U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director
Washington, DC 20529-2000

U.S. Citizenship and Immigration Services

Memorandum

TO: Michael T. Dougherty
Citizenship and Immigration Services Ombudsman

FROM: Michael Aytes */S/ March 27, 2009*
Acting Deputy Director

SUBJECT: Response to Recommendation 37, Study and Recommendation on Naturalization Oath Ceremonies

Recommendations

On December 15, 2008, the CIS Ombudsman submitted a report regarding naturalization oath ceremonies. In that report, the CIS Ombudsman made four specific recommendations: (1) that U.S. Citizenship and Immigration Services (USCIS) issue formal guidance to its district officials clarifying their prerogatives and obligations under controlling law, regulations, and the Inter/Intra Agency Reimbursable Agreement Analysis of Alternatives (IAA) between USCIS and the Administrative Office of the United States Courts; (2) that USCIS consistently include information at naturalization ceremonies for new citizens to update their status with the Social Security Administration (SSA); (3) that USCIS implement plans to digitally produce the photograph on the Certificate of Naturalization (Form N-550); and (4) that USCIS post statistics monthly on the number of individuals naturalized and pending naturalization applications. In addition to these four specific recommendations, the CIS Ombudsman also discussed several issues observed in field offices and at naturalization ceremonies including: challenges in scheduling additional ceremonies; inappropriate religious and political remarks made by guest speakers at ceremonies; threatening verbiage; customer service challenges; ceremonies conducted in foreign languages; and the solemnity and dignity of ceremonies for Armed Services Personnel. USCIS values the observations and recommendations made by the CIS Ombudsman and will first address the four specific recommendations. USCIS will then also address the other issues observed by the CIS Ombudsman to provide further background and information on the challenges facing USCIS in this area and how USCIS is meeting those challenges.

However, before doing so I would like to thank you and your staff for your work with respect to this issue. Your efforts and suggestions can help strengthen our relationship with the Administrative Office of the United States Courts, and have brought attention to key service issues.

USCIS Response to Recommendations

The process of applying for naturalization is a multi-step process that includes completing and submitting the *Application for Naturalization*, Form N-400, with fee and the proper supporting documentation, undergoing a background check, participating in an interview to determine eligibility for naturalization, demonstrating proficiency in the English language, U.S. history and civics[1], and finally, taking the oath of allegiance.

USCIS recognizes the significance of naturalization ceremonies and the meaning the ceremonies impart on our new citizens. Becoming a United States citizen is the pinnacle of an often long immigration process and holds a very special meaning for the immigrants who participate in these ceremonies. It is a responsibility that USCIS and the courts take with the utmost solemnity and commitment.

1. **Issue formal guidance to its district officials clarifying their prerogatives and obligations under controlling law, regulations, and the Interagency Reimbursable Agreement (IAA) between USCIS and the Administrative Office of the United States Courts (AOUSC).**

USCIS concurs with the CIS Ombudsman recommendation to issue formal guidance to district officials. USCIS Office of Field Operations is working on this guidance and we will share this guidance with the CIS Ombudsman as soon as it is finished. Recently, the AOUSC issued specific guidance to their court clerks on the responsibility of venue cost associated with naturalization ceremonies. USCIS also agrees that establishing a more definitive agreement that outlines the courts' responsibilities with respect to USCIS would be beneficial. USCIS will explore the possibility of establishing a Memorandum of Understanding (MOU) with the AOUSC.

Under the Immigration and Nationality Act (INA), courts can elect to exercise exclusive authority to administer the oath of allegiance by notifying the Secretary of Homeland Security. Courts with exclusive authority to administer the oath of allegiance have 45 days after USCIS notifies the court of the applicant's eligibility to administer the oath[2] and the majority of courts eagerly fulfill their obligations under the law. USCIS continues to work to reduce the overall processing time of naturalization applications and feels that the 45 days provided for the courts to administer the oath is too long. USCIS will continue to work with the courts to address this issue however because the 45 days is provided by statute a legislative change may be necessary. The CIS Ombudsman notes in its recommendation that, in one instance, it "received credible information that court officials denied USCIS the opportunity to naturalize persons in time to vote in the recent general elections." While we understand the CIS Ombudsman's concern that a

[1] Certain applicants because of age and time as a permanent resident are exempt the English language requirement for naturalization but are required to be tested in civics in the language of their choice. INA 312(b)(2). Both the English and civics requirements are waived for applicants who are unable to learn the educational requirements for naturalization based on a physical or developmental disability or mental impairment. INA 312(b)(1).

