apply for naturalization

Congressional passage of IRCA permitted millions of undocumented aliens to obtain lawful permanent resident status through INS' resulting Legalization or "Amnesty" program. Commissioner Meissner advised Congress in September 1995 that "a major reason" for the increase in naturalization application filings that INS had experienced was this Legalization program.

IRCA contained two "amnesty" provisions. The first dealt primarily with undocumented aliens who had entered the United States before January 1, 1982, without inspection or on a visitor or student visa and overstayed or worked without permission. These "pre-1982 applicants" had to meet certain requirements concerning proof of identity, length of residence, and financial responsibility in order to obtain permanent resident status. IRCA's other legalization provision, and the one examined by the OIG, afforded permanent residence to certain undocumented agricultural workers known as "Special Agricultural Workers," who had engaged in agricultural work for specified periods of time between May 1, 1984, and May 1, 1986.

Successful SAW applicants obtained temporary residency. They generally adjusted to lawful permanent residents within one or two years (depending on whether they were "group 1" or "group 2" applicants and depending on the date of which their applications were granted). The deadline for applying for residency under the SAW provisions was November 30, 1988. This meant that many hundreds of thousands of persons who had obtained lawful permanent resident status through the SAW program became eligible for naturalization in 1994 and 1995 (i.e., five years after becoming permanent residents). According to INS documents, as of December 1, 1995, this group of potential citizens numbered approximately 1.2 million persons.

(2) INS' belief in widespread fraud in SAW program

To be eligible for adjustment of status under the SAW provisions, the applicant had to prove with documentation that he or she had worked in an agricultural enterprise in the United States for 90 days in each calendar year from 1984 through 1986, or for 90 days between May 1985 and May 1986. The evidence of having engaged in such work, INS employees believed, was often forged and sold to undocumented individuals seeking U.S. residency. Given the crush of applications under the program and the relative fewer investigative resources, INS approved applications absent explicit proof that they were in fact fraudulent.

We found that there was consensus within INS that "SAW fraud"—or fraud in adjusting status under the SAW provisions of IRCA—had been prevalent. As Commissioner Meissner told the OIG, the perception that the SAW program was rife with fraud was "the commonly held view at the institution." Although some Headquarters officials told the OIG that no empirical studies formally established the extent of such fraud, they acknowledged that the Field believed it had been widespread.[59]

(3) Congressional concern about SAW fraud and INS' commitment to take appropriate action

INS officials were not alone in thinking that the SAW program was rife with fraud. On June 28, 1995, Barbara Jordan, chair of the U.S. Commission on Immigration Reform, testified before a joint hearing of House and Senate

---

[59] According to an e-mail message summarizing the topics of discussion, Headquarters officials meeting on December 1, 1995, noted that 1.2 million SAW applicants had become eligible for naturalization that day, "with 70% fraudulent applications anticipated [sic]." Although the extent of fraud in the SAW program was not documented, by September 1995 INS had conducted at least one large-scale investigation into organized efforts to sell fraudulent SAW documents. In addition to identifying suspects who were later convicted of federal crimes, that operation identified approximately 22,000 adjustment of status cases that were connected in some way to the persons convicted (for example, a case was included among the 22,000 if the certificate from an agricultural entity bore the signature of one of the suspects). For a more complete discussion of INS' actions in relation to these 22,000 cases, see "Operation Desert Deception," below.

immigration subcommittees about the Commission's recommendations.[60] According to Jordan's prepared statement, the Commission urged INS, in light of "reports of widespread fraud" in the SAW program, to pay "special attention" to the naturalization applications of those who became legal residents under the SAW provisions. The Commission recommended that INS "carefully scrutinize the naturalization applications of all special agricultural workers to ensure that their special agricultural worker status was properly granted."

Senate Immigration Subcommittee Chairman Alan Simpson asked INS to respond to several questions after a September 1995 hearing, one of which directly addressed SAW fraud. After first indicating that he had information that "experts claim[ed] that 50% of the SAW applications were fraudulent," Chairman Simpson asked how INS intended to address the issue of fraud when SAW beneficiaries applied for naturalization.

EAC Aleinikoff and Rosenberg met with Chairman Simpson's staff in October 1995, several weeks after the September hearing, to discuss the Chairman's concerns. According to Rosenberg, participants at the meeting discussed SAW fraud and INS' intended response "extensively." Rosenberg told the OIG that his position at the meeting was that INS should not single out all SAW applicants for treatment different than that received by other naturalization applicants. According to documents prepared for the meeting, INS' position was that SAW applicants would be treated like other applicants, and that indication of fraud would be investigated. When fraud was substantiated the applicant would not be naturalized.

(4) The role of immigration fraud in the naturalization adjudication

Even without the additional exhortation from Congress, as implied by INS' response to Chairman Simpson, federal law required INS to be vigilant about previous immigration fraud when adjudicating any application for naturalization. One of the prerequisites to naturalization was that the applicant, as set forth in the INA at 8 USC § 1429, had been "lawfully admitted to the United States for permanent residence in accordance with all applicable

---

[60] Jordan testified before the Subcommittee on Immigration of the Senate Judiciary Committee and the Subcommittee on Immigration and Claims of the House Judiciary Committee.

provisions of [the INA]." The INA directed the Attorney General to rescind the lawful permanent resident status of any person later found to have been ineligible. The applicant was asked on the N-400 whether he or she had ever "given false testimony for the purpose of obtaining any immigration benefit," a question that would encompass, among other things, false statements the applicant made to adjust status. Finally, obtaining permanent resident status through fraud clearly should affect an adjudicator's evaluation of the applicant's "good moral character," and, as noted above in INS' response to Chairman Simpson's follow-up questions, would have resulted in denial of the application for naturalization.[61] Therefore, merely by enforcing the existing rules and regulations, INS could have been watchful for SAW fraud without running the risk of treating such applicants differently from any other applicant for naturalization.

To effectively enforce this aspect of the naturalization laws, the adjudicator needed to be aware of the various methods by which a person could become a permanent resident. As previously noted in this chapter, change of status issues were not covered in the abbreviated training offered to new CUSA adjudicators. Consequently, this omission necessarily limited officers' ability to detect SAW fraud (or any other kind of previous immigration irregularity). This lack of training, coupled with the fact that an applicant's permanent file was often unavailable at interview (as discussed in a subsequent chapter), hobbled officers' efforts to thoroughly enforce the naturalization laws. In addition to these deficiencies, INS Headquarters provided no guidance to adjudicators during CUSA concerning how to detect SAW fraud or what to do upon its discovery.

Such guidance was sorely needed because of confusion in the Field about whether the naturalization adjudicator was permitted to review information in

---

[61] Several provisions of law support denial of naturalization to someone found to have obtained residency by fraud. The applicant necessarily lacked the requisite "good moral character" if the original fraud was false testimony made under oath in order to receive an immigration benefit and occurred within five years of the date on which the applicant applied for naturalization. If fraud was established but the applicant denied the conduct at the naturalization interview, then the false testimony to the adjudicator could be grounds for denial. Furthermore, if the fraud occurred outside the 5-year "good moral character" period, it could nevertheless be taken into account in evaluating the application if "relevant" or if the applicant's subsequent conduct did not reflect that there had been "a reform of character."

an applicant's file relating to his or her application for adjustment of status under IRCA's "amnesty" provisions. The confusion stemmed from an over-expansive interpretation of the rules governing the confidentiality of those applications for adjustment of status under IRCA. We offer a brief description of the confidentiality provisions of IRCA as background to this discussion.

(5) The confidentiality provisions of IRCA

To encourage potentially eligible applicants to apply for adjustment of status, IRCA established that information provided by amnesty applicants would not be used to deport them (on the basis of having illegally entered the country or having overstayed after entering legally) in the event that their applications were denied. The confidentiality provisions of IRCA prohibited INS from using the information in a legalization file "for any purpose other than to make a determination on the application or for enforcement of [the provisions concerning false statements in applying for adjustment of status], or for the preparation of reports to Congress" as required by IRCA. As a means of facilitating compliance with this provision, INS segregated information pertaining to the legalization application from other information in the applicant's file and placed a red cover or "red sheet" on top of the information.

IRCA's implementing regulations did not address whether the information in a *granted* legalization application could subsequently be used for any purpose, such as to determine eligibility for another immigration benefit. In July 1989, INS amended its regulations and specifically addressed subsequent uses of the information in a granted legalization application. At least two regulations spelled out the propriety of reviewing the adjustment application. The regulations concerning the application for temporary residence (the first stage of the amnesty adjustment of status process) provided that "information in a granted legalization application and contained in the applicant's file" was "subject to subsequent review in reference to future benefits applied for (including petitions for naturalization and permanent resident status for relatives)." In the regulations concerning the temporary resident's adjustment to *permanent* resident (the second stage), it was noted that "information contained in granted legalization files may be used by the Service at a later date to make a decision … on an immigrant visa petition or other status filed by the applicant . . ." or "on a naturalization application submitted by the applicant," and for the preparation of reports to Congress and for the furnishing of information for the census.

b. Detecting SAW fraud and CUSA adjudications

As noted above, persons who had obtained lawful permanent resident status through the SAW program became eligible to apply for naturalization in late 1994 and 1995. This meant that during CUSA adjudicators would be assessing for the first time whether those naturalization applicants had complied with the SAW provisions of IRCA when they adjusted to permanent resident status five years earlier. Accordingly, adjudications officers needed guidance on these issues from INS Headquarters given the number of SAW applicants eligible to apply by 1995 and congressional concerns about the prevalence of fraud among SAW applicants. Guidance about such matters should have come from either the Office of Programs or the Office of General Counsel. However, no such guidance was issued until September 1996.

Headquarters' failure to provide adjudicators with guidance on SAW fraud before or during almost all of CUSA was particularly problematic because, in the absence of such guidance, a misunderstanding had taken hold in four of the five Key City Districts concerning the relevance of an applicant's legalization history to a pending naturalization adjudication. Despite specific regulations to the contrary, many officers and managers shared a widespread perception before and during CUSA that INS was prohibited from reviewing an applicant's legalization information in any subsequent proceedings. The record shows that while the message about protecting an amnesty applicant's confidentiality under IRCA had been driven home throughout INS, the finer points of the implementing regulations had been misunderstood.[62] As a result, adjudicators in four of the five Key City Districts (all except Miami, as

[62] The misunderstandings in the Field may have been encouraged by confused messages from Headquarters about the confidentiality provisions of IRCA. The initial implementing regulations for IRCA provided that an alien could be prosecuted for committing fraud in the application process but if the government declined to prosecute, INS could place the alien in deportation proceedings. Shortly after the regulations had been implemented in January 1988, INS' General Counsel transmitted a memorandum to the Field marked "priority" directing the Field not to bring deportation proceedings against an alien where prosecution for fraud was declined if the basis for deportation was information contained in the legalization file. The General Counsel instructed that the confidentiality provisions of IRCA prohibited use of the legalization information for this purpose. In addition, the directive emphasized that use of such information would subject INS employees to "criminal penalties." Subsequent regulations permitting adjudications officers to review all legalization information in connection with a naturalization application were not as emphatically broadcast to the Field as the earlier warning against inappropriate disclosure.

described below), were instructed not to review the legalization portion of an applicant's file (i.e., they should not look under the red sheet) in connection with a naturalization adjudication. This mistaken instruction prevented the kind of file review that would have alerted a trained DAO to indications of SAW fraud.

Conflicting views in the Field concerning whether an adjudicator could review a naturalization applicant's previous legalization application led several district offices to formally submit questions to INS' General Counsel. In an opinion issued in September 1996, General Counsel David Martin noted that federal regulations permitted review of the legalization portion of the A-file in adjudicating a naturalization application, and that such review was part of the evaluation of an applicant's "good moral character." This opinion—issued only because officers in the Field had bothered to formally submit questions—was Headquarters' first articulated guidance to the Field in this area and came during the final month of CUSA.

Thomas Cook, Acting Deputy Assistant Commissioner for Benefits during CUSA, conceded in an interview with the OIG that he had been aware that the Field needed more guidance on this issue. When pressed to explain why no guidance had been issued, Cook said that he did not remember. Other Headquarters officials, including Commissioner Meissner, Deputy Commissioner Sale, and David Rosenberg, similarly told the OIG that they had recognized a need for guidance to the Field on whether adjudicators could review an applicant's legalization history. None could explain why such guidance had not been issued. The lead manager for the Office of Programs, EAC Aleinikoff, did not recall what guidance, if any, had been issued on the subject. Finally, the OIG asked David Martin, who served as General Counsel during CUSA and whose office ultimately issued the September 1996 opinion, why such guidance was not issued before CUSA's final month. Martin said, "a lot of us wish we had [had] more foresight, but there were a lot of things going on."

The record shows that what was "going on" was CUSA and INS' emphasis on getting cases completed by the end of the fiscal year. As Headquarters officials concentrated on CUSA's production priority, they did not take the time to communicate to the Field Congress' concern about naturalizing people who might have obtained their permanent residency through fraud, or to advise the Field of INS' own commitment to investigate cases of potential fraud discovered in the naturalization process. Offering

guidance to the Field about how to live up to INS' commitment in this area would not have required additional resources; it simply would have required CUSA managers to reiterate the law and to emphasize to its adjudicative staff the importance of withholding citizenship from those who had already obtained one benefit through fraud. However, these messages were not among the themes of CUSA. To the extent that those messages would have encouraged greater detail in interviewing and greater reliance on the review of an applicant's permanent file, they were also inherently inconsistent with the demands of CUSA's busy schedule.

Below we offer an assessment of the policy and practice with respect to use of legalization materials in adjudicating naturalization cases in each of the five Key City Districts during CUSA.

(1) Los Angeles

The Los Angeles District had the largest number of pending naturalization applications during CUSA and it was also a district in which a large number of SAW applicants became eligible to apply for naturalization. Not only were officers in Los Angeles instructed that they could not review the information "under the red sheet" when adjudicating an application for naturalization, this erroneous interpretation of IRCA's confidentiality provisions evolved by the summer of 1996 into a general rule that officers should not pursue suspicions of SAW fraud regardless of the source of the information.

i. Information "under the red sheet" could not be reviewed

District Director Rogers firmly believed that an adjudicator was not to review or consider the legalization application when adjudicating a naturalization case. When the OIG made reference during Rogers' interview to information supporting the position that an adjudicator should review that application, Rogers stated, "that is not the interpretation that was taught or used in the agency where I was a member" (Rogers retired from INS in 1998).

CUSA site coordinator Terrance O'Reilly—who previously held positions in INS Headquarters as Deputy Associate Commissioner for Legalization and then Assistant Commissioner for Legalization—also told the OIG that he understood that adjudicators should not look under the red sheet. He pointed out to OIG interviewers that he began his legalization work with

INS "a week after the bill was signed in 1986" and repeatedly discussed the confidentiality provisions of IRCA with, among other people, the House of Representatives employee who had drafted them.

Despite the regulations' explicit language authorizing use of such information when evaluating a naturalization application, O'Reilly told the OIG he was convinced that such use was not appropriate. According to O'Reilly, he reached this conclusion after having the "hammer of confidentiality…beat into my head during the legalization program." O'Reilly explained that his work in legalization taught him that "once a [legalization] case is closed, it was closed."[63]

O'Reilly was not alone in his view that IRCA afforded legalization applications expansive confidentiality. As one El Monte supervisor noted, years of adjudicating adjustment of status applications had instilled in them the "fear of death" if officers were to use the information under the red sheet inappropriately. During CUSA, in the absence of any guidance about whether the information should be used, the supervisor told the OIG that she relied on her assumption that the material was confidential and should therefore not be considered when assessing a naturalization application.

Ten officers from O'Reilly's Administrative Appeals Office at INS Headquarters went to work as detailees at the Laguna Niguel naturalization site in October 1995, shortly after O'Reilly had become CUSA's Los Angeles site manager. O'Reilly told the OIG that staff knew "the SAW law and reg[s] extremely well," and he recalled discussions about the confidentiality provisions. O'Reilly said he did not remember the specific instructions he

---

[63] Despite his misunderstanding of IRCA's confidentiality provisions, O'Reilly was one of the few INS officials who, during CUSA, demonstrated some concern about the naturalization of applicants suspected of SAW fraud. In June 1996, when he was in charge of CUSA for the Office of Field Operations, O'Reilly learned that adjudicators in the Field were encountering cases of suspected SAW fraud. O'Reilly asked the Office of Programs to "quickly" develop a policy "regarding what naturalization adjudicators are suppose [sic] to do when it is determined that an applicant received LPR status thru [sic] SAW fraud." Even with O'Reilly's request, the Office of Programs did not issue any guidance during CUSA. In response to O'Reilly's inquiry, the Office of Programs assigned a staff member to prepare a memorandum on the topic, and that memorandum eventually confirmed that it was permissible to review the legalization application. However, the memorandum was not drafted until October 1996.

might have offered, but confirmed that he "would have said that I wouldn't…go under the red sheet."

The supervisor at Laguna Niguel in late 1995 confirmed that despite recognizing that considerable fraud existed in the SAW program he instructed his officers that they were not to consider the information under the red sheet in evaluating an application for naturalization. He told the OIG that this was against his own personal view of the matter and against the sentiments of some of the officers (who he said often reviewed the file anyway), but said he instructed his officers consistent with his understanding of INS Headquarters policy.[64]

The District's lead CUSA trainer told the OIG that she did not address the role of the legalization application in the naturalization interview in training she provided to CUSA DAOs.[65] She noted that employees within the District argued about whether officers should review the material or whether such review was prohibited. She told the OIG that she concluded that it was not a matter of great importance because most of the CUSA DAOs would be working with only temporary files and would not have access to the legalization applications.

We found significant support for the trainer's view that the prevalence of temporary files and work folders limited the occasions on which officers would even be faced with the choice of whether to review the legalization application evidence. A supervisor at Bellflower, the site through which the District's off-site interviewing program was coordinated and which was particularly dependent on the use of temporary files, said that she never instructed officers about whether they should or should not consider information under the red sheet. Furthermore, she told the OIG that she could not recall any case continued for the purpose of exploring possible legalization fraud. In comparing her statements to the responses of the supervisors at other sites, we

---

[64] We note that Laguna Niguel's heavy reliance on temporary files or work folders (see A-files chapter) would have, except in relatively few cases, precluded any attempt to examine legalization materials.

[65] Another CUSA trainer said that she instructed students in her classes not to look under the red sheet, based on instructions from the lead trainer and from her supervisors. The third and only other CUSA trainer was unaware of any rules concerning information under the red sheet and consequently said he gave trainees no instruction about what to do with such materials.

infer that the Bellflower supervisor's lack of exposure to this issue was in large part because of that office's lack of exposure to permanent files in its naturalization work (the same supervisor had estimated that Bellflower relied on temporary files or work folders in 90 percent of its cases).

