

## **I. Introduction**

The purpose of this first chapter is to provide the reader with the necessary background information to facilitate reading the remainder of the report. We cover five important topics in this chapter: a summary of the allegations, a description of our investigation, a description of the report, INS' structure and management, and a brief description of the naturalization process.

### **A. Allegations**

#### **1. Themes of the allegations**

On August 31, 1995, INS announced its Citizenship USA (CUSA) program, an initiative for fiscal year 1996 designed to reduce the growing backlog of naturalization applications to the point where an eligible applicant would be naturalized within six months of application. Although CUSA was initially welcomed by Members of Congress as an appropriate response to the substantial INS workload, concerns about the initiative's effect on processing integrity and concerns about its motives began to surface in the summer of 1996. In the wake of media reports suggesting that INS was compromising the integrity of the naturalization process to pursue politically motivated objectives, Members of congressional oversight committees made inquiries into the CUSA initiative. These inquiries culminated in a series of hearings in 1996 and 1997 that focused on naturalization testing fraud, breakdowns in the criminal history checking procedures, adjudicative irregularities, and political pressures.

The issues raised by Members of Congress had two common themes. The first was the sacrifice of processing integrity in order to meet high production goals. For example, in his opening statement at the CUSA hearings of September 10 and 24, 1996, before the Committee on Government Reform and Oversight's Subcommittee on National Security, International Affairs, and Criminal Justice (hereinafter Subcommittee), Committee Chairman William Clinger stated, "[a]t issue here is the degree to which the quality of the INS' work is being willfully compromised, and I think there is evidence that would substantiate that it has been willfully compromised for the sake of quantity." Similarly, Subcommittee Chairman William H. Zeff, Jr., who was not present for the hearings but had written to Subcommittee Members in anticipation of the September 24 hearing, asserted that "with so much water being pumped

through the pipeline, figuratively, it is not surprising that the pipeline is bursting in many places.”

The second theme of the congressional concern about CUSA was that these compromises in processing integrity resulted from political pressures or politically motivated objectives. Subcommittee Member Mark Souder, who presided over the first CUSA hearings before the Subcommittee in the absence of Subcommittee Chairman Zeliff, stated in his opening remarks at the September 24 hearing, “[d]isturbingly, the evidence suggests that the naturalization push may have resulted from direct orders of the White House to naturalize new citizens [in order] to register them as Democratic voters for the upcoming elections.”

## **2. Specific allegations that emerged in late spring and early summer 1996**

As noted above, INS’ implementation of a program to address the increasingly severe backlog of naturalization applications was initially perceived as an appropriate response to a workload crisis. Several months into the CUSA program, Members of Congress expressed satisfaction that INS was recognizing the need to address the backlog by hiring temporary employees to help process cases in INS’ five busiest districts, dubbed the “Key Cities” for the CUSA initiative.<sup>1</sup> A few months later, however, that approbation yielded to concerns that INS was applying lenient naturalization criteria in order to maximize the number of new citizens before the November 1996 presidential election. Citing a May 20, 1996, the *Washington Times* article alleging that political motives were compromising the naturalization process, Congressman Souder questioned INS in a letter dated June 10, 1996, about the basis for selecting the targeted cities as the Key Cities for the backlog reduction effort, changes in naturalization criteria, and exhortations to new citizens to vote.

Over the next few months, the allegations about CUSA multiplied and the pursuit of information about the program by Congress intensified. In July, Subcommittee Chairman Zeliff reiterated congressional concern that CUSA was politically motivated and compromised the naturalization process. In a letter to Commissioner Meissner dated July 9, 1996, he raised a number of allegations about CUSA, including the use of inexperienced INS personnel to

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<sup>1</sup> The five Key City Districts, which were also referred to as the “Key Cities,” were Chicago, Los Angeles, Miami, New York, and San Francisco.

adjudicate applications, the delegation of processing and testing to outside groups biased in favor of approval, lowered testing requirements, and efforts to increase voting by new citizens. In part dissatisfied with INS' original response to his July request for information, Chairman Zeff again wrote to Commissioner Meissner on August 15, 1996, insisting that INS produce the previously requested information and requesting additional information on a wider range of topics than he had previously, from citizenship statistics to INS contacts with the Office of the Vice President.

In September 1996, following its review of approximately 30,000 pages of documents submitted by INS, the Subcommittee held two hearings concerning CUSA, one on September 10 and the other on September 24. The first hearing focused on naturalization testing fraud. This issue had become the subject of particular concern with the airing of an exposé on ABC's *20/20* in July that detailed fraudulent practices by Naturalization Assistance Services, Inc. (NAS), one of the outside contractors authorized by INS to conduct English and Civics testing of applicants on its behalf. The hearing focused generally on the concern that outside testing entities were plagued by fraud and abusive practices.

The second hearing on September 24 focused more broadly on the overall naturalization process during CUSA. The Subcommittee explored allegations that INS failed to wait for the results of criminal history checks before approving applications for naturalization, failed to train new adjudicators adequately, pressured adjudicators to process cases too quickly or simply to ignore disqualifying evidence and approve cases, and encouraged or facilitated voter registration for newly-naturalized citizens.

Additional hearings during which facets of the CUSA program were examined were held before the Senate Judiciary Committee's Subcommittee on Immigration on October 9 and 22, 1996, and May 1, 1997; the Senate Appropriations Committee's Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies on April 10, 1997; the House Appropriations Committee's Subcommittee on the Departments of Commerce, Justice and State, the Judiciary and Related Agencies on March 4, 1997; the House Government Reform and Oversight Committee's Subcommittee on National Security, International Affairs, and Criminal Justice on March 5, 1997; and the House Judiciary Committee's Subcommittee on Immigration and Claims on April 30, 1997. These hearings continued to focus attention on testing, criminal history checks, and political influence and motivation during CUSA.

Overall, the allegations spanned a wide spectrum, from a lack of rigor in the adjudications process (“there are allegations that because of, in our feeling, a somewhat unrealistic goal driven by political considerations that there has been a sloppiness in the . . . process”<sup>2</sup>) to a willful sacrifice of standards to political ends (“INS has taken direction from the Vice President’s Office to quadruple the average number of naturalized citizens to 1.3 million over the past year, including direction to waive longstanding laws and regulations”<sup>3</sup>). Beyond these allegations, there were allegations by Members of Congress, by persons testifying before Congress and by others that INS had selected the Key Cities to maximize benefit to Democratic candidates in the 1996 election, had actively solicited more than half of the total applicants naturalized, had stripped resources from enforcement functions, and had not subjected new adjudicators to security clearances.