[2] Courts exercising exclusive jurisdiction are required to administer the oath of allegiance within 45 days of USCIS notifying the court that an applicant is eligible for naturalization (not within 45 days of the approval of the N-400). INA 310(b)(3)(A)

ceremony was not conducted in time to vote in the election, there were several valid factors contributing to the court's inability to conduct an additional oath ceremony. Contributing factors such as period of time, space availability, scheduling, and workload weigh heavily on a court's ability to conduct additional naturalization ceremonies on short notice. Another major contributor was the surge of applications in 2007, which prompted a 63% increase in the number of immigrants taking the oath of allegiance from Fiscal Year 2007 to 2008,[3] and as a result courts were called upon to conduct ceremonies with an increased frequency. This increased demand for services, coupled with the already demanding schedule of court judges, made scheduling oath ceremonies challenging.

According to AOUSC, the court that was involved in the incident added 16 additional ceremonies to its original schedule in order to accommodate more citizens prior to the election. The court naturalized approximately 8,000 additional citizens between May and September of 2008. In addition, following a request of USCIS for an additional 2,500 naturalizations in late September, the court was able to add ceremonies naturalizing another 1,000 citizens prior to the election. Overall, the court naturalized approximately 47,000 new citizens in 2008, nearly 10,000 more than in 2007, and now conducts six naturalization ceremonies every week.

USCIS makes every effort to ensure that applicants are able to naturalize in a timely manner and the courts have been very accommodating in scheduling these ceremonies as they recognize the significance of the event and their obligation under the law. USCIS realizes that there may have been isolated incidents where a court has denied a request for an oath ceremony; however, if the ceremony request is rescheduled for a time within the 45 day period as required by law, then the court is in compliance. In regards to the incident mentioned in the CIS Ombudsman's report, the oath was administered within 21 days of the request.

2. Consistently include information at naturalization ceremonies for new citizens to update their status with the Social Security Administration (SSA).

USCIS concurs with this recommendation. During the naturalization application process, USCIS supplies information to naturalization applicants regarding the need to notify the SSA if they become United States citizens. On the first page of the instructions for Form N-400, applicants are directed to review *A Guide to Naturalization*, Form M-476. This guide contains a section dedicated to information on the oath of allegiance and actions applicants should consider after taking the oath, including notifying the SSA that the applicant has now become a U.S. citizen, notifying the SSA of a name change, and applying for a U.S. passport.

USCIS is creating a document that will include resources important to a new citizen, such as contact information for the SSA and information regarding applying for a U.S. passport. This document will be distributed at naturalization ceremonies along with the other information that is currently disseminated (e.g. congratulatory letter from the president, a copy of the U.S. constitution, etc.).

USCIS has also been working to decrease the need for new citizens to contact the SSA directly. In May 2008, the E-Verify program launched two initiatives that have resulted in reduced

[3] In FY07 USCIS naturalized 659,233 individuals; in FY08 USCIS naturalized 1,051,640 individuals.

instances of "walk-ins" to SSA field offices. The first initiative added an automated check against USCIS naturalization databases during the initial E-Verify query for all newly hired employees claiming U.S. citizenship that were not automatically employment authorized during the SSA check. This automatic check has decreased the number of E-Verify U.S. citizenship-related mismatches due to citizenship status by approximately 39%.

The second initiative enables employees who receive a tentative non-confirmation due to citizenship mismatches to call DHS directly (not an option previously) to resolve their status. This is in addition to employees still having the option to resolve mismatches in person at an SSA field office. Of the people that choose to contest their U.S. citizenship-related mismatches by contacting the government, over 50% of them are choosing to call DHS rather than visit a SSA field office. Of these individuals, over 90% are able to successfully resolve their mismatch through DHS.

