

Appendix E:

Los Angeles District Criminal History Checking Procedures

Beginning in August 1996, INS' criminal history checking procedures came under fire in the media and at congressional hearings. Specific allegations arose concerning the practices of the Los Angeles District. First, Los Angeles District Special Agent James Humble-Sanchez testified on September 24, 1996, before the Subcommittee on National Security, International Affairs, and Criminal Justice of the House Committee on Government Reform and Oversight (the Subcommittee), emphasizing in particular the failure of his District to properly check the criminal histories of naturalization applicants. Humble-Sanchez told the Subcommittee that "in mid-August when we naturalized approximately 60,000, it was immediately known throughout the District that 5,000 hits had come back." His allegations and other information prompted Congress to press INS for information concerning how many persons had naturalized during CUSA despite having a disqualifying criminal history. Second, on October 17, 1996, the *Los Angeles Times* and the Copley News Service (printed in *The San Diego Union-Tribune*) reported that the Los Angeles District INS had thrown away, in "September 1996,"¹ between 4,000 and 6,000 fingerprint cards relating to naturalization before those cards could be checked by the FBI. No other Key City District's practices were so forcefully criticized. In addition, the two employees who made allegations concerning those practices were also among the six INS employees who alleged that INS had retaliated against them for having cooperated with the congressional investigation (see our chapter on allegations of retaliation, above). Accordingly, as the OIG began its investigation into CUSA, we focused our attention on what had happened with fingerprint card and rap sheet processing in Los Angeles during CUSA.

Much of what we learned as a result of our Los Angeles-based investigation reflected the system-wide problems of INS' fingerprint processing procedures during CUSA, as reported in our chapter on criminal history checking procedures. However, some of the information we learned was specific to Los Angeles District and the full recitation of the details would have distracted from the Service-wide perspective of our report. It is for that reason that we offer this separate Appendix concerning certain aspects of the processing of fingerprint cards in Los Angeles District during CUSA. We found that Los Angeles District did not destroy fingerprint cards instead of sending them to the FBI. That said, we did find that thousands of rejected fingerprint cards were destroyed by personnel in Los Angeles with little prior inquiry about the appropriateness of that destruction. The cards were destroyed without any effort to first ensure that the applicants who had submitted them had sent in new, suitable fingerprint cards in their place. We also found that such carelessness about these particular records illustrated the level of chaos that existed in Los Angeles fingerprint processing during CUSA, and Los Angeles managers' neglect of the importance of criminal history checking procedures. In this Appendix, we describe the evidence supporting these conclusions.

A. Background on the Los Angeles District

As noted elsewhere in this report, the Los Angeles District had the largest workload in the country as INS Headquarters considered a backlog reduction project. By December 1994, it was receiving twice as many cases per day than it could adjudicate per day with the staff on board. By the summer of 1995, more than 220,000 naturalization applications received in the District Office had not even been entered into the computer. Applicants were waiting more than one year

to be interviewed. Another 200,000 cases had not been "closed out" after the naturalization ceremony and were awaiting final processing. During CUSA, because of the extraordinary attention and resources brought to bear on Los Angeles' naturalization workload, the District became "current" in naturalization processing (applicants were waiting less than four months for an interview) and completed more than a quarter million naturalization cases during fiscal year 1996.

Los Angeles was the test site for several CUSA innovations. Its "frontlogged" cases, the more than 220,000 applications awaiting data-entry, were processed at the Naturalization Data Entry Center (NDEC) in Laguna Niguel, California. The model of Direct Mail for naturalization applications that was implemented during CUSA for four of the five Key City Districts was based on the relationship between (and geography of) the Los Angeles District and the California Service Center. Los Angeles also conducted the most aggressive off-site interviewing program in the country, an outreach effort involving 48 different organizations at the height of CUSA. Finally, although Los Angeles could not boast of the largest CUSA interviewing site (that distinction belonged to the INS office in Garden City, New York), it did have the most innovative: the El Monte naturalization office, where a "primary/secondary" interviewing strategy was used to complete more than 55,000 naturalization applications from June through August 1996. Before CUSA, naturalization interviews in Los Angeles were conducted only at the downtown Los Angeles District Office, and District officials generally scheduled approximately 500 interviews per day. During CUSA, in addition to interviews at the District Office, at the El Monte facility, and through off-site or "outreach" sessions, Los Angeles also opened a naturalization office in Laguna Niguel (in the same building as the NDEC and the California Service Center) and began to interview naturalization applicants at its existing office in Bellflower, California. By the summer of 1996, the District was scheduling over 2,500 interviews per day.

The managers who oversaw Los Angeles' CUSA program were INS veterans. The District Director, Richard Rogers, a manager with a long history in the Border Patrol, had held his position since March of 1994 and was the District Director in Los Angeles until his retirement in 1998. The Assistant District Director for Adjudications, Jane Arellano, had held her position since 1986. Los Angeles also was assigned a Headquarters official, Terrance (Terry) O'Reilly, as its CUSA site coordinator. O'Reilly worked in the Los Angeles District from September 1995 until shortly after the El Monte office opened in April 1996, at which time he returned to Washington, D.C., at the request of EAC Aleinikoff to oversee INS' Naturalization Program. He returned to California several months later when he became the Acting Director of the California Service Center (CSC) upon the retirement of CSC Director Joseph Thomas.

Two other managers played crucial roles during Los Angeles' CUSA program. Donald Neufeld was the "co-coordinator" of CUSA with O'Reilly. Neufeld had been an examiner in Los Angeles District from 1987 until 1991, when he became a Program Manager within the Adjudications Division (supervising adjustment of status and other miscellaneous adjudications). In 1994, he became the District's Program Manager (later called Section Chief) for naturalization. After his work with O'Reilly during CUSA, in the spring of 1996 he became the Deputy Assistant District Director for Adjudications under Arellano. Neufeld held that position throughout the remainder of CUSA.

Finally, the Deputy District Director's position had been vacant at the beginning of CUSA, but

was filled in December 1995 by Rosemary Melville. Melville had previously been in charge of an asylum office in the Los Angeles District and then worked as the Acting Director of Asylum at INS Headquarters before returning to Los Angeles as the Deputy District Director.

B. Background on fingerprint processing in the Los Angeles District before CUSA

Any material sent by the FBI to the District relating to applications for naturalization was forwarded to the Continued Unit in the Los Angeles District Office. In addition to processing incoming FBI responses, the Continued Unit was the office that handled naturalization cases that were "continued" after the applicant's first interview if additional information was required. From at least 1994 until the summer of 1996, the responsibility for processing responses from the FBI was carried out by one officer with intermittent clerical assistance as one of several duties.

District Adjudications Officer (DAO) Terry Cook had this fingerprint processing collateral duty until mid-1994, when he left the unit for a different job in the District Office. DAO Preston Prater then assumed the duties until late 1995, when Cook returned. After Cook's return, Prater became the acting supervisor of the Continued Unit through the end of CUSA, including its work processing applicant fingerprint cards and criminal history reports.

When Prater first assumed responsibility for processing FBI responses in 1994, all incoming FBI material (including rejected and unclassifiable fingerprint cards and rap sheets) relating to INS benefits was delivered to the Continued Unit where he would sort it according to benefit type (e.g., asylum, adjustment of status, naturalization). According to Prater, he would receive a package from the FBI approximately every other day that usually contained 50-70 records. Prater said he could keep pace with the work with occasional clerical assistance.

For naturalization material, Prater said he would attempt to supply the missing masthead data himself for rejected cards or simply interfile the card in the applicant's file. Unclassifiable records were considered "non-action" and were destroyed. Rap sheets for applicants who had not been interviewed would be placed in the applicant's file, most often a temporary file also housed at the District Office.²

C. Processing fingerprint cards and rap sheets in Los Angeles during CUSA

When Prater first worked with fingerprint cards in 1994, Los Angeles District was only interviewing approximately 500 naturalization applicants per day, and all interviews except occasional outreach sessions were scheduled at the downtown office. During the height of CUSA, however, as Prater described it, "things went haywire." The Continued Unit grew from 5 to 11 officers by the end of CUSA, but only 1 officer was assigned to the fingerprint work. The extent of the breakdown in fingerprint and rap sheet processing procedures in Los Angeles is made most vivid by reviewing the events that occurred in August through October 1996. To provide a foundation on which to understand those events, we provide the following background concerning what happened in the Continued Unit of the Los Angeles District during CUSA.