At the request of the Attorney General, the Department of Justice’s Justice Management Division (JMD) assisted INS in responding to congressional questions and a congressional subpoena concerning the naturalization of persons with disqualifying criminal records and for whom no fingerprint check was conducted. JMD, in turn, hired KPMG Peat Marwick LLP, an independent consulting firm, to “oversee and validate” INS’ review of all approved and completed naturalization cases from fiscal year 1996.

By February 1997, the KPMG-supervised review had preliminarily identified 71,557 (or 7 percent) of the 1,049,872 persons believed to have been naturalized during CUSA as having a record of either INS administrative action (like deportation) or criminal activity. The review also found that 113,126 naturalized applicants (11 percent of the total number of persons naturalized) had not had complete criminal history checks conducted because their fingerprint cards were returned to INS by the FBI as “unclassifiable” and new cards had not been resubmitted. Finally, for an additional 66,398 applicants (6 percent of the total number of persons naturalized), FBI had no record of any criminal history check having been requested or conducted by the FBI.<sup>4</sup> These findings raised further questions about the integrity of INS’

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<sup>2</sup> This allegation was made by Congressman Souder in the September 10 hearing.

<sup>3</sup> This allegation was made by Subcommittee Chairman Zeliff in a letter to Commissioner Meissner dated October 16, 1996.

<sup>4</sup> These numbers were not finalized until July 28, 1997, when KPMG issued its Case Stratification “Final Report.” According to the report, the final number of persons

criminal history review process and about the objectives of the CUSA program generally. Congressman J. Dennis Hastert, then the Chairman of the Subcommittee on National Security, International Affairs, and Criminal Justice, asked at the March 5, 1997, hearing, “what happened that permitted 180,000 applicants to be naturalized without background checks at all?”<sup>5</sup>

## **B. Description of OIG investigation**

The Inspector General of the Department of Justice advised Congress that the OIG would undertake an investigation of CUSA in order to “fully understand and assess allegations of program abuses, of systemic shortcuts, and of instances in which citizenship standards may have been eviscerated.” The Inspector General sought to obtain a “broader, fact-based understanding of what happened” and “to assess individual culpability and accountability.” The investigative staff was comprised of 19 investigators, 3 program analysts, and 4 attorneys, with additional assistance provided by the OIG’s Audit Division and Management and Planning staff. The staff was divided into teams that examined INS activities in each of the Key City Districts under CUSA (Los Angeles, New York, San Francisco, Miami, and Chicago) and INS Headquarters in Washington, D.C.

The OIG interviewed a considerable percentage of INS employees who participated in the CUSA program. By doing so, we minimized the risk that

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naturalized during fiscal year 1996 was 1,049,867. Of those, 76,678 were identified as having records with the FBI; fingerprint cards for 124,111 persons naturalized were identified as “unclassifiable,” and there was no record of any FBI criminal history check having been requested or conducted for an additional 61,366 persons.

In October 1998, INS again attempted to identify the total number of persons naturalized during fiscal year 1996 because of concerns about the accuracy of the original figures. INS reported after this second review that 1,109,059 persons had naturalized during fiscal year 1996. This net difference of 59,192 persons was attributable to an additional 71,413 records that had not been counted the first time, and 12,221 that had been erroneously included in the initial review. INS did not seek to determine the status of the fingerprint check of the additional 71,413 persons naturalized during fiscal year 1996. For a discussion of the reasons for INS’ inability to confirm the exact number of persons naturalized during fiscal year 1996, see the chapter “A-file Policy and Practice,” below.

<sup>5</sup> Chairman Hastert arrived at the figure of 180,000 by grouping together persons whose fingerprints were unclassifiable and persons for whom no record of a fingerprint check could be found.

undue weight would be given to minority views of the program, whether positive or negative. Moreover, it reduced the risk that important information possessed by a limited number of witnesses would be overlooked.

The OIG interviewed 588 persons who worked as District Adjudications Officers (DAOs) during CUSA.<sup>6</sup> Among those interviewed were most (312 of 369) of the adjudicators involved in cases identified by the KPMG-supervised INS review team as involving applicants whose criminal records made them “presumptively ineligible” to become citizens but who were nevertheless naturalized.<sup>7</sup> Following the interviews of adjudicators, the investigation turned to critical clerical and other support personnel. During interviews with 194 clerical staff members and supervisors, OIG investigators learned about aspects of the program—such as the interfiling of criminal history records or the movement of files—with which adjudicators may not have been familiar. Thereafter, OIG interviews within the districts turned to supervisory and managerial personnel involved in the naturalization program, including the CUSA site coordinators and the District Directors. Because INS service center personnel assumed responsibility for significant aspects of naturalization application processing in four of the five Key Cities during CUSA, we also interviewed INS and contractor personnel at each of the four service centers—the California Service Center, the Vermont Service Center, the Nebraska Service Center, and the Texas Service Center.

The data gleaned from all of these interviews set the stage for interviews of the individuals responsible for conceptualizing, implementing, overseeing, and executing CUSA policy. We interviewed managers at INS’ three regional offices and at INS Headquarters, including CUSA’s Project Director David Rosenberg. We interviewed senior INS officials who had responsibility for

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<sup>6</sup> This number includes not only permanent and temporary DAOs, but also persons “detailed” from other offices or branches to work as DAOs and supervisory DAOs.

<sup>7</sup> The KPMG-supervised review team identified 17,257 of the more than one million new citizens as having records indicating arrests for a felony, a crime of moral turpitude, or some other offense that could statutorily bar naturalization if it led to a conviction. These cases were to be reviewed as part of the “Criminal History Case Review” conducted by INS and supervised by KPMG. While 399 cases could not be located, the remaining 16,858 were reviewed and the team found that 10,535 cases had been properly adjudicated, 369 cases were “presumptively ineligible,” and 5,954 cases required further action because the reviewers could not “validate that the statutorily defined good moral character criteria [had been] met based on the information in the case files.”

various aspects of CUSA, including the four Executive Associate Commissioners, the Associate Commissioner for Programs, and several Assistant Commissioners and members of their staffs. We also interviewed the Commissioner and former Deputy Commissioner. We completed our Department of Justice portion of the investigation by also interviewing the Attorney General, the former Deputy Attorney General, and the Assistant Attorney General for Administration.