More recently, E-Verify launched a third initiative which gives employers an additional tool to verify the citizenship status of U.S. citizen new hires who present a passport for Form I-9 purposes, including naturalized citizens. Where SSA is unable to confirm citizenship, such as when a naturalized citizen has not updated his or her SSA records after naturalizing, E-Verify has begun confirming citizenship status by verifying the passport information against Department of State passport data.

3. **Implement plans to digitally produce the photograph on the Certificate of Naturalization (Form N-550).**

USCIS concurs with the CIS Ombudsman's assessment that digitized production of naturalization oath certificates would be more efficient and enhance document security. The effort to digitize naturalization certificates is currently underway, as discussed in the CIS Ombudsman's recommendation, and will be implemented fully as soon as printing and security standards are established and the required technology is ascertained. The CIS Ombudsman has been kept apprised of this effort and has participated in several briefings regarding the digitization of naturalization certificates. USCIS continues to welcome the CIS Ombudsman's participation in meetings pertaining to production plans of certificates as the agency moves forward with its digitization efforts.

4. **Post statistics monthly on the number of individuals naturalized and pending naturalization applications.**

USCIS has provided information on our national goals and performance relative to these goals as they relate to the naturalization of applicants as well as a variety of other initiatives on our website. Processing data on several applications and petitions, including N-400 applications, is also currently available on USCIS's website. We recognize that there is an interest in knowing how many individuals USCIS has naturalized and this information is published annually; but we believe that the information we are providing monthly, processing times of N-400 for each office, is the most useful information for the applicant and provides the most direct benefit to the applicant.

<u>USCIS Response to Issues</u>

1. Challenges in Scheduling Additional Ceremonies.

Courts are fully within their rights to request exclusive authority over the administering of the oath of allegiance as provided in the INA. USCIS recognizes the limitations imposed on the agency; however, absent a change in the law, USCIS has no authority to administer the oath of allegiance in situations in which the court has exclusive authority without the court's permission.[4] USCIS makes every effort to maintain a positive working relationship with the courts and most courts are very accommodating to USCIS. However, courts may exercise their authority under the law at their discretion.

Similarly, just as the courts are able to have exclusive jurisdiction over the administering of the oath of allegiance,[5] the law also states that the courts "shall charge, collect, and account for fees" associated with their participation in naturalization ceremonies.[6] The Inter/Intra Agency Reimbursable Agreement (IAA) referenced in the CIS Ombudsman's recommendation is an agreement between USCIS and the AOUSC for fiscal provisions associated with administering the oath of allegiance. The IAA does not contain any stipulations regarding the conduct, duties, or responsibilities of court officials outside of accounting and reimbursable procedures for expenses paid out by the courts. Based on the IAA, USCIS pays the AOUSC a specific per capita fee that is designed to cover the personnel, space rental, automation system support, and other overhead expenses incurred by the courts. The IAA does not provide for itemized reimbursements based on expenses incurred. However, it should be noted that individual federal courts do not collect any fees from applicants nor are they reimbursed directly for conducting ceremonies.

2. Inappropriate Religious or Political Remarks.

The two incidents mentioned in the CIS Ombudsman's recommendation—one involving a religious remark made by an official participant at a naturalization ceremony, and another allegation involving a judge making a partisan political remark—were separate, isolated incidents and represent the exception rather than the rule. USCIS has provided guidance to the field regarding who may speak at oath ceremonies and the content of speeches.[7] The internal version of the Adjudicator's Field Manual also states that speakers' remarks "should not include partisan political statements, religious, or inappropriate or idiomatic references."[8]

3. Threatening Verbiage.

The incident reported in the CIS Ombudsman's recommendation suggests that the judge in question did not act in the most courteous manner. This incident occurred in 2002 and has not been repeated. The District Director met with the appropriate parties and the issue was addressed and resolved.

