

# Background

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## Naturalization, Citizenship, and Presidential Elections: Lessons for 2008

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During presidential election years, it is common to pressure the Administration to speed up the process of naturalization so that a potential pool of new voters is available to help pick the next chief executive. In January, the National Immigrant Solidarity Network lamented that “if USCIS [U.S. Citizenship and Immigration Services] does not successfully address the problem of the current backlogs, immigrants who applied to be citizens back in July of last year may not be able to vote in the upcoming national election.”<sup>1</sup>

The backlogs of people waiting for naturalization are a long-standing and well-known phenomenon that has many activist groups—with differing motives—calling for a fast approval of applications. The Council on American–Islamic Relations, for example, has urged Congress to “[k]eep pressure on the FBI and USCIS to naturalize these backlogged applicants by July 4th, 2008.”<sup>2</sup>

And Congress has taken notice of the pressure. The House Judiciary Committee’s Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law recently held a hearing on “Naturalization Delays: Causes, Consequences and Solutions.”

However, while insisting that government make the process of naturalization more efficient and effective is laudable, unwarranted pressure that forces government to cut the process of granting citizenship short can have grave consequences and undermine the integrity of naturalization itself. Such negative consequences far outweigh any short-term benefits

### Talking Points

- Fixing America’s broken borders requires a comprehensive solution that includes reforms to enforce U.S. immigration laws and create greater incentives for legal migration. These goals require an effective and efficient USCIS.
- Cutting short the process of granting citizenship can undermine the integrity of naturalization.
- The Administration should undertake systematic improvements to reduce the naturalization backlog and provide adequate revenue to support service that (1) meets the needs of customers; (2) protects the interest of the nation, including the integrity of the naturalization process and security and immigration enforcement; and (3) is expandable to adapt to surges in demand quickly and reliably.
- Congress should modify the revenue rules by establishing a national trust fund to cover the programs for which USCIS cannot charge fees and create an infrastructure investment fund like a revolving fund that USCIS could draw on to implement infrastructure and workforce enhancements.

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that a political party might achieve in securing the registration of a batch of new voters.

In particular, Congress should refrain from insisting that the Administration compromise the naturalization process. Instead, the Administration should undertake systematic improvements to reduce the naturalization backlog.

### Learning from Disaster

In 1995, the Immigration and Naturalization Service (INS)—precursor to today's USCIS, which is part of the Department of Homeland Security—launched a program to streamline the naturalization process, called Citizenship USA (CUSA). The initiative was intended to address a growing backlog of applications that more than doubled between 1992 and 1994 to over 300,000. These numbers included many previously illegal aliens who had been granted amnesty under the Immigration Reform and Control Act of 1986.

By 1995, the backlog was at almost half a million applications, partly as a result of an INS publicity campaign that encouraged a surge of new applications. In reality, the backlog was even greater than the official numbers. The INS had an additional 300,000 cases that had not yet been entered into its database.<sup>3</sup>

The naturalization campaign increased dissatisfaction with the agency's performance, since all it accomplished was to swell the burgeoning caseload. As a result, the INS became even more impatient with the existing system for vetting and processing naturalization requests. Faced with a swelling workload, in 1995, the INS switched its strategy from attempting to "re-engineer" INS services to simply reducing the backlog. The agency planned to naturalize more than a million new citizens in fiscal year 1996.

An investigation of CUSA by the Department of Justice's Office of the Inspector General (OIG) did not find conclusive evidence that the INS undertook a deliberate campaign to increase the number of potential voters in the 1996 presidential election. The effort to reduce the backlog so quickly, however, illustrates the mistake of trying to short-cut the naturalization process to meet the demands of the campaign season.