The OIG also interviewed persons within government but outside the Department of Justice, such as representatives of the Federal Executive Boards and the President's Commission on Immigration Reform, for any information they could provide on the nature or motives of the CUSA initiative.

In an effort to investigate "collateral influences" on the CUSA program, we interviewed members of community-based organizations (CBOs) in each of the Key Cities. We interviewed current and former members of the Vice President's National Performance Review staff, as well as representatives of previous Justice Department and National Performance Review labs. We also interviewed a number of White House officials, including former Chief of Staff Leon Panetta, former Domestic Policy Advisor Carol Rasco, former Policy Advisor to the Vice President Elaine Kamarck, and former Senior Assistant to the President Kevin O'Keefe. Vice President Gore declined our request for an interview but agreed to answer written questions. We received his responses in November 1999.<sup>8</sup>

The OIG conducted 1,829 interviews of persons in connection with its investigation, and many witnesses were interviewed on more than one occasion.

In addition to the evidence gathered through interviews, the OIG reviewed the 30,000 pages of documents submitted to Congress by INS. Subsequent to this review and our initial phase of interviews, the OIG asked INS to produce documents related to 21 separate requests for information. INS produced approximately 50,000 pages of documents that were systematically reviewed by the OIG investigative team.

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<sup>8</sup> Several former White House staff members, including former Deputy Chief of Staff Harold Ickes and former Director of Special Projects Rahm Emanuel, declined our request for interviews.

### **C. Organization of the report**

To provide a context to understand the OIG findings described throughout this report, we begin here in Chapter One with this background information and then in Chapter Two provide an overview of the implementation of the CUSA program. In this overview, we demonstrate that during CUSA, INS made the timely completion of naturalization cases—or production—the guiding principle of its “examinations” or “benefits-related” work. Our investigation has established that this principle was pursued at the expense of other ideals in naturalization processing, including accuracy in criminal history checks and adherence to record-keeping standards. The strategies employed by INS to meet the goals of CUSA, while successfully advancing production objectives, worked to undermine the quality of naturalization processing during fiscal year 1996. It is for this reason that we have included in the report an overview of these strategies.

In this overview, we describe the factors that led INS to develop CUSA. We then describe the steps taken by INS to implement the program—such as deploying large numbers of quickly trained new employees—that contributed to the weakening of naturalization processing standards. We also describe case-processing techniques adopted by INS for the first time during CUSA, such as “Direct Mail” of naturalization applications, and the problems that resulted from these insufficiently planned innovations. Finally, we describe the high-volume processing undertaken during the height of CUSA and the production pressures that were brought to bear on naturalization adjudication once the CUSA infrastructure was in place in the spring of 1996.

In describing the factors that led INS to implement CUSA, we necessarily address one of the issues at the heart of congressional concern about the program, namely, whether the program was motivated by inappropriate political pressure. Our investigation has found that, at its inception in the summer of 1995, CUSA was developed to reduce the massive backlog in naturalization applications INS was experiencing. Contrary to allegations, we found that CUSA was not designed to maximize the number of persons who would be eligible to vote for any party or candidate in the November 1996 election. The Office of the Vice President and other political officials did become interested in and worked with INS on CUSA beginning in February 1996, but the evidence reveals that their interest was not the original stimulus for the program. Accordingly, we discuss the origin of the CUSA program without reference to the issues of attempted political influence (the

allegations concerning CUSA’s political motives, and the involvement of the Office of the Vice President, are addressed in Chapter Seven of this report).

After reviewing the implementation of the CUSA program, we turn to the first theme of the congressional allegations—possible compromises to the naturalization process during fiscal year 1996. We grouped these allegations into categories that correspond to the three core aspects of INS’ naturalization procedures. First, we address questions about naturalization adjudication standards and the ability of adjudicators to make determinations concerning the “good moral character” of applicants in Chapter Three. Next, we examine questions about the weaknesses in and errors resulting from INS’ file and other record-keeping procedures in Chapter Four. And in Chapter Five, we review the manner in which INS checked, or failed to check, applicants’ criminal histories before approving naturalization applications.

Our investigation revealed evidence that none of these “core” areas of naturalization processing—adjudications, files and record-keeping, and criminal history checks—functioned well before CUSA was implemented. In order to isolate the influence of CUSA on these procedures, we describe the state of each aspect of processing before the CUSA program was implemented, before analyzing whether CUSA created additional vulnerabilities. As these chapters describe in detail, the OIG found that weaknesses in each core area were exacerbated under CUSA.

In Chapters Six and Seven, the OIG addresses the second theme of the congressional allegations, specifically concerns about improper political motives and other “collateral influences.” Chapter Six examines the role of community-based organizations in naturalization processing during CUSA. OIG found that INS made significant efforts to improve its relationship with community-based organizations during CUSA, and that, at times, the desire to enhance its relationship with those organizations led to weaknesses in the integrity of naturalization processing, in particular in INS’ “off-site” naturalization processing programs. However, the evidence did not indicate that the relationship between INS and any particular organization or with community-based organizations, in general, was an inappropriate liaison designed to further a particular political agenda. Chapter Seven addresses allegations that pressures from the Office of the Vice President and the White House to increase the number of potential voters led INS to compromise the naturalization process. The chapter traces the Administration’s initial interest in naturalization to the involvement of representatives from the Vice

President's government reinvention program (National Performance Review or NPR) in the CUSA program. It also examines allegations that improper political demands influenced the course and nature of the CUSA initiative.

As noted above, our investigation of these allegations revealed that CUSA was not designed to maximize the number of people who would be eligible to vote in November 1996. We did not find that the program had any improper political or electoral motive.

We found that the White House and the Office of the Vice President expressed an interest in CUSA in early 1996, in large part a result of constituent complaints that INS had not made significant progress toward naturalization backlog reduction. As a result of that interest, NPR officials became involved in CUSA, but we found that their involvement was limited to site visits and "streamlining" advice that, for the most part, went unheeded by INS. The most significant impact of NPR's involvement in CUSA was an indirect one; it served to heighten INS' problematic commitment to reaching the program's original production goals. Although we found that NPR officials and others were aware that CUSA's success could result in a "political" benefit to the administration by the time of the November election—primarily in that pleasing those who were then clamoring for better service by INS would result in political support from that constituency—we did not find that this motive prompted any of the shortcuts or processing errors that characterized CUSA.