1. The Continued Unit's criminal history work in 1996

According to Cook, when he was responsible for fingerprint-related work during CUSA the incoming material from the FBI was first sorted in the mail room by benefit type. Only naturalization-related material would be sent to the Continued Unit. However, all rejected and

unclassifiable fingerprint cards and "hits" relating to naturalization applicants remained the Continued Unit's responsibility. He told the OIG that he followed the same review procedure he had followed during his previous tenure in the Unit and which had been followed by Prater when a rap sheet was received: he would review the rap sheet and, if the applicant had already been interviewed and was scheduled for ceremony, Cook would review the file and determine if it would be necessary to add the applicant to the "pull-off" list.³ If the rap sheet did not alter the adjudicator's decision, it would be routed to the file. If the applicant had not yet been interviewed, the rap sheet would be forwarded to the file.⁴ If the rap sheet arrived after naturalization, Cook said he would try to get the file, review the rap sheet, and forward the file to the District's litigation unit for possible revocation proceedings.

Although Prater had assumed responsibility for rejected fingerprint cards, Cook said he did not, telling the OIG that the processing of those cards was a clerical function. Kathy Bell, the employee who later made the allegations concerning the destruction of fingerprint cards, was the Office Automation Clerk assigned to this task as of the beginning of 1996. Other clerks occasionally assisted with this duty. During CUSA, Cook was also responsible for processing any bio-checks, for all military applicants for naturalization, and, with one other officer, for coordinating the naturalization ceremonies. In 1995, there were 15 ceremonies; in 1996 (January through September) there were 61, 14 of which were held within a 2-week period in August.

a. Bell's previous work with fingerprint cards

Bell was familiar with processing rejected fingerprint cards before she was assigned to work in the Continued Unit. While a data-entry clerk at INS' Bell, California, records facility, her previous assignment, she noticed approximately nine crates of criminal history reports and fingerprint cards from the FBI. She told the OIG that it was "just sitting in the garage" of the Bell records facility and she believed it had been sent to Bell for storage. She said she began sorting this material after her own inquiries had prompted the staff there to take notice.

After Bell had sorted the rap sheets from the rejected fingerprint cards and completed masthead information for rejected cards if data was available in the computer, she said she set aside the remaining documents to work on as time allowed. When she transferred from the records facility to the downtown office in late 1995 or early 1996, Bell brought some of her uncompleted work with her including a number of crates of documents from the Bell facility.⁵ Thus, even before her transfer downtown, Bell had experience with the District's disorganized approach to the processing of fingerprints and rap sheets.

b. Effects of CUSA on fingerprint and rap sheet processing in the Continued Unit

Although the essential approach of how to process criminal history records from the FBI did not change in Los Angeles during CUSA, several significant factors influencing that processing did. First, the volume of incoming material increased greatly. Instead of how DAO Prater described the unit receiving one package every other day, during CUSA the incoming material was described as several crates delivered every day. The number of cases data-entered also increased, not just because of the NDEC project but also because of the District's continuing efforts to remain current once the "frontlog" had been reduced. Further complicating matters was the fact that applicant files could be stored in any of three locations in the District (not including the

many thousands of cases processed through outreach) so the task of "marrying up" the rap sheet with its related file was more difficult. As noted above, the number of interviews scheduled in the District increased from 500 to more than 2,500. Finally, once El Monte opened, all post-interview files were moved from the District Office (which was within reach of an officer in the Continued Unit), to the fourth floor of the El Monte facility. At the same time, the single officer assigned to process rejected fingerprint cards had other duties, all of which became more demanding as the pressure and pace of CUSA mounted.

The advent of Direct Mail in March 1996 did not decrease the Continued Unit's workload. Service Center staff sent rap sheets they received after the date of the applicant's scheduled interview to the Continued Unit for processing. Since a large percentage of the rap sheets received by the Service Center arrived after the date of the scheduled interview (the supervisor there estimated that it was as many as half), a large number of rap sheets were being forwarded to the Continued Unit.⁶

When she originally joined the Continued Unit, Bell's job was to process the rejected fingerprint cards while the rap sheets would go straight to Cook for sorting. However, a few months after her arrival at the Continued Unit Bell assumed the sorting job as well, and rap sheets became her primary focus. She told the OIG that she sorted incoming rap sheets by whether they revealed administrative/immigration violations or more serious convictions. The rap sheets with administrative violations were stored together in one place and later destroyed (Cook was supposed to review the rap sheets before they were discarded). The rap sheets with more serious offenses were organized according to the stage of processing of the relating application (e.g., "re-examination," "pending interview," "oath scheduled"). If the applicant had already naturalized, the rap sheets were placed in a stack in Cook's office.⁷

Bell said that she assumed these rap sheet processing duties because Cook delegated them to her because he was working on military cases. This division of responsibilities was confirmed by a DAO who joined the fingerprint processing staff in August 1996, David Consbruck. Cook said they both worked on all of these duties, but Bell and others described a system by which incoming material was reviewed by her first, thus reducing the number of cases Cook needed to review.

Even with Bell's assistance, though, the Unit experienced a backlog due to the volume of incoming rap sheets. Cook described Bell's workload in the summer of 1996 as "huge" and described his own workload in a similar fashion, saying he was "drowning" in rap sheets. Acting SDAO Prater described Cook as "pulling his hair out" trying to keep up with the volume of work. DAO Consbruck estimated that when he was assigned to the Unit in August Bell had 10-11 crates of incoming material awaiting review. Cook said that at a time when resources were being devoted to having more officers conducting preliminary interviews, he and Bell could not keep up with the workload. At some point during CUSA, Bell began to compartmentalize her sorting of incoming material even further by separating rap sheets by the level of the crime, that is into misdemeanors and felonies. Given the workload, Bell told the OIG that she spent little time during CUSA processing rejected fingerprint cards returned from the FBI.

2. The supervisory response to the volume of fingerprint processing work

Bell told the OIG that Cook had become inured to the fact that they were overwhelmed with rap

sheets during CUSA and believed he had complained to his supervisor, SDAO Prater, about the volume of work. Cook said in addition to his immediate supervisor, District managers like Neufeld and Section Chief John Amador knew that he had too much to do.⁸ Cook said that Amador and Neufeld had urged him to do the best he could. Prater, for his part, described himself as "only the supervisor" and conceded that he "sort of left Cook alone." Prater said when he discussed criminal history-related problems like late-arriving rap sheets with Neufeld, Neufeld displayed an attitude of "indifference" not unlike how Prater had characterized INS' then typical response to criminal history checks.

Although Neufeld and Arellano do not admit that they failed to address any need for additional staff, they conceded certain facts that tend to corroborate employees' sense that the timely processing of criminal history reports was not prioritized in Los Angeles during CUSA. Arellano concurred in the Laguna Niguel supervisor's assessment we discussed in a previous chapter that "rap sheets were a bottom shelf priority" during CUSA and conceded that production goals were the most important aspect of the program. Neufeld also agreed that production was the priority and that the District would not have stopped interviewing in order to process rap sheets more quickly from the FBI, but said it remained a priority of the District to catch ineligible people before they naturalized.

Neufeld recalled that Section Chief Amador reported to him in August 1996 that the workload was untenable after Prater had complained to Amador. Neufeld said of the flow of rap sheets, "what had been a stream turned into a flood," although he also said that he did not know what caused this sudden increase because the District had not recently inundated the FBI with fingerprint cards.

It is not clear that Los Angeles managers appreciated the fact that the water level was rising before it reached flood stage. Nevertheless, regardless of their awareness of what constituted a "normal" rate of receipt, they should have expected this rate to increase given their expanding outreach interviewing program which by early summer was scheduling interviews at triple its previous 1995 rate. Indeed, when an additional DAO was assigned to the Continued Unit in August 1996 and saw 10-11 crates full of incoming rap sheets, he told the OIG that the majority were for applicants whose records were not in the NACS database, suggesting they were cases processed at outreach interview sites because outreach cases were not entered into NACS until after they had been adjudicated. Instead of looking at their own processes to explain the increasing number of incoming rap sheets, Los Angeles managers speculated that the sudden inundation was a function of delays at the FCCC, the FBI, or both.