Supervisors in Los Angeles understood the SAW fraud issue in various ways. While all of the CUSA supervisory officers at El Monte, Laguna Niguel, and the District Office interviewed by the OIG confirmed that there were substantial limitations on the use of the material, some believed that officers were not to review the legalization application, others thought that it could be reviewed but only if it was used to *support* the applicant, while another believed that adjudicators should not ignore the fraud but rather should not go out of the way to look for it. Finally, other supervisors told the OIG they believed that legalization fraud was not to be considered at all when considering an applicant's naturalization application.

ii. Instructions not to investigate suspicions of SAW fraud

The Los Angeles District's Director, Deputy Director, and ADDA told the OIG that the prohibition against looking under the red sheet had not completely prevented an officer's consideration of possible SAW fraud. They noted that an officer's suspicions could have arisen, for example, from something the applicant said at the interview indicating that he or she had never worked in agriculture yet the file number (legalization applicants' file numbers were all in the 90 to 92 million series) indicated that the applicant obtained residency status through the SAW program. Even though some officers said they understood that they could pursue suspicions of fraud that stemmed from something other than reviewing an applicant's file, the evidence indicates that by June 1996, line officers were strongly discouraged from pursuing cases of SAW fraud at all.

One District Office supervisor summarized Los Angeles' practice by saying that while he understood officers were permitted by law to review the legalization application, local policy was that they should not. Another supervisor told the OIG that she had read that it was permissible to review the legalization history in conjunction with the naturalization application, so she encouraged adjudicators to conduct such reviews in contravention of standard District practice. This review ended, however, when she was told by a

supervisor to stop continuing cases on the grounds of possible legalization fraud.

In addition to these two supervisors, four other supervisors at three different sites told the OIG that Naturalization Section Chief John Amador specifically instructed them *not* to continue naturalization cases on the grounds of suspected legalization fraud regardless of the source of the suspicion. The Section Chief denied giving such an instruction. According to two supervisors, this instruction came in the wake of the large number of continuances arising from suspected fraud at their sites. One supervisor flatly asserted to the OIG that the instruction was issued because the District did not want to readjudicate all the old legalization applications. Another supervisor told the OIG that cases were not to be continued because legalization fraud had been "waived."

While the Section Chief who purportedly issued the instruction against continuing such cases denied that he had done so, we found a contemporaneous written record made by one Los Angeles supervisor that corroborated a message of discouragement—if not outright prohibition—of investigating possible cases of SAW fraud. On June 18, 1996, this supervisor wrote that, after her office had "previously continued a large number of cases for review of possible SAW fraud," she had "since received oral directions not to continue cases except for extreme cases of fraud." When interviewed by the OIG, the supervisor said District management issued the instruction because reviewing cases of SAW fraud would "open up a whole can of worms."

If INS' own evaluation of the scope of fraud in its Legalization program was accurate, it was certainly true that a careful evaluation of the merits of legalization cases would have "open[ed] up a whole can of worms." Comprehensive data does not exist to determine just how many 1996 naturalization cases were initially continued because of suspected SAW fraud, but supervisors told the OIG that the number was sizable, an assessment corroborated by the available documentary evidence. For example, on a single day in March 1996, an outreach team continued 16 percent of their 150 cases because of SAW fraud that was suspected *solely* on the basis of the applicants' answers to the work history questions on the N-400. There is no way to know how many more cases would have been continued if adjudicators had been permitted to review applicants' legalization material under the red sheet.

Thus, the evidence indicates that even more cases would have been continued for suspected fraud had Los Angeles managers encouraged officers to conduct a thorough review of the circumstances surrounding the applicant's

legalization. Such direction quickly would have created a large backlog in the Continuation Unit, the group responsible for handling all such continued cases, which in turn would have necessitated the redirection of resources away from preliminary interviews, thereby setting up a conflict with the case-processing objectives of CUSA.

iii. Overbroad interpretations of IRCA's confidentiality provisions persist

We found during this investigation that the erroneous interpretation of IRCA's confidentiality provisions persisted beyond CUSA. During interviews with the OIG late in 1998, the Los Angeles District managers stated that it was still their belief that officers should not look under the red sheet in a legalization file when considering naturalization adjudication.

Indeed, we found this view so entrenched that one adjudicator was even considered for disciplinary action in 1998 by local managers for having insisted on reviewing information under the red sheet in a naturalization applicant's permanent file. When this officer issued a "notice of intention to deny" a naturalization application based, in part, upon his review of the legalization application, the applicant's attorney filed a complaint.[66] In reviewing the complaint, District managers consulted INS' Office of Internal Audit and local District Counsel for advice about the role of the confidentiality provisions of IRCA on naturalization adjudication. According to the DAO's supervisor, District Counsel confirmed that the officer was accurately quoting the law, but nevertheless said that the DAO had "overstepped his bounds."

We did not revisit the particular facts of this naturalization case and therefore do not challenge the advice provided to the DAO's supervisor or whether some other fact may have supported local counsel's finding that the DAO had not properly adjudicated the case (the opinion was not offered in writing).[67] What is relevant for the purpose of our investigation is how Los Angeles managers interpreted the advice. The evidence shows that this decision reinforced their view that the naturalization officer should not review

---

[66] The DAO was one of two in the Los Angeles District who were regarded as advocates for the position that officers should review the entire file when an applicant applies for naturalization, including information under the red sheet.

[67] The applicant naturalized in June 1998.

information in a legalization application, a position supervisor adhered to at least through March 1999 when the OIG conducted its final interviews in Los Angeles. The DAO who reviewed information under the red sheet was spared discipline in this instance because supervisors had not previously instructed him *not* to look under the red sheet. His supervisors however, verbally counseled him that in the future he was not to review this type of information when adjudicating naturalization cases.

(2) New York District

New York Deputy District Director Mary Ann Gantner acknowledged that significant confusion existed about whether the legalization section of a file could be considered in adjudicating the naturalization application, a characterization corroborated by supervisory and non-supervisory personnel. The evidence reveals that New York officers followed no clear policy or practice with respect to reviewing legalization materials, although we interviewed a number of supervisors and adjudicators who believed that it was not permissible for an adjudicator to look under the red sheet. The Naturalization Section Chief noted to the OIG that Headquarters officials should have formulated a policy on the matter prior to CUSA in view of the large number of legalization cases due to be adjudicated during CUSA.

Our investigation in the New York District revealed that upper-level managers and supervisors who worked at the District Office in Manhattan believed that any applicant's entire file could be reviewed in conjunction with naturalization adjudication, including any information under the red sheet. The ADDE and the Naturalization Section Chief told the OIG that they believed this was the policy throughout the District. The Section Chief also said that she was not aware of any practice within the New York District of *not* looking under the red sheet. All three supervisors at the District Office in Manhattan corroborated that view. In fact, according to one of these supervisors, adjudicators were encouraged to review and "scrutinize" the legalization documents when reviewing an application for citizenship.[68]

---

[68] At the same time, one of the CUSA trainers who was a permanent DAO from the Manhattan office told the OIG that officers were not permitted to consider any information about how an applicant acquired lawful permanent resident status through the SAW program.

We found, however, that the policy was understood and applied differently outside the Manhattan office. The supervisor at the Brooklyn citizenship office said adjudicators in her office were not permitted to review documents under the red sheet. This supervisor, like the training officer in Los Angeles, also pointed out, however, that the issue had been "moot" because officers adjudicated most citizenship applications during CUSA using temporary files and work folders. Consistent with these statements, permanent adjudicators who worked in Brooklyn told the OIG either that they were instructed not to look under the red sheet or that they were not permitted to use any information under the red sheet *against* the naturalization applicant.

Two supervisors and the primary training officer at Garden City, New York's largest naturalization site and an office staffed almost exclusively with temporary DAOs, told the OIG that the applicant's entire file could be reviewed and that officers were instructed to be vigilant for SAW fraud. However, the site manager, two other supervisors, and the temporary officers disagreed that this was the office's practice. A number of adjudicators told the OIG they were instructed not to look under the red sheet (or that they were not permitted to use the information in the legalization application) by the same supervisors who told the OIG that such review had, in fact, been permitted and even encouraged.

(3) San Francisco District

Most supervisors and adjudicators in San Francisco interviewed by the OIG understood that they were prohibited from using legalization information to adjudicate a naturalization application. San Francisco managers sought guidance from INS Headquarters on the effects of SAW fraud on naturalization during an April 1996 conference call, but never received assistance on the issue during CUSA. The misperception that legalization information was "off-limits" persisted even after INS' General Counsel issued an opinion in September 1996 clearly stating that information submitted for legalization could properly be reviewed when adjudicating other petitions, including naturalization. In fact, a training notice issued by the San Francisco District in November 1996 read, "Remember that the information in legalization files (A90 #) especially the information under the red cover sheet cannot be used against the applicant. You can refer to this information, however, to verify dates of permanent residence, government testing, and other pertinent

information." The General Counsel's September 1996 opinion, it turns out, was not disseminated in the San Francisco District until April 1998.[69]

(4) Chicago District

Chicago District's rule that adjudicators were not to review legalization materials in conjunction with an application for naturalization was one of many issues Chicago employees complained about at the September 24, 1996, congressional hearing. One officer, Joyce Woods, specifically recalled at the hearing that adjudicators had been instructed at a staff meeting that they were not to look under the red sheet when reviewing the file of a naturalization applicant. Witnesses interviewed by the OIG corroborated Woods' description of an April 1996 meeting at which they were instructed by the Acting Deputy District Director, Robert Esbrook, not to look under the red sheet.

Brian Perryman, Acting District Director at the time, and several supervisory and permanent officers told the OIG that they also understood that officers were not supposed to look under the red sheet in adjudicating naturalization cases. While a small number of supervisory and permanent employees told the OIG that it was permissible for officers to look under the red sheet, three of the five officers, including the District's lead trainer,[70] cautioned that the information could not be used against the applicant. It was understood, according to one supervisor, that adjudicators could get sued if anyone looked at the legalization material.

Esbrook, for his part, told the OIG that he did not recall giving specific instructions at the April 1996 meeting with Woods and other staff that officers were not to look under the red sheet. He said that he did not intend to

---

[69] We could not determine if a copy of the memorandum previously had been sent to the San Francisco District and not disseminated, or whether the April 1998 dissemination occurred promptly after the District received its first copy of the opinion.

[70] The lead trainer was DAO Thomas Conklin, who also testified at the September hearing. The other Chicago trainer told the OIG that he was aware of Esbrook's instruction that DAOs were not permitted to look under the red sheet, but said that he nevertheless instructed temporary officers to review the entire A-file, including the legalization material. One temporary DAO told the OIG that she followed this trainer's advice and reviewed the entire file, but realized that she did not know enough about immigration law to determine if the applicant had obtained residency status lawfully.

discourage DAOs from pursuing fraud.[71] Regardless of the specific exchanges at this meeting, however, the evidence shows that the message had been clearly communicated to Chicago DAOs that an applicant's legalization information was not to be considered when evaluating the naturalization application. Even Esbrook recalled that at the April meeting he mentioned that the new DAOs did not have the requisite skill or sufficient time at the interview to determine "good moral character" from anything other than the applicant's responses to the N-400 questions and any available criminal history report.

(5) Miami District

Only in the Miami District did we find evidence of a consistent policy that DAOs were to review the applicant's entire permanent file, including any application for adjustment of status under the SAW program. In addition, we found that the temporary officers hired during CUSA were trained consistent with this policy.[72] However, as discussed in our chapter on A-files, an officer's review of the applicant's previous benefit applications required access to the applicant's permanent file, access that was often unavailable at the height of CUSA.

c. Operation Desert Deception: INS did not take action during CUSA to prevent applicants who had benefited from SAW fraud from becoming citizens

By September 1995, INS had specifically identified 22,000 cases of suspected SAW fraud in the aftermath of an extensive criminal investigation entitled "Operation Desert Deception." These 22,000 cases were connected to several defendants in the investigation who had by then been convicted of various federal crimes relating to an elaborate SAW fraud scheme. Despite knowledge of these cases at the highest level of INS, despite knowledge that many of these individuals had become or would soon become eligible to apply

---

[71] His recollection of the meeting was that Woods had been encouraging DAOs to pursue lines of questioning that were outside the scope of the N-400, which he believed was tantamount to an inappropriate "fishing expedition."

[72] The only three Miami witnesses who told the OIG that they were not allowed to look under the red cover were immigration agents, two of whom were not originally from the Miami District. All three agents were detailed to Miami for CUSA in the fall of 1995 and did not receive Miami's CUSA training.

for naturalization, and despite Headquarters' commitment to Congress in November 1995 that it would appropriately investigate cases in which SAW fraud was suspected, INS did not take timely action to ensure that applicants suspected of SAW fraud did not naturalize during CUSA. The evidence shows that INS knowingly put CUSA's production priorities ahead of its commitment to take appropriate action to prevent individuals who had already fraudulently received one immigration benefit from becoming U.S. citizens.

(1) Background on Operation Desert Deception

In 1995, INS' Investigations Division completed a 5-year criminal investigation into immigration fraud code-named "Operation Desert Deception" (ODD). The investigation, conducted largely around Las Vegas, Nevada, focused on individuals who assisted aliens in preparing and filing fraudulent legalization applications and other documents with INS. This investigation resulted in the successful prosecution of 54 individuals, including two INS officers, for legalization fraud, bribery, and tax evasion.

During the course of the investigation, approximately 22,000 A-files were segregated as possibly fraudulent because they contained residency applications that had been filed in Las Vegas during the time period under investigation. Primarily as a function of the date on which the residency applications were filed, the 22,000 cases included persons who were then eligible to naturalize (because five years had passed since the time that permanent residency had been granted), as well as other persons who were not yet eligible to naturalize. These A-files were stored in an INS facility in Las Vegas until sentencing and post-trial motions were completed on the 54 defendants in the spring of 1996.

The 22,000 cases were of interest to the ODD prosecution team not just because they contained evidence of the defendants' criminal conduct, but also because the applicants themselves—though not the primary targets of the investigation—included persons who knowingly participated in the defendants' criminal scheme. Although prosecutors decided that the task was too great to consider pursuing criminal charges against individual applicants, EAC Aleinikoff, in a declaration signed on September 13, 1995, and later filed with the federal court in Nevada in support of INS' request for restitution from one prominent defendant in the case, told the court that INS was going to begin a costly review of the 22,000 files

> …in an effort to identify any fraudulent documents or false applications submitted by an individual applicant to obtain immigration benefits under the Immigration Reform and Control Act (IRCA). To the extent permitted by law, based upon that review, the INS will then take action to divest any alien of any benefit fraudulently obtained through the legalization process.

Thus, the files were also kept segregated in Las Vegas in anticipation of this INS review.[73]

(2) The delay

Despite Aleinikoff's representations, and despite INS' representations to Congress later in 1995 that it would take steps to ensure that cases in which SAW fraud was suspected would be investigated before any decision was made to approve naturalization, INS did not timely undertake the promised review of the 22,000 cases. The lead federal prosecutor working on the criminal cases told the OIG that he became concerned when, despite his requests in October 1995, INS had not taken any steps toward reviewing the cases by late 1995. The prosecutor said that each day more of the legalization applicants were becoming eligible, and he believed that INS was bound by Aleinikoff's declaration to conduct a thorough review. The prosecutor told the OIG that he recalled discussions with INS officials in late 1995 during which INS balked at conducting the case review because of budget concerns.

By May 1996, INS still had not begun to review the files. During a conference call with INS officials on May 14, 1996, the prosecutor was advised that the reason for delays in implementing the review was budgetary concerns, specifically that INS' resources were primarily devoted to CUSA. As he indicated in his contemporaneous notes, INS told him that the "big priority is naturalization, to naturalize 1.6 million people." Michael Niefach of the General Counsel's Office, who also participated in the conference call, corroborated the prosecutor's recollection that he had expressed his concern

---

[73] For those cases among the 22,000 in which permanent residency had been granted more than five years earlier and for which reviewers determined the application for residency had been fraudulent, the review promised by Aleinikoff, if timely, would presumably prevent INS from inadvertently approving an application for naturalization by that permanent resident.

about the delay and had asked INS to undertake the promised review. Niefach told the OIG that budget constraints, although not specifically the CUSA program, had prevented INS from undertaking the review project before that date.[74]

(3) 144 naturalized before INS' file review begins

Finally, however, as a result of the prosecutor's concerns and because of unfavorable media attention INS was receiving in Las Vegas about the delay, INS assembled a team to review the Operation Desert Deception cases beginning on May 28, 1996. By June 14, 1996, the team had reviewed, sorted, and categorized all 21,062 files. They found that 5,840 of the A-files belonged to individuals who had been lawful permanent residents for more than five years and thus could apply to naturalize at any time. In addition, they found that 144 of the A-files belonged to individuals who had *already* naturalized (the fact that these applicants had naturalized even though their A-files were stored in Las Vegas reflected INS' liberal use of temporary files during CUSA, as discussed in the subsequent chapter on A-files[75]). Individuals in 1,680 other cases had not been permanent residents for five years, and, consequently, rescission of resident status remained possible. An additional 1,203 of the timely filed adjustment of status applications were "pending," meaning they were in some stage of adjudication. The remaining 12,195 cases were considered untimely filed adjustment of status applications.

INS sent the files to the California Service Center after this review where the team proposed to take administrative action on all inappropriately granted applications, such as revocation of naturalization and rescission of lawful permanent resident status. The cases accorded the highest priority among those needing additional review were the 5,840 cases in which the applicant was eligible to naturalize. These files needed to be reviewed quickly to determine whether they revealed sufficient evidence of fraud so that they could be denied for naturalization due to lack of "good moral character." Before

---

[74] Niefach told the OIG that he was unaware of the CUSA program at that time.

[75] Although the ODD files had been ordered to be kept in Las Vegas, they remained available to be reviewed by INS. In fact, the ODD review team developed an on-site system for reviewing the files if requests for information were received under the Freedom of Information Act.

recommending such action, INS General Counsel's position was that it was "essential that there be a specific, documented finding of fraud in each particular case before a naturalization application is denied."

(4) Insufficient direction to the Field

In the meantime, William McNamee, a staff officer in Field Operations at INS Headquarters, called Field managers to alert them about the potentially fraudulent legalization of persons associated with the ODD investigation who were eligible to apply for naturalization. In response, Paulette Haselau, CUSA coordinator for INS' Eastern Region, sent an e-mail to CUSA coordinators and ADDs throughout the Eastern Region advising that McNamee had called her to alert her to the results of the team's review. In her June 13, 1996, e-mail, she said that the list of ODD naturalization-eligible cases would soon be provided and warned that, "NONE OF THESE PEOPLE REFLECTED ON THE LISTS SHOULD BE NATURALIZED ON A TEMP FILE!! [emphasis in original] The A-file must be reviewed before they are scheduled for final hearing." Haselau also noted that the review was "going to be a big project which [was] going to slow down progress in Citizenship USA."

The evidence shows that the list of ODD A-numbers was disseminated to the Field the same day by e-mail and by memorandum from EAC for Field Operations William Slattery. Because of a reorganizing of the categories of the 21,062 cases reviewed, the list of naturalization-eligible cases numbered 7,000 instead of 5,840.

