U.S. Department of Justice
IMMIGRATION AND NATURALIZATION SERVICE

STATEMENT

07/31/00

Response to Citizenship USA Report

The Inspector General's review of Citizenship USA sought to answer the same question that had previously been addressed by the Immigration and Naturalization Service (INS) and others — what caused the breakdowns in the naturalization system during the CUSA program?

The Inspector General's report tracks the previous reviews and lays out the factors that led the INS — more than three years ago — to implement a complete overhaul of the naturalization system. The sudden expansion of a manual system designed to handle fewer than 300,000 naturalization applications per year to accommodate a fourfold workload increase overwhelmed its capacity and magnified the deficiencies of a system that had been neglected for decades.

When INS was faced with problems in the naturalization system that were seriously threatening the integrity of the process, the agency committed to overhauling its entire service operations, focusing first on ensuring the integrity of the naturalization system. Changes included: implementing quality assurance procedures along with appropriate oversight provisions; opening more than 120 INS fingerprinting sites to exercise control over the fingerprinting of applicants; and improving the efficiency of the background check process that guarantees INS has reviewed the criminal history of all applicants before approving the application. A series of audits by both outside auditor KPMG Peat Marwick (KPMG) and INS have validated the success of these efforts.

Having successfully ensured the integrity of the naturalization system, INS moved forward in August 1998 with a two-year initiative to clear the backlog of naturalization applications that developed following Citizenship USA. With bipartisan congressional support, INS achieved the first-year goal of the initiative and is on track to complete the backlog reduction and decrease processing times to the historically-based six-month national average while continuing to guarantee the quality of the naturalization program.

While the INS has made significant strides in improving the naturalization system, as the Inspector General's report points out, there is some unfinished business that the agency needs to complete. Efforts are ongoing to build on the progress that INS has made and to continue to advance quality and customer service throughout the agency.

— INS —

U. S. Department of Justice

Office of the Inspector General

For Immediate Release

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INSPECTOR GENERAL FINDS INS' EMPHASIS ON PROCESSING CASES DURING CUSA COMPROMISED INTEGRITY OF NATURALIZATION ADJUDICATIONS

July 31, 2000 (Washington, D.C.) – The Office of the Inspector General (OIG) today released its comprehensive review of the Immigration and Naturalization Service's (INS) Citizenship USA initiative and found that INS compromised the integrity of the naturalization process during its 1996 effort to reduce the backlog of citizenship applications.

"INS failed to address known system weaknesses before implementing a program that they knew would tax that system as it never had been taxed before," said Robert L. Ashbaugh, Acting Inspector General. "Given the unrepaired deficiencies, INS' drive to process this massive number of cases put the entire system and any hope for integrity in the adjudication of citizenship at great risk," Ashbaugh said. "The results were predictable."

Contrary to allegations, the OIG did not find that CUSA was developed or implemented to further inappropriate political ends. The report found that involvement by the White House and the National Performance Review (NPR) in CUSA "did not result in INS lowering standards or changing its procedures in order to get more applicants naturalized in time for the 1996 election in the hope they would vote for the Democratic Party, as alleged. At the same time, we also found that the efforts of NPR's reinventors did not improve the program or enhance the quality of adjudications."

The OIG's findings result from more than 1,800 interviews and review of more than 80,000 pages of documents in the largest investigation in the office's history.

Background

INS projected that without a serious backlog reduction effort, by the summer of 1996 an eligible applicant would have to wait three years from the date of application to be naturalized as a U.S. citizen. On August 31, 1995, INS Commissioner Doris M. Meissner announced CUSA, an initiative to reduce the backlog of pending naturalization applications to the point where an eligible applicant would be naturalized within six months of application. The effort focused on the workload in the five districts that then had the largest application backlogs: Los Angeles, New York, San Francisco, Miami, and Chicago. To reach the CUSA goal, INS dramatically increased its naturalization workforce in these cities, opened new offices dedicated to naturalization adjudication, and engaged new processing strategies in an effort to "streamline" the naturalization process.

In the spring of 1996, however, just as CUSA moved into its most aggressive phase, media reports began to question the integrity of INS naturalization processing. NPR, under the direction of the Office of the Vice President, had targeted CUSA for "reinvention" and this link between INS' naturalization initiative and the Vice President's Office during an election year helped fuel speculation that INS' push to naturalize more than one million applicants during fiscal year 1996 was an attempt to swell voting rolls with new citizens who were anticipated to vote for Democratic candidates.

Of particular concern were reports that some INS offices were naturalizing applicants so quickly that applicant criminal history reports—generated by the Federal Bureau of Investigation (FBI) after INS submitted applicant fingerprint cards for analysis—were arriving in INS offices *after* the applicant had already been sworn-in as a United States citizen. These and other allegations of flaws in naturalization processing suggested that INS had sacrificed naturalization processing integrity in the name of processing applicants more quickly.

Findings

The OIG's 684-page report substantiated many of the allegations made by Members of Congress that the CUSA initiative reduced the integrity of the naturalization interview.

"Having set the CUSA goal, INS made the timely completion of naturalization cases—or production—the guiding principle and single-mindedly pursued this principle at the expense of accuracy in the determination of eligibility for citizenship," Acting Inspector General Ashbaugh said.

