



(Alejandra Borunda Torres, with her baby, Diego, while attending a naturalization workshop held by the Colorado Immigrant Rights Coalition (CIRC). Photo courtesy of CIRC.)

Democracy Strangled

Addendum to Issue Brief on “Second Wall” Barriers to Citizenship

July 16, 2019

The National Partnership for New Americans advances the integration and active citizenship of immigrants to achieve a vibrant, just, and welcoming democracy for all.



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In the last few years, U.S. Citizenship and Immigration Services (USCIS) has introduced a series of policies that reduce access to citizenship. These policies, collectively referred to as the “second wall,” delay, and in some cases, prevent eligible lawful permanent residents (LPRs) from naturalizing. The second wall threatens access to citizenship for nearly nine million eligible LPRs, who improve the lives of their families and communities, who have been a part of our national fabric for years, if not decades, and who make our nation stronger, more prosperous, and safer.¹ It impacts communities across the country. And ultimately, the second wall impacts our national values of being a welcoming, diverse, and democratic nation. For these reasons, we call on USCIS to reverse these second wall policies; for Congress to hold USCIS accountable and to ensure equitable access to citizenship; and for community-based organizations, cities, and other stakeholders to invest in strategies that increase eligible LPRs’ ability to naturalize.

I. USCIS’ Backlog and Processing Delays of Citizenship Applications Prevent Over 700,000 Immigrants from Naturalizing and Prevents Their Civic Engagement, Including Voting

The backlog of citizenship applications and processing delays before USCIS is preventing 713,689 immigrants from naturalizing.² This large group of people, who paid \$725 to USCIS and deserve efficient processing, represent a statistic that has remained unchanged compared to a year and a half ago, in late 2017, when there were over 720,000 immigrants in the backlog of citizenship applications.³

The inability of USCIS to address and reduce this backlog continues despite the fact that there were over 30,000 fewer citizenship applications submitted to USCIS over the last year compared to the year before then (822,882 applications compared to 855,181 applications).⁴ The number of citizenship applications submitted to USCIS has substantially decreased compared to the typically high number of applications during election years. In fiscal years 2016 and 2017, the agency received 971,242 and 986,790 applications, respectively.⁵ But in fiscal year 2018, that number dropped markedly to 804,803 applications.⁶ Despite a decrease in almost 200,000 applications, USCIS has been unable or unwilling to reduce the backlog: during that same period, from the end of fiscal year 2017 to the end of fiscal year 2018, the backlog actually increased from 734,209 to 738,148 applications.⁷

¹ Enchautegui, Maria E. and Linda Giannarelli, “The Economic Impact of Naturalization on Immigrants and Cities,” Urban Institute, VI, December 2015, https://www.urban.org/research/publication/economic-impact-naturalization-immigrants-and-cities/view/full_report.

² “Number of Form N-400, Application for Naturalization, By Category of Naturalization, Case Status, and USCIS Field Office Location, January 1 - March 31, 2019 (Fiscal Year 2019, Quarter 2),” U.S. Citizenship and Immigration Services, Accessed July 12, 2019, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Naturalization%20Data/N400_performancedata_fy2019_qtr2.pdf.

³ See “Number of Form N-400, Application for Naturalization, by Category of Naturalization, Case Status, and USCIS Field Office Location, October 1 - December 31, 2017,” U.S. Citizenship and Immigration Services, accessed July 12, 2019,

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Naturalization%20Data/N400_performancedata_fy2018_qtr1.pdf.

⁴ See “Data Set: Form N-400 Application for Naturalization,” U.S. Citizenship and Immigration Services, accessed July 12, 2019, <https://www.uscis.gov/tools/reports-studies/immigration-forms-data/data-set-form-n-400-application-naturalization>.

⁵ Ibid.

⁶ Ibid.

⁷ See “Number of Form N-400, Application for Naturalization, by Category of Naturalization, Case Status, and USCIS Field Office Location, July 1 - September 30, 2018,” U.S. Citizenship and Immigration Services, accessed July 13, 2019,

The number of applications submitted so far in fiscal year 2019 has remained relatively low, with only 387,728 submitted, signaling a projected 800,000 applications for the year's entirety.⁸ Still, USCIS has failed to significantly address the backlog, with 713,689 immigrants stuck in it as of March 31, 2019.⁹ The agency has also failed to present a detailed plan with a timeline and metrics for how to address this issue.