The first major shortfall in the CUSA campaign was the effort to hire additional staff to process the applications. The INS brought on 248 temporary officers to adjudicate applications but neglected to hire clerical staff to support them. Officers outnumbered clerical staff more than two to one. Since clerks were necessary to move cases along every step of the process—data entry, fingerprint processing, checking criminal-history files, scheduling interviews, completing case files—the increase in officers without adequate clerical support made reducing the workload harder, not easier.<sup>4</sup>

The temporary case officers also lacked adequate training. According to the OIG report:

[They] were not taught about important aspects of immigration law and procedure, such as different types of visa classifications, deportation, or marriage fraud. They were not trained sufficiently about the type of activity that should bar an applicant from citizenship, except such issues as having been convicted of a serious felony.<sup>5</sup>

The severe limitations of the workforce were exacerbated by computer systems that were unable to accommodate the surge. In January 1996, the INS learned that the FBI had not completed hundreds of thousands of background checks because

1. National Immigration Solidarity Network, "U.S. Immigration Alert," January 2008, at <http://www.immigrantsolidarity.org/Newsletter/Jan08.pdf> (June 16, 2008).
2. Council on American–Islamic Relations, "Legislative Fact Sheet: Citizenship Delays," updated March 13, 2008, at <http://www.cair.com/GovernmentRelations/IssuesandLegislation/CitizenshipDelays.aspx> (June 17, 2008).
3. U.S. Department of Justice, Office of Inspector General, *Special Report: An Investigation of the Immigration and Naturalization Service's Citizenship USA Program*, Chapter I, "The Implementation of CUSA: An Overview," July 31, 2000, pp. 4–5, at <http://www.usdoj.gov/oig/special/0007/cusaimp.pdf> (June 16, 2008).
4. *Ibid.*, p. 20.
5. *Ibid.*, p. 22.

the data sent were incompatible with the agency's automated systems.<sup>6</sup>

In spite of these serious problems, the INS surged ahead in trying to meet its production goals. According to the OIG report, at many naturalization sites, interviews occurred at five times the rate experienced before CUSA was implemented. Production peaked in the summer of 1996, before the national election, when the INS adjudicated over half a million naturalization cases. All this work, however, was accomplished with error-ridden, outdated, and overloaded information systems, poorly trained and inexperienced officers, and too few qualified supervisors.<sup>7</sup>

Simply ramming more cases through the system compromised the integrity of the process. One analyst who studied the program noted the long list of challenges in managing caseload data and concluded:

The "streamlined" naturalization process did not address any of these problems, but instead, exacerbated them. The INS [as an example] still had no way to verify that the fingerprints an applicant submitted actually belonged to the applicant. In May 1995, the INS published a proposed rule to require that all applicants have their fingerprints taken by an INS-certified "designated fingerprint service" (DFS). Personnel at these DFSs would be properly trained to take fingerprints and fill out the necessary paperwork, and they would be required to ask for identification showing that the person named on the fingerprint card was the same person being fingerprinted. The final rule, however, was not published until June 1996, and final implementation was delayed from November 1, 1996 to March 1, 1997 to insure that INS had certified an adequate number of DFSs.<sup>8</sup>

As a result of such limitations and the INS production goals, CUSA rushed through hundreds of thousands of applications for citizenship without judging the applicants' qualifications consistently and adequately. In March 1997, the Justice Department's Justice Management Division reported that 18 percent of the one million people naturalized between August 1995 and September of the following year had not been subjected to a complete criminal background check.

This happened in part because of the breakdown of information-sharing between the INS and the FBI. If the INS did not receive any information, it assumed there was no criminal record. According to the OIG, "[t]his practice led to many instances in which aliens who had a disqualifying criminal record nevertheless received citizenship."<sup>9</sup> In the end, because of the compromises in the process, ineligible applicants became American citizens.<sup>10</sup>

Part of the increase in processed applications came at the expense of other visa programs. During the same period, for example, the backlog of "green cards," which allow permanent lawful residence in the United States (but do not grant the right to vote) grew, creating longer waiting periods for the green cards, and dissatisfaction with INS customer service remained high.

Perhaps even more damaging, CUSA also created the impression of impropriety, undermining confidence in the legitimacy of INS programs. A number of accusations were raised alleging that the Clinton Administration pressed through the naturalization initiative in order to swell the voting ranks in time for the 1996 presidential election.

The Department of Justice investigation of CUSA "found evidence that White House officials were interested in INS's naturalization program for a variety of reasons, including 'political' reasons that

6. *Ibid.*, p. 32.

7. *Ibid.*, p. 51.