Among the report's findings:

- Hundreds of newly hired adjudicators were superficially trained and unprepared for anything but the most routine citizenship adjudications. In many instances, INS assigned the new adjudicators to work in environments without adequate supervision. We found the most egregious example of the inappropriate deployment of new hires in the Garden City, New York, CUSA office, where approximately 100 new, temporary adjudicators were assigned to work under the guidance of only 6 experienced employees.
- CUSA's ambitious production goals produced pressure in the Field that had an adverse impact on the quality of naturalization adjudications. We found that many adjudicators were led to believe that it was quantity, not quality, that mattered.
- Adjudicators' inquiries were limited by the frequent unavailability of the crucial tools of naturalization processing: applicant criminal history checks and permanent files.
- INS had been repeatedly warned about the many systemic weaknesses in its fingerprint checking system but failed to respond to them before launching CUSA. The one innovation INS implemented in the name of improving fingerprint processing during CUSA—the opening of a centralized Fingerprint Clearance Coordination Center in June 1996—was poorly planned, poorly timed, insufficiently staffed, and inadequately explained to the Field. Instead of improving INS' fingerprint processing, it served to weaken procedures that were already deficient.

- INS repeatedly gave Congress inaccurate assurances about the extent of the processing errors made during CUSA. While the OIG did not find any deliberate intention by any INS official to mislead Congress, we found that the inaccuracies were often the product of insufficient care in gathering the requested information and the INS' desire to project the agency's work in a most favorable light.

The OIG noted that it is impossible to precisely quantify the number of CUSA adjudications that were affected by the problems detailed in its report. "We cannot establish how many applicants who were approved for naturalization would have been found ineligible had appropriate procedures been followed," the report said.

The work of the Naturalization Data Entry Center (NDEC) is an example of INS' inadequate planning during CUSA. In attempting to determine how large its naturalization backlog was, INS discovered that it had approximately 220,000 applications in Los Angeles and 50,000 applications in Miami that had not been counted because they had not even been entered into INS' record-keeping system. At NDEC, INS began a crash effort over 6 weeks to data-enter all these records into INS computer systems. However, these computer entries also triggered requests to retrieve the A-file from the district that had it. Consequently, the NDEC operation resulted in a sudden request to the Los Angeles District Office for more than 170,000 files, a number greater than a year's worth of requests and a deluge that immediately swamped a records office that had been understaffed to handle even a routine volume of requests.

In addition, the system's automated features "ordered" A-files related to all of the just-processed Miami applications be sent to Los Angeles, because the computer treated the office doing the data entry as the office that will adjudicate the application (even though the files would be needed in Miami where the applicants resided). As a result, Miami sent the applicants' A-files to Los Angeles just as NDEC in Los Angeles was shipping the applications it had just processed to Miami. Further, in some cases Miami processed the applications based on temporary files and then sent the temporary files to Los Angeles to be added to the permanent A-files, just as the permanent files were finally being returned to Miami where they belonged.

The OIG found that since CUSA ended INS has made obvious improvements in its procedures for ensuring that applicants' fingerprints are checked by the FBI and that the results of those checks are available to adjudicators. It has also markedly improved its procedures for ordering and transferring applicant files so that they are available at interview. Finally, it has implemented standardized checklists and other processing forms that allow it to monitor whether cases are adjudicated in a manner consistent with these new procedures.

However, the OIG concluded that its greatest concern is the fact that INS has not made progress toward developing and implementing adjudicative standards, including the standards for English testing and the evaluation of good moral character. INS recognized before CUSA that such standards were missing and that their absence diminished the quality of naturalization processing during CUSA. Despite efforts to "reengineer" naturalization, those same standards are still lacking.

"INS has made little progress toward ensuring that adjudicators, once they have the requisite tools—like the results of criminal history checks or the applicant's file—know how to use them," the OIG report concluded. "In short, INS has standardized its processing procedures but has not improved the substantive aspect of the evaluation of an applicant's eligibility for naturalization." The OIG report ends by offering 25 recommendations that focus primarily on steps INS needs to take to improve the quality of the naturalization adjudication.

On July 31, 2000, the report's Executive Summary and Conclusions & Recommendations will be posted on the Inspector General's website at "http://www.usdoj-gov/oig" under the heading entitled "Special Reports;" the full report will be posted as soon thereafter as possible.

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SPECIAL DELIVERY INSTRUCTIONS/REMARKS:

Re: Citizen USA Report by Inspector General & INS Report.

REPORT TO CONGRESS ON STATUS OF EFFORTS TO CORRECT PROBLEMS IN THE NATURALIZATION PROCESS

INTRODUCTION

As part of an initiative called "Citizenship USA" (or "CUSA") the Immigration and Naturalization Service (INS) processed approximately 1.3 million applications for citizenship between September 1995 and September 1996. Of that number, approximately 1.1 million cases were approved for naturalization. That number reflected a sharp increase over the prior few years. However, as receipts and approvals grew during the CUSA period, it came to Congress' attention that some individuals, who were apparently not qualified for citizenship, were in fact approved by the Service. As a result, Congress directed the Attorney General to investigate these claims and, if proven correct, to report on the extent of the problem and the steps taken to correct it. The Attorney General enlisted the help of the Justice Management Division (JMD) in this effort.

The purpose of this report is to meet the Congressional mandate described in the FY 1999 House Appropriations Committee Report, which directs that JMD "continue to oversee the process of correcting the serious mistakes of this [i.e., the CUSA] program, including the identification and revocation of citizenship of persons with disqualifying criminal records who were granted citizenship, and to report back to the Committee on the status of those efforts by March 1, 1999."

Since the Fall of 1996, the approach taken by the Department of Justice (DOJ) in addressing problems in the naturalization program has been directed at the past, the present, and the future. DOJ and INS undertook steps to review previous decisions to determine their appropriateness, introduce safeguards to the current system, and develop a redesigned naturalization process.