The backlog not only keeps hundreds of thousands of immigrants waiting for USCIS to adjudicate their cases. It keeps them waiting during historically long processing delays that the agency has been similarly unable or unwilling to control. The national average processing time for citizenship applications is over 10 months, compared to 5.6 months three years ago.¹⁰ And unfortunately that does not tell the whole story. Some USCIS offices take close to 30 months to process an application.¹¹ This means that what used to take USCIS around five and a half months on average is now taking around two and a half years in some USCIS jurisdictions.

Some extreme examples include USCIS offices in:

- Atlanta, GA, where processing delays range from 12 to 22.5 months;
- Baltimore, MD, where they range from 13 to 25 months;
- Brooklyn, NY, where they range from 13.5 to 20 months;
- Buffalo, NY, where they range from 5 to 21.5 months;
- Dallas, TX, where they range from 13.5 to 22.5 months;
- Denver, CO, where they range from 9.5 to 21 months;
- El Paso, TX, where they range from 6.5 to 21 months;
- Hartford, CT, where they range from 10.5 to 20 months;

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Naturalization%20Data/N400_performancedata_fy2018_qtr4.pdf; "Number of Form N-400, Applications for Naturalization, by Category of Naturalization, Case Status, and USCIS Field Office Location July 1 - September 30, 2017," U.S. Citizenship and Immigration Services, accessed July 13, 2019,

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Naturalization%20Data/N400_performancedata_fy2017_qtr4.pdf.

⁸ "Number of Form N-400, Application for Naturalization, By Category of Naturalization, Case Status, and USCIS Field Office Location, January 1 - March 31, 2019 (Fiscal Year 2019, Quarter 2)," U.S. Citizenship and Immigration Services, Accessed July 13, 2019,

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Naturalization%20Data/N400_performancedata_fy2019_qtr2.pdf; "Number of Form N-400, Application for Naturalization, by Category of Naturalization, Case Status, and USCIS Field Office Location, October 1 - December 31, 2018," U.S. Citizenship and Immigration Services, Accessed July 13, 2019,

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Naturalization%20Data/N400_performancedata_fy2019_qtr1.pdf.

⁹ "Number of Form N-400, Application for Naturalization, By Category of Naturalization, Case Status, and USCIS Field Office Location, January 1 - March 31, 2019 (Fiscal Year 2019, Quarter 2)," U.S. Citizenship and Immigration Services, Accessed July 13, 2019,

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Naturalization%20Data/N400_performancedata_fy2019_qtr2.pdf

¹⁰ "Historical National Average Processing Time for All USCIS Offices," U.S. Citizenship and Immigration Services, accessed July 12, 2019, <https://egov.uscis.gov/processing-times/historic-pt>.

¹¹ See "Check Case Processing Times," U.S. Citizenship and Immigration Services, accessed July 12, 2019, <https://egov.uscis.gov/processing-times/>.

- Houston, TX, where they range from 14 to 21.5 months;
- Miami, FL, where they range from 13 to 26 months;
- Minneapolis-St. Paul, MN, where they range from 14 to 23.5 months;
- Montgomery, AL, where they range from 9 to 20.5 months;
- New York City, NY, where they range from 13 to 20.5 months;
- Orlando, FL, where they range from 9 to 21 months;
- Phoenix, AZ, where they range from 14.5 to 20.5 months;
- Queens, NY, where they range from 11 to 25.5 months; and
- Salt Lake City, UT, where they range from 14.5 to 23 months.¹²

According to USCIS estimates, in all of these cities, states, and their surrounding areas, certain people who apply for citizenship today may be prevented from being naturalized and subsequently being able to register to vote in time to participate in the 2020 elections.