Neufeld, Arellano, and Deputy District Director Melville all told the OIG that when the Continued Unit asked for more staff to process rap sheets, more staff was assigned. While we found no evidence that the Continued Unit formally requested additional staff, Los Angeles managers were well aware of the Unit's overwhelming workload and should have assigned additional resources well before August 1996.⁹

D. The media and congressional inquires of August-October 1996

I mean, you know, to be honest with you, nobody cared about the fingerprints until now, I'll be honest with you. The whole two years the only time they cared is when somebody . . . come[s] down on them. One time security came down and then all [of a] sudden they

want to make sure I'm doing them. And next time the news something about [the] Washington Post had an article then [the] news reporter called here, then all [of a] sudden they care. They never care, they don't care, won't be caring after this probably.

—Kathy Bell to the OIG, 10/28/96

1. Management interest in the Continued Unit: August 1996

During the second week of August 1996, Deputy District Director Melville and ADDA Arellano paid an unusual visit to the Continued Unit. Bell and Cook were summoned back from a naturalization ceremony to meet Melville and Arellano in the Continued Unit. When Cook and Bell arrived, they found that Arellano, Melville, and Section Chief Amador were taking stock of the criminal history processing work. No one present recalled what exactly prompted the visit on that day, but most believed that it was related to media inquiries made of INS Headquarters concerning allegations that INS was naturalizing persons with criminal records. According to documents we reviewed, at about this time INS Headquarters asked Los Angeles officials to report on the status of criminal record processing in their district, as we described earlier in our report.

The physical layout of the Continued Unit, Room 8557, plays an important role in understanding the witnesses' versions of the events that followed this visit. The fingerprint card and rap sheet processing for naturalization cases took place in several offices along one side of the larger Room 8557. One of these offices was the enclosed office in which Bell and later Prudence Witchet, a temporary clerk assigned to the Continued Unit in July 1996, worked during 1996. Officers did not work in that area. A much larger, adjacent office contained several work areas including, in the spot furthest away from Bell's office, Cook's work area.

According to all those present when Cook and Bell were called back from the ceremony, Arellano and Melville asked questions concerning the processing of criminal history reports. Bell remembered that the managers specifically wanted them to describe their job responsibilities. Arellano told the OIG that she knew Bell's job involved sorting rap sheets according to the seriousness of the crimes reflected, and on the day of this visit Bell showed her and Melville rap sheets reflecting serious crimes like armed robbery. Arellano remembered that the crimes reflected were indeed serious, and that this had in turn given her confidence about Bell's ability to perform her sorting job.

Both Arellano and Bell recalled that Melville commented that the next time she was at a ceremony she would look out and realize that there were criminals among those being naturalized. Though Melville did not recall making any such specific comment, she did remember that she became aware on that day that some applicants were getting naturalized who had criminal records and that this caused her "alarm."

a. The material then stored in the Continued Unit

The Continued Unit housed a variety of fingerprint-related records at the time of this visit and witnesses were largely consistent in their descriptions of the records. These included crates containing incoming rap sheets that had been sorted and incoming rap sheets that still needed to be sorted. There were segregated rap sheets showing administrative or immigration violations (which would be destroyed in the usual course of business). There was a stack of criminal history

reports on the table that had been reviewed by Cook concerning applicants who had already naturalized. Other rap sheets concerning past ceremonies that had not been reviewed were stored in crates in the room. An additional 5-6 crates (Bell believed there were as many as 10) of material which she and other Continued Unit employees considered Bell's own "backlog" were stored in her office. Bell had originally brought some of this material with her from the Bell records facility, but by this time the crates also contained an assortment of rejected cards and other material.

b. The crates whose contents were later destroyed

Only one group of crates in Room 8557 were of unknown origin to the people who worked in the immediate area and these crates were stored near Cook's desk. The only significant inconsistency among witness accounts is the number of these crates. As explained below, these were the crates whose contents were ultimately discarded.

Bell remembered that on the date of the Arellano-Melville visit to the Continued Unit, of the ten crates near Cook's area approximately five contained fingerprint cards and were labeled "place on hold." The other five crates contained material pertaining to people who had already naturalized and this material needed to be reviewed by Cook. Temporary Clerk Witchet told the OIG that she remembered approximately ten crates of fingerprint cards and rap sheets stacked next to a computer in Cook's office when she first started working for INS in July 1996. Cook recalled that, apart from his own work, he was unaware of the contents of approximately five crates in or near his office. He said he did not know where they had come from or specifically recall whether the crates were labeled "place on hold" or "put on hold."

In an effort to identify the origin of these crates, the OIG interviewed other witnesses who worked in the Continued Unit not far from the offices of Cook and Bell.¹⁰ When the Continued Unit moved into Room 8557 in March 1996, two officers shared an office on the hallway that also led to the offices of Bell and Cook. Both witnesses recalled that approximately 20 crates of fingerprint cards were delivered to their office shortly after they moved in, and that these same crates were later moved to Cook's office. They did not know where the fingerprint cards had come from, nor did they review the cards themselves. They both recalled that they complained to SDAO Prater about the crates and asked that they be moved to another location. One officer specifically recalled that some of the crates were labeled "fingerprint hold." Sometime after they complained to Prater, they noticed that the crates were moved to Cook's office but they were not aware of any further disposition of the crates.

Prater told the OIG that when the Continued Unit relocated to Room 8557 in approximately March 1996 (when El Monte opened), he discovered about 15 crates of rejected fingerprint cards with letters identifying the reasons for the rejection. Prater said that these crates of records were moved to Cook's area after another officer's complaint. Prater told the OIG that he helped move the crates and recalled seeing fingerprint cards to which letters were attached. He said the letters were not from the FBI, but rather had a Bell Gardens, California, Post Office return address at the bottom.

Prater's observation that the letters attached to these cards bore a Bell Gardens Post Office return address indicated that the cards were those that had been reviewed and rejected by the data-entry staff at NDEC in October 1995. As discussed earlier in this report, the staff at the NDEC project

at Laguna Niguel, as part of their work on the initial processing of naturalization applications, reviewed fingerprint cards before sending them to the FBI. According to Los Angeles managers' description of the procedures at the NDEC, the data-entry staff would forward a fingerprint card to the FBI after it was reviewed and stripped from the data-entered applications. If the card was deemed unsuitable, that is, if the staff recognized that the card would likely be rejected by the FBI, the staff at NDEC would send a letter to the applicant asking for a new fingerprint card. The applicant was instructed to send his or her new card to a Post Office Box address in Bell Gardens, California, near INS' Bell records facility. The applicant was also instructed to return the rejected fingerprint card (to which the letter of rejection was attached) to INS when submitting the new fingerprint card.¹¹

c. The previous visit to the Continued Unit by Neufeld

Neufeld was in Washington, D.C. attending meetings when Arellano and Melville visited the Continued Unit. Neufeld said that just before leaving for Washington he had toured the Unit with Section Chief Amador after Amador had requested additional staffing.

Neufeld specifically remembered seeing 5-8 crates of material in Bell's office and inquiring about the material. He said he saw fingerprint cards in the crates, some with and some without attachments. The attachments he saw appeared to be the form letter sent by NDEC staff requesting that the applicant provide INS with a new set of fingerprints. He remembered being told that the work was "hers," referring to Bell, and that it had come from "Bell," or the Bell records facility.

Neufeld explained that he did not know that the crates had actually come with Kathy Bell from the Bell records facility, but rather he understood them to be Bell's assigned work and that the cards from the Bell facility were those cards returned by applicants to INS through the Bell Gardens Post Office Box. He believed that the new cards were sent to the FBI from the Bell facility and that the Bell staff was therefore left with the rejected fingerprint card which was returned by the applicant along with the new card. Thus, he inferred that "her crates" were in fact the crates that contained the rejected cards sent back by applicants to the Bell Gardens Post Office Box when they submitted new cards. When asked why he believed crates of rejected cards would be stored at the District Office, Neufeld said he just assumed someone from Bell would have sent them there when they didn't know what to do with the rejected cards.