As part of the effort to determine whether past naturalization cases were adjudicated correctly, INS conducted several reviews of selected case files. First, INS conducted four separate reviews involving cases of persons who were naturalized between August 31, 1995, and September 30, 1996, the period of concern to Congress. Two reviews (the original Criminal History Case Review and the Supplemental Case Review) sought to identify cases where citizenship was granted despite potentially disqualifying criminal histories. A third review (the original Deportation/Exclusion Case Review) sought to identify cases where citizenship was granted despite pending deportation or exclusion proceedings. A fourth review was conducted on a random sample of cases in order to determine the extent to which other internal processing problems existed in the naturalization program during that period. DOJ engaged KPMG Peat Marwick LLP (KPMG) to oversee, validate, and independently report on these reviews.

Second, INS conducted two additional reviews that mirrored the original Criminal History and Deportation/Exclusion Case Reviews. These two reviews covered cases approved during the nine months (October 1996 - June 1997) following the first review period. These so-called "transition period" reviews were designed to ensure that any additional improper naturalization decisions, made while INS was implementing its Naturalization Quality Procedures, could be identified and corrected. These case reviews were conducted in a similar manner as the preceding ones, except that INS' Office of Internal Audit performed the oversight, validation and reporting role previously performed by KPMG.

To ensure that continuing naturalization case processing efforts produced appropriate results, INS has implemented a full range of new procedures, including many new controls and safeguards, called the Naturalization Quality Procedures (NQP). KPMG has conducted three rounds of audits to assess the implementation of these controls, and a fourth round is scheduled to occur this Spring. In addition, INS has been building an internal capability, using both INS employees and contractor personnel, to continuously monitor the quality of the naturalization process.

Looking forward, DOJ awarded a two-year contract in March 1997 to Coopers & Lybrand (C&L), now PricewaterhouseCoopers (PwC), to redesign the entire naturalization process after examining "all aspects of the naturalization process, from initial contact by an applicant, through case adjudication and the swearing-in ceremony, to the retirement of the case record". Following an extensive data collection effort, C&L proposed a complete redesign of the process, along with a detailed implementation plan to make the redesigned process a reality. PwC is now preparing its final report on this contract as efforts to implement the new process continue.

This report provides a summary of the various case review results and a status report on the efforts INS has undertaken to revoke citizenship, where appropriate. It also provides a status report on the KPMG audits of INS' implementation of its Naturalization Quality Procedures and INS' efforts to enhance its internal capability for monitoring the quality of the naturalization process.

CITIZENSHIP USA (CUSA) CASE REVIEWS

The first step in determining whether past naturalization case decision were correct was to identify the universe of individuals who were naturalized between August 31, 1995 and September 30, 1996. In November 1996, INS identified 1,049,867 such individuals by scanning its Central Index System and Naturalization Automated Casework System systems for naturalization records with oath dates on or between those dates.

CRIMINAL HISTORY CASE REVIEW (FELONY/CIMT)

INS and the FBI then matched the INS universe of 1,049,867 naturalized individuals with FBI criminal history check billing records, which showed the results of the checks. This process enabled INS to determine that over 76,000 of these persons had FBI records, which were reproduced for this project. A subsequent review and sort of the rap sheets identified 17,257 individuals whose records indicated they had been arrested for offenses, felonies or crimes involving moral turpitude (CIMT), that would statutorily bar naturalization.

The group of 17,257 individuals was the subject of the original Criminal History Case Review. INS assembled a team of adjudicators to review the case files and independently determine whether the applicants were eligible to be naturalized based on statutorily defined good moral character criteria. KPMG provided quality control and validation during the entire review process.

A total of 16,858 case files were reviewed (399 case files could not be located for the review). The review found:

- 10,535 cases (63 percent) were Proper -- the adjudicators found that the statutorily defined good moral character criteria were met;
- 369 cases (two percent) were Presumptively Ineligible -- the adjudicators found that the statutorily defined good moral character criteria were presumptively not met; and
- 5,954 cases (35 percent) Require Further Action -- the adjudicators found that they could not validate that the statutorily defined good moral character criteria were met based on the information contained in the case files (a record showing an arrest for a disqualifying offense might not reflect a conviction or acquittal).

Of the 6,323 cases that were presumptively ineligible or require further action, 5,634 involved a failure to reveal an arrest. In July 1997, an INS team of attorneys, examiners and investigators began reviewing the 6,323 cases for possible administrative revocation action.

DEPORTATION/EXCLUSION CASE REVIEW

In addition to identifying individuals who may have been improperly naturalized because of the lack of good moral character, it was also necessary to identify those individuals who may have been naturalized while they were subject to deportation proceedings or a pending order of deportation or exclusion. The period of naturalization under review was August 31, 1995, to September 30, 1996, the same as the Criminal History Review. KPMG compared the INS database of individuals naturalized (1,049,867) during the subject period with an Executive Office for Immigration Review (EOIR) database containing records of deportation or exclusion actions. A total of 716 individuals (254 deportation and 462 exclusion) were listed on both, and these individuals were the subject of the Deportation/Exclusion Case Review.

A total of 600 of the 716 cases were reviewed by a team of INS Deportation Officers with KPMG oversight, as in the criminal history review. INS could not locate 33 files, and 83 others were not reviewed because the files were found to contain no evidence that the affected individuals had ever been subject to deportation or exclusion proceedings or had been naturalized.