Los Angeles received the list via e-mail on June 13, 1996, with the notation in a cover page that further instructions about how to handle the cases would be forthcoming. Although we found no documentary evidence that the Los Angeles District or Western Region issued an explicit warning similar to that sent by Haselau not to naturalize persons on the list, by the end of June it was clear that District Director Rogers understood the importance of the matter. He directed Los Angeles DADDA Neufeld to "match these up quickly so these individuals do not get naturalized."

Similar to Haselau's anxiety, DADDA Neufeld told the OIG that he was concerned about the immensity of the project and its effect on CUSA's progress. Evidence shows that he asked James Booe, the CUSA coordinator at the Western Region, whether he had received instructions on how to proceed;

Booe replied that he had not. Neufeld then told Booe in an e-mail, "I hope that we won't have to check NACS for each of the 7,000 A-numbers." Later in June, Neufeld still had not acted on the list and told ADDA Arellano in an e-mail, "I wanted you to know we haven't done anything with it yet, as there are about 7,000 (estimated) A-numbers on the list . . . I can't believe we're supposed to run each A-number in NACS to see if they have applied."

The OIG found that despite the fact that 144 persons from among the Operation Desert Deception cases had already naturalized by the time of the initial case review, INS failed to act swiftly to prevent further naturalization of potentially ineligible applicants. Contrary to Neufeld's expectations, INS Headquarters did not issue further instructions during CUSA about how to handle these cases. Consequently, INS took no action with respect to the 7,000 cases during July, August, and September 1996, CUSA's three busiest naturalization months. Haselau's fears that a time-consuming review would slow down the progress of CUSA were not realized because the review was not undertaken during CUSA.

(5) The Field receives direction on the last day of CUSA

On the last day of the fiscal year, September 30, 1996, the Office of Field Operations issued a memorandum to District and Regional Directors warning of the 7,000 naturalization-eligible cases and instructing districts not to naturalize applicants whose A-numbers appeared on the appended list. Further instructions concerning exactly what to do with the cases were still described as "forthcoming," but Headquarters had at least made explicit its opposition to the naturalization of those applicants. By this time, however, as detailed below, it was too late.

(6) The results of the review

By October 1996, after reviewing half of the 7,000 cases, the review team estimated that 400 of the cases showed sufficient evidence of fraud (based on file review alone) such that naturalization could appropriately be denied. The final number only grew to 462 by January 1997. The review team created a memorandum for inclusion in these 462 A-files that warned the adjudicator of potential fraud in the residency application and provided further instructions on how to proceed. While the OIG is not in a position to comment on the

methods employed by INS in this case review, it is clear that the review team erred on the side of finding no misconduct unless the evidence in the file explicitly indicated fraud.[76]

As part of our investigation, the OIG searched CIS and NACS to review the status of the 462 cases INS had identified as fraudulent. Of those, 95 (or 20 percent) had applied to naturalize as of the end of March 1999. Of the 95, 45 had naturalized as of November 1999, all but 9 in the Los Angeles District.[77] We found that 18 of the 36 Los Angeles individuals had naturalized before the end of CUSA. All 18 cases showed evidence of having been approved for final hearing on the basis of only a temporary file. In addition, 5 of the 18 closed 1996 naturalization cases also show that a "warning memorandum" was interfiled, a step that had to have been taken *after* the applicant had naturalized since the review that resulted in the insertion of these memoranda did not begin until October 1996. Consequently, we found that INS did not appear to have

---

[76] Instead of leaving the ultimate determination of fraud to the adjudications officer at any subsequent naturalization interview, the ODD review team inserted memoranda indicating that a file had been reviewed and found *not* to contain fraud. In other words, the review team essentially precluded an officer from finding fraud if the team had reviewed the file and had determined that no fraud memorandum was warranted. Because the fraud memorandum was only inserted in files containing clear evidence of fraud based solely on review of the file, we infer that the review team erred on the side of *not* finding fraud.

One file obtained by the OIG illustrates this point. The person to whom the file relates (referred to here as "the citizen") naturalized in Los Angeles on August 8, 1996. The file had been reviewed before the citizen's naturalization and found not to warrant a fraud memorandum because the person who issued the certificate of agricultural work had not been convicted. That person had, however, been *indicted.* Nevertheless, his name was not in the index of individuals whose certificates triggered a fraud memorandum for the review team.

The citizen's A-file showed that he had been granted permanent residency by application of law (any application not finally adjudicated by INS before a certain date had been deemed granted), but the original legalization adjudicator included detailed notes in the file indicating that he suspected fraud in the legalization process. Accordingly, despite the legalization officer's suspicion, the officer reviewing the file at the naturalization interview would have seen the review team's "finding" that the applicant was not involved in fraud and presumably would have granted the case without further exploring the fraud issue.

[77] Of the nine applicants who naturalized in districts other than Los Angeles, three naturalized in San Francisco, two in San Diego, and one each in Seattle, Chicago, Dallas, and Washington.

taken any post-naturalization steps to evaluate the merits of the applicants' naturalization.

In the course of this investigation, the OIG became concerned that the warning memoranda in applicant files might not be sufficient to alert adjudicators to the fraud that had already been identified by the INS review team. Because of this concern, in March 1999 the OIG alerted San Francisco and Los Angeles INS officials of still-pending naturalization applications in their districts by persons whose SAW applications had been identified as fraudulent by the ODD review team. We provided a list of the applications pending in other districts to Michael Niefach of INS' Office of General Counsel.

(7) The failure to use database "flags" and the naturalization of those suspected of SAW fraud

INS did not use any automated "flag" in its various computerized databases to identify the 7,000 naturalization-eligible Operation Desert Deception cases. Had such a mechanism been in place, the Field might have been able to learn which cases were suspected of fraud when those cases were queried in the computer system. In other words, instead of the burdensome process of manually checking 7,000 names in the computer, an automated system could have assisted the Field managers in obtaining the necessary information (although Headquarters would still have to provide guidance concerning what next steps to take in relation to these cases).

INS' failure to use automated codes to "flag" or otherwise warn its staff about cases in which fraud was suspected previously had been criticized in an OIG inspection report, "Immigration and Naturalization Service Document Fraud Records Corrections," published in September 1996. As detailed in that report, INS had previously represented that it would use a flagging or coding system in conjunction with two previous benefit fraud cases, one in 1992 involving 600 names that required a "flag" or warning and another in 1994 involving 1,000 names. However, as of the date of the OIG inspection report, no automated warning system had been implemented. In her written response to congressional inquiries about these matters, Commissioner Meissner said that INS would implement an automated method of "flagging" (in CIS) potentially fraudulent cases. As of the May 20, 1997, hearing before the Immigration and Claims Subcommittee of the House Judiciary Committee

looking into visa and immigration benefits fraud, an INS official testified that such a system would be in place by July 1997.

INS did later develop and implement flagging procedures. It linked to CIS the National Automated Immigrant Lookout System (NAILS), a database that contains information on persons of interest to INS and other federal agencies for law enforcement purposes. When a record is created in NAILS, the corresponding record in CIS is updated with a flag indicating the need for the system user to look in NAILS for additional information on the alien. Once in NAILS, the system user is presented with information concerning how to proceed in regard to the alien (such as the name of the person to contact for further information).

However, despite having a flagging system available, INS has still not engaged it to warn the Field concerning the naturalization-eligible ODD cases that INS identified as cases involving fraud. The OIG found no such warning flags in November 1999 when we queried CIS. OIG Inspectors, in conducting their recent follow-up inspection of INS' implementation of NAILS, found that Michael Niefach had directed the Records Division to create NAILS records for the 22 cases about which he had been alerted by the OIG, but upon querying the databases found that still no NAILS record had been created in 21 of the 22 cases. One case did have a NAILS record, but it had been created for reasons other than the suspected SAW fraud.[78] Thus it appears that the only step INS has taken to encourage appropriate review of these cases is the interfiling of the "warning" memorandum in the applicant's permanent file.

---

[78] It is possible that INS could have once created a NAILS record in these cases and then removed it upon a subsequent determination that the flag was no longer necessary. Because the ODD cases had already been reviewed and fraud had been confirmed, and because we found no evidence of a second review of these cases by INS, it is unlikely that this occurred in regard to the ODD cases. The OIG did not request that INS formally audit the NAILS records for these 462 cases.

It is also noted that INS' failure to use the flagging system for ODD cases was not because it had forgotten about ODD when addressing the flagging system before Congress. In his prepared statement for the hearing into benefits fraud referred to above, General Counsel Paul Virtue also described Operation Desert Deception as INS' first use of extensive computer support in efforts to identify fraudulent cases.

E. Headquarters' encouragement of naturalization streamlining and the results in the Field

1. Introduction

Although INS Headquarters failed to provide guidance to the Field in the areas of naturalization adjudication discussed above, it did not remain silent during CUSA. Headquarters consistently emphasized increased efficiency and productivity. The reengineering ideas of streamlining the naturalization interview and of increasing cooperation with CBOs—both to improve customer service and to shift to those organizations some of the burden of ensuring that applicants were well-prepared for their naturalization interview—were repeatedly held out as the ideal means of achieving CUSA's production goals.[79]

As described in our overview of CUSA, by the spring of 1996 INS showed a serious resolve about reaching the goal of becoming current in naturalization processing by the end of the fiscal year. In May 1996, the Office of Programs issued its "Naturalization Process Changes" memorandum, a follow-up to INS' "Expanded Naturalization Initiative" of March 1996 that included a 20 percent increase in resources. By then, the Field did not need a formal memorandum to understand the kind of practices that INS Headquarters was encouraging: the message concerning increased production and streamlining had already been heard by Field managers in numerous conference calls with Headquarters officials and, in particular, when the March initiative and the 20 percent funding had been announced. Indeed, we found that the Field paid little attention to the specifics contained in the Naturalization Process Changes memorandum. However, because it was the only detailed description that Headquarters issued concerning CUSA adjudication methods, it thus provides a summary of what Headquarters then believed were laudable naturalization practices. In this section of the report, we describe the recommendations contained in the Naturalization Process Changes memorandum and show how INS Headquarters' emphasis on increased production obscured any efforts to protect adjudications from increased vulnerability to error. We illustrate this by examining the Chicago off-site interviewing program, an adjudication experiment that Headquarters

[79] Streamlining the naturalization interview and increasing cooperation with CBOs were the latter two prongs of CUSA's "people, process, partnerships" strategy.

knew was problematic before CUSA and yet continued to encourage in its Naturalization Process Changes memorandum.

As also discussed in our overview chapter, Headquarters' emphasis on streamlining and increasing production was problematic when viewed in the context of a naturalization system that was already known to be vulnerable to processing errors. INS Headquarters urged the Field to move more quickly when the tools and methods in place were already weak, and it failed to provide guidance concerning how to strengthen the process. As a result, the message conveyed to the Field was that the quantity of cases completed was more important than the quality of the adjudications. We found that many offices responded accordingly.

Headquarters' emphasis on numerical goals also encouraged the Field to adopt strategies that were geared toward increasing the number of cases processed but not necessarily geared toward reducing the backlog. These strategies included aggressive off-site interviewing of applicants who had only recently filed applications for naturalization, or policies in several districts that focused adjudicator resources on cases that could be approved rather than on cases that might result in denial because approvals could be completed more quickly.

We devote the remainder of this chapter to examining the adjudication methods that resulted from Headquarters' CUSA initiative. We discuss how these methods exposed naturalization adjudication to the risk of errors in evaluating an applicant's eligibility. We also illustrate how these methods led witnesses to characterize CUSA as a program biased in favor of approval.

2. The Naturalization Process Changes memorandum

a. The instruction to streamline naturalization

In March 1996, when Headquarters advised the Field that a 20 percent increase in resources would be made available to support the CUSA project, Headquarters also told the Field that it sought to remove some of the "constraints of the adjudicative process." The memorandum detailing the Expanded Naturalization Initiative noted that the Benefits Division (of the Office of Programs) was "reviewing suggestions made to streamline the natz process." The results of that review were disseminated to the Field in a

memorandum dated May 1, 1996, signed by Associate Commissioner Crocetti and entitled "Naturalization Process Changes."[80] The memorandum's stated purpose was "to achieve maximum results in the quickest time period and to improve the quality of [INS'] work." Each of its directives and suggestions for changes in naturalization practices, except for its announcement of the establishment of the Fingerprint Clearance Coordination Center, was a "streamlining" suggestion in that each was designed to accelerate naturalization adjudications.[81]

Attached to the memorandum was a summary chart that "identified procedural barriers in the naturalization process," proposed solutions to each problem, and a timetable to implement each of the 23 solutions. Also included in the packet were descriptions of various streamlining strategies grouped according to the four stages of the naturalization process—"application," "adjudication," "processing," and "oath ceremonies." Finally, a "best practices" memorandum[82] described the "group processing" practices then in effect in El Paso and Chicago, the new computer system at work in St. Paul, and "same-day swearing-in ceremonies" in Denver.

Among the barriers listed in the summary chart were INS' then-current practices in English testing, examining applicants' "good moral character," and ceremony administration. With respect to English testing, the memorandum noted that "current testing procedures" were "time consuming" and promised guidance concerning how to give written English tests to groups of people. The memorandum noted that Headquarters would "investigate alternate ways a person can demonstrate the requisite knowledge" of English. The memorandum addressed what it called the "sometimes vague" good moral character standard by promising that officers would be issued a "good moral character checklist" so that they did not spend interview time pursuing potentially irrelevant issues. Finally, the memorandum noted that because

---

[80] A copy of this memorandum is included in our report as Appendix B.

[81] We examine INS' "streamlining" of fingerprint processing in our chapter on criminal history checking procedures, below.

[82] As explained to the OIG by Assistant Commissioner for Benefits Michael Aytes, INS issued "best practices" memoranda from time to time "to take what was perceived to be among the best and most innovative approaches that different offices had independently tried and found worked and tell everybody else about them hoping that they would emulate them."

"staffing ceremonies" was recognized as a "major drain on interview capacity" (because officers were taken away from interviewing and assigned to work at naturalization ceremonies), Headquarters promised to "clarify and expand the authority of districts to use volunteers and cooperating community groups to assist with non-secure aspects of the ceremonies." Each of these ideas previously had been discussed at the reengineering meetings with an INS contractor, PRC, Inc., in the spring of 1995, but none had been further studied by Headquarters staff. The only "testing" of these ideas was whatever experimentation had already occurred in individual district offices.[83]

Direct Mail was listed in the chart as the solution to the problem of district personnel spending time initially processing applications and customers spending hours waiting in long lines to file an application. It was the only one of the 23 proposed solutions that INS had already implemented. Fifteen of the 23 proposed solutions listed an implementation date of April 1996. However, with publication of the memorandum on May 1, all of those proposals were already behind schedule.

The memorandum offered two changes under the "adjudication" category that showed CUSA managers at Headquarters were willing to dramatically change existing practices in the name of streamlining naturalization. The first was a directive that changed the policy concerning the length of time during which offices had to "diligently search" for an applicant's permanent file before using a temporary file to process an application. The former 6-month waiting period was changed to 30 days (see our chapter on A-files, below). The second change, and the focus of this section of our chapter, was that district directors were authorized to "implement alternative examination methods (AEM) immediately" in order to "increase the number of scheduled interviews." Examples of alternate methods listed were such things as "pre-screening methods, group testing [of English and Civics], primary and

[83] We found that Crocetti's memorandum suggested that greater review had been undertaken than was actually the case. He wrote that the suggestions in the Naturalization Process Changes memorandum had been "based on numerous discussions and meetings of Service field staff, regional offices and Headquarters as well as outside subject experts, community-based organizations, and focus-groups."

secondary interviewing, and off-site interviewing," all of which, according to the memorandum, made for "a more efficient interview process."[84]

Although the district offices had been encouraged in the summer of 1995 to "implement expanded examination methods," the Naturalization Process Changes memorandum phrased the suggestion more forcefully. The discussion of AEM in the memorandum ended with the following direction:

> District directors of offices processing applications for naturalization are authorized to implement AEM immediately. For more efficient utilization of Service resources, district directors are urged to adopt AEM and to increase the number of scheduled interviews. This use of AEM and streamlining of the naturalization process will aid the districts in meeting their FY 96 production goals.

Although the CUSA implementation plan noted that Headquarters Benefits Division would "develop a pilot to determine appropriate types of interviews to be conducted," the methods themselves had still not been developed or studied except to the extent that a few offices had experimented with the new procedures. INS Headquarters held out offices that had experimented with innovative strategies as role models of AEM.

b. Alternative Examination Methods

Headquarters encouraged the Field to adopt group testing of applicants' literacy and Civics knowledge, like that already in use in Chicago and described above, although INS officials acknowledged that a new standardized test was needed Service-wide (according to the memorandum, the new procedures were anticipated to be in place in "early 1997"). Other examples of "alternative examination methods" were not described in specific terms, and the possible alternatives were not limited in number.

The Naturalization Process Changes memorandum recommended that the Field consider innovative examination strategies, noting that the "interviewing pace" needed to be "recalibrated to take advantage of the time-saving strategies outlined." The memorandum provided two examples of AEMs then in use in the Field. The first was the Chicago District's off-site processing program in

---

[84] Although a "good moral character checklist" had been foreshadowed in the summary chart, it was not included in the chapter concerning increasing examination efficiency.

which community organizations worked with applicants to "ensure that the [applications] are properly completed prior to filing the applications in bulk with the Service," an example we analyze below. The second example offered was the "primary-secondary" interview arrangement used at the El Monte office in the Los Angeles District, in which "routine interviews" were handled by less experienced ("primary") officers, while more complex cases were directed to experienced ("secondary") officers. The AEM memorandum boasted that 90 percent of El Monte's cases were being handled by "primary" officers with interviews "taking about 8 minutes but [might] be shortened to around 5 minutes as the temporary employees . . . gain[ed] experience."

Although the memorandum noted that the recommended alternative methods were intended to "speed up the naturalization process . . . without compromising the integrity of United States citizenship," Headquarters offered no further suggestion about what districts could or should do in order to control quality as they increased the pace of adjudication. Furthermore, the two examples offered as models were untested and offered questionable quality control. El Monte had opened for business just three weeks before the Naturalization Process Changes memorandum was issued, establishing that the impact of primary/secondary processing and its shortened interview time on the quality of adjudications had not been reviewed before it was heartily endorsed by Headquarters as a model AEM. The Chicago off-site interviewing program, on the other hand, had been reviewed the year before by officials from the Central Region who found that the program was not one to emulate if integrity of interviews was of primary importance.

(1) Chicago off-site processing held out as a model although already recognized as vulnerable

Regional officials who reviewed the Chicago District in March 1995 described the naturalization program as "in crisis." At that time, the District had 28,000 pending naturalization applications, 13,000 of which had not been initially processed or inputted into INS' data system. The crisis was attributed in large part to Chicago's off-site interviewing program where reviewers found that interviews were scheduled so aggressively that they were abbreviated to the point of being meaningless. In light of the cursory approach, the review team concluded that there appeared to be "little reason to conduct the interview."