We note that the crates that Bell originally brought with her from the records facility did, by August 1996, contain some cards that matched the description offered by Neufeld and we found multiple, plausible explanations for why such cards would be in Bell's crates. The letters instructing applicants to send in new fingerprints to the Bell Gardens address were mailed in envelopes bearing the District Office's return address and some of the envelopes had been "returned to sender."¹² Some of the cards not in envelopes could have been removed from similar envelopes, or could have been rejected cards sent by the applicants to the Bell Gardens address and routed to Kathy Bell either at the Bell facility before she left (the route they would've taken in Neufeld's understanding of the process) or to the District Office (the route they would've taken in the District messenger's understanding of the process). Simply because they looked like rejected cards from the NDEC project, though, did not mean the applicant had, in fact, submitted a new card. More important than the records consistent with Neufeld's observations were those records in Bell's crates that were not. Among other documents, the crates contained rap sheets for

naturalization applicants.

d. The order to dispose of the crates

When Neufeld returned to the Continued Unit after his trip to Washington, he told the OIG that no progress had been made to process the crates of material near Bell's work station. He said they checked a handful of the fingerprint cards in NACS and learned that they pertained to naturalized applicants. Based on his understanding of where the cards had come from and assuming, based on this cursory check, that all of the applicants whose cards were in the crates must also have naturalized, Neufeld instructed the staff to "get rid of them."¹³

The other witnesses, Bell and Cook, offer a similar version of events when Neufeld came to the Continuation Unit after his return from Washington. The striking difference between Neufeld's recollection and the recollections of Cook and Bell, however, is that Neufeld is certain that he was referring to the crates in Bell's office and not to the crates near Cook's work area. Cook and Bell specifically remember that they were looking at fingerprint cards in the crates in Cook's area, not in Bell's. Bell told the OIG that it was at this time that she realized that the crates in Cook's office contained "new" fingerprint cards, or fingerprint cards that had not yet been processed by the FBI. Cook said he learned during the Neufeld visit that the crates contained fingerprint cards with some kind of letter attached to them.

As discussed below, the crates that were destroyed were, in fact, the crates in Cook's office. Bell's crates—the crates Neufeld believed he was throwing away—remained in the Continued Unit until October 16, 1996, the day after Bell first went to the media with her allegations that fingerprint cards had been destroyed.

2. The allegations of the destruction of "new" fingerprint cards

In October 1996, Bell alleged to the media that Los Angeles District had destroyed thousands of fingerprint cards that had not yet been processed by the FBI. Her allegations portrayed fingerprint processing in Los Angeles as so chaotic that applicants' fingerprint cards would be ignored and then thrown away when the fact of their mishandling came to light. The District attempted to explain away Bell's allegations by calling the destruction of records a routine matter, part of an organized approach that had simply been misunderstood by Bell, a clerk who was unfamiliar with naturalization processes outside her own immediate assignment. The OIG investigation established that neither version of events was entirely accurate. Of the two, however, Bell's was more consistent with the reality of what was happening in the Continued Unit during CUSA.

To the extent that such matters can be established after the physical evidence has been destroyed, the OIG investigation has established that the destroyed records were fingerprint cards which had never been sent to the FBI, as alleged by Bell. Also, as alleged by District management, they were likely cards that had been deemed unsuitable by staff at the NDEC project and returned to INS by applicants when they submitted new cards. However, we found that there had been no reliable mechanism in place to ensure that an applicant whose card was among those discarded had a criminal history check conducted before he or she was naturalized. In addition, the OIG investigation found that, as described above:

- When DADDA Neufeld directed the disposal of the fingerprint cards, he believed he was

referring to a different set of cards than those actually destroyed;

- No employee in the District's Continued Unit or elsewhere with knowledge of the contents of the crates was consulted before the records in the crates were destroyed;
- Only 10-15 of the many thousands of fingerprint cards in the crates were checked against INS database information before all the material in the crates was destroyed.

Furthermore, we found that:

- The official explanation offered by Los Angeles District in response to published allegations of fingerprint card destruction inaccurately conveyed the impression that Los Angeles officials knew exactly what material, and how much, was destroyed.

a. Summary of the allegations and the District's response in October 1996

On October 17, 1996, the *Los Angeles Times* and the Copley News Service (whose story was printed in *The San Diego Union-Tribune*) reported that the Los Angeles District INS had thrown away in September 1996 between 4,000 and 6,000 fingerprint cards relating to naturalization applicants before those cards could be checked by the FBI.¹⁴ The allegations were attributed to Kathy Bell who was quoted as saying there had been "crates of fingerprint cards sitting in INS offices, apparently ignored for months," and that she saw these crates carried away by janitors. She presumed in her discussion with the reporters that the cards related to applicants who had already naturalized. Bell was quoted in the newspaper as saying that the cards were destroyed because Neufeld had said, "let's get rid of them. Let's not have them sitting here. We don't want anybody seeing them."

The news articles noted that Bell had already spoken about the alleged destruction of records to an investigator from a congressional subcommittee. She also said that she spoke out about the problems after local INS personnel had seemed uninterested. The *Union-Tribune* quoted Bell as saying that she still had approximately six or seven crates of fingerprint cards returned by the FBI in her office and that these records had been in her office for months because, given her other fingerprint work, she did not have the opportunity to process them.

The INS officials quoted in the news articles denied that anything improper had occurred, but admitted that they did not know of any incident concerning the destruction of such records. Deputy District Director Melville denied that Bell had broached the topic with her or with other INS managers. The following day, October 18, Melville was quoted in the *Los Angeles Times* explaining that the destroyed records were fingerprint cards that INS staff had deemed unsuitable to send to the FBI.

Bell told the OIG that after Humble-Sanchez had testified before the Subcommittee in September 1996 concerning late-arriving rap sheets, Los Angeles management had incorrectly assumed that she was the source of Humble-Sanchez's information. Bell said she spoke to Humble-Sanchez about his having "gotten her into trouble," only after which did she begin to speak to him about her experiences in the Continued Unit. Humble-Sanchez subsequently put Bell in contact with Subcommittee Investigative Counsel James Wilson.

The preliminary information Bell offered in her written statement¹⁵ to the Subcommittee on October 16, 1996, is essentially the same as what she described for the OIG about her work in the Continued Unit. In that statement to the Subcommittee Bell said her work had been backlogged since she was first assigned to process fingerprint cards some "eighteen months" before. She said that in early September of 1996 "management suddenly became very interested" in what she was doing. Melville, Arellano, and Section Chief Amador visited the Continued Unit and asked her how many fingerprint cards she was working on. According to Bell's statement, Melville commented that she "didn't know [they] were naturalizing so many criminals," while Arellano said that a reporter had been inquiring about how many "fingerprint cards were backlogged and waiting to be processed."¹⁶

Concerning the allegations about destruction of records, Bell noted in her statement that on the same day of the Melville-Arellano visit, they found "five or six milk crates" in another part of the office that "were full of fingerprint cards and waiting to be sent to the FBI." All the crates were clearly marked, "place on hold." She and Cook checked several cards and "determined that these thousands (at least four to six thousand) had already been naturalized." Bell said that Neufeld was present when she and Cook checked these records and she told the Subcommittee that Neufeld said "don't worry about them, act like you didn't see them and get rid of them." Bell said the boxes were immediately picked up by the janitors who "set them near the elevators." According to Bell, this meant that the records would be destroyed or recycled.

Melville and Arellano learned about the allegations shortly before they were published when the newspaper reporter called and asked INS officials for comment about allegations made by an unidentified INS employee. Both managers said that they immediately attempted to identify the person who was the source of the allegation, and quickly determined that it was Bell because another INS employee told them that he had seen Bell and Humble-Sanchez speaking to a third person (they presumed a reporter) at a nearby hotel. The *Los Angeles Times* article indicated that the reporter spoke with Melville on October 15, 1996.

In reference to Bell's allegations, Melville told the *Los Angeles Times*, "we're not sure what in the heck she's talking about." She confirmed for the OIG that at the time of the reporter's call she did not know of the alleged destruction. Arellano said that while she had known of the existence of the crates, she was not aware that they had been destroyed until she made inquiries after the reporter's phone call. Neufeld was on jury duty and therefore out of the office when the allegations were made, but said he and Arellano spoke about the matter by telephone. Arellano also spoke by telephone during this time period with Supervisory Naturalization Clerk Ygnacio Rosete, the clerical supervisor at NDEC.

Consistent with Melville's statement to the *Los Angeles Times*, we found that Melville and Arellano had no information about the destruction of the crates before being contacted by the reporter. Their response to Bell's allegations was hastily constructed on the basis of telephone conversations with Neufeld and Rosete. Arellano said that she learned of the existence of the crates of fingerprint cards sometime between her August visit to the Continued Unit and publication of the news article. She recalled Cook's complaints about the backlogged material, but she told the OIG that she was unaware that it had already been destroyed. Nevertheless, on October 17, 1996, she helped draft the District's "summary explanation" to Western Regional Director Gustavo de la Vina. The memorandum, drafted by Arellano and signed by Melville, became Los Angeles' official response to the allegations and was sent to Headquarters on

October 18 before becoming part of the Attorney General's Briefing Book for her congressional testimony in March 1997.

b. The October 17 memorandum to Western Region

Los Angeles officials dismissed Bell's concerns in their explanation of the District's fingerprint card destruction episode by understating Bell's knowledge of the District's criminal history processing procedures. Furthermore, the District's memorandum inaccurately assured the Western Regional Director that any applicant whose card had been rejected had been prevented from naturalizing until a new and suitable replacement card had been received by INS and processed by the FBI.