The review found that 38 cases revealed evidence of an improper naturalization. Of these, 23 cases involved deportation and 15 cases involved exclusion. The remaining 562 cases reviewed (135 deportation and 427 exclusion) showed no evidence indicating an improper naturalization. The 38 cases were referred to the INS revocation team for possible revocation.

SUPPLEMENTAL CASE REVIEW

Shortly before the Criminal History Case Review was completed in December 1997, the review team received a late arriving box containing approximately 300 rap sheets produced by the FBI specifically for that review. (These are referred to below as "In-Transit" cases.) In addition, in the Fall of 1997, INS and the DOJ Office of the Inspector General informed JMD that they had recovered unfiled rap sheets in several INS field offices that appeared to relate to the time period covered by the Criminal History Case Review. JMD subsequently obtained copies of approximately 2,600 such rap sheets. (These are referred to below as "Recovered" cases.)

In the Spring of 1998, with KPMG oversight, INS attorneys reviewed the 2,900 rap sheets and identified those containing arrests for crimes that would bar naturalization. A total of 192 rap sheets were identified that involved persons naturalized during the period covered by the Criminal History Case Review but were not considered as part of the original review effort. The 192 rap sheets consisted of 171 Recovered rap sheets and 21 In-transit rap sheets.

Case files for the 192 affected individuals were subsequently requested. A total of 167 files were retrieved and reviewed by INS adjudicators, again with KPMG oversight, as was done in the original Criminal History Case Review. Of the 167 cases reviewed, 127 were determined to be either Presumptively Ineligible (1) or Require Further Action (126), and 34 were determined to be Proper. Five of the six remaining cases were "mismatches," where the individuals identified on the rap sheet did not match the individuals noted in the case files. The one remaining case was determined to be outside the review population because the rap sheet charge was an INS administrative violation rather than a felony or CIMT. The 127 potentially problematic cases were referred to the INS revocation team for consideration.

While the efforts taken in this Supplemental Case Review ensured that appropriate actions could be taken on the cases that were identified, the discovery of previously unknown cases raised questions as to how many other cases may have been missed. Information regarding the 192 cases is outlined below.

- 89 of the 192 cases were previously known as part of the 1,049,867 naturalizations approved during the CUSA period (August 31, 1995, to September 30, 1996). The remaining 103 cases were not included in that total.

- The 89 known cases consist of all 21 In-transit cases and 68 of the 171 Recovered cases. The 103 previously unknown cases represent the remaining Recovered cases.

- Of the 103 cases, 93 had naturalization dates falling in September 1996.

It is unclear why 103 cases were not included the universe of 1,049,867 individuals naturalized during the CUSA period. The most logical, but unproven, explanation is that information on these cases was included in INS' databases after the original universe was determined in November 1996, although INS field offices were instructed to update their data prior to that universe being established.

While not fully understanding the reasons why, it seemed apparent that the number of persons naturalized during the CUSA period was greater than 1,049,867 and that the number of potentially problematic cases was also greater than originally thought. Therefore, in October 1998, INS again queried its systems to determine what its databases reflected as the number of persons naturalized during the CUSA period. A total of 1,109,059 records were found. This number reflects a net increase of 59,192 over the original number of 1,049,867. It is a net increase because a comparison of the two universes shows that 71,413 new cases were found while 12,221 cases in the original universe were not included in the second universe. Considering the 71,413 previously unknown cases, it can be concluded that the original universe determination had an error rate of approximately seven percent, based on what is currently known.

At this point, no action is being taken regarding the 71,413 cases, although INS is weighing the costs and potential benefits of submitting them to a case review process similar to what was described above. Based on the experience of the original Criminal History Case Review, approximately 5,000 could be found to have criminal histories, 1,000 of those could involve arrests for felonies or CIMT, fewer than 500 of those could be referred administrative revocation consideration, and fewer than 300 of those might be considered appropriate for administrative revocation, an authority which is currently under legal challenge.

RANDOM SAMPLE CASE REVIEW

This effort used a sampling approach to perform a review of the universe of cases naturalized between August 31, 1995, and September 30, 1996, in order to determine the extent to which internal processing problems existed in the naturalization program during that period. The review was conducted by INS adjudicators, with KPMG oversight. Its results were used to guide process improvements.

To the extent possible, the review also assessed whether naturalizations were granted despite a failure of the applicant to meet the eligibility, residency, good moral character, language or civics requirements. Insufficient documentation in 88 percent of the case files precluded a definitive assessment.

The review targeted a 6,013-case stratified random sample drawn from the total population of 1,049,867 individuals who were previously known to be naturalized from August 31, 1995, to September 30, 1996. The strata were:

- The district offices that processed the applications (Chicago, Los Angeles, Miami, New York, Newark, and San Francisco, and all others as a single group), and
- The case categories resulting from the FBI/INS data matching process (i.e., ident, non-ident, unclassifiable reject, not matched, and elders/minors not submitted).

A total of 5,438 of the 6,013 cases were reviewed. INS could not locate 412 files, 46 were reviewed earlier in the Criminal Case History Review and had been referred for revocation, and 117 were found to fall outside the purview of the targeted population.