In addition, the review team noted that off-site interviews entailed unique challenges. As the team observed, "interviewing outside the INS office always subject[ed] Service officers to pressures to grant the benefit sought," and thus "great care" had to be taken by officers to conduct a "complete and thorough interview." The team found that the specific procedures for scheduling off-site interviews, and not just their number, also contributed to an increase in the reliance on temporary files at those interviews (see A-files chapter below).

Finally, the reviewers found that the program did not have sufficient resources. Chicago's program was "overly dependent on the SDAO for naturalization" who not only organized the program but also, with some clerical support, did all the "necessary legwork to prepare applications for interview." The report recommended instituting a moratorium on off-site interviewing in Chicago for several months and scaling back the program to a more manageable level in the future.

Although the review team's report illuminated the risks of Chicago's aggressive off-site interview program, this memorandum outlining their findings never reached Headquarters. INS had recently reorganized and had yet to develop guidelines requiring that the results of regional program reviews be distributed beyond the reviewing region. Yet, although Headquarters never had an opportunity to see this particular critical report, officials nevertheless generally were aware that the Chicago off-site interviewing program was troubled. Commissioner Meissner had known A.D. Moyer, the Chicago District Director who was primarily responsible for developing the off-site program, for many years and told the OIG that she was "always really interested" in the Chicago outreach program. She said that before CUSA she became aware that "[t]hings got to be very problematic in Chicago," including the fact that the outreach program grew beyond the ability of District officials to manage it.

(2) Chicago off-site processing during CUSA

With Moyer's retirement in late 1995, the Chicago program lost the local official most responsible for aggressively pushing the expansion of off-site processing. By the time Chicago's off-site interviewing program was held up as a model in the Naturalization Process Changes memorandum, the new District Director, Brian Perryman, had endorsed the principle of restoring quality to off-site interviewing. Perryman told the OIG that he met with Commissioner Meissner in March 1996 and told her that he was "going to

restore the balance to [the] relationship with CBOs," although he noted it would take "a long time." According to him, the Commissioner responded, "that's what I want you to do."

However, apart from the new District Director's sentiments about change and endorsement of these sentiments by the Commissioner, no structural changes were made to the Chicago off-site processing program in the months before or during CUSA. In fact, Headquarters officials described the Chicago program as a model of effective partnerships at the December 1995 CUSA planning meeting, shortly after Perryman took over as the new District Director.[85] While the new District Director met with Chicago CBOs to lay down the rules he intended to enforce at off-site processing (e.g., that the physical sites met certain criteria and that bullying of adjudicators would not be tolerated), as described below, this commitment was not sufficient to solve the problems identified in the May 1995 review of Chicago's off-site testing program.

Following an assessment in February 1996 of the District's progress toward meeting the CUSA goals, Central Region staff again described the Chicago naturalization program as in need of repair. The report noted that the program was "suffering from growing pains because of the district's aggressive outreach efforts." Sixty percent of the District's naturalization applications were generated by the off-site interviewing program, and the backlog of cases awaiting initial data-entry was three times larger than it had been during the Central Region's previous assessment in March 1995.

Dozens of adjudicators (including permanent officers and temporary officers hired specifically for the CUSA program) and several supervisors told the OIG that during CUSA CBO personnel attempted to influence or manipulate off-site adjudications in a variety of ways, including requesting additional consideration, exerting pressure to approve applications, calling supervisors to complain about individual adjudications/adjudicators, requesting transfers of cases to more lenient adjudicators, or interfering during

---

[85] Alice Smith and David Rosenberg, the officials quoted at the December meeting as having endorsed the Chicago model, told the OIG that they had been aware only that Moyer had been criticized for his degree of support of certain CBOs, but said they were not aware of allegations that adjudicators had felt pressured to grant applications at outreach interviews.

interviews.[86] However, Perryman said he was not informed about efforts by CBOs to pressure, intimidate, or influence adjudicators during CUSA. The supervisor in charge of Chicago's naturalization program confirmed that she responded to these complaints on her own. She asserted to the OIG that she attempted to listen to the complaints from both adjudicators and CBOs and to respond accordingly.[87] This supervisor had the same unmanageable number of responsibilities that she had when the Central Region reviewed and criticized the District's naturalization program the year before.

As noted above in our discussion of INS' language-testing practices, the absence of specific guidelines made inevitable the disputes about standards for eligibility between CBO representatives and INS adjudicators. In Chicago, such disputes continued to be inadequately managed, and as a result adjudicators perceived a perpetuation of the historical favoritism shown to certain organizations.

The problems illustrated by Headquarters' enthusiastic endorsement of Chicago's off-site program are broader than merely its failure to ensure that concerns about integrity in a particular district were fully addressed. Without validation or inquiry, Headquarters touted the Chicago program for emulation nationwide. Equally troubling was the failure of either the Chicago District or the Central Region to immediately correct INS Headquarters' recommendation and warn of the problems already encountered so that they would not be perpetuated elsewhere.

---

[86] The two CBOs that Chicago DAOs most often named to the OIG as attempting to influence adjudications during CUSA were United Neighborhood Organization (UNO) and Hebrew Immigrant Aid Society (HIAS). Nine DAOs related that UNO representatives attempted to interfere in their adjudications or complained to the naturalization supervisor about cases which were continued or denied. Seven DAOs made similar comments about HIAS. For their part, UNO and HIAS representatives interviewed by the OIG denied attempts to influence adjudications at off-site locations, but acknowledged that they sometimes contacted the naturalization supervisor about cases.

[87] CBO representatives, in turn, complained to the OIG about INS staff, citing their rudeness and lack of understanding or skills.

(3) Headquarters officials avoid responsibility for Naturalization Process Changes memorandum

The Naturalization Process Changes memorandum urged districts to accelerate the naturalization process and implement new examination methods to shorten the naturalization interview. In its lack of specificity about quality control, however, it failed to live up to Crocetti's assertion that it was also intended to "protect the integrity and dignity of the naturalization process." When questioned by the OIG about the memorandum, Crocetti claimed that there had been no intention to "challenge the integrity of the process just to get numbers." He offered little else, however, about the memorandum's intent. According to Crocetti, despite his signature on the cover, this had not been a project in which he had been personally involved. Crocetti said that when he realized, months later, that INS' file policy had been changed, he at first doubted that he could have signed the memorandum. He told the OIG that he "didn't like the 30-day bit" about A-files. He pointed in the direction of other staff in his office for issuance of the memorandum, and said it had "probably" been the work of Thomas Cook, who had been the Naturalization Branch Chief (although at the time the memorandum was issued Cook was acting as the Deputy Assistant Commissioner for Benefits).

Cook denied that the memorandum had been his creation but, to his credit, acknowledged that because the document had gone "through" him he bore responsibility for it. He said that it had been pulled together from several sources by a member of his staff, Pearl Chang (who was the Acting Naturalization Branch Chief), but noted that no one person took official responsibility for the memorandum.[88] Cook acknowledged that he should have

---

[88] Chang said that she was the "collector" of the information and that Aytes, Cook, Rosenberg, and staff in the Records Division gave her input. She also noted that Field Operations had the opportunity to comment but offered little feedback.

However, according to a Field Operations staff member given the opportunity to comment on drafts of the memorandum, Field Operations repeatedly objected to the document, which she said was being promoted by Aytes. Aytes, for his part, did not specifically recall the genesis of the memorandum, and Jack Kravitz of the Records Division denied that Records participated in discussions about changing the A-file policy.

Rosenberg said the memorandum was the responsibility of Associate Commissioner Crocetti, and contemporaneous e-mail messages support Rosenberg's position that he did not have editorial authority for the memorandum.

read the document more carefully. He told the OIG, "that's probably one of the worst memos we've put out. The reason I say that is it seems like every time something comes up that [was] not a good idea, easily, it's in that memo." Indeed, suggestions ranging from waiving testing requirements for certain groups of applicants, to changing the nature of the naturalization interview, to using non-INS personnel at naturalization ceremonies, all recommended in the May 1996 memorandum prompted congressional concern later that year about a deterioration in the quality of INS' standards for citizenship.

3. Increased production in the Field

a. Introduction

The districts responded to the CUSA mandate by passing on the production goals and deadlines to the rank and file. The time pressures placed on the new, temporary workforce, a group that had not been adequately trained to handle their responsibilities, resulted in the paring down of naturalization adjudications to a minimal evaluation of eligibility. Even in those offices that did not adopt "alternative examination methods," preliminary applicant interviews were narrow in scope and designed to cover only the basic requirements for citizenship. Although naturalization interviews had become more limited in scope before CUSA, the production pressures and superficially trained temporary workforce of CUSA led to further curtailment.

The pressure to produce was also translated at the field-level into an indirect pressure to approve rather than deny applications for naturalization. As previously stated, we found no evidence that INS explicitly repealed any standard concerning naturalization eligibility in an attempt to naturalize greater numbers of people. However, CUSA's emphasis on production resulted in an emphasis on speed, thereby offering an incentive for adjudicators to disregard or only cursorily review any topic that was not absolutely necessary to adjudication of the application. An interviewer who was discouraged, either implicitly or explicitly, from reaching beyond a rote review of the N-400, or who was not trained to do so, was least likely to uncover disqualifying information.

Furthermore, the lack of guidance about various issues concerning the evaluation of an applicant's "good moral character," a weakness INS had been aware of well before CUSA, had an even greater impact on the quality of adjudications in a period when more and more applications were adjudicated

by inexperienced officers. In the absence of standards, the determination of when to pursue additional information about matters such as payment of child support and income tax, or crimes committed outside the 5-year good moral character period, was a subjective judgment that varied from adjudicator to adjudicator. During CUSA, this judgment was guided by a number of factors, including the perceived likelihood of obtaining disqualifying information, the time consumed by the inquiry, and the time available. Lacking sufficient experience or time for review, the balance tilted in favor of discouraging the exploration of potentially disqualifying issues. This, too, was an indirect method of encouraging approval of naturalization applications.

While these factors increased the likelihood that a particular applicant would be approved rather than denied, the OIG also found another factor that contributed to CUSA's reputation for being biased in favor of approval. Because denials required a time-consuming level of review, districts sometimes postponed their final disposition so that CUSA resources could be devoted to cases that could be more quickly counted as "completions." This encouraged the perception among officers in many districts that the CUSA program was more focused on creating new citizens than it was on backlog reduction.

In the discussion that follows, we describe the working conditions and adjudications practices in the two largest Key City Districts—Los Angeles and New York—during CUSA, concentrating in particular on how production pressures affected the quality of the work performed there.

We then describe how CUSA was implemented in the San Francisco District, and examine how and why the burdens of production pressure influenced the smaller sub-offices within the District to a greater degree than the larger, better-equipped San Francisco District Office. The comparison shows that the quality of adjudications in smaller offices suffered in a way that larger offices under less pressure did not, thus illustrating the causal connection between CUSA's production pressures and a diminution of adjudication quality.

Finally, even though it was not a CUSA Key City District, we describe the experiences of the Newark District Office during CUSA. In the absence of adjudicative guidance from Headquarters that could have set boundaries for the extent of innovation encouraged in the Field, Newark implemented what was perhaps the most radical streamlining idea of all—the elimination of the naturalization interview.

b. CUSA practices in Los Angeles District

(1) Introduction

Los Angeles was and is the largest of INS' 33 districts and faced the largest naturalization backlog and workload when CUSA was being planned. When Commissioner Meissner announced the CUSA program in Los Angeles in August 1995, the District had more than 200,000 naturalization cases that had not yet been entered into the computer and was receiving new cases at a rate of 25,000 per month. ADDA Still of San Francisco, representing the third-largest Key City District, told the OIG that the number of cases Los Angeles said it had to adjudicate dwarfed his own district's workload. As Associate Commissioner Crocetti told the OIG:

> LA is unique. I mean their volume—you can look at the second largest key city office [New York], there's a significant difference in workload. LA is too big. I don't know . . . can anyone, no matter how good and how experienced they are, could they really manage an office that large with all the issues and with the resource constraints and the technology limitations?

Nevertheless, Commissioner Meissner promised that under CUSA Los Angeles would "more than quadruple its naturalization staff," "double the number of interviews done at community sites," and reduce the processing time for a naturalization application to six months by the "summer of 1996."

Headquarters chose Terrance O'Reilly, then the Director of INS' Office of Administrative Appeals at INS Headquarters, as the site coordinator for Los Angeles. O'Reilly, who arrived in Los Angeles in mid-September 1995, told the OIG that he understood that he was chosen because of his ability to accomplish large projects. As he described it, Los Angeles was the "big dog" in the fight for INS to get naturalization processing current, and Headquarters wanted someone with a "proven track record" to "take on . . . the big office."

O'Reilly's role as site coordinator in Los Angeles was markedly different from that of CUSA site coordinators in other Key Cities, in part mirroring the difference in O'Reilly's background compared to that of other coordinators. No other site coordinator had held a Headquarters position or "rank" as high as O'Reilly had; the others were all district-level managers from another district. Further, the other coordinators worked primarily on facilities management and

hiring issues and did not take control of the naturalization program in the host city. O'Reilly, however, immediately assumed a leadership role in Los Angeles. Although O'Reilly had made clear to Los Angeles District Director Richard Rogers upon his arrival that he worked for Rogers, other managers believed that O'Reilly answered only to INS Headquarters, which, with the advent of CUSA, was asserting a new level of control over naturalization in Los Angeles.

The size of the backlog in Los Angeles clearly demanded attention, and CUSA ushered in a new era by encouraging creative ways to tackle the backlog. O'Reilly told the OIG that he had only one goal in mind and that was to achieve the Commissioner's goal of backlog reduction by the end of fiscal year 1996. His emphasis, therefore, was overwhelmingly on production numbers. As O'Reilly described his view of Los Angeles' situation to the OIG:

> You have X amount of widgets coming in the door and you have X amount of widgets that have to go out the tail end of the process to be able to have a six-month pending figure. It's pretty simple. When you look at the process, even in naturalization, it's a pretty simple process. There are stop points along the way that certain things have to happen, but it is a conveyer belt. And you just have to make sure those functions are performed at the specific stop points. If everything goes and that conveyer belt keeps working, you can achieve that ultimate goal. And that is exactly the way I looked at Los Angeles.

The weakness that became apparent during CUSA in Los Angeles was that this focus on production came, in part, at the expense of production quality. We found little emphasis on ensuring that each naturalization was done well, or that officers had the few tools necessary for a proper adjudication. In the discussion that follows, we describe adjudications at the District's El Monte office and off-site interviews at various locations in the community to illustrate the ways in which these innovative strategies increased Los Angeles naturalization adjudications' vulnerability to processing errors in fiscal year 1996.

(2) El Monte adjudications

i. Background and design

O'Reilly and Los Angeles Naturalization Section Chief Donald Neufeld designed the El Monte office. Although scheduled to open in January 1996, a variety of factors delayed its opening until April. El Monte incorporated not only new interviewing strategies (as discussed previously), but also it became the post-interview clerical hub for all naturalization processing in the Los Angeles District.

El Monte maintained a vigorous examination schedule, handling approximately half of the daily interviews in the District, even though it was only one of four Los Angeles interviewing offices. During its busiest season—June, July, and August 1996—El Monte completed 55,836 applications for naturalization, a number roughly comparable to the 66,500 naturalizations completed in fiscal year 1996 in the Chicago District. In other words, while El Monte was only a single location within a large district, its successes and failures in one summer influenced as many naturalization cases as another large district in an entire year.

As described previously, the El Monte adjudication process was streamlined by separating out the testing portion of the interview and implementing a "primary/secondary" interview design. Testing and interviews occurred on the second floor of the facility, while the fourth floor was reserved for a clerical unit that handled the District's post-naturalization ceremony processing.

Applicants who possessed positive test results from approved testing facilities were directed to the waiting area to be interviewed regarding "good moral character" issues, residency, and spoken English. Applicants who had not tested at an off-site facility were directed to another area and tested on their knowledge of U.S. history, government, and spoken and written English. Applicants who failed this test were sent home and notified of a new interview to be conducted within 120 days. The reexamination unit located at the District Office conducted these interviews.

Interviews at El Monte employed a "primary/secondary" concept, similar to the inspection process INS utilizes at Ports-of-Entry into the United States. All applicants underwent an initial interview with a temporary adjudicator in the primary examination area to determine their eligibility for naturalization.

Unlike the procedure of assigning bundles of files to adjudicators the day before or at the beginning of each interviewing day (a process followed at other Los Angeles sites during CUSA), files at El Monte were delivered to the adjudicator at the time the applicant appeared in front of the primary officer for interview.[89]

The primary examination area consisted of 37 or 38 examiner cubicles with one temporary officer assigned to each cubicle.[90] Applicants were escorted to a vacant cubicle where the adjudicator conducted the preliminary interview with the applicant standing. Cases requiring a more thorough interview and/or documentation to determine the applicant's eligibility were directed to a secondary examination area staffed with more experienced officers. If the applicant was asked to provide additional documents to enable the adjudicator to decide on an application, the case would be rescheduled (or "continued") for another appointment at the District Office Continuation Unit.

O'Reilly said El Monte's primary/secondary interviewing scheme grew out of the "Greenfield" concept put forward by PRC, Inc., at INS' "reengineering naturalization" meetings attended by Neufeld in the spring of 1995. A "Greenfield," according to the PRC reengineering report, was "a 'clean' environment where new behaviors, new technology, new roles, and new values [could] be tested and evaluated without fear of reprisal." El Monte, however, was not the innovative think tank contemplated in the PRC discussions. As Neufeld pointed out to the OIG, the PRC recommendations envisioned the INS of the future, the agency that would exist after the one they were currently working with had been repaired. The El Monte CUSA site represented a "Greenfield" concept only to the extent it was a new environment at which new behaviors could be employed. The two concepts diverged significantly in that El Monte employed no testing or evaluation of the "Greenfield-style" ideas brought to bear on naturalization processing before they were engaged on a large scale.

As noted elsewhere in this report, it was not unusual for INS to take what were only untested, theoretical models and implement them before conducting

---

[89] See our chapter on A-files for a discussion of the negative impact of limited file review on the quality of adjudications.

[90] Documents provided by INS alternatively describe El Monte as having 37 or 38 primary interviewing stations or cubicles.

any evaluation. According to O'Reilly, when Neufeld repeatedly asked him what would happen if their plan for El Monte "didn't work," O'Reilly told him that, in that case, they would try something else, but that they simply wouldn't know about El Monte unless they tried it.

The vulnerability of this experiment, however, was the weakness of the CUSA program throughout the country. The goal of "currency" by September 1996 remained fixed despite delays in getting new staff and other resources in place. Los Angeles managers O'Reilly and Neufeld told the OIG that they did not believe, in December 1995, that this goal could be reached by the following September.[91] Even though El Monte had been scheduled to open in January but did not open until April, the CUSA goal remained steadfast. Remarkably, however, the goal was met in five months.