The October 17 memorandum began with an explanation of the "current staffing of the fingerprint unit," and listed Acting SDAO Prater, DAOs Cook and Consbruck, and Bell. The memorandum underscores the collective experience of the officers while understating Bell's responsibilities. Arellano had told the OIG that she knew Bell was the person through whom all records first passed on their way to Cook and that Bell sorted rap sheets in part according to the seriousness of the crimes reflected in them. Despite this understanding of Bell's role in the Continued Unit, the District's October 17 memorandum notes only that, "Ms. Bell is not a supervisor nor an officer, and does not possess the expertise, training or breadth of experience of an officer. She is also not expected to perform any decision-making functions as to eligibility standards. Her only assignments are to run database checks and place holds on those cases which MAY result in an adverse decision. However, an adverse decision is made only by a fully-trained INS District Adjudicator." The memorandum then went on to explain that the fingerprint cards in the crates were leftover from the work done at NDEC in 1995.

According to the memorandum, applicants whose fingerprint cards were deemed unsuitable by the contractors at NDEC were sent a letter enclosing the rejected fingerprint card. These applicants were instructed to get a new set of fingerprints taken before mailing both the rejected card and the new card to INS at the Bell Gardens Post Office Box. In the meantime, INS placed the relating applications on computerized "hold" which meant that the computer would prevent further scheduling of that application. According to the memorandum, when the applicant responded with a new card, it was sent to the FBI for processing, the "hold" in NACS was lifted, and the old card was put into a crate for eventual shredding.

The memorandum indicated that initial processing of an applicant's fingerprint card occurred at NDEC in Laguna Niguel. Explaining why the fingerprint cards in question had been stored at the District Office rather than in Laguna Niguel, Melville noted that the Laguna Niguel shredder had been inoperable and Rosete brought the crates to the District Office in order to shred the material. Her memorandum noted that the six or seven crates contained a total of 8,000 cards. Finally, the memorandum states that the crates remained near Cook's desk until "time finally permitted their destruction" in September 1996.

When questioned about this memorandum, Melville said that she neither had at the time she signed the memorandum nor during her interview with the OIG any independent information concerning the destroyed fingerprint cards. She said she had depended on what Arellano and Neufeld told her, and did not know how they arrived at the number "8,000," or the details of any holds that may have been placed on naturalization applicants. She referred her interviewers to

Rosete for more information on this issue.

Arellano said she relied on information from Neufeld and Rosete in drafting the memorandum to de la Vina. She told the OIG that she had remembered that the number of fingerprint cards rejected as a result of the NDEC review was 8,000. For his part, Neufeld said he did not know where the numbers in the October 17 memorandum had come from and presumed that Rosete provided them to Arellano.¹⁷ Arellano told the OIG that she believed there had to have been someone at NDEC placing "holds" on the applications corresponding to these fingerprint cards, but she did not know the exact procedure or who had this responsibility. Finally, she said she had believed that all the fingerprint cards were reviewed before they had been destroyed and that employees had conducted a sufficient check so that they would be confident about the contents of the crates. When advised by the OIG that only a few cards had been checked before the directive was given to destroy them, Arellano said that had not been her understanding.

c. NDEC "hold" procedure not confirmed

The reason Bell's allegations caused such alarm both within and outside Los Angeles District was that, if true, Los Angeles had naturalized thousands of people whose criminal histories had not been checked before they became citizens. In addition, if true, this error occurred with the knowledge of and because of carelessness by Los Angeles District managers. The memorandum of October 17, on the other hand, was intended to allay any such concerns and assure the Western Regional Director and other INS officials that appropriate steps had been taken to prevent the naturalization of applicants whose fingerprint cards had not been checked by the FBI. The crucial fact in the memorandum that was responsive to Bell's allegations was that applicants whose fingerprint cards were rejected by NDEC staff were placed on "hold" while INS sought new fingerprint cards from the applicants. Accordingly, the OIG attempted to confirm the "hold" procedure described in the October 17, 1996, memorandum.

The evidence shows that although many members of the Los Angeles staff believed a "hold" procedure had been put in place, no one we talked to really knew any details of the procedure. Rosete, the clerical supervisor at NDEC, insisted to the OIG that such a procedure as described in the October memorandum existed at NDEC, but the evidence contradicts him. Consequently, if no "hold" was placed by NDEC staff soon after the application was data-entered, INS had no reliable method of preventing the interview or naturalization of an applicant whose fingerprint card had not been sent to the FBI.

(1) Los Angeles managers' descriptions of the "hold" procedure

When asked to describe how the "hold" procedure worked at the NDEC project, neither site manager O'Reilly (to whom Rosete reported) nor Arellano could provide details, although they knew that such holds could not have been placed by NDEC contract staff because they did not have access to NACS. O'Reilly, Arellano, and Neufeld all told the OIG that the details of the project were known best by Rosete. Neufeld told the OIG that he believed such holds had been placed by Rosete and two INS clerks who were assigned to work on the NDEC project with Rosete at Laguna Niguel.

Rosete told the OIG that the holds were placed by the two INS clerks who helped him

sporadically at the NDEC site. He said they received so many applications to place on hold that they had to work overtime at the District Office (which was closer to their homes). Rosete further explained that the same two staff employees released the holds when applicants returned new fingerprint cards to the Bell Gardens Post Office Box, which were then brought by courier to the NDEC facility. Neufeld, as noted above, told the OIG that he believed that the holds were lifted by clerical staff at the Bell records facility upon receipt of an applicant's new cards.

(2) No "holds" placed at NDEC as described by Los Angeles managers

Both of the INS clerks identified by Neufeld and Rosete denied that they placed holds on any of these applications at NDEC or any other site. One said that she was not authorized to use the NACS hold function during her brief tenure at NDEC where she described her role was limited to assisting Rosete in supervising the contract employees. She recalled working overtime at the District Office during CUSA, but not on the task of placing "holds." The other clerk said she did have the authority to place such holds and told the OIG that during her 30 days at the NDEC facility the only computer that could place such a hold was Rosete's. This employee did not recall working any overtime at the District Office during CUSA.¹⁸ In sum, District managers' official explanation of how such holds were placed is not corroborated.¹⁹

(3) Possible belated "hold" procedure at the District Office

Although not the system described by any NDEC employee or Los Angeles manager, we found documentary evidence that NDEC employees had at one time understood that holds on such cases were being placed by the "Update Unit" of the Los Angeles District Office. In preparation for the transition to Direct Mail, employees of the California Service Center observed NDEC procedures on October 5, 1995, and made notes of their observations. They were told that when NDEC contract staff identified a fingerprint card as one to be rejected, they filled out a rejection notice by hand and forwarded the notice to word processing staff at NDEC, who sent a notice to the applicant. The handwritten notice was to be "routed to LOS so that NACS may be updated with a 'hold' status" while awaiting the new fingerprint card. Unlike NDEC contractors, the staff in the Update Unit had access to NACS.

In light of this documentary evidence, the OIG sought to determine if Los Angeles District practiced any "hold-placing" procedure during CUSA, even if it was different from the procedure described by Los Angeles managers and clerical supervisors. When we sought to determine if the District's "Update Unit" placed such holds, the Unit's supervisor denied that her staff had ever received such an assignment.

One clerical employee, however, did recall having been assigned the task of placing applications on "hold." She remembered that during the government furloughs in 1995 and early in 1996, Rosete had delivered crates of fingerprint cards to the Update Unit and instructed staff to place the relating applications on "hold." She estimated that Rosete delivered approximately 10,000 cards on that one occasion and only one employee could work on the assignment at a time. She recalled that she placed "holds" in NACS for these cases and believed she was told it was a "hold" for either 30 days or 3 months. The clerk told the OIG that she returned the fingerprint cards to their original crates after placing the "holds" on the applications.