In Chapter Eight, we discuss the unrealized commitment INS made in exchange for receiving the reprogrammed funds that supported the CUSA initiative. INS committed itself to reducing backlogs in both naturalization processing and in the processing of adjustment of status applications (the application used by an immigrant to adjust his or her status to a permanent resident of the United States) during fiscal year 1996, but focused its attention disproportionately on naturalization at the expense of adjustments of status.

We address the last allegations made by Members of Congress about the CUSA program in Chapter Nine. That chapter focuses on allegations of retaliation by INS management against six INS employees who testified before Congress or otherwise cooperated in congressional investigations. We found that one employee's claim of retaliation was supported by the evidence. We also found, however, that in that case there were other motives for INS' actions against the employee that were not prompted by his role as a witness before Congress, and that INS' actions against him were not characteristic of INS'

treatment of the employees who cooperated with congressional or OIG investigators.<sup>9</sup>

Finally, in Chapter Ten we offer our conclusions and recommendations. INS has made significant improvements in naturalization processing since the end of the CUSA program, particularly in its procedures for processing applicant fingerprint checks. However, many of the weaknesses we identify in this report remain unaddressed. Those issues, and our recommendations on how to address them, are set out in the last chapter of this report.

## **D. INS structure and management**

### **1. Introduction**

In the past decade, INS has made a number of changes to its organizational structure, including changes of office names and official titles, changes which INS officials refer to as “reorganization.” In the three years before the beginning of the CUSA program, INS had been reorganized twice. Changes within INS Headquarters’ structure continued during CUSA, and, both because of these changes and because of the detailing of managers from one job to another, the same officials sometimes held different titles during the course of the program. Accordingly, we preface the substantive chapters of this report with a description of the structure of INS as it existed during CUSA. We include in this description a review of the general responsibility of each of the offices within INS Headquarters that played a relevant part in CUSA. We also describe the institutional reorganization that led to the structure that existed during fiscal year 1996, and we identify the personnel who filled the key management positions during CUSA.

In addition, we describe Commissioner Meissner’s “priority management” strategy, the management approach invoked to execute CUSA that was often referred to by witnesses and referenced in the documents pertaining to the program.

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<sup>9</sup> Chapter Nine has been redacted for inclusion in this report in the interest of protecting the privacy of certain persons discussed in the chapter. We have provided an unredacted version to Congress under separate cover.

## 2. Structure of INS

INS is organized into three management components—Headquarters, three regions, and 33 districts in the United States.<sup>10</sup> The districts are referred to collectively as “the Field.” The adjudication of naturalization applications is handled by INS staff in the districts in the U.S.

The districts are managed by a District Director (DD), a Deputy District Director (DDD) and several Assistant District Directors (ADDs).<sup>11</sup> The districts are divided into various divisions such as Investigations, Inspections, Management, and Examinations (or Adjudications). Each division is led by an Assistant District Director. The Examinations or Adjudications Divisions are ordinarily further subdivided into sections based on the various types of adjudications for which they have responsibility, such as naturalization or adjustments of status. These sections, particularly in larger districts, are often led by a Section Chief.

Three regions serve as intermediary managers of the districts—the Eastern Regional Office (ERO), the Central Regional Office (CRO), and the Western Regional Office (WRO). Each regional office is led by a Regional Director and a Deputy Regional Director. Each regional office is also divided into divisions, each of which is led by an Assistant Regional Director.

INS operates four regional service centers that process many types of applications formerly handled in the districts. With respect to naturalization applications, the service centers perform the initial clerical processing, but the actual adjudication of the naturalization application remains the district’s responsibility. The four service centers are the California Service Center (CSC), the Nebraska Service Center (NSC), the Texas Service Center (TSC), and the Vermont Service Center (VSC).

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<sup>10</sup> INS has three additional districts in Bangkok, Mexico City, and Rome as well as several overseas offices that have responsibility for, among other things, deterring illegal entry into the United States and working with host country immigration and law enforcement officials.

<sup>11</sup> A list of acronyms can be found at the front of this report.

At all times relevant to this report, INS Headquarters, apart from the Commissioner's immediate staff,<sup>12</sup> was divided into four subject-matter areas, each overseen by an Executive Associate Commissioner (EAC): Programs, Field Operations, Policy and Planning, and Management. Each of the four Executive Associate Commissioners reported to the Deputy Commissioner who, in turn, reported to the Commissioner.<sup>13</sup>

All four of these divisions—referred to as offices—to a greater or lesser extent, were involved in the planning and implementing of the CUSA initiative. Of the four, the Office of Programs<sup>14</sup> and the Office of Field Operations were the two offices most directly and consistently involved in CUSA.

The Office of Programs was responsible for INS' enforcement and examinations programs, including policy development for and integration of both enforcement and examinations programs. The Offices of Enforcement and Examinations, in turn, were each headed by an Associate Commissioner. Examinations was organized according to five subject matter areas, each run by an Assistant Commissioner: Adjudications and Nationality, Inspections, Service Center Operations, Records, and Administrative Appeals. In February 1996, the Office of Adjudications and Nationality and Service Center Operations were integrated on an experimental basis to form the Benefits Division of the Office of Examinations. This new Benefits Division remained in place through the end of CUSA.

Meanwhile, responsibility for implementing policies and for providing direction and supervision to the Field rested with the Office of Field

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<sup>12</sup> The Commissioner's immediate staff includes the General Counsel and the Directors of the Offices of Congressional Relations, Internal Audit, and Public Affairs.

<sup>13</sup> Organizational charts outlining the structure of INS components involved with the naturalization program during CUSA are included at the front of this report.

<sup>14</sup> The CFR provisions refer to the offices of the EACs for each subject matter category. For example, there is the "Office of the Executive Associate Commissioner for Programs." INS referred to these offices by shorter titles, like the "Office of Programs." In this report, we follow the INS convention.

Operations. Regional Directors and District Directors (but not Service Center Directors)<sup>15</sup> were in the EAC for Field Operations' chain-of-command.