O'Reilly would contend that El Monte achieved its goal (long after O'Reilly had left Los Angeles) because of its careful design. According to O'Reilly, he and others had looked closely at exactly how much time was going to be "saved" at the primary interview stage by separating out the language and government testing portion of the interview. The theory was that the initial interview would be more efficient if the applicant had already completed the testing portion of the interview before arriving at the interviewing officer's cubicle. Once the estimated time that would have been spent testing the applicant (5 minutes) was subtracted from what INS traditionally believed an interview required (20 minutes), O'Reilly used a 15-minute interview standard to calculate how many interviews a primary officer could do per day. According to O'Reilly, these estimates were "pretty aggressive." Another manager, who characterized El Monte's production pace with an expression attributed to O'Reilly, told the OIG that El Monte was "running and gunning." As the evidence concerning its production between April and September 1996 shows, El Monte met its numerical goals, but this aggressiveness took its toll on working conditions and on the employees' sense of the quality of their adjudications.

At O'Reilly's suggestion, Office of Internal Audit (OIA) staff met with him on February 2, 1996, to discuss "management controls needed in the

---

[91] According to O'Reilly, he told his Headquarters colleagues mid-way through CUSA that the CUSA goal of "currency" by September should be revised to mean a 9-month instead of a 6-month processing timetable for naturalization cases. O'Reilly told the OIG that no one at Headquarters responded to this suggestion.

naturalization process" at El Monte. No other Los Angeles manager or supervisor was present, and O'Reilly recalled the meeting as one primarily focused on security issues, like the safekeeping of naturalization certificates.[92] OIA's report of the meeting also notes that O'Reilly was concerned about the "sheer volume of activity," and that he and OIA agreed that the large staff of temporary adjudicators who would have been trained for only two weeks would need "a strong supervisory presence." By scheduling up to 1,400 interviews per day and factoring in an historic "no-show" rate of approximately 13 percent, Los Angeles officials were anticipating more than 1,200 applicants per day to come to El Monte for an interview.

According to OIA's report, OIA underscored the importance of checking the temporary adjudicators' work, as had been suggested by O'Reilly, by means of a random sampling of cases. Supervisors would direct some percentage of applicants who had successfully concluded a primary interview to a secondary interview with more experienced personnel as a means of ensuring quality control.[93] However, much like OIA's recommendations to INS managers on the fingerprint processing at the NDEC project four months earlier (see "Criminal History Checking Procedures," below), this advice was not heeded. O'Reilly told the OIG that while he had observed this sample and review procedure when El Monte first opened, he did not know if it continued. We found, however, no evidence of such supervisory checks within a month of El Monte's opening during the first week of April.

Moreover, the "strong supervisory presence" needed at the site given the number of new employees was not created in any other way. Two out of the four line supervisory adjudicators were new supervisors, including one of the two supervisors who reviewed the work of the primary officers. Indeed, this new supervisor had never adjudicated N-400s because up to this point he had

---

[92] At this meeting OIA staff reminded O'Reilly to review the OIG's 1994 inspection report concerning fingerprint processing. See "Criminal History Checking Procedures," below.

[93] The OIA report also notes that CUSA's goal at that time was to be "current" by December 1996, which would require the District to interview approximately 32,500 applicants every month over the next 10 months. O'Reilly noted the December date had never been his goal, and that it had always been the end of the fiscal year. While the number of persons actually interviewed between February and the end of September 1996 is unknown, the District completed 276,948 cases, or an average of 34,360 cases per month.

been working on adjustment of status cases. The four supervisors, much like the line adjudicators, told the OIG they were overwhelmed with work. O'Reilly, site manager/designer and the only Los Angeles manager present at the OIA review, left Los Angeles the same month El Monte had opened. If El Monte was ever intended to be used to evaluate new naturalization procedures in a controlled environment, that notion evaporated by the time the facility opened its doors in April 1996. After the Expanded Naturalization Initiative, when Los Angeles "committed" itself to the goals of CUSA, El Monte became a high-production assembly line for naturalization completions.

ii. El Monte production

The expectations articulated by Los Angeles managers concerning the number of cases each adjudicator in Los Angeles was to complete per day did not increase significantly during CUSA. Managers expected each adjudicator to complete 21 cases in an 8-hour day, 24 cases in a 9-hour day, and 27 cases in a 10-hour day. Adjudicators at all sites in the Los Angeles District told the OIG that they remained busy and worked long hours, but we found no significant evidence of changes in specific workload expectations for adjudicators when compared to pre-CUSA demands.

Despite this absence of change in articulated *expectations*, the reports concerning the *experience* of the El Monte work environment were qualitatively different from those at other sites in the District. Given this pronounced difference, we sought to examine whether objective criteria existed to corroborate El Monte adjudicators' perception that the pressure there was qualitatively different from that experienced in the traditional adjudication environment—even if accelerated—that existed at other Los Angeles sites.

We found that in addition to factors previously described, production expectations produced by the volume of cases scheduled, the "next available officer" approach, and the focus on production statistics and speed in interviewing, gave El Monte its character as a high-pressure work environment that was more stressful than that found at other sites in the District. Because these production-related features were an integral part of INS' naturalization "streamlining" as it was carried out at El Monte, and because adjudicators reported that the production pressure diminished the quality of their adjudications, the following review of El Monte's environment shows, by example, how production pressure affected naturalization adjudication quality.

At the same time that El Monte adjudicators acknowledged to the OIG that workload expectations did not change during CUSA, they described working under considerable pressure during the summer of 1996. This pressure stemmed from the seemingly endless amount of work. Primary officers were assigned a new case as soon as they were done with the previous case, and overtime was always available and encouraged. The District scheduled overtime at El Monte every Saturday from May 4, 1996, until September 28, 1996. Although management did not require employees to work overtime, most of the adjudicators worked the extra hours. Some officers who worked an Alternate Work Schedule and had a scheduled day off every week or every other week told the OIG they often worked on their scheduled day off in addition to the weekends.

The "sheer volume" of work anticipated by O'Reilly in February 1996 resulted from the simple fact of scheduling roughly 1,300 interviews per day.[94] Although the number of interviews scheduled at El Monte divided by the *total* number of officers mirrored a ratio similar to that at other sites in the District, because some El Monte officers were assigned to testing and others were assigned to secondary examinations, in practice, the number of interviews scheduled per day divided by the number of officers conducting primary interviews created a much higher interviews-per-day expectation. Those 38 officers were expected to process all of the 1,300 scheduled applicants who appeared for an interview and passed through the initial testing stage. Assuming that O'Reilly's estimate that there would be a "no-show" rate as high as 13 percent (and we found no objective data to confirm or contradict this), there would be 1,130 applicants to interview each day. One hundred thirty applicants would have to fail to appear and another 105 applicants would have to be screened out at the testing stage to reduce the burden on 38 primary interviewing officers to the rate of 27 applicant interviews in a 10-hour day.[95]

As we discussed above in relation to English-language testing, because of El Monte's liberal English-language testing practices it is unlikely that as many as 105 applicants were sent home each day without being interviewed. More

---

[94] The number of scheduled interviews per day at El Monte increased from just over 800 in May to approximately 1,300 in July and August.

[95] To put El Monte's workload in context, we also note that at INS' CUSA office in Garden City, New York, discussed below as another high-production office, 2,000 interviews were scheduled per day for a staff that was twice as large as El Monte's.

directly indicative that the interview "bifurcation" plan at El Monte failed to keep pace with the press of applicants, however, were statements to the OIG by officers that the site's 11 testing booths were often used for primary interviews in order to finish the day's work. This, coupled with local policy that adjudicators were not allowed to leave the office until all scheduled applicants had been interviewed, made officers feel that they were working under enormous pressure. ADDA Arellano admitted to the OIG that sometimes managers had to "order" adjudicators to stay until all applicants were interviewed. While these same policies were followed at other sites within the District, the much larger number of applicants on any given day aggravated the pressure.

The available data tends to corroborate the employees' reports of high production levels at El Monte. The Los Angeles District's G-22 statistics for FY 1996 show that in the first full month of operation, El Monte completed 17,312 naturalization cases with 54 adjudicators on staff for a per-adjudicator rate of 320 cases per month. This was already well above CUSA planners' most ambitious target, discussed in the summer of 1995, of expecting adjudicators to produce at a rate of 300 completions per month, an expectation they later adjusted to only 250 when they acknowledged that 300 was unrealistically aggressive. By August, 8 adjudicators had been added to the staff and the number of completions jumped to 23,669, for a rate of completion of 382 per adjudicator per month. Because adjudicators at El Monte had different assignments, as noted above, the per-adjudicator number of completions is misleading: secondary officers likely completed many fewer, while primary officers likely completed many more. More precisely, during July and August 1996, seven primary adjudicators' statistics show that they were completing well above the standard of 27 cases in a 10-hour day.[96] For example, one temporary adjudicator averaged 36 cases per day in July and 32 in August, with a high of 44 cases in one 10-hour day. Another temporary adjudicator averaged 30 cases per day in July and 39 cases in August, with a high of 59 cases in one 9-hour day.

These extraordinary statistics were not anomalies. Although O'Reilly, as noted above, calculated that the El Monte primary interview could take 15 minutes, the documentary evidence shows that at El Monte INS expected

[96] Some adjudicators worked overtime hours, but according to daily statistics provided by the El Monte office, no adjudicator worked more than 12 hours in any one day.

adjudicators to complete interviews much more quickly. In the Naturalization Process Changes memorandum the El Monte primary interview was described as then (in May 1996) requiring eight minutes, with the expectation that it would only require five minutes when adjudicators gained experience. In an internal memorandum disseminated at INS Headquarters in June 1996, the El Monte primary interview was described as lasting "5-10 minutes." These descriptions are consistent with what El Monte supervisors and adjudicators told the OIG, that El Monte was first and foremost geared toward high production. As one beleaguered officer summarized his experience at El Monte

> . . . they asked us to process the cases quickly and they asked us to grant [approve] more . . . and they told us to let applicants fill out duplicate N-400's. They scheduled too many people, 1,300 a day. The air conditioner broke down and we were told to keep processing. It was very hot in here. Sometimes we ran out of supplies, no staples, copy paper, post-it notes, minor things like that because we were so busy.

We found in El Monte, much like other districts, adjudicators responded differently to the pressures they faced. Some attempted to disregard the pressure while others told the OIG that they were affected by it. While we found no evidence that adjudicators at El Monte were instructed to naturalize ineligible applicants, the combination of the heavy workload, the pressure to reach completion goals, the inexperienced and under-trained workforce, and the absence of clear adjudicative standards converged, as in other districts, to undercut the caliber of the adjudicative process. As one adjudicator explained to the OIG, while she was never pressured into approving an applicant who was ineligible, the pressure to get applicants in and out of the office as fast as possible resulted in a less thorough review that increased the likelihood of approvals.

If the officers in El Monte had been more thoroughly trained or supervised, and if they had possessed all of the necessary tools for a thoughtful adjudication, then the OIG would not be singling out the site's production pressures and high expectations for commentary. However, by design, the adjudicators had to conduct these interviews without time to review the file. The file that was available was often not the permanent file. Many applicants were interviewed not only without their permanent file, but even without their original N-400, as noted by the officer quoted above (see our chapter on A-file

policy and practice) and criminal history reports were generally not available to the adjudicator (see our chapter on criminal history checking procedures). Supervisors were as overwhelmed with the workload as line officers. From the available evidence, we found ample corroboration for the employees' sense that at El Monte it was quantity, not quality, that mattered.

iii. The management response

During interviews with the OIG, many supervisors and officers criticized the production expectations and the adverse impact those expectations had on the quality of adjudications at El Monte. The supervisor in charge of the El Monte office, John Butler, told the OIG that he had complained to DADDA Neufeld that the adjudicators were "swamped with too much work" but claimed that Neufeld dismissed his complaint. For his part, Neufeld did not deny that he heard such complaints, but said he did not feel that El Monte's workload (1,300 cases/day) was unreasonable in light of the prevailing priorities. The level of production demanded during fiscal year 1996, he said, was not unreasonable because INS' "tolerance level" for errors during that period was higher:

> It would not have been right to resist Headquarters' goals at the time. If they had wanted a 'perfect' job, we could've done one. But that was not the priority. That was not the culture at the time.[97]

Other Los Angeles managers, however, told the OIG that they were concerned with the production expectations. ADDA Arellano reported that she had been aware that some El Monte adjudicators were processing 40 to 50 cases in a shift and said this was "not a good thing." Despite these concerns, however, none of the managers reduced the number of interviews required of adjudicators until the summer's goals had been met.

As for O'Reilly, once El Monte was open for business he told the OIG that he did not feel responsible for its day-to-day management. Even after he left the Los Angeles District in April 1996, O'Reilly continued to promote the El Monte site as having been a successful innovation. For El Monte's "design

---

[97] Neufeld was comparing the culture at INS during CUSA to that which came into being after fiscal year 1996 under the "Naturalization Quality Procedures," discussed in our concluding chapter.

and implementation," he nominated District Director Rogers and DADDA Neufeld in May 1996 for a National Performance Review "Hammer Award." In his nomination memorandum, he lauded Los Angeles District for having "planned out and implemented…an improved naturalization interview process."[98]

O'Reilly had little factual basis, however, to support his claim that the interview process in El Monte had been improved in any substantive way. The El Monte site had opened on April 6 and O'Reilly nominated Los Angeles managers for the award on May 3—after less than a month of operation—having already assumed his new position at INS Headquarters as head of naturalization for Field Operations. When he returned to the California Service Center in Laguna Niguel (where the Los Angeles District housed another naturalization site) as the Acting Director in July 1996, O'Reilly said that he did not inquire into how El Monte was functioning. He said he was unaware that adjudicators were conducting more than 27 interviews a day. According to O'Reilly, "…if there were those sort of problems Don Neufeld, Jane Arellano, Rosemary Melville, and Dick Rogers knew where I was."

When asked about El Monte's case processing schedule, District Director Rogers acknowledged that an officer conducting as many as 45 interviews a day was problematic, and that work by temporary officers had required adequate supervision. He acknowledged that there had been problems at El Monte, and told the OIG that the El Monte supervisors should have done a better job monitoring the production levels of adjudicators. He emphasized, however, that responsibility for these problems could not be attributed solely to the El Monte staff or even the Los Angeles District. Rather, Rogers said the problem was undertaking such a large project with temporary employees

> . . . but, you know, anybody expect[ing] us to do . . . a[n] absolutely first-rate job with 50 percent of our staff new, with no benefits and—and temporary help, come on. Give me a break.

---

[98] O'Reilly was not alone in praising the efficiency of El Monte. An internal INS memorandum providing background information on El Monte touted it as a site with "a significantly improved interviewing process." With El Monte, as one local newspaper declared, INS was on the "fast track." By June, Sarah Taylor, a senior INS Headquarters official who served as a liaison to Congress, was describing El Monte as "remarkably efficient" and "a major step forward in efficient processing of naturalization applicants."

(3) Off-site adjudications

The Los Angeles District had begun its off-site processing program (in Los Angeles, off-site processing was referred to as "outreach") before the formal implementation of CUSA, and had received approbation from Headquarters for its apparent success in improving relations with community groups in the Los Angeles area. Thus, when CUSA's goals were announced, the Los Angeles District was encouraged to increase its outreach efforts as a method of reinforcing the "partnership" prong of the program. However, despite the District's requests, Headquarters failed to provide guidance on how to fairly implement off-site processing as it was expanding. Accordingly, the number of off-site interview sites grew in response to increasing demands from the community, and Los Angeles managers exercised little oversight in choosing off-site locations, scheduling interviews, and otherwise ensuring the integrity of the naturalization process.

i. Background

In 1994, when the District was already experiencing a large backlog of naturalization cases, Los Angeles managers convened a series of "Total Quality Management" meetings at which they discussed, among other issues, ways to improve customer service. One of the ideas borne of these meetings was the creation of a Naturalization Advisory Committee (NAC) composed of INS officials and members of local community-based organizations (CBOs). The NAC met for the first time in May 1994 and regularly thereafter to discuss naturalization issues. The suggestion to develop a pilot program for off-site processing of naturalization applications grew from these meetings. Because of its experience with naturalization issues in the Los Angeles area, the Education Fund of the National Association of Latino Elected Officials (NALEO) was chosen as the CBO to participate with Los Angeles officials in the pilot program.

According to the Education Fund's Executive Director and Los Angeles INS officials, off-site processing served the interests of both applicants and INS. Despite the huge demand for naturalization, the Los Angeles District had experienced a significant rate of "no-shows" at scheduled interviews, resulting in time-consuming rescheduling of applicants. Off-site processing was suggested as a cure for this problem because, according to the theory, applicants would more readily appear at a known location in their own community rather than the more intimidating setting of a downtown federal

building. In addition, applicants interviewing at an off-site location would also have the assistance of a local community organization to shepherd them through the process. Los Angeles District officials believed an off-site interview program would be more efficient because the CBO "partnering" with INS could "pre-screen" the applications for clerical and substantive issues. For example, the CBO would ensure that the photographs and fee were appropriately submitted, and that the applicant met the minimum residency requirements and had no disqualifying criminal record.

Off-site processing began in Los Angeles at a NALEO site in July 1994. Both INS officials and community representatives were pleased with the process, and INS decided to expand the program to include other CBOs. By March 1995, four additional organizations were assisting INS with off-site adjudications. By December 1995, 13 organizations were involved and the District had assembled a team of six adjudications officers, one supervisor, and an applications clerk who would travel into the community for scheduled interviews twice a week. CBOs were required to drop off applications in batches of at least 100 at the District's office in Bellflower, California, where clerks then scheduled the off-site interviews.

The substance of the naturalization interview was not changed for this off-site program and officers covered the same material they would have covered if the interview were held in an INS office. Although we found indications in 1995 that NAC members and INS officials believed that the off-site interview could be completed in ten minutes because of the CBO's pre-screening, we found no evidence that this estimate ever developed into a directive that off-site officers complete twice as many interviews per day as their in-office colleagues. The outreach team of six officers was generally scheduled to complete between 100 and 150 cases per site, or an average of 25 cases per officer per day. Although the difference to the applicant of having an interview in a community setting may have been considerable, officers told the OIG that there was no real change in terms of the actual interview process and the rules regarding evaluation of the applicant's case.

Instead, the flaws in Los Angeles' outreach program were more attributable to its technical, case-processing or procedural aspects. First, the growth of outreach processing in Los Angeles during fiscal year 1996 did not in any way contribute to INS' stated goal of reducing the backlog of pending cases. The cases adjudicated through the off-site program were not taken from the long queue of pending applications in Los Angeles, but rather from

applications submitted directly by the CBO to INS' Bellflower office. Second, outreach cases were not entered into INS' NACS database until *after* the interview had been completed, thus preventing anyone other than the individuals working on that outreach session (INS officials and the submitting CBO) from learning that a case was scheduled for interview or even that an applicant had applied for naturalization. For reasons described below, this characteristic of outreach processing meant that the few system tools INS had at its disposal to ensure that only eligible applicants were naturalized were less available to officers evaluating cases submitted through outreach.

ii. Off-site expansion and the goals of CUSA

The Los Angeles District's efforts to work with CBOs, including the establishment of off-site processing, received high marks from CBOs and participants in the program even before CUSA. Accordingly, the program expanded from one outreach team conducting off-site interviews twice a week (approximately 1,200 interviews a month) in December 1995 to three teams interviewing five times a week and an additional team working on Saturdays (7,000 interviews per month) by the summer of 1996. As District Director Rogers later characterized it, Los Angeles implemented "an aggressive off-site interview process," that was "an extremely popular program." The growth continued after CUSA: by February 1997, Rogers wrote that "one third of all [Los Angeles District] naturalization applications are … processed by our off-site interview teams."