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[4] 8 CFR 310.3(b) describes sections of the INA that are not subject to the court's exclusive jurisdiction.
[5] INA 310(b)(1)(B)
[6] INA 344(a)
[7] USCIS Memorandum, "Guidance Concerning Guest Speakers at Naturalization Ceremonies," Tracy Renaud, Chief, Field Operations, (January 11, 2008).
[8] Adjudicators Field Manual (Internal Version) 75.2(f)(1)(G)(iii)

4. Customer Service Challenges.

On occasion, USCIS will utilize a third-party facility to conduct a naturalization ceremony. If a ceremony is held in an area that is not USCIS property, that facility may restrict vendors that are allowed to be on-site. The issue mentioned in the CIS Ombudsman's recommendation regarding the denial of SSA's request to be present at a naturalization oath ceremony occurred at the Los Angeles Convention Center. The court denied the SSA's request to have a booth to provide information because of limited space within the room where the ceremony was taking place. Prior to the SSA's request, an agreement had previously been arranged with the passport office of the U.S. Department of State; the room was not large enough to accommodate an additional booth. The passport office has an extensive program to assist new citizens in applying for a U.S. passport. This program is so exemplary that it won the Hammer Award from then-Vice President Al Gore. SSA was very understanding of this reason and provided the materials that were distributed at the ceremony.

The recommendation also discussed that "multiple vendors were immediately inside the ceremony venue." This assessment is not fully accurate. The cash vendors were not in the room in which the ceremony was conducted. The Los Angeles Convention Center permits various vendors to sell items on the premises. These vendors mentioned in the recommendation were at the venue, but were outside of the area in which the ceremony took place.

5. Ceremonies Conducted in Foreign Languages.

Applicants for naturalization must demonstrate proficiency in the English language in order to be eligible to naturalize, unless the applicant qualifies for an age and time as resident exemption or medical waiver of the English requirements. The incident referenced in the CIS Ombudsman's recommendation regarding a ceremony being at least partially conducted in a foreign language occurred in Puerto Rico, where the official language is Spanish and 95.1% of all Puerto Rican residents report that Spanish is their primary language.[9] However, USCIS regrets that this occurred and will work with the courts so that this situation will not be repeated.

6. Solemnity and Dignity of Ceremonies for Armed Services Personnel.

USCIS is fully committed to providing the highest level of service to all our customers, including our military personnel. Field Office Directors are required to establish contacts with local military officials, regularly bring immigration information directly to service members and their families at their military installations, and naturalize qualified service members as soon as possible and prior to overseas deployment, if practicable. USCIS regularly coordinates special naturalization ceremonies for service members at Field Offices, military installations and historical military venues. On Veteran's Day 2008, USCIS conducted naturalization ceremonies throughout the country exclusively for service members. On November 4, 2008, former USCIS Acting Director Jonathan Scharfen went to Iraq to personally administer the oath of allegiance to

[9] U.S. Census Bureau (2007), *American Fact Finder Fact Sheet: Puerto Rico*. Retrieved January 9, 2009, from http://factfinder.census.gov/servlet/ADPTable?_bm=y&-context=adp&-qr_name=ACS_2007_1YR_G00_DP2&-ds_name=ACS_2007_1YR_G00_&-tree_id=307&-redoLog=true&-_caller=geoselect&-geo_id=04000US72&-format=&-_lang=en.

186 military members; this was just one of several ceremonies he participated in during the year. In September 2008, USCIS conducted naturalization ceremonies in both Kuwait and Iraq. To date, USCIS has naturalized more than 45,000 service members both in the United States and overseas since the beginning of the War on Terrorism (September 2001).

Naturalizing service members who have selflessly given to the United States is of the utmost importance to USCIS. USCIS continues to make every possible effort to ensure that service members' naturalization applications are processed in a timely and efficient manner while providing exemplary customer service. USCIS centralized the processing of military naturalization applications and provides a helpline exclusively for service members and their families. The incident included in the CIS Ombudsman's report regarding a lengthy wait time at a military naturalization oath ceremony is an unfortunate one and was addressed. However, it should be noted that the courts within the Los Angeles district, where this incident occurred, have been very accommodating to USCIS. USCIS is grateful and indebted to the sacrifices that service members make every day on behalf of the United States and the freedom of its people.