In summary, the findings of the review were as follows:

- Of 5,484 cases considered (5,438 reviewed, plus 46 in revocation), 205 were determined to be presumptively ineligible, defined as having evidence in the file of a prima facie disqualification in one or more of four required areas: residency, eligibility, English and civics, and good moral character. Using statistical projections, this suggested that 3.7 percent, or approximately 38,850, of the 1,049,867 applicants naturalized in 1996 were presumptively ineligible.
- The major reason for incorrect decisions (132 of the 205) involved issues related to eligibility. Using statistical projections, the 132 cases suggested that 2.4 percent, or approximately 25,200, of the 1,049,867 applicants naturalized in 1996 were presumptively ineligible due to eligibility-related reasons. **(The 25,200 are part of the 38,850 total cited above.)**
- Within the eligibility category, the biggest problem was the acceptance of applications before the statutory residency requirement was met. While all of the 116 cases in this sub-category were inappropriately filed, 112 were determined to have met the residency requirement at least by the time of the naturalization ceremony.
- The next most prominent reason for incorrect decisions was related to good moral character (GMC) issues, with 59 cases falling into this category. Using statistical projections, the 59 cases suggested that 1.1 percent, or approximately 11,550, of the 1,049,867 applicants naturalized in 1996 were presumptively ineligible for GMC reasons. **(The 11,550 are part of the 38,850 total cited above.)**

- Case file documentation was universally poor, with 90 percent of the cases containing processing errors of some type. KPMG attributed this to a lack of both codification of uniform processing standards and enforcement of existing standards in the naturalization process, conditions which have improved due to INS's implementation of its Naturalization Quality Procedures.

- The overwhelming processing error, evident in 70 percent of the case files reviewed, was the failure to document that the fingerprint card, FD-258, had been sent to the FBI. INS has shown great improvement in this area since the institution of the revised NQP on June 30, 1997.

- Smaller offices appeared to perform somewhat better in correctly processing cases than larger offices, perhaps because of workload-to-resource ratios.

TRANSITION PERIOD CASE REVIEWS

The case reviews described above focused on those cases completed between August 31, 1995, and September 30, 1996, the original period of concern to Congress. Since many of the Naturalization Quality Procedures (NQP) were not established until November 29, 1996, and were implemented in early December 1996, the Department was concerned that some applicants who were ineligible for naturalization (based on the good moral character criteria or deportation/exclusion provisions) were still being naturalized. Therefore, it was decided that those cases completed between October 1, 1996, and December 31, 1996, would be subjected to a similar review to ensure that any additional improper naturalization decisions could be identified and corrected.

However, in light of KPMG's April 1997 findings that the November 29 procedures were inconsistently implemented, a later decision was made to extend the transition period review to June 30, 1997, the effective date of revised NQP (NQP III, dated May 23, 1997). In a subsequent December 1997 report on the implementation of NQP III, KPMG indicated that, after June 30, 1997, INS had clearly "made significant improvements in the internal controls of the naturalization process and greatly reduced the risk of incorrectly naturalizing an applicant."

Approximately 455,000 persons were naturalized during the nine-month transition period. Cases were identified for the transition period case reviews in the same way they were identified for the original Criminal History Case Review and the original Deportation/Exclusion Case Review. The case reviews were also conducted in a similar manner, except that INS' Office of Internal Audit (OIA) performed the oversight and document-control role previously performed by KPMG.

TRANSITION PERIOD CRIMINAL HISTORY CASE REVIEW

INS, again with the assistance of the FBI, determined that approximately 16,700 of the 455,000 naturalized persons had FBI records, which were reproduced for this project. A subsequent review and sort of the rap sheets identified 3,565 individuals whose records indicated they had been arrested for offenses, felonies or crimes involving moral turpitude (CIMT), that would statutorily bar naturalization.

The group of 3,565 individuals was the subject of the Transition Period Criminal History Case Review. A total of 3,316 case files were reviewed (249 case files could not be located for the review). The review found:

- 2,533 cases (76 percent) were Proper -- the adjudicators found that the statutorily defined good moral character criteria were met;
- 56 cases (two percent) were Presumptively Ineligible -- the adjudicators found that the statutorily defined good moral character criteria were presumptively not met; and
- 727 cases (22 percent) Require Further Action -- the adjudicators found that they could not validate that the statutorily defined good moral character criteria were met based on the information contained in the case files (a record showing an arrest for a disqualifying offense might not reflect a conviction or acquittal).

Of the 783 cases that were presumptively ineligible or require further action, 628 involved a failure to reveal an arrest. The 783 potentially problematic cases were referred to the INS revocation team for consideration.

While the percentage of potentially problematic cases identified during the transition period review (24 percent) is better than the percentage found in the original review (37 percent), what is most notable is that 600 of the 783 potentially problematic cases were approved in October and November 1996, before most of INS' Naturalization Quality Procedures were implemented. On a month-to-month basis during the transition period, the percentage of reviewed cases that were determined to be proper decisions generally increased, with notable improvements beginning in December 1996 and another noticeable improvement in April 1997, when INS instituted a case file re-verification requirement as a result of the negative findings contained in the April 1997 KPMG report. For the last three months of the transition period (April-June 1997), 91 percent of the cases reviewed were determined to be proper decisions. These improvements were followed by the June 30, 1997, implementation of enhanced quality procedures (NQP III).

TRANSITION PERIOD DEPORTATION/EXCLUSION CASE REVIEW

In addition to identifying the subjects of a transition period case review related to individuals' criminal history, INS also identified those individuals who may have been naturalized while they were subject to deportation proceedings or a pending order of deportation or exclusion. INS' OIA compared the INS database of individuals naturalized (455,000) during the subject period with EOIR's database containing records of deportation or exclusion actions. A total of 375 individuals were listed on both, and these individuals were the subject of the Transition Period Deportation/Exclusion Case Review.

A total of 222 of the 375 cases were reviewed by a team of INS Deportation Officers with OIA oversight. INS could not locate 95 files, and 58 others were not reviewed because the files were found to contain no evidence that the affected individuals had ever been subject to deportation or exclusion proceedings.