The growth of such outreach programs was specifically cited by INS Headquarters as one of the ways in which INS intended to bolster its "partnerships" with CBOs and thus meet the "challenge" of CUSA to reduce the backlog and become current in naturalization processing by the end of the fiscal year. As noted above, Commissioner Meissner's remarks at the CUSA kickoff in Los Angeles in August 1995 had included a commitment to "double the number of interviews at community sites."

Although the increase in off-site processing did indeed foster "partnerships" with the community, the manner in which it was implemented in Los Angeles did not affect backlog reduction because outreach applications were never part of the District's pending caseload. To the contrary, although it is impossible to determine how many of the outreach applicants would have applied through the traditional method if outreach had not been available, indications are that the popularity of the program prompted more people to file

applications for citizenship than otherwise would have been the case. Indeed, in proposed guidelines for outreach participation created by the District, the very purpose of the program was "to accelerate the interviewing process leading to encourage more people to become Naturalized U.S. Citizens." District Director Rogers confirmed that outreach was not related to backlog reduction and that while it may have had some effect on promoting applications for naturalization, it served as an important service to the community, an equally important goal. ADDA Arellano suggested that outreach helped reduce the backlog by anticipating receipts that INS would otherwise have received through Direct Mail, although on another occasion she had confirmed that outreach had little impact on backlog reduction. Nevertheless, she also emphasized that regardless of its impact on backlog reduction, outreach was an important aspect of fostering relationships with CBOs. We do not criticize this promotion of naturalization or involvement of CBOs at this time except to note that Los Angeles' massive outreach program cannot be rationally described as part of INS' fiscal year 1996 effort to reduce its naturalization backlog.

iii. Security measures not in place for off-site cases

The District's rapid expansion of off-site processing was not planned much in advance of its actual implementation, but rather was undertaken as demand grew and as officers became available. In January 1996, Los Angeles officials projected completing only 15,905 interviews for the 8-month period from January through August 1996. The outreach program, in fact, completed twice that many cases during the three summer months of CUSA. During this time, however, District and Headquarters officials failed to address known issues with outreach processing. District officials implemented no real controls to ensure that outreach applicants did not get processed more quickly than traditional applicants, which was contrary to INS policy and contributed to the demand for—and thus the supply of—more outreach sessions, sessions that had fewer of the procedural controls in place to ensure that only eligible applicants were naturalized.

We found that an applicant who applied through outreach could be scheduled for an interview (and thus naturalized if approved) sooner than an applicant who applied through the District Office. As noted above, applicants were scheduled for outreach interviews after the CBO dropped off a batch of applications. Although some CBOs received an outreach date many months in the future, others received dates within a few months of having dropped off

their clients' N-400s.[99] Applications adjudicated at the first outreach session in July 1994, for example, had been filed in March, only four months earlier. At that time, the estimate of the waiting time for conventionally filed applications was at least seven months. An outreach schedule created in November 1995 shows interviews scheduled through August 1996, with some as early as February. People who had applied through the District Office in July 1995 had to wait for ten months. Daily sheets received from the El Monte office show that some of those interviewed in July 1996 had applied as much as one year before.[100]

---

[99] In August 1996, a CBO representative complained to DADDA Neufeld that outreach interviews were being scheduled so fast (within three months) of submitting an application that applicants did not have enough time to study for their Civics tests. Neufeld advised the representative that the applicants should consider studying before filing their applications.

[100] This is not to say that applicants who applied through Direct Mail were never scheduled for interviews quickly. On occasion during CUSA, applicants who applied through Direct Mail received interview dates at El Monte within a matter of months. However, this was largely the result of malfunctions in INS' automated scheduling system.

NACS was designed to schedule cases when initial processing had been completed (that is, the application had been submitted with the proper fee and other requirements) in order by date of receipt. In others words, the application that had first been processed by NACS would be the first scheduled for a naturalization interview, consistent with INS policy on the chronological processing of cases.

However, NACS' ability to schedule interviews at all was constantly tested during CUSA. As discussed in our overview chapter, above, even before CUSA began in earnest, INS officials had concerns that NACS had too many weaknesses to adequately support the CUSA program. The proliferation of interview sites, the increase in the number of officers for whom cases had to be scheduled, and the addition of many more ceremony dates were just a few of the many large burdens the program was going to impose on a system that had been considered inadequate under less stressful conditions. As predicted by these INS officials, NACS' malfunctioning increased under the strain of CUSA and—combined with a frequently made data-entry error (discussed in our chapter on criminal history checking procedures)—resulted in many thousands of cases becoming "stuck" in NACS that could not be scheduled for interview. Therefore, NACS would schedule those cases that were not "stuck," and sometimes those were ones that had been inputted only recently.

A comparison of "fee-in" date to interview date for applications processed at El Monte showed that Los Angeles was not scheduling cases consistently in chronological order, in corroboration of the complaints we heard of difficulties with the NACS "scheduler." In August 1996, some of the cases scheduled for interview at El Monte had been received and the fees had been recorded more than one year before, while in July 1996 some of the cases

ADDA Arellano told the OIG that when she attended the backlog reduction meetings in Washington in July 1995, Rosenberg was pleased with Los Angeles' outreach program and hoped other districts would follow its lead. She voiced the District's concern that given the scheduling differences INS could see outreach applicants as receiving favorable treatment. She said she was cognizant of INS' policy that applications be processed in chronological order. In fact, Los Angeles' Naturalization Section had made a point of repeatedly emphasizing this policy requirement in the context of responding to requests for expeditious processing by telling supervisors not to deviate from adjudicating cases in chronological order. Documents show that as early as 1990, Arellano had cautioned Los Angeles employees that deviation from the policy left "the Service open to criticism and lawsuits." Arellano said that Commissioner Meissner was also aware of the policy but had told her at the July 1995 backlog reduction meeting that processing outreach cases more rapidly than other cases was justified because the CBOs had done much of the processing work that ordinarily would fall to INS. The Commissioner told Arellano not to let the scheduling of outreach applicants get too far ahead of other applicants.

Once it became known that some applicants were being interviewed within a few months of applying through their community organization, the word spread among candidates that outreach was the preferred method of applying for naturalization. According to Arellano, some CBOs began to advertise that they could process naturalization applicants more quickly and this attracted applicants away from the traditional method of filing.

This difference in processing time between outreach applicants and those waiting in the conventional queue was problematic for several reasons, not just because INS policy specifically disapproved of processing applications out of chronological order. As noted above, this difference stimulated increased demand in an environment in which the demand was already great. Resources devoted to outreach cases were resources that otherwise would have been devoted to backlog reduction. The more troubling aspect of the appeal of outreach processing, however, was that it directed applications into a

---

had been received and the fees had been recorded as recently as February or March 1996. Accordingly, non-outreach applicants also were sometimes scheduled for interview very quickly, but this did not occur on a regular or predictable basis.

naturalization processing system that had the fewest eligibility checks and procedural safeguards.

As explained below, an applicant who had been waiting in INS' "traditional" queue for a year could simply reapply through outreach and INS would have no knowledge of the duplicate application because the new application was not inputted into the INS database upon receipt. We found that an applicant's permanent file was not likely to be available at the interview. In addition, an applicant with a criminal record who sought to conceal past crimes from INS authorities would more likely succeed in that endeavor by applying through an outreach site than by applying through the District Office because the failure to track the case in the database meant that employees who received rap sheets at the District Office would have difficulty locating the applicant's case when his or her rap sheet, if one existed, was sent to Los Angeles by the FBI. While we found no evidence that outreach applicants sought to circumvent the rules in this or any other way (or that they were even aware of weaknesses in the system), the fact that the outreach program's weaknesses were not exploited was more a matter of chance rather than of appropriate safeguards. Despite these and other weaknesses in the outreach program, INS Headquarters encouraged its expansion during CUSA.

The procedural weaknesses of outreach processing stemmed primarily from the fact that outreach cases, unlike other naturalization cases in the District, were not entered into the NACS database. They were not entered into NACS because such entry would have resulted in their being scheduled by the computer system at an INS office instead of at an outreach session arranged by INS and the participating CBO. After outreach applications were received and reviewed at the Bellflower office, clerks manually scheduled group interview dates based on when the applications were submitted by the CBO. Applicant fingerprint cards were stripped and sent to the FBI before the applications were sent to the District Office for clerks to record receipt of the fees. After that, the applications were returned to Bellflower where they were placed in temporary files until the interview date. Although permanent files were ordered manually by the clerical staff at Bellflower after the application had been returned from the District Office, we were told by a number of adjudicators that files were rarely available or matched with the temporary file housing the N-400 by the time of the interview.

As a result of naturalization streamlining in the Los Angeles District during CUSA, an approved outreach applicant, like other Los Angeles

applicants during CUSA, was told the date of his or her ceremony immediately after the interview (instead of waiting for notice by mail, as had previously been the practice). However, because data-entry of these cases did not occur until after the outreach interview, there was no evidence in INS' computer system that a particular applicant had applied for naturalization until after he or she had already been interviewed, approved, and scheduled for a ceremony.[101]

By the time the case was entered into NACS, only a small window of time remained before the applicant's swearing-in ceremony. The fact that outreach cases were not entered into NACS before scheduling for interviews also meant that automated functions designed to protect process integrity were not brought to bear on these cases. Regional and Headquarters officials, although aware of the problem, took no action to change the process during CUSA. As Arellano told the OIG, INS had found no viable "workaround" for this problem. Thus, neither before the interview nor before the ceremony did Los Angeles adjudicators have any real opportunity to place a "hold" on a case to prevent further processing if some problem—like a disqualifying rap sheet—was discovered. Also, because the cases were not entered into NACS until late in the processing cycle, an automatic bio-check—a search of FBI and CIA databases concerning foreign arrests and criminal investigations as discussed in our next chapter—also was not generated.

INS managers did not address these problems until after CUSA, when outreach scheduling had to be changed because it violated the new "Naturalization Quality Procedures" or NQP.[102] All of these factors might not

---

[101] The failure to enter information from outreach cases into NACS until late in the process meant that INS would not be able to check whether the application was a duplicate. In addition, an INS official at a different location would not be able to query NACS to determine if a particular person had applied for citizenship, or, if so, the status of the naturalization case. More importantly, when a criminal arrest report or correspondence was sent to the District Office pertaining to that applicant, the person receiving the material would not be able to query NACS to determine which office to send the material to until after the applicant had been interviewed (see "Criminal History Checking Procedures" chapter, below, for further details concerning outreach processing and criminal history checks). Further, if an application were misrouted after fee-in at the District Office as sometimes occurred, the lack of information in NACS would make it difficult to determine where the application belonged.

[102] In the wake of congressional scrutiny of the CUSA program in the fall of 1996, INS implemented new naturalization procedures for the purpose of adding quality assurance steps to the naturalization process. These procedures are known as "Naturalization Quality

have been of particular moment in a District that never had access to NACS. In the Los Angeles District, however, where employees had come to rely on NACS to maintain all naturalization-related case information, the absence of information in the database would suggest to them that no information existed.

iv. Failure to provide guidance for off-site processing

By processing N-400s in this fashion, INS was relying on the presumption that permanent residents applying for naturalization were, in fact, eligible to naturalize. INS therefore also was relying on the commitment of the CBOs to pre-screen applicants. Fortunately for INS, many of the organizations with which it formed partnerships were reputable organizations whose interests were solely to assist eligible applicants through the naturalization process. As outreach expanded, however, many additional and less diligent organizations wished to participate. Both Los Angeles District management and CBO members urged INS to develop criteria for participating organizations in the hope that such criteria would preclude unscrupulous or incompetent organizations from participating in outreach. As discussed previously in the section on off-site processing in the Chicago District, INS Headquarters had not provided any such guidance.

In October 1995, Rogers forwarded to Alice Smith, Special Assistant to the Commissioner at INS Headquarters, his district's proposed criteria for organizations that wished to participate in outreach. Among the recommendations were that participating organizations must be not-for-profit and willing to state their fees for services up-front, they were not to offer a time advantage over mail-in applicants, and they were to attend NAC meetings. As of February 1996, however, Los Angeles managers had received no detailed response from Headquarters to their proposed criteria. Arellano then asked Smith and Rosenberg for their input, because these two Headquarters officials had previously suggested that such criteria be developed. Still, Los Angeles heard nothing. According to Arellano, E.B. Duarte of Headquarters had not replied in detail but had offered one objection to the criteria concerning an organization's non-profit status and the requirement to state fees for reasons

---

Procedures" or "NQP." See our "Conclusions and Recommendations" chapter for a discussion of NQP.

Arellano remembered to be "legal." Duarte, for his part, did not recall raising any such objections.

During this period of Headquarters' inaction, the number of participating organizations nearly quadrupled from 13 in August 1995 to 48 in August 1996. The Bellflower supervisor told the OIG that pre-screening of applicants went "out the door" during CUSA. She recalled stepping in to take corrective action on one occasion when she found that an organization was simply photocopying the same completed questionnaire for each applicant. Other officers told the OIG that CBO pre-screening either failed to be effective during CUSA or had been unrealistic in the first instance. While the OIG found no evidence to suggest that outreach applicants sought to capitalize on the weaknesses in Los Angeles' outreach system, it is nevertheless clear that the guidelines unsuccessfully sought by Los Angeles would have shored up the integrity of its off-site processing "partnerships."

The story of the Bellflower outreach program is not unlike that of El Monte, a situation where one program goal was achieved while known weaknesses were ignored. In the case of off-site processing, the goal was improved customer service and in that regard the District succeeded. Even Los Angeles' harshest, most animated critics praised the District's efforts by the summer of 1996. In the name of expanding "partnerships," however, Los Angeles officials overlooked CUSA's intended focus as a backlog reduction program. In addition, the integrity of the naturalization process depended more on the good intentions of applicants and their CBOs rather than on INS' procedural safeguards.

c. The New York District: Garden City adjudications

(1) Introduction

New York's Garden City CUSA office, described previously in our section on CUSA training, was staffed by more than 100 temporary adjudications officers, 60 temporary clerks, and 8 permanent employees. The permanent employees included the site manager, a supervisory clerk, and three adjudicators who were not assigned supervisory duties. The site operated during CUSA with more than 100 temporary adjudicators and no more than three first-line supervisors, two of who had no previous supervision experience. In addition to inadequate supervision, officers at the Garden City site worked under the most overt production pressure generated by the CUSA program.

Before examining how this pressure to produce was communicated to the officers and the effects it had on adjudications at Garden City, it is worth noting an additional factor that influenced the New York District's perception of the goals of CUSA, goals which they translated into production pressure on New York staff. New York District managers believed that, at the height of the CUSA program, Headquarters changed the way in which districts should keep naturalization statistics. The change, as they perceived it, emphasized the importance of swearing in applicants as citizens instead of simply reducing the interview backlog. This, in turn, contributed to New York managers' opinion that the CUSA program had been influenced by politics and, more specifically, by the pressure to produce potential voters in time for the November 1996 election.[103]

In fact, Headquarters had not changed Service-wide reporting methods about naturalization but rather was trying to bring the New York District into compliance with record-keeping rules promulgated some years earlier. Because New York managers did not realize that it was their own district that had been out of step with INS procedures, they misinterpreted Headquarters' action as a change brought about by CUSA. To understand how Headquarters' efforts to ensure uniform statistical reporting from the Field fueled cynicism in their New York colleagues, we first briefly explain the statistical reporting system and the "change" at issue.

(2) Reporting "completed-approved" cases on the G-22

INS offices throughout the country use a form called the "G-22" to report adjudications-related work. The form is used to report a variety of data including the number of pending applications at the beginning and end of a reporting period for each type of benefit, and the employee hours dedicated to processing those applications. For reporting information about the adjudication of N-400 applications, the G-22 contains columns for different types of completions, such as "completed-approved," "completed-denied-fraud," "completed-denied-other." The information reported on the G-22 can be generated using NACS or by hand in smaller offices with no access to NACS. Since at least 1993, an "approved" naturalization application was only to be

[103] This change in record keeping was also a subject of concern in Chairman Zeliff's September 20, 1996, letter to INS requesting information about CUSA.

considered completed "when all adjudication closing actions [had] been completed."

Despite these procedures set out in INS' Administrative Manual, before the CUSA program Los Angeles and New York Districts were reporting as "completed-approved" cases that had successfully completed the naturalization interview but for which the naturalization oath had not yet been administered. Therefore, when the goals of CUSA were described as requiring that cases received through March be "completed" by the end of the fiscal year, managers in these two Districts assumed that the applicants only had to be *interviewed*, not *sworn in*, by that time.

During CUSA, Headquarters was paying particular attention to statistical reports and production numbers and moved to enforce more consistency in the Field. According to an e-mail message dated June 18, 1996, from Los Angeles ADDA Arellano to District Director Rogers, Headquarters had "verbally asked" Los Angeles and New York Districts to "change the point at which [they] take credit for a natz. [sic] completion (approval) from the approval of the N-400 to the date of the oath-taking ceremony."

The directive had little impact on practices in the Los Angeles District. The Los Angeles ADDA was concerned that changing their reporting practice at this stage of the program would run the risk of either double-counting "completions" (one month's interviews counted upon approval might be counted again when the applicants were later sworn in), or of having a summer month during which they reported no completions at all. As a compromise, Crocetti allowed Los Angeles to continue to use its old reporting method until the end of the 1996 fiscal year. Therefore, many of the "completions" for which Los Angeles took credit during fiscal year 1996 were actually applicants who were not sworn in until ceremonies in October and November 1996.

In the New York District, however, ADDE Richard Berryman had a very different reaction to Headquarters' directive to change the point at which a case was deemed "completed." In May 1996, at a naturalization ceremony at Ellis Island, Commissioner Meissner announced that the New York District had already reached "currency" in naturalization processing, which Berryman assumed meant that New York was current according to its own definition (i.e., that applicants had been approved or denied within six months of filing their applications, although not necessarily naturalized). When the directive subsequently arrived telling New York that it had to change its statistical reporting methods to only count approvals as "complete" upon swearing-in,

Berryman believed Headquarters had just changed the reporting rules and was suddenly insisting that the applicants become citizens by September 30.

The statistical reporting change alone was not the only thing that engendered cynicism in New York managers. Their suspicion was also fueled by the level of attention the New York District received from the National Performance Review staff, coupled with the personal political opinions of New York personnel. As District Director Edward McElroy phrased it in his interview with the OIG, Headquarters' relentless emphasis on production numbers made him question whether the goal of the program was actually to "reduc[e] waiting time" or to "pump out as many applicants as [it] could."

The Benefits Division did not issue written guidance about these statistical reporting matters until October 1, 1996.[104] The text made clear that Headquarters needed to adjust the reporting practices of several districts if it was to ensure consistency in reporting not only completed naturalizations, but also pending cases and a variety of other adjudications work. If the same written guidance had been issued in June, it seems unlikely that the New York ADDE would have inferred that Headquarters was "changing the rules" of the CUSA program for improper purposes.