The Office of Policy and Planning developed and coordinated long-range planning activities, and was responsible for representing INS to other organizations engaged in policy development as opposed to the more immediate matters under the jurisdiction of the Office of Programs. The EAC for Policy and Planning was also responsible for advising the Commissioner on other issues that crossed program lines or had inter-agency implications.

Finally, the Office of Management was responsible for all administrative issues including financial, human resource and information resource matters. The personnel under the EAC for Management's supervision included, among others, the Associate Commissioners for Finance and Information and Resource Management (IRM).

This organizational structure was relatively new prior to the start of the CUSA initiative in August 1995 and was the result of a reorganization by Commissioner Meissner soon after she took the helm at INS. More detail concerning the reorganization, as well as the responsibilities of the Offices of Programs and Field Operations, is provided below.

### **3. The 1994 reorganization and key management personnel**

Doris Meissner was sworn in as Commissioner of INS in October 1993 and brought with her extensive experience in immigration generally and with INS in particular. She had served as Acting Commissioner of INS in 1981 and as the Executive Associate Commissioner from 1982-1986.<sup>16</sup> Before that, as an Assistant to the Associate Attorney General, her portfolio had included oversight of INS. When she left INS in 1986, she became director of the Immigration Policy Project at the Carnegie Endowment for International Peace in Washington, D.C.

When Meissner became Commissioner in 1993, INS had undergone a major organizational revision in 1991 under former Commissioner Gene

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<sup>15</sup> Service Center Directors reported to the Director of Service Center Operations and then later the Assistant Commissioner for the Benefits Division.

<sup>16</sup> At that time, there was only one such Executive Associate Commissioner position within all of INS.

McNary. This reorganization was undertaken in response to recommendations by a blue-ribbon panel organized by the Attorney General in 1990<sup>17</sup> and recommendations by the OIG and the General Accounting Office.

McNary's reorganization was built around three positions that formed the core of INS' executive leadership. At the top of the hierarchy, the Commissioner was to concentrate on policy oversight and external affairs. Responsibility for day-to-day operations, on the other hand, would rest with two Executive Associate Commissioners instead of one—an EAC for management and an EAC for operations.<sup>18</sup>

In addition, formerly powerful Regional Commissioners were relegated to an administrative and support role rather than a policy-making position. Consistent with that shift in responsibility, their titles were changed to Regional Administrators. Thus, the chain-of-command for District Directors no longer went through the regions. Instead, District Directors reported directly to the Executive Associate Commissioner for Operations. McNary adopted a direct chain-of-command, akin to that of a law enforcement agency, in which Field personnel are managed by Headquarters without an intervening management layer.

According to Commissioner Meissner, she was advised upon assuming leadership at INS that a “classic rift” between the Field and Headquarters existed: the Field felt that Headquarters did not appreciate the challenges it faced and Headquarters was convinced that the Field balked at implementing its directives. Commissioner Meissner told the OIG that in her early briefing sessions with INS staff, she was repeatedly told that INS suffered from an array of problems that were attributable, in part, to its organizational structure, including poor communication and planning, a lack of coordination, and dissension. In addition, in these same meetings with managers and line

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<sup>17</sup> In late 1990 as the General Accounting Office (GAO) was finalizing a major study detailing problems throughout INS, the Attorney General appointed a group of senior executives led by a fellow from the National Academy of Public Administration to outline a management strategy to strengthen INS management. This task force was referred to as a “blue ribbon panel.”

<sup>18</sup> According to Commissioner Meissner, the Deputy Commissioner position historically had been in a “staff role” since it was not part of the chain-of-command between the EACs and the Commissioner. This was changed under Meissner's reorganization in 1994.

employees at Headquarters and in the Field, Commissioner Meissner was told that the direct chain-of-command between the Field and Headquarters had created communication, oversight and administrative “choke points.” As one simple but illuminating example, the Commissioner noted to OIG investigators that because 85 people reported to one Executive Associate Commissioner, that EAC was responsible for 85 performance evaluations yearly. Although Commissioner Meissner said that she was reluctant to undertake organization change as one of her first actions as Commissioner and did not believe that organization changes alone could ensure improved performance,<sup>19</sup> she told the OIG that the chorus of complaints during her early discussions with INS staff persuaded her that such a revision was necessary.

In November 1993, Commissioner Meissner proposed her reorganization of INS. The plan was approved by Congress in January 1994 and implemented by INS in July 1994. Reorganization brought about a variety of changes. First, regions were restored to the chain-of-command for the Field.<sup>20</sup> By recreating the intermediate management layer, Commissioner Meissner hoped to improve communication and oversight. In order to further improve the communication between the districts and Headquarters, the Deputy Commissioner, who Commissioner Meissner viewed as previously operating in a “staff role,” was inserted into the chain-of-command between the EACs and the Commissioner. At the Commissioner’s urging, the Deputy Commissioner’s job was also made a career position rather than a politically appointed position in an effort to encourage talented career employees to aspire to the highest ranks of the agency. By reintroducing intermediate levels of management, the Commissioner also wanted to strengthen the chain-of-command, a concept, according to Meissner, with which many INS career employees were familiar and comfortable.

Chris Sale was Meissner’s choice for Deputy Commissioner. Sale was a career federal civil servant for approximately 20 years before joining INS in 1991. She served as the Executive Associate Commissioner for Management for approximately a year and a half under McNary and as Acting Commissioner of INS for almost one year during the transition in

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<sup>19</sup> This view was shared by Commissioner McNary and the blue-ribbon panel that had recommended the reorganization that he instituted.

<sup>20</sup> However, under Meissner’s reorganization, the number of regions was reduced from four to three.

administrations. She had also served as the Director of the Office of Management and Budget in Ohio for two years.

The second significant aspect of Commissioner Meissner's reorganization was that it divided the work at Headquarters that was formerly under two EACs and spread it among four. One of the four EAC positions, the EAC for Policy and Planning, was completely new. Commissioner Meissner said that she created this office to work on broad, long-term policy issues, including those that affected multiple programs within INS and those that involved other federal agencies. During CUSA, Robert Bach was the EAC for the Office of Policy and Planning. The Office of Management, which had been created under the McNary reorganization, remained intact. During most of CUSA, the EAC for Management was Kenneth Rath. After Rath retired in May 1996, he was replaced by George Bohlinger. The work of the former Office of Operations, however, was assigned to two new entities: the Office of Programs, which, as stated above, had responsibility for directing and developing policy for INS' enforcement and examinations programs, and the Office of Field Operations, which had responsibility for implementing policy and supervising the Field.