As discussed above, observations of staff from the District's Continued Unit tends to corroborate this practice. When the Continued Unit moved into offices previously occupied by the Update Unit (which moved to El Monte in 1996), Continued Unit staff reported that they saw multiple crates of fingerprint-related material. Several witnesses recalled that the crates were labeled "place on hold," or "fingerprint hold."²⁰

If we assume that Los Angeles INS—despite the contradictions in managers' explanations—did attempt to place holds in the manner described by the Update Unit clerical employee, the process would not have ensured that those cases were prevented from advancing to interview or ceremony. First, a "hold" needed to be timely placed if it was to guarantee that the case would not be scheduled for interview in between the time of data-entry and the time the hold was entered. Because these NDEC cases would have been data-entered by the end of September 1995, many thousands could have been scheduled for interview or ceremony long before any "hold" was attempted when all the cards were brought in bulk to the District Office at the end of the calendar year. Second, as discussed below, when the OIG was able to locate some of the cards rejected at NDEC and purportedly placed on "hold" by Los Angeles District, we confirmed that the applicant had, in fact, naturalized, although according to FBI records, no suitable fingerprint card had ever been submitted to the FBI for comparison.

From their inability to later explain the process in any accurate detail to the OIG, we conclude that the proper handling of these cards during the early stages of the NDEC project was not a high priority to Los Angeles managers. Even if the "holds" were placed—or if attempts were made to place them—the evidence indicates that managers paid no attention to the gap INS created between when an application was data-entered and the time a hold was placed on that application. The interim period was significant when viewed in the context of INS' push to get the frontlogged cases that had been data-entered scheduled for interviews as quickly as possible. In such an environment, the odds that a delayed hold would prove effective were minimal.

d. Los Angeles managers' response to Bell

When Arellano met with Bell about the media reports, she did not discuss the substance of Bell's allegations but rather Bell's job responsibilities. In addition to Bell and Arellano, Prater and the supervisory clerk who technically served as Bell's clerical supervisor (the supervisory clerk did not work in the Continued Unit) were present, as was a union representative. Cook was on vacation. According to Bell, she was questioned during the meeting about whether she understood her "performance work plan," a message Bell said she clearly interpreted to mean that she had overstepped her bounds in speaking with the reporter.

Los Angeles managers were extremely angry about the allegations in the *Los Angeles Times*. Neufeld told the OIG that he had felt "betrayed" by Bell. Melville expressed a similar sentiment, telling the OIG that she had been "flabbergasted" by the allegations because Bell had "free access" to the District managers, suggesting she should have addressed the matter with her before going to the press. After their response to de la Vina, Los Angeles District turned the matter over to OIG for further investigation.

e. Identification of the destroyed cards

On October 15, the day Bell met with reporters and the day on which these reporters called

District managers for comment, Arellano directed that the crates of fingerprint-related material still in Bell's office be moved to El Monte so that clerical staff there could process the information. Arellano told the OIG that the transfer of this material had been planned with Neufeld well before the reporter called requesting comment on Bell's allegations and that any connection between the two events was coincidental. When questioned by the OIG, Neufeld did not remember any such discussions, but Amador told the OIG that he did. We found other indications that District managers had been contemplating the establishment of an El Monte-based fingerprint processing team in the autumn of 1996.

Regardless of the reason, Bell's crates were moved from her office to Amador's office on October 15 and then to El Monte on October 16. Temporary Clerk Witchet confirmed that the crates were moved to Amador's office and labeled with instructions that they be sent to El Monte to be run in NACS to determine the status of the corresponding applications.

Approximately four months later, Bell learned from Rosete that the material in the crates that had been transferred from her office to El Monte was going to be destroyed. Bell alerted Humble-Sanchez who in turn alerted the OIG. We seized the crates from a storage room at El Monte.

(1) Bell's crates mistaken for crates of rejected cards from NDEC

The four crates seized by the OIG were found in El Monte's security room where material to be shredded (like old green cards) was stored. Rosete and El Monte Section Chief Butler confirmed that the material in the four crates was to be destroyed.

In his interview with the OIG, Rosete recalled that when Bell's allegations were printed in the newspaper, Arellano asked him to confirm the contents of the crates. Rosete said that he did not actually look inside the crates himself, but rather identified their contents based on a description he received over the telephone. Rosete believed that they were what remained of the crates he had brought to the District Office from NDEC. He told the OIG that the fingerprint cards in the crates were supposed to have been shredded after processing at NDEC (as explained in the October 17 Melville memorandum), but he was unable to do so before he had to move to El Monte so he had left the crates behind. He said there were a total of eight crates and he assumed that four had been destroyed and the remaining four sent to El Monte.²¹ Rosete said he decided not to destroy the material right away given "all the media attention." When asked why crates that were to be destroyed would be labeled "run in NACS as discussed with ADDA," Rosete replied that he did not know and referred the OIG to Arellano.

(2) The varied contents of OAC Bell's crates

As noted above, the crates seized by the OIG from El Monte contained a variety of fingerprint-related material including:

1. NACS and RAFACS printouts (some attached to fingerprint cards, some not), most of which were dated either October 16 or October 17, 1996, the date on which Bell's allegations were published;
2. assorted rap sheets, some of which reflected arrests for crimes that were disqualifying if they had resulted in convictions;

3. cards that had been rejected by the Los Angeles INS for incorrect or missing masthead data;
4. fingerprint cards with letters from the FBI indicating that the cards had been rejected either for masthead errors or because the prints were not classifiable;
5. rejection notices generated during the NDEC project (some attached to fingerprint cards, some not);
6. fingerprint cards rubber-banded together with notes indicating "No A#";
7. envelopes originating from the INS Los Angeles District marked "return to sender" (many of the envelopes contained the INS' request for a new fingerprint card that had been generated during the NDEC project); and
8. miscellaneous correspondence.²²

f. Neufeld believed he had ordered Bell's crates destroyed

The OIG used a diagram of the Continued Unit, Room 8557, when interviewing witnesses concerning the location of various crates. According to Neufeld's statements and according to the indications he made on the Room 8557 diagram, it is clear that the crates he believed he ordered destroyed were the crates in Bell's work area, not the crates near Cook's desk. When confronted with the fact that the crates actually destroyed were those near Cook's station, Neufeld said, "then I ordered different crates destroyed."

It does not appear that Neufeld ordered other crates destroyed as he suggests.²³ Bell and Cook remember that they were present on that day in August when a few of the records were checked in NACS and Neufeld directed staff to "get rid of them" as soon as it was clear that the applicants had naturalized. It appears that Neufeld did not take the time to review the material to determine exactly what it was and therefore was mistaken about the contents of the crates whose disposal he ordered. Bell had protested and wanted the contents checked (Neufeld confirmed that the few records that were checked were checked because Bell had insisted). Rosete, the person to whom Los Angeles managers later turned to confirm what was in the crates, was not consulted at the time Neufeld gave the order to destroy the records. As far as Neufeld was concerned, the material was old fingerprint cards and thus appropriate to destroy.

g. Further proof that "holds" not reliably placed on rejected applications at NDEC

Fingerprint cards found in Bell's crates that were seized from El Monte further suggest that cards rejected by the NDEC staff were never effectively placed on "hold."

Among the cards recovered by the OIG from Bell's crates in El Monte were several that had been sent to NDEC applicants but were "returned to sender" without a new fingerprint card. The OIG compared these cards to information in NACS and confirmed that the majority of the applicants naturalized during CUSA. The OIG also queried the database created for the KPMG-supervised review of 1996 cases and found that several of these applicants naturalized but had no FBI billing data, indicating that the FBI had no record of having conducted any fingerprint check for

that applicant. The combination of the NDEC "rejection letter" being returned to sender without reaching these applicants together with the database information suggests that INS failed to place an effective computerized hold on these applications.

Finally, the OIG advised Rosete that we had not been able to confirm the "hold" process as he remembered it. When the OIG inquired whether "holds" could have been placed at the "Update Unit," Rosete conceded that he no longer remembered the exact procedures under which holds were placed at the NDEC project. He told the OIG that "it starts to make more sense that way" that if holds were placed at all it happened at the District Office. Rosete also said that it was possible that holds were never placed.