Although caused by a simple misunderstanding largely unrelated to CUSA, this "change" in statistical reporting methods was one more factor that contributed to the perception among some INS personnel that CUSA was politically motivated. That said, CUSA did directly result in other changes that had the effect of encouraging approvals and contributed to the perception among some staff that CUSA was aimed at increasing the number of citizens rather than reducing the naturalization backlog. Taken together, these perceptions led many New York managers to believe that only quantity mattered during CUSA. The managers' perceptions, in turn, influenced the way in which New York processed cases during CUSA, as described below.

[104] Although the memorandum is dated October 1, 1996, it required compliance with the naturalization completion requirements "not later than September 30, 1996."

(3) The pressure to produce in Garden City

i. Managers' perception of the goals of the program

In the New York District, all managers were aware of the need to complete a certain number of cases in order reach CUSA's goal of "currency." Deputy District Director Mary Ann Gantner explained that she understood the goal was simply a translation of the backlog reduction goal into its numerical equivalent. In other words, to reach the 6-month currency goal, New York District would have to complete 122,000 cases by the end of the fiscal year—the number of cases the District had pending at the end of March. Other District managers, however, in particular District Director McElroy and ADDE Berryman, believed that there was greater emphasis on the numerical goal than on reducing processing times to six months. McElroy told the OIG that he believed reaching the numerical goal was just as important for CUSA as reaching "currency." Berryman believed the original CUSA plan had been one of backlog reduction, but that later it became a program in which numerical goals were more important. He said that he, the Deputy District Director, and the District Director had often discussed that CUSA had become an initiative about increasing the number of citizens and that backlog reduction was a derivative benefit.

Despite their unfavorable reaction to what they viewed as the premise of the initiative, New York District managers emphasized achieving the numerical goal and did little to insulate adjudicators from the resulting pressures. District Director McElroy maintained a chart in his office to visually track the District's progress toward the numerical goal. The New York District also created the Garden City office (as discussed previously), and operated it as a naturalization machine with extraordinary hours, inexperienced staff, and insufficient supervision.[105] It was not that local management believed that the naturalization program was well served by emphasizing numbers. As noted above, New York managers had criticized this emphasis. Instead, they pursued the course they understood had been set by Headquarters and to which they

---

[105] As noted above in our section on CUSA training, District Director McElroy and Deputy District Director Gantner told the OIG they had been unaware of the staffing situation at Garden City and said it was not consistent with their plan to have that office staffed by so many temporary and so few permanent officers.

believed they were expected to adhere. ADDE Berryman told the OIG that he believed his own career would have suffered had the New York District failed to meet the goals of CUSA. He pointed out that meeting CUSA's program goals had been included among the criteria of his "performance work plan," and thus a part of his official employment evaluation.

ii. Expectations of officer production

By early June 1996, 2,000 interviews were scheduled each day at Garden City. This volume of cases meant that each officer assigned to preliminary interviews would be expected to adjudicate 25 cases per day, the same workload that had been expected of permanent, experienced officers for several years prior to CUSA. Several adjudicators told the OIG that they criticized this schedule, noting that it was unreasonable to expect temporary officers to adjudicate 25 cases per day. The fact that these expectations were too high was borne out by the lengths to which supervisors went to encourage faster processing at Garden City.

As in other districts, every applicant scheduled for an interview on a given day at Garden City was assured that he or she would be interviewed on that day, even if it meant that adjudicators had to stay after hours. Officers told the OIG that when the schedule began to slip they would hear their supervisors tell them to "hurry up," and to "pick up the pace." To drive this point home, supervisors patrolled the interview area at Garden City, gesturing with a rolling motion of their hands to signal the need for increased speed.[106] Sometimes a supervisor used the office's public address system to announce that there were a certain number of applicants waiting and that officers should "clear the floor" and limit interviews to 15 minutes. At other times, officers said supervisors would speak directly to officers they believed were moving at an unacceptable pace by visiting cubicles—in the presence of applicants—and urging them to work faster.

iii. Impact of the production pressure on the adjudications

In view of the circumstances described above, it was not surprising that the overwhelming majority of the temporary adjudicators at Garden City

---

[106] One Garden City supervisor told the OIG that this gesturing technique was not new to CUSA and had previously been used in the Brooklyn office.

interviewed by the OIG said that they felt under pressure to move faster during CUSA. A significant number of adjudicators told the OIG that, although they were not under instructions to approve ineligible applicants, they felt a general pressure in favor of approval. According to these adjudicators, this pressure manifested itself in a variety of ways.

The first factor was that approving a case represented the path of least resistance. We found that the only action an officer in Garden City could take without supervisory review was to *approve* an application for naturalization. Denials and continuances required supervisory approval. The requirement of supervisory review for denials was related to the appellate review rights afforded the denied applicant by law. The law was silent, however, on the need for supervisory approval for a continuance. One officer said that this policy had pre-dated CUSA, while the site manager implied that it had been instituted during CUSA specifically because of the number of unnecessary continuances by temporary officers who did not understand that documents in the file would answer their question concerning the applicant's eligibility.

Requiring supervisory approval of continuances may have begun as a well-intentioned attempt to reduce wasted time by officers and applicants alike, but in an environment like Garden City where completions were encouraged and supervisors were in short supply, it represented an often substantial disincentive for continuing a case. The process of obtaining such permission from supervisors cut into time that otherwise would be devoted to pending cases. As two Garden City supervisors acknowledged, adjudicators could conclude that continuances were discouraged because supervisors were infrequently available and because there was extreme pressure to move the interviews along rapidly. In addition, harried supervisors did not always welcome such requests. One supervisor conceded that, by the end of the day, he was neither pleasant nor receptive when asked for approval to continue a case and acknowledged that some officers may have decided not to continue cases because it was too difficult to deal with him.

Adjudicators corroborated this assessment. Citing the pressure to reach numerical goals, they noted that approving cases was the easiest way to do that. An experienced adjudicator told the OIG that it was common knowledge in INS that you would never get in trouble for approvals. Although she said that this mindset had been true before CUSA, the time pressures of the program exacerbated the problem.

Adjudicators told the OIG that other factors buttressed their impression that they were being pushed toward approving cases. Some noted that supervisors stressed the importance of approvals to fill naturalization ceremonies. Other adjudicators told the OIG that they were discouraged from exploring issues that might lead to disqualifying information. This did not appear to the OIG to reflect an intention on the part of supervisors to maximize the number of approvals, but rather was the combined result of the pressures to produce and the absence of adjudicative standards.

ADDE Berryman defended practices at Garden City in an interview with the OIG. He asserted that the quality of adjudications conducted there were adequate and comparable to those conducted at the Brooklyn office (even though that office had not been staffed exclusively by temporary officers and had a better ratio of supervisors to officers). By his definition, an "adequate" adjudication was one in which the applicant was not ineligible. The fallacy of Berryman's position is that there is no mechanism by which to determine whether applicants approved at Garden City were, in fact, ineligible. As we noted at the outset of this chapter, the opportunity to identify possible disqualifying issues—except for those clearly established by a disqualifying criminal record discovered after naturalization—is forever lost once the interview has been completed and the application has been approved. What the evidence shows is that the production pressures at Garden City, combined with superficial officer training, poor file maintenance and transfer practices, and weak criminal history checking procedures, resulted in adjudications during CUSA that were more vulnerable to errors in the evaluation of eligibility.

d. CUSA in the sub-offices within the San Francisco District

In the San Francisco District, we found that CUSA's production pressures were more pronounced in the sub-offices than in the larger San Francisco District Office. We compare what happened in the sub-offices and the District Office to identify the factors that contributed to increased production pressure. In addition, we examine how responses to that pressure in the different offices affected CUSA adjudications. In particular, we discuss how the San Jose Sub-office, in order to meet CUSA's goals, prioritized cases that could be completed quickly over cases that required more extensive review and how this prioritization led some INS staff to perceive CUSA as a program biased in favor of approving applications for citizenship.

(1) The division of labor within the District

San Francisco's CUSA workload was distributed among the District Office and three sub-offices, in particular the two largest sub-offices, in San Jose and Fresno. The District Office and these two sub-offices opened CUSA sites, and all three received an infusion of resources.

Soon after the Expanded Naturalization Initiative in March 1996, many temporary officers began to come aboard. The new positions has been earmarked to be divided among the three offices according to each office's share of the overall naturalization workload. However, according to ADDA Still, because of space limitations in the sub-offices (and the fact that the Fresno site did not open until June 10, 1996), he initially assigned most of the new positions to the San Francisco District Office. As a result, by early summer the San Francisco District Office reached "currency" in naturalization processing.

Meanwhile, the San Jose and Fresno Sub-offices were behind schedule, with Still estimating that they were 1-2 months behind San Francisco in reaching their goals. When the San Francisco District Office became current, Still detailed staff from San Francisco to assist in San Jose and Fresno.

Despite the assistance of detailees from the District Office, the burden on the sub-offices to meet their CUSA goals was comparatively greater. The sub-offices had fewer clerical resources than the District Office which, in part by hiring temporary summer help, essentially maintained a one-to-one ratio of officers to clerks during the summer of 1996. Because of the shortage of clerical help in San Jose and Fresno, adjudicators there were sometimes assigned clerical tasks when the clerks could not keep up with the volume of work. Employees in San Francisco reported that because the office had sufficient clerical staff, adjudicators were likely to have permanent files available at interview, while in San Jose staff reported that the lack of clerical help resulted in their inability to keep up with file requests.

In addition to being further behind schedule and operating with less clerical support, the San Jose and Fresno Sub-offices had the added pressure of working to fill one large naturalization ceremony scheduled for the end of the summer instead of naturalizing applicants as they were processed. The District Office held naturalization ceremonies twice monthly that included two large ceremonies in the summer at which 2,000 people were naturalized. San Jose and Fresno planned the one large ceremony, in part because those offices had

less access to the federal courts, but also as a public relations event to publicize the accomplishments of the CUSA program. While this meant that sub-offices did not have to slow their interviewing pace during the summer of 1996 to administer ceremonies, it also added pressure on staff to ensure that approximately 10,000 applicants would be ready to naturalize on the appointed day later in the summer.

In Fresno, part of that pressure was the burden on staff to coordinate an event that involved 10,500 naturalization candidates and an additional 20,000 people in attendance. In San Jose, however, the pressure actually meant taking extraordinary steps to ensure that enough applicants were *approved* by that date to fill the ceremony. To ensure that San Jose realized its goal, the SDAO in charge of the San Jose CUSA site assigned her staff to review cases that had previously been "continued" to determine if, in fact, they were "grantable" so that these applicants could be added to the roster for the September ceremony. Still told the OIG that he had been unaware of this review of previously "continued" cases. He did note, however, that San Jose's reports of expected attendance for the September ceremony rose quickly from 9,000 to 10,500 during August.

(2) A comparison of the workloads

Although adjudicators in every office complained of the rushed atmosphere during CUSA, the time pressures were more pronounced in the sub-offices than in the District Office, and supervisors in those offices were more likely to agree with their adjudicators' negative view of the workload.

Fresno's schedules indicate that interviews were scheduled six days a week, 25 cases per adjudicator per day with officers expected to work 9-hour days, six days a week. San Jose adjudicators were expected to complete 25 to 30 interviews a day. Instead of creating a schedule based on traditional per-day performance expectations, the supervisor in San Jose determined the number of interviews to schedule per officer by working backward from the number of cases San Jose needed to complete to meet its production goal. San Jose and Fresno officers, especially temporary officers, often performed interviews or clerical work after hours, on the weekend, or on their scheduled day off. In contrast, San Francisco adjudicators told the OIG that they handled 18-22 interviews per day, depending on their level of experience. This caseload was based on traditional notions of how many interviews an adjudicator was expected to complete each day. The OIG found that San Francisco

adjudicators complained more about the *lack* of available overtime rather than any pressure to work overtime.

San Jose supervisors told the OIG that the officers' complaints of heavy workloads were legitimate, stating that large amounts of overtime were necessary in order to reach the production goals by the deadline. The District's Deputy Assistant District Director for Adjudications agreed that the completion numbers expected in the sub-offices were high and said that when she became the Officer-in-Charge (OIC) of the San Jose office after CUSA, she reduced the number of cases assigned to officers each day because she thought the caseload was too great to do a quality job. In contrast, supervisors in the District Office agreed that the interview schedule in San Francisco during CUSA was not overly demanding.

Finally, INS' national workload statistics illustrate how much harder the sub-offices were working compared to the District Office to reach their CUSA goals. Data provided by Headquarters show that the San Francisco District Office scheduled an average of 192 interviews per naturalization officer in June 1996, compared to 311 interviews per officer in Fresno and 362 interviews in San Jose.[107]

(3) The effects on adjudications

The emphasis on meeting numerical goals affected adjudications in various ways. Many sub-office adjudicators told the OIG that they felt the pace of interviews prevented them from properly addressing eligibility issues. One San Jose officer described CUSA as "an assembly line set up just to get the numbers out," adding, "the atmosphere was just go-go-go…[we didn't] spend any time evaluating things." This was especially true under San Jose's system for assigning cases to officers—the adjudicator picked up the next applicant's file only minutes before the interview, leaving the DAO with little or no time to review the file for potential problems. Other officers told the OIG that they felt an indirect pressure to approve applications because it was faster than delving into issues and justifying denials. A permanent DAO commented that "people wanted to do a good job, but they weren't given the

[107] These figures are consistent with reports that San Francisco officers were scheduled for fewer daily interviews and had access to mentor DAOs who were not required to perform interviews.

time to do it." As the supervisor in charge of the San Jose CUSA site noted, "everyone felt rushed and errors were made."

Morale in the San Jose office appeared lower than elsewhere in the District. One permanent adjudicator hired during CUSA quit her job after two months, telling managers at the time and the OIG later that she did not want to be a part of CUSA for ethical reasons. She said she felt strongly that the time pressures imposed on officers in San Jose prevented them from doing quality adjudications. Speaking about conditions District-wide, the former San Jose OIC who served as Deputy District Director during CUSA told the OIG that "it was wrong that numbers became an end unto themselves" and that both "quality control and morale" had to suffer to reach the numbers.

(4) Prioritizing cases that could be approved

Although we confirmed (as alleged) that San Jose, in particular, denied very few cases during CUSA, this did not mean that applicants who were known to have a disqualifying history were nonetheless approved. Instead, the evidence indicates that denials were not completed because they were time-consuming. These cases were set aside in favor of devoting resources to additional interviews that could result in more completions. Although this was perhaps a logical way to reach ambitious numerical goals, it revealed that the goal of "backlog reduction" had given way to the goal of completing as many cases as possible.

Our investigation revealed that this same prioritizing strategy was used in New York and Miami Districts during CUSA for similar reasons. In San Jose, managers told the OIG that they did not process denials during CUSA. The supervisor at the San Jose CUSA office advised the OIG that Still and OIC/DDD Ackerman expressly told her to focus on getting approvals ready for ceremony and to hold off on continued cases and denials until an unspecified later date. She told the OIG that San Jose stopped writing denials in December 1995 and did no interviews for continued cases from February to September 1996. This supervisor also ended the historic practice of giving adjudicators one day per week to research issues, review files and documents, and prepare denials.[108] She said she took this action specifically to meet CUSA's 6-month

[108] Matters of scheduling—like whether to set aside certain days as DAO "review days"—were largely in the discretion of the manager in charge of that office and were a function of that office's caseload. ADDA Still told the OIG that in planning the schedule of

currency goal. While she said that she had not been instructed to make this change (other CUSA offices in the San Francisco District maintained review days), she believed her decision was in line with the ADDA's and the DDD's wishes. She added that the office's emphasis on approving applicants at a preliminary interview was unlike anything she had experienced before CUSA.

Other employees also recalled San Jose's exclusive emphasis on preliminary interviews and approvals. The Deputy Assistant District Director for Adjudications said that she noticed from the workload summary reports that San Jose was not processing any denials. A new adjudicator assigned solely to denials in February 1997 in San Jose also told the OIG that denials were not done during CUSA.[109] Although San Jose's documented denial rates were extremely low, particularly in the summer of 1996, the OIG found no specific evidence that cases that should have been denied were approved. Instead, it appears that recommended denials and continued cases were simply set aside while San Jose concentrated exclusively on preliminary interviews and grants.[110]

---

the District Office during CUSA, he believed that the District Office would also have to forego "review days" in order to become current in naturalization processing by the end of the year. As it turned out, the District Office had sufficient staff to keep up, and DAOs were only assigned to interviews four days a week.

[109] ADDA Still did not recall having been asked about this matter. He said that if he had been asked, he would have approved of not doing denials for a few months, but not for a few years.

District Director Thomas Schiltgen told the OIG that he had not been aware at the time that San Jose had stopped doing a variety of adjudications (denials, reexaminations, etc.) in favor of concentrating on the preliminary interviews of N-400s. He said it had not been at his direction. In his interview with the OIG, Schiltgen said that when he learned of the practice in early 1997, what he "heard back is 'that's what we thought you wanted.' And it was not what we had thought we had communicated. And it was not what anybody else was doing." He told the OIG that if the San Jose office had felt under pressure to meet CUSA's goals, then "maybe [it] had to look at ways to cut corners." Although he believed San Jose managers had misinterpreted the point of the push to meet the goals, he conceded, "we wanted to meet the goals. . . . [W]e were going full steam ahead and they sought that as a way to potentially get there."

[110] Applicants were entitled to seek judicial review of a pending naturalization application if INS failed to make a determination within 120 days of the naturalization interview.

Fiscal year 1996 was the first year that national INS statistics did not distinguish between cases that were not approved because the adjudicator determined that the applicant was ineligible ("denials") and those that were not approved because the applicant had not produced needed documentation or otherwise had not pursued the application ("returns").[111] The San Francisco District, however, continued to keep separate tallies of denials and returns. Data from the District shows that the denial rate (as traditionally calculated, separate from returns) fell sharply during the height of the CUSA push in spring and summer 1996 as compared to the previous year. Notably, the single office in the District not designated a CUSA site maintained a stable rate of denials from 1995 to 1996.

Not only did this system of prioritizing "approvable" naturalization cases over other applications violate CUSA's original backlog reduction goal, it helped fuel the belief of many INS employees that the program had improper, political motives when taken together with the program's fiscal year deadline in a national election year.