Restructuring the former Office of Operations into two distinct offices was intended to improve INS' performance in several ways. By creating the Office of *Field* Operations, Commissioner Meissner said that she hoped to be responsive to the Field's complaints about not being understood at Headquarters. The EAC for Field Operations was expected to serve as the Field's "voice at the table." At the same time that she thought the Field needed representation at Headquarters, Commissioner Meissner also told the OIG that she thought that it was important to encourage work on policy and planning issues. She wanted Headquarters to "steer," not just "row." She also believed that the agency needed people "dedicated to policy analysis, evaluation, program planning as a sole occupation," or they would always be "submerged by operations." For these reasons, she created the Office of Programs and gave it responsibility for planning and policy development for INS enforcement and examinations programs. As INS personnel came to view it, the Office of Programs wrote regulations, developed policy to provide guidance on implementing the regulations, and provided general oversight of the Field's compliance with regulations and policy. Field Operations, on the other hand, implemented the policy and ensured compliance in the Field.

During CUSA, William Slattery was the Executive Associate Commissioner for Field Operations. Slattery's immediate subordinate was Andrea Quarantillo, Director of the Services Branch within Field Operations. In that post, among other things, she was responsible for the daily operations of the Adjudications programs, such as naturalization, and frequently acted in Slattery's stead during CUSA. As the second-line officer in Field Operations, the implementation of CUSA would have fallen within her defined responsibilities. However, authority for the CUSA program was less clear than it would have been under a more traditional model because Commissioner Meissner had appointed David Rosenberg, as "Project Director" of CUSA as discussed in the next chapter. One of Quarantillo's staff assistants in Field Operations, Mary Ellen Elwood, was assigned to naturalization issues and during CUSA made day-to-day decisions regarding Field Operations-related issues.

T. Alexander Aleinikoff was the Executive Associate Commissioner for Programs during CUSA. Following a shakeup that resulted in the departure of the EAC for Programs in June 1995, Meissner asked Aleinikoff, who had been INS General Counsel since 1994 (and had previously co-authored a textbook on Immigration Law<sup>21</sup>), to assume the position.<sup>22</sup>

Directly under Aleinikoff in the Office of Programs was Louis Donald ("Don") Crocetti, who served as Associate Commissioner for Examinations. Crocetti was a career INS employee who had been Deputy District Director in Baltimore. He had also served as the Assistant District Director for Examinations (ADDE) in that district. Crocetti came to Headquarters in March 1994 as an Assistant Commissioner and several weeks later became the Acting Associate Commissioner in late April 1994. Michael Aytes, Crocetti's subordinate, served as Assistant Commissioner for Adjudications (later, "Benefits") within the Office of Programs, in an acting capacity from November 1995 until July 1996 when he was formally selected for the post. Aytes' acting deputy throughout CUSA was Thomas Cook, whose permanent position was as Chief for the Naturalization Branch of Adjudications.

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<sup>21</sup> Aleinikoff co-authored the textbook with former INS General Counsel David Martin.

<sup>22</sup> Aleinikoff's involvement with immigration began in the late 1970s when he served in the office of the Associate Attorney General. During that time, he worked with Meissner on immigration issues.

#### **4. Commissioner Meissner’s priority management system**

Beyond the structural changes, Commissioner Meissner wanted to ensure that matters of particular significance received appropriate attention. Noting that she was not prepared to rely exclusively on the reorganized structure to identify and implement all critical issues, she told the OIG “I never wanted to put . . . all my eggs in the structure basket.” She believed instead in mobilizing resources where she wanted the most significant impact to occur.

Accordingly, each year she identified a number of special initiatives for priority attention. This priority management system was known as the “Commissioner’s Priorities.” Senior members of the management team in INS Headquarters were designated as the policy officers responsible for achieving each particular priority goal. The policy officer was expected to play a national leadership role that involved program planning and directives, agenda setting, and conducting the oversight and analytical work needed to keep the institution focused on the initiative. This approach required different programs and offices within INS to work together. It also encouraged staff to work with people in other programs “horizontally” instead of working strictly through the chain-of-command (the Commissioner and the Deputy Commissioner referred to this as a “matrix” approach to management). As discussed in the next chapter, promotion of naturalization was a fiscal year 1995 priority, and the CUSA initiative was one of six Commissioner Priorities in FY 1996.

#### **E. Naturalization procedures**

The description of naturalization procedures that follows is intended as a broad description of generally how a person applies for citizenship, how that application is processed, and how the applicant becomes a citizen. The procedures actually followed in the Field during CUSA are discussed more specifically in the substantive chapters that follow.

##### **1. The application**

###### **a. Who can apply—prerequisites**

In order to be eligible to apply for naturalization, an applicant must meet basic prerequisites spelled out in the Immigration and Nationality Act, 8 USC § 1101 *et seq.*, and the accompanying regulations, 8 CFR part 316. First, the applicant must have been lawfully admitted to the United States for permanent residence in accordance with the Immigration and Nationality Act. Second, the

applicant must have resided continuously in the United States as a permanent resident for a specified period of time, usually five years. The applicant also must show that he or she has been a person of “good moral character” during that time.<sup>23</sup> The burden of proof is on the applicant to establish by a preponderance of the evidence that he or she meets all of the requirements for naturalization.

Most permanent residents acquire this status by applying for an immigrant visa at a consulate abroad. In most cases, the visa is predicated on an approved petition filed by a sponsor, either a relative residing legally in the United States or a potential employer in the United States.<sup>24</sup> Since only a fixed number of immigrant visas are available each year, applicants often must remain in their home countries for years before being granted an immigrant visa.<sup>25</sup> Once the visa is granted, the immigrant becomes a lawful permanent resident upon admittance to the United States. Alternatively, an alien who is already residing temporarily in the United States under a nonimmigrant visa for employment, for example, may become a permanent resident by filing an application for adjustment of status. These are also usually based on petitions filed by relatives or employers. In addition, aliens who have been granted political asylum or refugee status may also obtain lawful permanent resident status.<sup>26</sup> Once an individual obtains lawful permanent resident status, he or she

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<sup>23</sup> Other prerequisites include that the applicant must be at least 18 years old and must not be a person who deserted the United States Armed Forces or departed the U.S. to evade military service.