In dozens of other cities and states, where processing delays exceed a year and a half, some immigrants who apply today and who get stuck in USCIS' backlog of citizenship applications will also be prevented from going through the naturalization process and then being able to vote in 2020.¹³ Someone who is contemplating applying for citizenship at USCIS' office in Los Angeles, where processing delays range from 9.5 to 15 months, will have to apply in the next month or else risk being prevented from voting in 2020, and this is only because California provides election day registration.¹⁴ And as the year passes, more and more applicants in different field offices will be impacted by this second wall of processing delays.

In addition to being prevented from voting, these people will not be able to access benefits and protections that come with and are correlated with citizenship, including:

- serving on a jury;
- running for political office;
- receiving 8-11 percent more in income (an average of approximately \$2,200 per year) as compared to LPRs who are eligible but do not apply for citizenship;
- enjoying increased employment rates, including access to public sector and government jobs; and
- almost doubling their likelihood of owning a home, compared to non-citizens, and, in effect, strengthening their local housing market and tax base.¹⁵

On a national scale, if 1.5 million LPRs naturalized every year over the next five years, the Gross Domestic Product would increase by 37-52 billion dollars over the ten years following that increase in

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ "America is Home: How Individuals, Families, Cities & Counties Benefit by Investing in Citizenship," Cities for Citizenship, 11-13, September 2018, <http://populardemocracy.org/sites/default/files/C4C%20CPD%20NPNA%20America%20is%20Home%20Report%209-12-18%20FINAL.pdf>.

naturalization.¹⁶ Instead of creating policies to enable this, USCIS' backlog and processing delays of citizenship applications preemptively disenfranchises aspiring citizens and harms the entire country.

II. USCIS Has Implemented a Series of Second Wall Policies and Practices that Limit Access to Citizenship

Instead of addressing growing backlogs and processing delays, USCIS has proposed and implemented numerous second wall policies that make it more difficult for eligible LPRs to apply for citizenship in the first place and for applications to be adjudicated in a timely manner. These policies disproportionately harm the elderly, low-income, immigrants with disabilities, and immigrants of color.

A. Proposed Fee Waiver Rules Seeks to Limit Citizenship Only for the Rich

On June 5, 2019, USCIS formally announced its intent to proceed with its proposed rule to eliminate a widely used way of getting a fee waiver for citizenship and numerous other immigration applications.¹⁷ The proposed rule, if implemented, will eliminate the receipt of a means-tested benefit to establish eligibility for a fee waiver. This would make it more difficult to apply for the majority of people who submit a naturalization application in tandem with a fee waiver request, disproportionately impacting elderly, low-income, and working class immigrants.

In fiscal year 2017, 370,500 people, an estimated 40 percent of all applicants for citizenship, requested a fee waiver.¹⁸ Of these applicants, over two thirds requested the fee waiver based on having received a means-tested benefit such as Supplemental Nutrition Assistance Program, Medicaid, Supplemental Security Income, or Temporary Assistance for Needy Families.¹⁹ This policy was introduced in 2011 as part of a streamlined process where USCIS processes applications pursuant to 8 C.F.R. § 103.7(c), which allows for a fee waiver based on an "inability to pay."²⁰

The majority of fee waiver applicants can confirm that they receive a means-tested benefit and it is more efficient than proving the other two grounds of eligibility: (1) that their income is at or below 150 percent of the federal poverty guidelines; and (2) causally linking a financial hardship, due to extraordinary expenses or other circumstances, to their inability to pay.²¹ It is also more efficient for legal services

¹⁶ Ibid. at 4.

¹⁷ Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for Fee Waiver; Exemptions, 84 Fed. Reg. 26,137 (proposed June 5, 2019), <https://www.govinfo.gov/content/pkg/FR-2019-06-05/pdf/2019-11744.pdf>.

¹⁸ "Data Set: Form N-400 Application for Naturalization," U.S. Citizenship and Immigration Services, accessed July 13, 2019, <https://www.uscis.gov/tools/reports-studies/immigration-forms-data/data-set-form-n-400-application-naturalization>; "Annual Report 2018," Office of Citizenship and Immigration Services Ombudsman, 27, June 28, 2018, <https://www.dhs.gov/sites/default/files/publications/DHS%20Annual%20Report%202018.pdf>.