The review found that 12 cases revealed evidence of an improper naturalization. Of these, eight cases involved deportation and four cases involved exclusion. The remaining 210 cases reviewed (109 deportation and 101 exclusion) showed no evidence indicating an improper naturalization. The 12 cases were referred to the INS revocation team for possible revocation.

REVOCATION EFFORTS

The revocation of citizenship, sometimes called denaturalization, is the means by which the Government can move to overturn a grant of citizenship that can be proven improper. In addition to judicial revocations, which are cases presented in and decided by the court, the Government may revoke an improperly-granted citizenship administratively, on the strength of the record (including rebuttals), provided action is taken within a two-year statute of limitations. Administrative revocation authority came into existence in October 1996, with publication of final regulations at 8 CFR §340.1, pursuant to the Immigration Act of 1990.

Over 8,400 cases have been referred from a variety of sources to the INS General Counsel for possible revocation. This includes some 7,300 cases referred from the case reviews noted above, including the Criminal History Case Reviews (original, Supplemental, and Transition Period), the Random Sample Case Review, and the Deportation/Exclusion Reviews (original and Transition Period). In addition, INS District Offices have referred another 1,100 cases for review.

About seven percent of the cases referred as a result of the case reviews were identified by the reviewers as "presumptively ineligible" for citizenship. The remaining 93 percent were referred to as cases requiring further action. Cases were designated as needing further action when information necessary to evaluate a case was missing or when the applicant appeared to have failed to reveal his or her criminal history during the application for citizenship. "Further action" cases require the collection and verification of records, such as police records and court records, to determine the final disposition of cases. INS attorneys, special agents, examiners, and support staff work on cases referred for revocation.

ADMINISTRATIVE REVOCATIONS

On July 21, 1997, the Service began reviewing referred cases for potential administrative revocation. The Service pursued administrative revocations initially, since these cases are time-sensitive, with action required within two years of the date citizenship is formally bestowed. INS prioritized its review of cases chronologically, reviewing oldest cases first, in order to prevent lapses in the two-year window.

By July 9, 1998, INS counsel had reviewed 4,269 cases for possible administrative revocation. On that date, however, Judge Barbara Rothstein of the United States Court for the Western District of Washington issued a preliminary injunction in the case of *Gorbach v. Reno*. The injunction, sustained on appeal in the Ninth Circuit, precludes INS from "initiating or continuing" administrative revocations Nationwide. As a result, INS had to suspend efforts towards administrative revocation. Of the 4,269 total cases reviewed to that point, 2,686 had been deemed appropriate for denaturalization, that is, they were deemed legally sufficient to initiate revocation proceedings.

The remaining 1,583 were deemed not appropriate for revocation, either because follow-up review found them to be properly granted, because there was insufficient legal basis to initiate revocation proceedings, or because the potential litigation risks of initiating administrative revocation outweighed the potential benefit served by such action. This occurred for a variety of reasons, usually because the findings of further investigations contradicted or mitigated the information in the case file examined by the auditors. In some cases, the review of the file did not produce clear, unequivocal, and convincing evidence that the applicant was ineligible to naturalize or that the applicant procured naturalization by willful concealment or misrepresentation of a material fact. In cases where proceeding with the revocation would lead to the development of unfavorable case law, the Service exercised its discretion not to initiate revocation procedures.

As of the date of the most recent court action, February 2, 1999, no change in the terms of the injunction had occurred. As a result, no action has been taken to pursue administrative revocations since July 1998.

JUDICIAL REVOCATIONS

Enjoined from initiating or continuing with administrative revocations, INS redirected its resources to facilitate the filing of appropriate denaturalization cases in Federal court. To that end, a working group from the INS Office of the General Counsel, the DOJ Civil Division's Office of Immigration Litigation (OIL), and the U.S. Attorneys' Offices began to develop a plan for a comprehensive strategy for judicial denaturalization or criminal prosecution in citizenship cases that warranted such action.

Using agreed-upon criteria, the working group is now identifying the most compelling cases to bring forward for litigation, mindful of the limited resource levels of the Government and the courts. At least initially, the Government will present cases that have the highest likelihood of successful prosecution, in order to use available resources most effectively.

Congress has provided INS with the resources for 20 attorneys to handle denaturalizations. INS plans to designate 15 of those attorneys as Special Assistant United States Attorneys, after a six- to nine-month transition period during which all INS resources would be devoted to preparing referral packets. INS will also commit an equal number of experienced investigators to work full-time on these cases in the District Offices and U.S. Attorneys Offices. At the same time, INS will maintain its Headquarters Revocation Unit of five attorneys, five to seven investigators, two examiners and support staff.

Using available resources, the working group estimates that INS can refer approximately 600 cases in the first year, and that these cases can be litigated over the course of two years. This approach will enable the Government to present its strongest cases without imposing an unmanageable burden on the U. S. Attorneys and the Federal courts. At the same time, it will allow the courts to speak on many of the as-yet-unsettled legal issues in these denaturalization cases. By gauging the courts' reaction to these more compelling cases, the Government will have a much better idea which of the remaining cases merit pursuing in Federal court.

NATURALIZATION QUALITY PROCEDURES (NQP) AUDITS

In addition to overseeing the case review process, the Department also tasked KPMG to assess the implementation of new naturalization process internal controls in INS field offices. On November 29, 1996, INS instituted its new Naturalization Quality Procedures (NQP) covering seven key enhancements, including: 1) standardization of work process; 2) fingerprint check integrity; 3) enhanced supervisory review; 4) instructions regarding temporary file use; 5) implementation of a standardized quality assurance program; 6) guidance regarding revocation proceedings; and 7) requirements for increased monitoring of outside English and Civics test sites.