3. Conclusion concerning the allegations of destroyed fingerprint cards

The best inference that can be drawn from this confused record is that the destroyed fingerprint cards in the crates in Cook's office were indeed cards originally processed by contractors at NDEC in the fall of 1995, as later asserted by District management. But the remaining assertions in the District's official explanation are without support. Some of the records may have been fingerprint cards that were placed in the crates when the contractors sent letters to applicants without including the unsuitable card. These records were later brought to the District Office so that the relating application could be placed on hold. This would explain why some witnesses recall that the crates were labeled "place on hold" and would also be consistent with the "Review and Time Study" documentation described above concerning NDEC processing. Some may have been new fingerprint cards and these, together with the old cards and the NDEC rejection letter, would have been taken to the District Office so that any hold that might have been placed could be lifted. Regardless of their exact nature, however, these documents were ignored by the Continued Unit staff from at least April until mid-August 1996. They were discarded after a cursory review by Neufeld and without consulting Rosete, the only person in a position to know.

Assuming that the destroyed documents were unsuitable fingerprint cards and correspondence from the Bell Gardens Post Office Box, and assuming new cards sent in by applicants were sent to the FBI, it was better to destroy that material than the material in Bell's crates that clearly contained a mixture of fingerprint cards and rap sheets. Further, even if all the fingerprint cards that were destroyed had been reviewed, the only thing the reviewer would have been able to determine was whether the relating applicant had naturalized, because Los Angeles INS did not record when it submitted a new fingerprint card to the FBI. However, at a minimum such a review would have established what no amount of after-the-fact investigating can: the exact contents of the crates and an informed basis upon which to decide which ones contained material suitable for destruction. Further, it would have provided INS officials with a credible record on which to base their later representations that they, in fact, knew what the crates contained. Instead, District officials provided after-the-fact speculative responses despite the fact that Commissioner Meissner and the Attorney General would rely on their response when testifying before Congress.

Thus, we corroborated the material aspects of Bell's allegations to the media and as set out in her deposition although we did not confirm all of the details. However, we found that the crucial aspects of Bell's version of events and her deposition testimony were accurate. The Los Angeles District INS destroyed fingerprint cards that had not been processed by the FBI without checking to determine the status of the cases they related to, and without consulting anyone with firsthand

knowledge of their origin. In addition, Bell's concern about her own remaining crates, as illustrated by her comment to the reporter and by the efforts she and Witchet made to see where the crates were taken, turned out to be well-founded. This criminal history-related material, including rap sheets and rejected cards, was all but discarded by Los Angeles INS. Management's inability to accurately explain what happened or appropriately process the remaining records also illustrate the level of chaos in criminal history checking procedures in Los Angeles during CUSA.

E. Evidence from August 1997: The El Monte and Continued Unit crates of rap sheets

In August 1997, more records were discovered that further illustrated the confusion that existed in the Continued Unit during CUSA. That month, SDAO Prater of the Continued Unit at the District Office unexpectedly received from the El Monte Office 11 crates of fingerprint cards and rap sheets. As subsequent inquiries revealed, these cards and rap sheets had been improperly stored at El Monte and not interfiled with applicants' A-files. This incident provoked a visit to El Monte by Prater and a security officer, during which two more crates' worth of unfiled rap sheets were removed from various locations at the El Monte office. While reviewing these El Monte rap sheets, Prater's staff also "located" in the Continued Unit of the District Office a variety of rap sheets from 1996. The Los Angeles District's summary of these materials, both the El Monte and Continued Unit rap sheets, noted that:

- The total number of rap sheets was 3,532; 2,865 of which were found in the storage area of the Continued Unit;
- Of the 667 rap sheets from El Monte, 83 pertained to 1996 closed naturalizations (24 of which reflected felonies or possible felony arrests);
- Of the 2,865 rap sheets from the Continued Unit, 1,461 pertained to 1996 closed naturalizations (420 of which reflected felonies or possible felony arrests);
- A total of 418 cases had no record in the naturalization database;
- 12 rap sheets concerned 1997 naturalizations; 9 were from El Monte, 3 were from the storage area of the Continued Unit.²⁴

1. Rap sheet processing at El Monte and the 11 crates

During the last quarter of 1996, El Monte assigned an adjudications officer to receive and review rap sheets. Although no one we interviewed specifically remembered the impetus for the officer's new assignment, it appears that Los Angeles management had begun to take stock of its processing procedures in the wake of the inventories of August 1996 and officials were considering making El Monte the new site (instead of the Continued Unit) for the District's fingerprint and rap sheet processing work.

As we discussed in our chapter on criminal history checking procedures, the officer assigned to this task was immediately overwhelmed. His supervisor only gave him one crate of records to start with, but he began to receive deliveries of rap sheets twice a day from the District Office. Upon reviewing a rap sheet, the officer tried (usually unsuccessfully) to find the relating file. Applicants' A-files were housed on the fourth floor of the El Monte office. The officer attributed

his difficulties to the fact that files were stored according to their corresponding stage in the naturalization process (e.g., files that were "continued" were stored separately from files awaiting ceremony) and not in terminal digit order.²⁵ The crates of files were stacked on top of each other and were not shelved, thus making it more difficult to see the file number. Finding any particular file was therefore extremely time-consuming. Other witnesses at El Monte confirmed that finding one file to interfile material could take many hours.

While other staff were later assigned to the project, this officer was, at the outset, the only person assigned full-time. He told the OIG that he tried to store incoming rap sheets in order by their A-file number by using separate crates for each series of terminal digits but soon gave up. He said he alerted his supervisors to the problems he was having, but they told him just to do the best he could. Though he believed he was placing rap sheets into files so that they could be used at interviews, he conceded that he did not know where in the naturalization process most of the cases were when he found them. He said that he simply interfiled the rap sheet. The other officers later assigned to the project reported making more concerted efforts at notifying appropriate officials if an applicant needed to be "pulled-off" a ceremony, but otherwise corroborated the difficulties of finding files and interfiling rap sheets at El Monte. Rap sheets that could not be interfiled were left in the crates.

After INS changed its policy in November 1996 to requiring a definitive response from the FBI in every case, INS began to use an automated system based on FBI billing data to check the status of an applicant's fingerprint check. This system, called the "FBI Query system," would tell the user whether the A-number entered pertained to an "ident" or a "non-ident" once the check was completed by the FBI. Well after the FBI Query system had been implemented, in 1997 an SDAO was assigned to separate the El Monte files that had been identified as having "idents"—or positive criminal records—from those that did not. She also sorted those "ident" files that had rap sheets from those "idents" that did not. For the files with "idents," INS was required by the Naturalization Quality Procedures (NQP) implemented in November 1996 to confirm receipt and review of the relating criminal record before approving an applicant for citizenship.

Officers who assisted with the project attempted to consolidate arriving rap sheets with their relating files, much like what the adjudications officer who had been assigned to receive and review rap sheets in 1996 had done. When the SDAO first began this project, she said that she was aware of the crates of rap sheets on which the other officers had worked and would check those crates if they were looking for a relating rap sheet. Another officer organized the rap sheets in the crates in terminal digit order and used one crate for each of the ten series of terminal digits (000-900). An eleventh crate stored the rap sheets that had not yet been filed in the appropriate crate.

In August 1997, El Monte was preparing for a site visit by INS' Office of Internal Audit (OIA). The OIA visit was to precede a KPMG audit assessing implementation of NQP procedures. The El Monte SDAO asked Prater what should be done with the "ident" files that did not have a relating rap sheet. She asked if she could send those files to the Continued Unit and he agreed. She also asked if she should send the rap sheets that had not been interfiled and he agreed. Prater apparently had been unaware of the number of records that had not been interfiled. On August 12, 1997, Prater received these crates of files and rap sheets.²⁶ Nine days later, two additional crates' worth of rap sheets were culled from the unit handling miscellaneous mail at El Monte.

2. The District Office's September 1997 "discovery"

On September 9, 1997, Prater called the OIG to report that they had discovered an additional four crates of fingerprint cards and attached rap sheets in the Continued Unit. At the time of this call, Prater believed that these rap sheets had been reviewed and a determination had been made that they only needed to be routed to the file (because the arrests reflected were not for crimes that would preclude the applicant from naturalizing according to Continued Unit practices). By October 1, 1997, Prater had determined that the crates, in fact, contained records that had not been reviewed before the applicant naturalized. He also reported in a memorandum to his superiors that there were "two crates of rejected fingerprint cards being . . . sorted and analyzed."