¹⁹ Timmons, Patrick, "U.S. Seeks to Reduce Waivers for Immigration Fees," UPI, October 4, 2018, <https://www.upi.com/US-seeks-to-reduce-waivers-for-immigration-fees/3231538595416/>.

²⁰ See U.S. Citizenship and Immigration Services Policy Memorandum, Fee Waiver Guidelines as Established by the Final Rule of the USCIS Fee Schedule; Revisions to Adjudicator's Field Manual (AFM) Chapter 10.9, AFM Update AD11-26, March 13, 2011, available at https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2011/March/FeeWaiverGuidelines_Established_by_the_Final%20Rule_USCISFeeSchedule.pdf.

²¹ Ibid.

providers and the federal government, including the very USCIS officials who adjudicate fee waiver requests.

On September 28, 2018, USCIS first proposed the rule change eliminating the grounds of eligibility most used by fee waiver applicants.²² On April 5, 2019, the agency opened up a second round of public comments, and, on June 5, 2019, it opened up a third and its last round.²³

Throughout the different public notices, USCIS has used shifting and contradictory rationales that fail to present a sound policy reason for eliminating the ground of eligibility used by the majority of citizenship applicants who request a fee waiver. The agency has also failed to address the public comments in opposition to the proposed rule. The proposed rule would undermine the federal regulation that allows for fee waivers for those unable to pay, despite purporting to do otherwise, and has not been formally proposed to the public in accordance with the notice and comment requirements under the Administrative Procedure Act.²⁴

In its third notice, the agency argued that it has to eliminate fee waivers because otherwise, it would have to increase fees for all applications for immigration benefits in order to recoup lost funds.²⁵ This rationale not only contradicts previous policy bases that USCIS presented in public notices but also fails to hold the agency accountable for its mismanagement, willful or negligent, of increasing backlogs and processing delays. USCIS should not shift blame for failing to address this issue on hundreds of thousands of low-income, aspiring citizens who receive assistance for basic, daily needs for themselves and for their families. Instead, the agency should withdraw this proposed rule, hold itself accountable and transparent for backlogs and processing delays, and work to make it more accessible, not more difficult, for eligible immigrants to naturalize independent of their wealth or class status.

B. Proposed Rule on Citizenship Applications Seeks to Make it More Burdensome for Applicants, Legal Services Providers, and USCIS Adjudicators

On November 21, 2018, USCIS proposed a rule that, if implemented, would revise the citizenship application, the Form N-400, by adding questions that will prompt unnecessary, duplicative, and irrelevant information.²⁶ While these changes may be mere inconveniences for certain applicants, the newly required documentation will make it more difficult, if not impossible, for applicants from less developed countries to naturalize.

²² Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for Fee Waiver; Exemptions, 83 Fed. Reg. 49,120 (proposed September 28, 2018), <https://www.govinfo.gov/content/pkg/FR-2018-09-28/pdf/2018-21101.pdf>.

²³ Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for Fee Waiver, 84 Fed. Reg. 13,687 (proposed April 5, 2019), <https://www.govinfo.gov/content/pkg/FR-2019-04-05/pdf/2019-06657.pdf>; Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for Fee Waiver; Exemptions, 84 Fed. Reg. 26,137 (proposed June 5, 2019), <https://www.govinfo.gov/content/pkg/FR-2019-06-05/pdf/2019-11744.pdf>.

²⁴ 5 U.S.C. § 553.

²⁵ *Ibid.*

²⁶ Agency Information Collection Activities; Revision of a Currently Approved Collection; Application for Naturalization, 83 Fed. Reg. 225 (proposed November 21, 2018), <https://www.govinfo.gov/content/pkg/FR-2018-11-21/pdf/2018-25345.pdf>.

The proposed rule will also make it more burdensome for legal services providers and the USCIS officials who have to adjudicate citizenship applications. The changes will place unnecessary scrutiny on applicants, who will be more likely to receive Requests for Evidence and Notices of Intent to Deny, despite their eligibility. The overall effect will be to discourage potential, eligible applicants and make it more difficult for those who do apply. While USCIS has not finalized the proposed rule, it has added supporting and related material to the rule's docket folder, suggesting that the agency intends to move forward.