<sup>24</sup> As of mid-1995, just before the start of CUSA, there were 93 immigrant visa classifications that fell under five categories: immediate relatives, family-sponsored, employment-based, special immigrants, and “other.”

<sup>25</sup> There is no limit on the number of visas for immediate relatives (spouses, unmarried minor children, and parents) of U.S. citizens.

<sup>26</sup> From 1994 to 1997 there was an additional method for obtaining permanent residency status. A provision of the Immigration and Nationality Act known as Section 245(i) took effect in October 1994 that expanded eligibility for adjustment of status to include aliens not in legal status at the time of application. The change meant that individuals seeking permanent residency status who previously had to leave the United States to apply for an immigrant visa at the U.S. embassy in their home country could pay a penalty fee and apply directly to INS without leaving the country. See Chapter Eight for further discussion of Section 245(i).

is issued an alien registration receipt card, also known as a “green card,” which is used for identification, employment authorization, and other purposes.<sup>27</sup>

Lawful permanent residents are generally required to have held such status for at least five years before applying for naturalization. There are exceptions for the spouses of U.S. citizens and for aliens serving in the United States armed forces. The applicant also must have been physically present in the United States for at least half of the five years immediately preceding the date of filing the application for naturalization. Exceptions to the physical presence requirement exist for residents employed abroad by the U.S. government, an American institution of research, an American firm engaged in development of foreign trade, or a public international organization of which the United States is a member.

#### **b. Application and fees**

A permanent resident desiring to become a United States citizen must complete and sign an application for naturalization (INS Form N-400).<sup>28</sup> The application consists of six pages, the first two of which offer instructions for filling out the form. The third page addresses basic prerequisites, including biographic information, basis for eligibility, and additional information relating to immigrant status and absences from the United States. The fourth page consists of requests about past residences, employment history, marriages, and children. Page five contains 15 “yes” or “no” questions relating to an evaluation of “good moral character,” which must be demonstrated by the applicant in order to be eligible for naturalization.<sup>29</sup> Examples of issues covered include compliance with federal income tax laws, participation in immoral or illegal activities, and criminal history. Page five also contains five questions about allegiance to the United States, including belief in the

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<sup>27</sup> INS issued a final rule effective January 1999 changing the name from “alien registration receipt card” to “permanent resident card.”

<sup>28</sup> An application for naturalization is attached to this report as Appendix A.

<sup>29</sup> For a discussion of the meaning of good moral character and how it is evaluated, see Chapter Three on interviews and adjudications.

Constitution and willingness to serve in the Armed Forces. On the final page, the applicant certifies by signature that the information provided is correct.<sup>30</sup>

During CUSA, applicants for naturalization had to submit a copy of his or her alien registration receipt card, two color photos, and a set of fingerprints along with the application. At that time, INS did not take applicants' fingerprints. Applicants had their fingerprints taken by private businesses, community organizations, and local police departments. INS now requires applicants to be fingerprinted at INS-run Application Support Centers, registered local and state law enforcement agencies, U.S. consulates, or military installations abroad.

Prior to February 1996, the completed application and prescribed fee<sup>31</sup> were submitted to the INS district office having jurisdiction over the applicant's place of residence. The application could be submitted in person or could be mailed to the district office. Beginning February 1, 1996, applicants in four of the five Key City Districts that were part of the CUSA initiative were required to mail their N-400 applications and fees to one of the four service centers. Presently, all naturalization applications are filed through the service centers. This system of processing applications through the service centers is called "Direct Mail."<sup>32</sup>

## **2. Processing within INS**

### **a. Initial processing**

#### **(1) Receipt**

Before Direct Mail was implemented, INS information officers and/or mailroom clerks performed the first processing steps at the district offices.

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<sup>30</sup> The applicant must also sign the application attesting to the truthfulness of the information at the examination or interview that takes place in front of an INS officer, described below.

<sup>31</sup> The filing fee for a naturalization application was \$95.00 during CUSA. Effective January 15, 1999, the fee was increased to \$225.00.

<sup>32</sup> INS' problems in implementing and executing Direct Mail during CUSA had a significant impact on naturalization processing and are described in detail in the chapters that follow.

Applications received by mail were date-stamped with the date of receipt in the mailroom. Once the application was accepted, a clerk removed the check or money order and “fee-stamped” the application with the date and amount.

## **(2) A-files**

Once the N-400 application was filed, INS would attempt to locate the applicant’s Administrative file or “A-file”<sup>33</sup> in order to place the application in the file. The A-file is the repository of INS’ information about the applicant from the time of the applicant’s first contact with INS. INS maintains an individual A-file with a bar-coded number (each begins with the letter “A” and is referred to as the person’s “A-number”) for every permanent resident.

Read by an experienced officer, the A-file tells the story of the alien’s history in the United States: how and when he or she became a resident, whether he or she has ever been arrested or deported by INS, and any other information relating to the alien’s status in the United States. Most immigrants’ files will contain birth and marriage certificates as well as immigrant visas or adjustment of status applications. Some may also contain criminal history records, court documents, and investigative records.

The A-file is created at the INS district office where the alien first comes into contact with INS, usually where he or she lives at the time of immigration or adjustment of status. A-files are normally stored in the district file room in numerical order, though they may be temporarily “charged out” to individual employees or divisions within the district. For example, the investigations division may temporarily have possession of files relating to pending investigations.

To track the location of A-files nationally, INS maintains a computer database called the Central Index System (CIS) that displays the A-number, limited biographic information, and the location of the A-file at the district level. An internal tracking system known as RAFACS monitors movement of the A-file within and between the district’s various divisions and sub-offices. In order for the file location information in RAFACS to be accurate, the employee handling the file must record each movement or receipt of the A-file

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<sup>33</sup> INS’ Operations Instructions and many INS employees refer to the “A-file” as the “Alien File.” Other sources refer to the “A-file” by its original definition as the “Administrative File.”

in RAFACS by data-entering the required information or by using a “wand” over the bar-coded information on the file.

Before processing of N-400s was moved to the service centers, in some district offices, the mailroom and/or file room clerks, after recording the fee from the application, queried RAFACS to determine whether the applicant’s A-file was in the district file room. If the A-file was located, the clerk pulled the file, inserted the application, and forwarded the entire file to the naturalization section for further processing. If the A-file was not located in the district file room, the application was sent directly to the naturalization section.