SPRING 1997 REVIEW

In February and March 1997, to assess whether these new procedures were implemented correctly, KPMG conducted an NQP implementation review at all four INS Service Centers, eight CUSA sites and 12 other District Offices, which together accounted for approximately 85% of the naturalization workload. KPMG's April 1997 report stated that while the majority of the field sites were implementing the intent of the NQP, implementation of the required procedures was very inconsistent. The most critical finding related to the quality of fingerprint cards received by INS and forwarded to the FBI for criminal background checks.

The KPMG report indicated that the NQP increased internal control and significantly reduced the risk of incorrectly naturalizing an applicant. But the report also stated that the criminal history validation, a key control of the NQP, remained ineffective. KPMG also found that the NQP standards were unevenly applied across INS as a result of the lack of standardized training and an ineffective communication of the NQP requirements.

Because of these findings, KPMG could not provide assurance that INS was not continuing to incorrectly naturalize aliens with disqualifying conditions. Of the 24 sites visited. KPMG found only one District Office (Boston, MA) that it considered to be in full compliance with the new procedures, although seven other sites were be found to be in marginal compliance.

In response to the April 1997 KPMG report, INS immediately implemented a case file reverification requirement and proceeded to enhance its NQP (NQP III) through required manual documentation of each step in the process on a more complete mandatory worksheet. INS also reorganized the procedures into a more user-friendly format, and it implemented a comprehensive process to distribute the revised procedures and train all relevant employees on their content.

SUMMER 1997 PRELIMINARY REVIEW

NQP III was released on May 13, 1997, and went into effect on June 30, 1997. In August 1997, KPMG conducted a preliminary review to specifically assess the distribution of NQP III and training provided to field personnel on its contents. In its September 1997 report, KPMG indicated that NQP III had been disseminated in a consistent manner and adequately trained across the 13 sites visited (four Service Centers and nine CUSA sites).

FALL 1997 AUDIT

The preliminary review was followed up by a rigorous audit to assess implementation of NQP III in 24 INS field sites, including four Service Centers, nine CUSA sites and 11 District Offices, in October and November 1997. In this audit, KPMG focused on those naturalization processing activities that preclude naturalization of applicants that do not meet the good moral character requirement and those that ensure that all information is available and accurate prior to the grant of citizenship. These critical control areas are FBI fingerprint check results, documentation of A-File transfer requests, and requirements for supervisory review for certain cases and reverification of all cases. The evaluation of these items was the main determinant for site compliance, and a criterion of zero tolerance was applied in the analysis of audit results.

In its December 1997 report, KPMG found four District Offices (Omaha, NE; Phoenix AZ; El Paso, TX; and Dallas, TX) to be non-compliant. Overall, KPMG reported that "stricter controls are in place for the control and documentation of case files; in-process reviews have been implemented to preclude the naturalization of applicants with disqualifying conditions; and a quality review program has been instituted that focuses on in-process reviews, periodic self-audits, and sharing of quality improvement information." KPMG concluded that INS had "made significant improvements in the internal controls of the naturalization process and greatly reduced the risk of incorrectly naturalizing an applicant."

SUMMER 1998 AUDIT

In July and August 1998, KPMG conducted another audit similar to the prior one, this time visiting 15 INS field sites, including two Service Centers, five CUSA sites, and eight District Offices. Whereas the earlier reviews concentrated on INS' larger offices, this audit included several smaller sites in order to help ensure that implementation of the NQP was being accomplished across the board in all INS offices.

In its September 1998 report, KPMG again found four District Offices (El Paso, TX; Houston, TX; Atlanta, GA; and Detroit, MI) to be non-compliant. While not part of the critical control areas, KPMG noted improvement across most sites in clerical processing and file maintenance in comparison with the prior audit. KPMG also indicated that this audit showed that INS continued to make improvements in its internal controls and "continued to reduce the likelihood of naturalizing aliens with disqualifying conditions."

On June 5, 1998, INS released the latest revision of its Naturalization Quality Procedures (NQP IV). The revised procedures were effective at Service Centers on October 1, 1998, for all N-400 applications filed on or after that date, and at local offices on November 1, 1998, for all cases initially interviewed on or after that date. NQP IV reflects improvements that have been made possible by the implementation of the automatic file transfer requests by the Central Index System; the advances in fingerprint procedures, including the opening of the Application Support Centers; Direct Mail for all N-400 applications; and the continued development of the CLAIMS 4 system.

SPRING 1999 AUDIT

Plans are currently being developed for another KPMG audit that will be conducted this Spring. While still under discussion, the next audit is likely to be similar to the past two audits, and it would also incorporate changes brought about by the implementation of NQP IV.

INS INTERNAL QUALITY ASSURANCE EFFORTS

With the establishment of an on-going quality assurance program as part of the November 1996 NQP, and with the continued improvements made to that program, INS has increased its institutional capability to monitor and improve the performance of the naturalization program. The engagement of a quality assurance contractor has enhanced that internal capability.