8. Rosemary Jenks, testimony before the Subcommittee on Immigration, Border Security, and Claims, Committee on the Judiciary, U.S. House of Representatives, April 30, 1997, at <http://www.cis.org/articles/1997/jenks43097.htm> (June 16, 2008).

9. U.S. Department of Justice, Office of the Inspector General, *Semiannual Report to Congress*, October 1, 1996–March 31, 1997, at <http://149.101.1.32/oig/special/0003/resenp9.htm> (July 16, 2008).

10. U.S. General Accounting Office, *Immigration Benefits: Several Factors Impede Timeliness of Application Processing*, GAO-01-488, May 2001, p. 7, at <http://www.gao.gov/new.items/d01488.pdf> (June 16, 2008).

related to the November 1996 election, but from the evidence available we did not find that those interests resulted in any improper actions.”<sup>11</sup> Thus, while the investigation revealed no illegal activity, the concerns over political pressure, coupled with the numerous shortfalls in the program, raised doubt about the Administration’s commitment to administering U.S. immigration laws appropriately.

### Lessons for Today

The integrity of immigration services is an important part of efforts to enforce U.S. immigration laws and gain control of the U.S.–Mexican border. For those who wish to come here, fast and efficient services will act as an incentive to opt for legal immigration over illegal entry. Furthermore, effective immigration services will be better able to screen for criminal or national security threats. Effective enforcement of the laws also acts as a deterrent to activities like immigration and benefits fraud, identity theft, and other criminal acts that seek to circumvent the U.S. legal system.

Any efforts to pressure the Administration to overload the naturalization system in order to add voters for the 2008 presidential election would likely lead to the same problems that led CUSA to grant citizenship to applicants who turned out to be unqualified. Likewise, compromising USCIS would further undermine faith in the agency’s ability to deliver effective immigration services when quality services are needed more than ever to cope with the nation’s current extraordinary challenges.

Fixing America’s broken borders will require a comprehensive solution that includes reforms to enforce U.S. immigration laws and create greater incentives for legal migration. Neither of those goals can be achieved without an effective and effi-

cient USCIS. If USCIS fails once again to meet the challenge, the laws of supply and demand will overtake U.S. immigration laws, and illegal aliens and employers will continue to circumvent an overly burdensome, costly, and time-consuming legal process.

Indeed, today’s backlog of naturalization cases is on the scale of what it was in 1995. In 2007, applications surged to well over a million—double the number of those who applied for naturalization in 2005. By the end of 2007, about one million cases were pending.<sup>12</sup> This backlog resulted from both the surge in applications and requirements for FBI name checks that involve screening agency files, which can take many months.<sup>13</sup>

Ironically, before the current wave of applications, USCIS had been making strides in reducing the number of its unprocessed applications. The USCIS Backlog Elimination Plan, established in fiscal year 2002 and lasting through July 2007, saw a fourfold decrease in pending applications across all categories and a decrease in processing time for naturalization applications from 14 months in February 2004 to about five months in September 2006.<sup>14</sup> USCIS has applied many of these measures to addressing the current backlog, including additional shifts, extended hours, additional overtime, and realigned government and contract resources.<sup>15</sup> Having taken all practical measures, additional pressure to speed naturalization would likely result only in compromising the current system.

Fixating on reducing the current backlog as fast as possible will merely repeat the mistakes of CUSA. It is more vital for USCIS to adopt long-term reform—not only to reduce current backlogs, but also to build the capacity and flexibility that will enable its workforce and processes to meet current

11. U.S. Department of Justice, *Special Report*, Chapter VII, “White House/NPR Involvement in the CUSA Program,” at <http://www.justice.gov/oig/special/0007/whitehouse.htm> (June 16, 2008).

12. Migration Policy Institute, “Behind the Naturalization Backlog: Causes, Context, and Concern,” *Fact Sheet No. 21*, February 2008, p. 2, at [http://www.migrationpolicy.org/pubs/FS21\\_NaturalizationBacklog\\_022608.pdf](http://www.migrationpolicy.org/pubs/FS21_NaturalizationBacklog_022608.pdf) (June 16, 2008).