Once the A-files containing the applications and applications without corresponding A-files were received in the naturalization section, clerks queried RAFACS to determine the location of A-files for applications not previously matched. If the A-file was located within the district but in an operating section or division other than the naturalization section, the file had to be requested by a clerk data-entering the required information in RAFACS. Generally, the person in possession of the file would return it to the district file room upon receiving such a request, and the file was subsequently forwarded to the naturalization section. Because not all file transfers are correctly recorded in RAFACS, a special search was sometimes required to locate a particular A-file. This usually consisted of a manual search of the district file room and the work area of the last party responsible for the file.

Some offices stored the N-400 applications in individual work folders while waiting for the A-file to arrive. If the A-file was not located within a reasonable period of time, a temporary file (T-file) could be created. Unlike work folders, temporary files were bar-coded and could be tracked in RAFACS or CIS.<sup>34</sup>

### **(3) Data-entry, File Transfer Requests, and scheduling of interviews**

Prior to Direct Mail, once the applications were received in the naturalization section along with their corresponding A-files, T-files, or work folders, clerks “stripped” the fingerprint card from the application. In some

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<sup>34</sup> For a discussion of the problems before and during CUSA with availability of A-files for naturalization adjudications, see Chapter Four on A-file policy and practice.

district offices, a clerk reviewed the fingerprint card before sending it to the FBI for a criminal history check.<sup>35</sup> If the “masthead” (the section containing biographic information) was incomplete or if the fingerprints appeared smudged or unreadable, the clerk sent the applicant a letter instructing him or her to provide the missing information or to have another set taken.<sup>36</sup> In other offices, the cards were sent to the FBI without any review.

Clerks in the naturalization section then entered the biographic information on the application into the naturalization case database known as the Naturalization Automated Casework System or “NACS.” This database tracks the status of the application and ideally is updated regularly as the application progresses to the interview and adjudication stages. In some offices, a processing sheet was attached to the application and annotated as various steps were completed.

In theory, the creation of an application record in NACS would automatically trigger a file transfer request in CIS if the A-file were housed outside the district. Manual requests for A-files could also be done. The district identified in CIS as possessing the file would receive an electronic notification that the file was requested, and a file room clerk would send the A-file to the main file room of the requesting district where it would be routed to the naturalization section. If the file could not be located, clerks entered a “lost” code into CIS.

Generally speaking, as the requested A-files arrived in the naturalization section, clerks were tasked with locating the pending application and consolidating the work folder or temporary file with the permanent A-file. Incoming criminal history records, rejected fingerprint cards, and correspondence such as address changes also had to be matched up with the application.

In addition to storing biographic information on every applicant, NACS was designed to schedule naturalization interviews on a first-in, first-out or chronological basis. An applications clerk entered the date and number of

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<sup>35</sup> INS is statutorily required to conduct an investigation of the naturalization applicant. As detailed in our chapter on criminal history checking procedures, INS relied primarily on a fingerprint check by the FBI to comply with this requirement.

<sup>36</sup> Fingerprint cards that were missing certain biographic information or were smudged would be rejected by the FBI.

applicants to be scheduled and NACS provided a list of the next set of pending applications to be interviewed. This list could be organized for an individual DAO, or as a larger interview schedule to be shared by a group of DAOs. NACS also generated an interview notice to be mailed to the applicant.

Once Direct Mail was implemented, the initial clerical processing described above was undertaken by contract workers at one of the four service centers rather than by clerks at the district office. Instead of NACS, service center workers entered the applications into a graphic user interface (GUI) program, which was part of a larger INS computer system known as CLAIMS.<sup>37</sup> The CLAIMS database was routinely “uploaded” or matched with NACS. Under Direct Mail, the service center had the responsibility to request A-files in order to match them up with applications. While waiting for the A-files to arrive, applications were stored in T-files. As the district scheduled applicants for preliminary interviews, NACS generated “pick lists” of files that would be needed by DAOs during the interview. The service center workers were tasked with locating these files, whether A-files or T-files, and transferring them to the district in time for the interview.

#### **b. Interviews and adjudications**

Federal regulations require that all naturalization applicants appear in person before an INS adjudicator for an examination (or interview) under oath. The bulk of the interview consists of reviewing the information in the N-400 with the applicant. If necessary, the DAO will correct written answers on the application to conform to the applicant’s responses at the interview. In general, the topics covered in the interview concern the applicant’s residence, physical presence in the United States, “good moral character,” and understanding of and attachment to the fundamental principles of the Constitution of the United States. In addition, applicants are required to demonstrate an ability to speak, write and read in English. During CUSA applicants were permitted to be tested by authorized private entities before appearing for the interview or could choose to be tested by the DAO at the interview.

Once all issues have been resolved, the DAO makes the decision to either grant the application or recommend a denial. If the case is granted, the DAO stamps the application “approved” and returns it to the naturalization

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<sup>37</sup> Contractor employees were not permitted access to NACS due to security issues.

applications clerks, who prepare the file for the oath ceremony. In order to recommend a denial, the DAO must prepare a written explanation of the factual basis for the denial. All denials are reviewed by a supervisor and signed by the District Director or the Director's designee.

### **c. The oath ceremony**

The last step in the process is the final hearing or oath ceremony. Until 1991, INS adjudicated naturalization applications and made recommendations to local federal courts that had final decision-making authority. Since 1991, the Attorney General, and by delegation, INS, has had authority to naturalize persons as citizens of the United States. The oath ceremony at which this final step is accomplished is usually carried out by each INS district in administrative ceremonies. Federal courts, however, may exercise their authority to administer the oath of citizenship after INS has granted the application. In most cities, the courts and INS work together to organize the oath ceremonies.

Once an application for naturalization has been approved, applications clerks update the case in NACS, schedule the applicant for an oath ceremony, and prepare a naturalization certificate bearing the applicant's name and photograph. The applicant receives a Notice of Naturalization Oath Ceremony, Form N-445, stating the date, time, and place of the ceremony. The form also contains a list of questions designed to ensure that the applicant is still eligible for naturalization. For example, the form asks whether the applicant has been arrested since the time of his or her interview. At the ceremony, applicants turn in the completed Form N-445 and exchange their alien registration receipt cards for naturalization certificates. An applicant is officially a citizen once he or she takes the oath. After the case is closed out in NACS, the A-file is normally retired to the Federal Records Center (FRC).