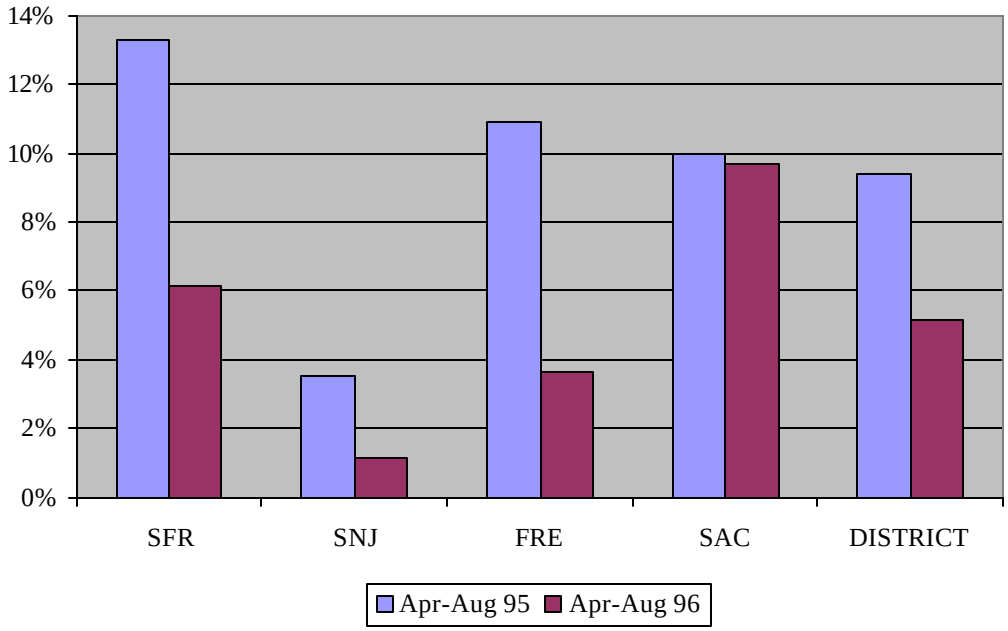
---

[111] "Returns" should not be confused with "continuances." A typical continuance occurred when the DAO at interview determined that the applicant needed to provide additional evidence, such as disposition records concerning a criminal offense. It did not suggest that the applicant had failed to produce evidence or otherwise failed to pursue the application.

According to the Headquarters staff person responsible for preparing statistical reports during CUSA, the statistical merging of "returns" and "denials" had been prompted by a 1994 revision of the provision in the Code of Federal Regulations (8 CFR § 103.2) Although the revised regulation permitted applicants to withdraw an application when notified that required evidence was missing, it also noted that if the required evidence was not submitted within 12 weeks of a request by INS the application would be denied (it did not instruct INS to "return" such applications). The staff person told the OIG that not every INS office complied with these procedures during fiscal year 1995, so Headquarters issued a reminding memorandum and notified the Field that the "returns" category would be eliminated in Headquarters statistical reports for fiscal year 1996. As was the case with the change in reporting "completed" cases discussed above, the OIG did not find evidence that this change in reporting procedures was related to the CUSA program.

Figure B: Naturalization Denial Rates for the San Francisco District

Figure Source: San Francisco District Performance Analysis System Data for FY 1996



i. Note on INS Headquarters' reference to the denial rate as evidence that quality was not compromised during CUSA

At the September 24 Joint Hearing and the October 9 Senate Subcommittee on Immigration hearing, Rosenberg testified that denial rates during CUSA were higher, not lower, than they had been in the past. This, according to Rosenberg in the September 24 hearing, was "some indication that we have not lowered the standards."[112] In response to a question from Congressman Mark Souder about the percentage of denials, INS prepared a document after the hearing showing a denial rate of 18 percent. This follow-up document from INS was included in the hearing record.

---

[112] In his testimony on September 10, 1996, EAC Aleinikoff also noted that the fact that CUSA denial rates were "at or above historic levels" showed that INS had not lowered its eligibility standards.

The Subcommittee on Immigration subsequently learned that prior to fiscal year 1996 INS had been keeping data about denials differently. In follow-up questions provided to INS on October 15, Subcommittee Chairman Alan Simpson asked INS to explain how it could, on the one hand, claim that denial rates were comparable to or greater than those of previous years and on the other hand acknowledge that the data concerning these rates was "kept and presented differently in the past." INS' written response to Chairman Simpson provided in December 1996 clarified little. It noted, "although we cannot directly compare the denial rates with the degree of precision required to do so accurately, we can conclude that denial rates overall in 1996 are comparable to previous levels and, in fact, may be higher."

Because of this confusing record, the OIG sought to clarify what, if anything, the statistical data showed about the quality of INS' work during CUSA compared to other years and whether INS was accurate in its representations to Congress concerning the data on denial rates.

First, Rosenberg's testimony was accurate in that he was not saying that the denial rate in 1996 (a rate whose calculation was based on both denied and returned cases) was simply greater than the denial rate of previous years (a rate that only included denied cases). He agreed that to make such a comparison would have been misleading. Instead, he was saying that the denial rate in 1996 was comparable to the rate in previous years of the *combination of both denials and returns.* This was also the point INS attempted to make in its response to Chairman Simpson. Viewed in this context, the evidence does not show an effort by INS to mislead Congress.

However, the evidence does show that Rosenberg's testimony was inaccurate in that the cited data did not support the contention that INS had not lowered its standards during CUSA.[113] As discussed above, fiscal year 1996

---

[113] Of course it is difficult to see how a comparison of denial rates from one year to the next would ever be useful without comparing the applicant pool from each year, a point also made by Rosenberg in his interview with the OIG. In other words, the denial rate could easily go up or down depending on who applied for naturalization, even if the standards remained the same.

In addition, the variation from district to district also made comparing denial rates a difficult job. INS Headquarters analyzed the N-400 denial rates for FY 1996 and disseminated the results on October 30, 1996. In the cover memorandum, Terrance O'Reilly, then Acting Assisant Commissioner in the Office of Naturalization, noted that "the

marked the first time that INS statistics did not distinguish between applicants who were not approved because an adjudicator determined that they were ineligible ("denials") and applicants who failed to return with requested documentation or otherwise failed to pursue their petitions ("returns"). Such a homogenized statistic could not differentiate between applicants who were easily deterred by the process and applicants whose qualifications were evaluated and found lacking by an adjudicator. It was for that reason that both INS' Chief of the Demographics Statistics Section and the Headquarters staff member responsible for maintaining naturalization statistics during CUSA explained to the OIG, as they had to Rosenberg when he sought statistics on denial rates, that the available statistics could not support the assertion that the denial rate in FY 1996 was comparable to previous years and, therefore, that INS had not lowered its standards during CUSA. Rosenberg, however, had disagreed, and thus offered these statistics to Congress.[114]

e. Newark interview waivers

The evolution of the naturalization process from a detailed judicial inquiry into a more abbreviated administrative process reached its ultimate expression in the Newark District during CUSA. There, the Naturalization Section Chief implemented an "interview waiver" program in which certain applicants were naturalized without a naturalization examination. The evidence shows that the Newark program was not officially sanctioned by INS Headquarters and, furthermore, tends to show that the Section Chief knew this was not an appropriate practice. However, the evidence also shows that Headquarters' failure to issue clear guidance concerning the boundaries between permissible "streamlining" and impermissible interview "waiving" permitted one manager to push CUSA's reengineering ideas to an extreme.

(1) Background on the interview waiver strategy

As early as 1994, Commissioner Meissner urged INS to explore the idea of waiving interviews for certain naturalization candidates. In fiscal year 1995,

---

Servicewide spread in percentage rate of denials completed ranges from 1% to 24%, which raises some concern about the criteria applied in deciding denials."

[114] Rosenberg asserted in his OIG interview that he continued to believe that the cited statistics supported his contention. Although we do not concur in his analysis, we do not question his sincerity in this regard.

the implementation of interview waivers was listed as an objective under INS' priority to "Promote and Streamline Naturalization" (the memorandum outlining the objectives for this priority noted that INS would "establish an interview waiver for a class or classes of applicants, thereby streamlining the interview process as well as reducing overall adjudication time and encouraging applicants to take advantage of the more efficient system"). INS sent a survey to the Field in December 1994 including the proposed interview waiver criteria and asking for input into a proposed interview waiver program for naturalization applicants.[115] The proposed waiver criteria show that INS

---

[115] The proposal about interview waivers offered the following criteria to exempt applicants from a naturalization interview:

- Children under the age of 18 years at the time of filing an application for naturalization.
- Persons over age 65 who had lived in the U.S. at least 20 years subsequent to becoming a permanent residence.
- Persons who have passed the INS authorized citizenship test on U.S. history and government, in any language, and at the time of filing an application for naturalization are either a) over 50 years of age and have lived in the U.S. at least 20 years subsequent to becoming a permanent residence, or b) over 55 years of age and have lived in the U.S. at least 15 years subsequent to a lawful admission for permanent residence, or c) persons who have passed an INS authorized standardized citizenship test and state they are able to speak English. This must be substantiated when the applicant appears for the application verification and to sign the certificate photograph and oath.
- Persons who because of physical or developmental disability or mental impairment are unable to comply with the language, history and government requirements of naturalization. This requires certification by an INS designated civil surgeon [a physician chosen by the District Director].
- Persons who entered the U.S. prior to reaching the age of 16 years and were graduated from an accredited U.S. high school. According to information provided by the Department of Education, all states require courses in English, U.S. history, and government to be eligible to graduate from high school.
- Persons who earned certificates of adult education issued by INS-approved schools.
- Persons who have completed at least four years of college study in the U.S. and hold a baccalaureate degree (B.A., B.S., etc) or higher and are currently employed in a Department of Labor listed professional occupation.

was considering waiving interviews for applicants who were exempt from some or all of the testing requirements (because of age, length of residence in the U.S., or disability), applicants who had obtained a testing certificate from an outside testing entity and indicated that they could speak English, and applicants who had a sufficient level of education to show that they would clearly pass the required tests. Any applicant who met the criteria but had a criminal history report in his or her file would not be eligible for a waiver.

In June 1994, representatives from field offices convened at Headquarters for an interview waiver discussion group that was led by Programs official Lawrence Weinig. Weinig explained to the assembled group that the Commissioner wanted them to develop a possible plan for naturalization interview waivers.[116]

However, the group of field representatives at the meeting concluded that interview waivers were not a good idea. According to one of the participants, the group agreed that based on their experiences with other applications for which interviews had not been conducted, important issues were missed when interviews were waived.[117] INS' Executive staff tabled the idea of waiving naturalization interviews at a meeting on March 1, 1995. One reason for postponing implementation of a waiver program was that Headquarters recognized that federal regulations required naturalization applicants to be "examined," and waiving the interview likely would run afoul of the law.

However, the notion that naturalization interviews could be waived in some circumstances persisted at INS Headquarters, assuming that federal regulations could be appropriately amended. In her April 1995 article in the Virginia Journal of International Law about improving the naturalization process, Commissioner Meissner wrote:

- Persons statutorily ineligible for naturalization who are issued a notice of intent to deny their applications and subsequently do not request an interview.

[116] As further evidence of INS' commitment during FY 1995 to implementing the waiver program, Associate Commissioner Crocetti told CBO representatives in February 1995 that an interview waiver program would be implemented for qualified candidates.

[117] One of the field representatives in attendance told the OIG that, in his view, interview waivers were more likely to be supported by those who did not routinely conduct interviews because they didn't really understand when and why interviews are important.

> What we are hoping to accomplish is to de-mystify [the naturalization process]. We want to de-mystify [it] first of all by interviewing selectively. Presently, we have a requirement that every person eligible for naturalization be interviewed. That is really not necessary. After all, by the time somebody comes to us for naturalization they have been in our hands a number of times along the way. The integrity of the immigration process is far more wrapped up in, and vulnerable where the decision to adjust to lawful permanent residence is concerned, than in the decision to confer naturalization.

In addition, the idea of using interview waivers to streamline the naturalization process was discussed at the PRC reengineering discussions in April 1995, and again at the Key Cities meeting in August 1995. The minutes from that August 1995 meeting, attended by representatives from the eight largest districts (including Newark), reflect that Crocetti explained that reengineering would involve setting new interview standards "demonstrating that dispensing with interviews can actually increase the proposed system's integrity."[118]

The Newark naturalization supervisor, Thomas Vaughn (who had been part of the interview waiver discussion group), had seized on the interview waiver idea as a way to cope with Newark's naturalization backlog. As discussed in our overview chapter, Newark District had a large backlog of naturalization cases and was under consideration for "Key City" designation during fiscal year 1996. Vaughn was displeased when Chicago was chosen as the fifth Key City instead of Newark, because the influx of resources that flowed from such a designation would have made Newark's burden easier to manage. As part of Newark's "action plan" for backlog reduction in March 1995 (the large INS districts all submitted such plans shortly after a meeting of Key City District Directors), Headquarters was specifically advised that Newark intended to waive naturalization interviews for selected applicants.

---

[118] Crocetti may have been expressing the overall Headquarters view about waivers rather than his personal view at the Key Cities meeting. Crocetti told the OIG that he was personally strongly opposed to interview waivers and his handwritten note on a January 1995 document concerning interview waivers states that, with limited exceptions, "I strongly oppose allowing any interview waivers…"

The evidence indicates that by July 1995, however, Vaughn knew that naturalization interviews were not supposed to be waived altogether. First we note that he told OIG that he had not implemented an interview waiver program (see our discussion below concerning Vaughn's description of what the procedures actually were in Newark during CUSA). Second, in a backlog reduction plan drafted in July 1995 and submitted to Headquarters he specifically noted that no interviews would be waived in Newark's efforts to "streamline" naturalization interviews. Instead, the plan noted that Newark would use the criteria spelled out for the proposed interview waiver program in order to identify cases that could be appropriately processed by means of a "streamlined" interview. The July plan did not explain in what way Newark would "streamline" their interviews. Regional officials who read the plan said they did not question Vaughn about the details of Newark District's "streamlining" effort.

(2) Newark's "streamlined" interviews

During his initial interview with the OIG in September 1997, the Newark naturalization supervisor explained how the "streamlined" interview program worked. Adjudicators screened incoming N-400 applications and sorted them into two categories: "simple," which meant that they complied with one or more criteria set forth in the proposed waiver plan, and "non-simple," meaning the N-400 failed to meet any of the criteria. Simple cases were eligible for a streamlined interview and were immediately "pre-approved" with an approval stamp placed on each qualified N-400. These "pre-approved" N-400s then went to a naturalization clerk who immediately prepared the naturalization certificates. Clerks then scheduled the applicants for an appointment.

The "non-simple" cases that were not "pre-approved" were scheduled for weekday morning interviews, while appointments for "pre-approved" cases were scheduled for afternoons and Saturdays because "streamlined cases" required less officer time. Vaughn explained to the OIG that the "pre-approved" interviews took less time than other interviews because officers did not test for English or Civics knowledge. He explained that experience had taught him that a high percentage of applicants who met one or more of the proposed waiver criteria would pass the English and Civics tests, and therefore the District waived the exams.

The waiver applicants were naturalized in ceremonies separate from other applicants. At these ceremonies, which Vaughn conducted, he told the OIG

that he would mention that he knew that the applicants came to INS that day expecting to be tested. Accordingly, he would tell them he would administer the test at that time. He then asked, "Who was the first president of the United States." According to Vaughn, the soon-to-be-naturalized applicants would respond in amusement, "George Washington," and the "test" was over.

Thus, in the name of "streamlining" Newark had entirely eliminated testing on one of the fundamental statutory bases for eligibility for a large percentage of applicants. But the damage to the interview process went farther than that.

During subsequent interviews with adjudicators in Newark, the OIG discovered that the *entire* interview—and not just the testing portion as suggested by Vaughn—had been waived. The evidence shows that when an applicant appeared for his or her scheduled appointment in Newark, he or she was neither placed under oath nor even asked to sign the affiant signature line on the N-400 attesting to the completeness and truthfulness of the submitted application. Instead, the applicant was called to the waiting room window where an adjudicator showed him a *naturalization certificate* and asked if the information on it (name, date of birth, country of birth) was correct. Unless the applicant failed to converse adequately during this limited exchange, he or she was scheduled for a naturalization ceremony in the office a short time later.

As production pressures on the districts increased, Newark abandoned any pretense of a traditional interview in more and more cases. On April 12, 1996, Vaughn disseminated a memorandum to Newark naturalization adjudicators advising them that, in addition to applicants who satisfied the proposed waiver criteria, adjudicators could feel free to waive interviews for other applicants "whom they believe are *more likely than not* [emphasis added] to meet the Section 312 [English and civics testing] requirements." Examples of such waiver candidates included natives of English-speaking countries such as England, Ireland, Canada, Bermuda, and Trinidad. The memorandum also instructed that they "should waive *a minimum* [emphasis added] of 100 cases daily."

In his second interview with the OIG in November 1997, Vaughn maintained that the term "interview waiver" was a "misnomer" and that interviews were not actually waived, despite his own use of that word in his April 1996 memorandum. He argued instead that the brief verbal exchange between the applicant and the adjudicator at the waiting room window was supposed to include an attestation by the applicant to the completeness and

truthfulness of the information on the N-400. Vaughn argued that it therefore constituted a "streamlined interview" that fulfilled all the interview's objectives, notwithstanding the absence of questions about U.S. government and history.

This argument rested both on an interpretation of "interview" that stretched its definition to the breaking point and on facts inconsistent with those provided by Newark adjudicators. Whether or not Vaughn ever intended the process to include an attestation, however, he admitted to the OIG that he became aware during CUSA that adjudicators were not placing applicants under oath and asking them to attest to the accuracy of their application. He also acknowledged that he did nothing to change this practice.

When we asked Vaughn why he failed to remedy this shortcoming, he raised two issues. First, as noted above, he argued that even the brief exchange regarding the accuracy of the naturalization certificate could qualify as an interview, although he acknowledged that this type of interview was not authorized in any way by his superiors. Second, he stated that he was under pressure to move cases; he understood that the Commissioner wanted the backlog reduced and he was not given enough resources to accomplish that task using conventional methods.

(3) Official response to Newark "streamlining"

Vaughn emphasized to the OIG that he did not tell even his first-line supervisor of his "pre-approval" program, noting that his managers trusted him to run Newark's naturalization program and meet the CUSA backlog reduction objective. We found no evidence during this investigation that anyone at Headquarters was aware of the Newark waiver program.

Newark's interview waiver program was abandoned shortly after the new District Director arrived in August 1996 and was informed about the program. The new District Director, Andrea Quarantillo, told the OIG that she became concerned when she heard officers refer to interview waivers, because she had been a vocal opponent of the interview waiver proposal while she was assigned to INS Headquarters. District Director Quarantillo questioned her staff (including Vaughn) about the "interview waiver" program, after which Vaughn chose to abandon the practice.

Although INS Headquarters did not endorse Vaughn's interview waiver program, and although Vaughn's own statements revealed a certain awareness

that he had pushed the concept of "streamlining" too far, we find that Headquarters must share some responsibility for this improper practice because Headquarters never set boundaries for field managers' development of "alternative examination methods" during CUSA. As we described above (see our discussion of the Naturalization Process Changes memorandum), Headquarters placed a premium on strategies that could reduce the amount of time officers spent interviewing applicants, but it never emphasized what *not* to give up.[119] This, combined with the fact Headquarters continued to express interest in the notion of interview waivers well into 1995, set the stage for Vaughn's decision to waive the interview altogether.

[119] Indeed, a draft version of the "Alternative Examination Methods" portion of the Naturalization Process Changes memorandum included a procedure similar to the Newark naturalization supervisor's waiver program.