OFFICE OF INTERNAL AUDIT QUALITY ASSURANCE REVIEW PROGRAM

A feature of the Naturalization Quality Procedures, issued on November 29, 1996, is the establishment of an internal program for the routine conduct of quality assurance reviews. The program requires each office that adjudicates naturalization applications to randomly review naturalization files on a monthly basis to ensure that procedures are being followed. The reviewers follow standardized checklists, which provide a record of results and are retained in the A-files, with copies submitted to the regions for analysis and, where necessary, corrective action. Between 5,500 and 6,000 cases are reviewed monthly. Until November 1998, when INS began to fill newly-allocated positions of GS-12 Management Analysts for Quality Assurance, an adjudications officer at each site was designated to oversee the effort. The INS Office of Internal Audit, which has overall responsibility for the program, receives and analyzes roll-up reports from the three INS regions.

Since August 1997, when monthly quality assurance reviews reported that 30.7 percent of the files examined had at least one processing error, INS offices have demonstrated substantial improvement, with the overall error rate (including all types of errors, critical and non-critical) falling to 12.9 percent in October 1998. In the three critical areas reviewed each month, the findings have also been encouraging. The error rate related to obtaining the results of an FBI fingerprint check dropped from 3.3 percent in August 1997 to 4.0 percent in October 1998; the error rate for documenting three attempts to locate an A-file has dropped from 2.0 percent to 1.5 percent during the same period; and the error rate for obtaining arrest disposition information has dropped from 1.2 percent to 0.4 percent. It is important to note that while a critical error may occur in a case, that does not necessarily mean that the applicant is ineligible for naturalization.

While comparative reports are a useful element of the Quality Assurance Program, the roll-up reports prepared by the various organizational levels help isolate areas where improvement is needed and identify areas where it appears management controls are working well. This permits specific troubleshooting at the affected sites and promotes the sharing of best practices.

The Quality Assurance Program is being strengthened with the entry on duty of 42 new Management Analysts whose principal duties focus exclusively on the quality of nationality, citizenship, and other INS benefits processing work. These analysts are being dispersed throughout INS field offices and at Headquarters. The Office of Internal Audit is responsible for developing the program that will ensure standardization through the issuance of the *Quality Assurance Handbook* (presently in draft) and formal training, tentatively scheduled for March 1999. OIA may also perform announced or unannounced site reviews to ensure compliance with the program.

IMMIGRATION SERVICES DIVISION QUALITY CONTROL PROGRAM

Following the critical findings contained in the April 1997 KPMG report, the Executive Office of Naturalization Operations (now part of the Immigration Services Division) was established. In June 1997, in addition to enhancing the NQP, the Executive Office also engaged CENCOR, a quality assurance contractor, to perform a number of quality control functions in numerous INS field locations.

CENCOR's responsibilities include reviewing an office's compliance with INS policies and procedures, installing quality assurance processes and control points, providing remedial training in selected naturalization processes, reviewing specific compliance with INS Quality Assurance Program requirements, assisting in the elimination of backlogged information awaiting input to the automated systems supporting the naturalization process, offering suggestions for improvement whenever possible, and providing comprehensive monthly reports to the INS local office, region and headquarters.

Currently, CENCOR has 27 staff members working with INS, including four at INS Headquarters, one in each of three Regional Offices, two in each of four Service Centers, and 12 assigned to specific Districts. Additional District Offices, sub-offices and satellite offices are covered on a part-time basis.

CENCOR reports that its quality assurance reviews indicate that INS filed offices have achieved, and are maintaining, accuracy rates processing in the high nineties percentile, with few critical errors. It further reports that most mistakes are random human errors resulting from a manual process, and that no significant trends point to particular trouble spots.

Presently, CENCOR personnel are teaming with the newly hired INS Quality Assurance Analysts and assisting in their training. CENCOR will also be assisting INS field sites in monitoring their compliance with NQP IV by conducting unannounced site reviews. Ultimately, INS has plans to use CENCOR to assist with its other benefit programs (e.g., adjustment of status).

CONCLUSION

Considerable effort has been devoted to identifying instances where citizenship was awarded to individuals who did not deserve that precious benefit. The actual extent of improper naturalizations is not clear, and may never be known, and the number of potential revocations is now largely dependent on the courts. To ensure that similar mistakes are not made in the ongoing program, numerous new policies and procedural checks have been developed and implemented in the naturalization process. Unfortunately, these added controls have come with a cost, as the program's productivity has suffered and case backlogs have accumulated.

As reported in the results of the Transition Period Case Review, the KPMG NQP Audits, the Quality Assurance Program, and the CENCOR quality assurance checks, the trends are encouraging. The Transition Period Review shows improvements at the time the original NQP was implemented (December 1996) and when the reverification requirement was added (April 1997). The KPMG Audits in the Fall of 1997 and Summer of 1998, both following the implementation of NQP III, showed significant improvements over the first review conducted in the Spring of 1997. The INS Quality Assurance Program reports and the CENCOR quality assurance checks also show that critical control processing errors have been reduced.

Concerns remain because, despite the new controls, mistakes are still being made in critical control areas, and the possibility exists that improper naturalizations could still occur. However, as reported here, the trends are encouraging, and the mistakes that are found do not necessarily mean that citizenship is being inappropriately granted to ineligible applicants. For example, a failure to conduct a file reverification, considered a critical control, does not mean the decision made in that case was wrong, but only that steps in the processing of that case were not re-checked. If not entirely eliminated, processing mistakes have been significantly reduced and, as a result, the potential for improper naturalizations has been minimized.

Most of the mistakes that continue to be found are human errors made in a manual, paper-intensive process. The best hope for further improvement lies in a comprehensive re-design of the naturalization process as proposed by C&L/PwC, supported by increased reliance on automation. The Department continues to dedicate the attention and resources required to redesign and strengthen the naturalization process. Considerable progress has been made, but work is still underway. The Department will continue to apprise the Committee of progress in these efforts.