According to Prater's review, all but one of the twelve 1997 naturalization cases with rap sheets discussed in his memorandum had an explanation that made their approval consistent with NQP. Six of twelve had identical rap sheets included in the file, suggesting that officers must have requested duplicate prints from the applicants. Four were applicants over 75 years old, and consequently a criminal record check was not required. One showed both an "ident" and a "non-ident" response in the FBI query system, and INS had apparently relied on the "non-ident" response when naturalizing the applicant. Finally, although not consistent with NQP, the last applicant's rap sheet showed a criminal charge that had been dismissed by the local District Attorney and which the applicant had admitted at interview.

Concerning the 1996 cases, however, we were unable to find similar explanations. There had been an intervening site visit on September 3 and 5, 1997, by a Headquarters official, and the report of his visit emphasizes changes at El Monte and at Bellflower, but is silent as to any changes in the Continued Unit but for the "logging in" (presumably date-stamping) of rap sheets. There is no mention of the four additional crates discovered four days later. Even after they were discovered, Prater offers no explanation in his October 1 memorandum except for "space restrictions" as to how the records became commingled or why they were left unsorted in the Continued Unit despite all the touted changes that had occurred since August 1996. He did note in the memorandum of October 1, 1997, that the Continued Unit was then going to begin date-stamping incoming material. Elsewhere in the memorandum he referred to procedures that were going to facilitate the timely sorting and filing of rap sheets but never explains these procedures. As for changes at El Monte, he noted that a new Section Chief had been appointed.

We are not suggesting that in August 1997 Los Angeles District should have focused more on its errors of the past (the 1996 cases) than on the then-current processing procedures in El Monte or on the 1997 naturalization cases. It is clear that the District's post-NQP processing practices were at that time a higher priority. These older cases, however, not only revealed how poorly Los Angeles processed rap sheets and fingerprints during CUSA, they also showed, as explained below, that even the KPMG-supervised 1996 audit of naturalization cases did not accurately portray the number of presumptively ineligible applicants naturalized in Los Angeles.

First, only 179 of the 444 cases with felony rap sheets had already been requested by the KPMG-supervised review team (presumably the only ones included in their felony arrest record review). Second, when the KPMG-supervised team received the additional material from Los Angeles (and some from Miami, San Francisco, and Chicago), they determined that in 192 cases with rap sheets that indicated felony arrests, the applicants had, in fact, naturalized during CUSA but had not been identified in the original universe of naturalization cases created by INS and provided to

the KPMG-supervised review team.²⁷ These rap sheets confirmed that INS had not provided the KPMG-supervised review team an accurate database that included A-numbers for everyone who naturalized during CUSA.

F. Conclusion

Much of the blame for the vulnerable criminal history checking procedures in Los Angeles can be attributed to the failure of local managers. They had the responsibility to adequately staff the Continued Unit and to supervise the processing of fingerprints and rap sheets within their District, but none of them paid attention to these aspects of naturalization processing. As a result, criminal history checking procedures broke down in Los Angeles District during CUSA.

At the same time, we note that it was the vulnerability of INS' Service-wide policies and procedures that allowed Los Angeles' standards to sink so low. In the absence of national guidance about fingerprint checks and rap sheets, local managers were free to ignore these procedures as they concentrated on accelerating the rate of naturalization production. Thus, we found that the mistakes in Los Angeles were less surprising than they were illustrative of what happens when high volume production is combined with inadequate emphasis-at both the national and local level-on the importance of the applicant criminal history check.

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1. As discussed below, the OIG investigation has narrowed the date of the fingerprint destruction to a period in late-August, not September.
 2. For a discussion of Los Angeles District's use of temporary files before CUSA, see our chapter on A-file policy and practice.
 3. See our chapter on criminal history checking procedures for a full description of Los Angeles District's "pull-off" procedure.
 4. If the computer showed that a temporary file existed, the rap sheet would likely be forwarded there because it would be the file used at the naturalization interview.
 5. At some point, incoming mail addressed to INS' Bell Gardens Post Office Box (explained below) and concerning NDEC's reject-processing project became commingled with these documents. It is unknown if that material was commingled while the crates were at the Bell facility or later, after they had been moved downtown.

6. Because it is relevant to our understanding of the nature of the fingerprint cards destroyed by Los Angeles officials as explained below, we note here in late March 1996, the Continued Unit was moved from its smaller quarters in Room 8323 of the District Office to the larger Room 8557, which had housed the clerical Update Unit. The clerical Update Unit moved to the 4th floor of the new El Monte facility.
7. These rap sheets were those reported by Los Angeles District to INS Headquarters in August 1996, as discussed in our chapter on criminal history checking procedures.
8. We also note that ADDA Arellano's office was immediately across the hall from Cook's and Bell's office and the volume of paperwork was in plain view.
9. Indeed, District Director Rogers told the OIG that when he finally visited the Continued Unit in Room 8557—and this was not until October 1996, well after the additional staff had been assigned—he saw then that there were still too few people assigned to handle the workload, and he directed that even more be assigned.
10. DAOs who worked on "continued" naturalization cases had offices or stations within the Continued Unit.
11. District staff offered inconsistent versions concerning which office within the district had responsibility for processing this material or where material went after its receipt at Bell Gardens.
12. Although Neufeld ordered the contents of these crates destroyed, as we explain below they were not. Material in other crates was destroyed, while the former crates were recovered by the OIG. For this reason, we were able to identify the material in Bell's crates.
13. There is no corroboration that Neufeld told them to "get rid of the evidence" as Kathy Bell alleged in media reports.
14. As noted above, the OIG investigation has narrowed the date of the fingerprint destruction to a period in late-August rather than September.

15. The statement was in the form of an affidavit and was prepared for Bell's signature by Humble-Sanchez.

16. Bell also told the Subcommittee in her October 16 statement that because of the "tremendous workload" in her unit, there were times when they did not prepare a "pull-off sheet" prior to naturalization ceremonies. She said the "pull-off sheets" listed criminal aliens who "failed to reveal their arrests on serious crimes and were granted citizenship by hiding their criminal histories."

17. Rosete said that he had not kept track of the number of cards rejected as a result of the NDEC suitability review.

18. One contractor who was supervised by the two INS clerks until she was fired in October 1995 claimed that she was placing applications on hold because of rejected fingerprint cards. However, this same employee said that she was working only with the CLAIMS computer system and did not have access to NACS. This contractor was the employee that Rosete remembered as having the task of releasing "holds" (using the CLAIMS standalone environment), though the only employee the OIG identified as recalling such a project worked only at the District Office. Witnesses familiar with the CLAIMS/NACS interface said that the system could not be used for placing or releasing such holds.

19. Rosete offered a detailed explanation about how an employee of the CSC modified the CLAIMS computer system so that contractors could succeed in placing a "hold" by modifying the "applications processed" field. The system defaulted to "yes" and contractors could change this to a "no" if they wanted to indicate that the card had been rejected. The employee denies that she was ever asked to perform any changes in the CLAIMS system and, if she had been, she would not have been able to without the source codes. Any such changes would have had to have been made by the original programmers or the EDS contractors.

20. As noted above, Prater told the OIG that he observed the contents of the crates when he helped to move them from one employee's office to another. He recalls that the crates contained fingerprint cards that were attached to letters. At the bottom of the letters was a Bell Gardens return address to which the addressees were instructed to mail a new set of fingerprint cards.

21. In another interview, Rosete said there were 12 crates and he believed that 8 were destroyed.
22. Among the pieces of correspondence was an envelope addressed to INS that enclosed two sets of fingerprint cards and a letter in which the applicant wrote "the letter you sent me previously indicated that the application process will be suspended until the fingerprints were submitted, but I have already received my citizenship on August 15, 1996."
23. We do not question the sincerity of Neufeld's recollection.
24. The rap sheets collected as a result of this incident and relating to naturalized 1996 cases were forwarded from Los Angeles District to INS Headquarters, and then to the KPMG-supervised reviewers. They formed the majority of those rap sheets studied in the "Rap Sheet Analysis Project," described in our chapter on criminal history checking procedures.
25. INS called this new method of storing files "responsible party filing" (RPF). RPF was being phased in Service-wide.
26. Prater recalled that he had specifically been told there would be fewer crates of rap sheets. The SDAO at El Monte explained that she had not known that the DAO organizing the rap sheets had put each "100 series" of terminal digit numbers into separate crates. For this reason, material which she knew to have fit in fewer crates in fact was organized into 11 crates, and all 11 crates were shipped downtown.
27. See our chapter "Criminal History Checking Procedures" for a discussion of this "universe" of CUSA cases created by INS for the KPMG-supervised review.