13. Citizenship and Immigration Services Ombudsman, *Annual Report 2007*, June 11, 2007, at [http://www.dhs.gov/xlibrary/assets/CISOMB\\_Annual\\_Report\\_2007.pdf](http://www.dhs.gov/xlibrary/assets/CISOMB_Annual_Report_2007.pdf) (June 16, 2008).

14. U.S. Citizenship and Immigration Services, “Response to the Citizenship and Immigration Services Ombudsman’s 2007 Annual Report,” January 2008, p. 2.

15. *Ibid.*

and future demands—than it is to push a bunch of applications through the system to meet an arbitrary deadline.

### The Way Forward

As with sound institutional reforms, USCIS must have the leadership, strategy, and resources to achieve meaningful reform. The agency's current leadership is committed to serious institutional reform of the organization, its information systems, and its work processes (including programs requiring cooperation with other critical federal agencies like the FBI), as well as the professional development of its workforce. None of these initiatives, however, can be accomplished without time and resources. USCIS needs more of both. This can be accomplished by modifying appropriations policies.

By law, Congress requires most USCIS operations to pay for themselves. In the Department of Homeland Security appropriation for fiscal year 2007, for example, Congress provided USCIS with less than \$182 million, just a small fraction of its annual budget. The remaining funds will come from fees charged for the agency's services.

In the past, USCIS has been criticized for providing poor services and for its antiquated business practices. In response, USCIS increased its processing fees—a move justified in part as a way to raise revenue in order to restructure its business practices. This initiative alone, however, is unlikely to solve all of the agency's problems and, in fact, has created even more dissatisfaction with USCIS.

Critics contend that fee increases are putting USCIS services out of reach of those who need them most, many of whom are already poorly served by the agency. They also point out that the rush of applications submitted to beat the fee increase deadline has exacerbated the problem. Applicants are paying more money for service that is just as poor. The agency argues that the additional revenue is essential to modernizing services and expanding workload capacity.

This debate misses the point. Fee increases alone cannot achieve the reforms needed to build an orga-

nization that grows to meet the demand without compromising the integrity of U.S. laws and national security.

### What Congress Should Do

While USCIS is seriously trying to improve customer service along with its fee increases, fundamental reforms are required to make the agency an effective partner in providing the immigration services and enforcement that the nation needs to remain safe, free, and prosperous. To achieve this, Congress should:

- **Establish a national trust fund to cover the programs for which USCIS cannot charge fees.** These include amnesty applications and the naturalization of military personnel. It makes no sense for Congress to require USCIS to process immigrants' applications and petitions without providing the funds to cover the costs of these activities. More critically, it is fundamentally unfair for Congress to place the burden of those costs on the backs of other immigrants seeking entry into America, many of whom can barely afford to pay for their own costs.<sup>16</sup>
- **Create an Infrastructure Investment Fund.** USCIS cannot expand and adapt to future needs by relying on fee-based investments alone. Congress might, for example, establish a revolving fund that USCIS could draw on to implement infrastructure and workforce enhancements and then replenish funds from future fees. Congress should require both USCIS and an independent commission to make assessments of needs for the size and scope of the fund and make recommendations to Congress.

In short, reforms must provide adequate revenue to support service that (1) meets the needs of customers; (2) protects the interest of the nation, including the integrity of the naturalization process and security and immigration enforcement; and (3) is expandable to adapt to surges in demand quickly and reliably. USCIS has a long-term strategic plan to achieve these goals. What is required is persistent leadership from the Administration, Congress, and the agency, as well

16. James Jay Carafano, "Better, Faster, Cheaper Border Security Requires Better Immigration Services," Heritage Foundation Backgrounder No. 2011, February 28, 2007, at <http://www.heritage.org/Research/Immigration/bg2011.cfm>.

as patience, to implement these initiatives in a deliberative, efficient, and effective manner.

### Conclusion

Any undue pressure to speed up naturalization processing before the 2008 national elections would likely repeat the failures of the 1996 CUSA program. Instead of pressing for short-term action, Congress and the Administration should think seri-

ously about long-term reform that will allow USCIS to accommodate the demands of the future.

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