C. New Policy Guidance Imposes Second Wall Barriers to Applicants with Disabilities

On February 12, 2019, new USCIS guidance went into effect making it more difficult for eligible LPRs with disabilities to apply for citizenship.²⁷ The new guidance does this by adding new requirements to the Form N-648, which is the form through which applicants can request an exemption from English and civics testing requirements based on a physical or developmental disability or mental impairment.

The new policy guidance requires USCIS adjudicators to suspect applicants of fraud if they do not submit their citizenship application concurrently with the Form N-648. As part of this requirement, applicants must submit a certification from a licensed medical professional under penalty of perjury as part of their citizenship application, as opposed to being able to collect this during the time that they are waiting for their citizenship interview, as was previously the policy.²⁸

The ultimate impact of this change will be to delay the submission of applicants from eligible LPRs with disabilities, and, if and once they do submit their application, place them under greater scrutiny. This disproportionately impacts and impedes elderly and disabled immigrants' access to citizenship.

D. Second Wall Barriers for Citizenship Applicants Awaiting their Interviews

While USCIS has failed to provide the public with a detailed plan for how to address the backlog and processing delays, on June 17, 2019, the agency announced a plan that requires applicants for citizenship and lawful permanent residence to travel to other USCIS offices for their interviews.²⁹ However, it is not clear whether there are any limits on how far applicants will be required to travel in order to attend their interview, in compliance with this new plan. It is possible that USCIS will require applicants to travel up to hundreds of miles and potentially to different states in order to attend an interview. While changes to adequately address the backlog and processing delays are welcome, USCIS should not place the burden on applicants who are awaiting their interview. They should instead present a detailed plan with a timeline and metrics for success in order to ensure that citizenship and other applications are timely and fairly adjudicated.

²⁷ U.S. Citizenship and Immigration Services Policy Alert, Sufficiency of Medical Certification for Disability Exceptions (Form N-648), December 12, 2018, available at <https://www.uscis.gov/policymanual/Updates/20181212-N648MedicalCertification.pdf>.

²⁸ Ibid.

²⁹ U.S. Citizenship and Immigration Services, "USCIS Aims to Decrease Processing Times for N-400 and I-485" (press statement, June 17, 2019), <https://www.uscis.gov/news/alerts/uscis-aims-decrease-processing-times-n-400-and-i-485>.

E. Second Wall Barriers for Successful Citizenship Applicants Awaiting their Oath of Allegiance Ceremonies

On February 1, 2019, USCIS proposed a rule that would make it more difficult for successful applicants to take the last step to become citizens, after their applications have already been adjudicated and approved, after they have gone to their interview, and as they are waiting for the final step of making the pledge of allegiance at an oath ceremony.³⁰ The proposed change, if implemented, will further limit access to citizenship by adding additional questions and documentation requirements to the Form N-445, which is used by USCIS to confirm that an applicant's eligibility has remained the same between their successful naturalization interview and the final oath of allegiance ceremony.³¹

The changes add complicated return notices to applicants who cannot attend the oath ceremony.³² They add confusing new questions that are overbroad and could entrap applicants; add irrelevant documentation requirements; and add the unnecessary requirement of an interpreter certification.³³ In creating these additional hurdles for applicants who have reached and passed every single phase of the naturalization process, minus the pledge of allegiance, the changes modify the current legal framework for promulgating regulations and for USCIS inquiries, and, thus, violate the Administrative Procedure Act and Immigration and Nationality Act.³⁴

The ultimate effect of the proposed changes, if implemented, will be to place unnecessary, last-minute barriers to applicants who are simply waiting to pledge allegiance to the United States and formally become citizens.

F. USCIS Invests in Second Wall Policies that Strip Naturalized Americans of their Citizenship

USCIS has invested an unprecedented amount of resources towards investigating and denaturalizing citizens who became naturalized, in some cases decades later.³⁵ The practice of denaturalization saw a significant decline after a series of Supreme Court cases that protected citizenship rights, the decline of the Red Scare, and a growing emphasis on civil rights.³⁶ However, the agency has reinvested in it, despite due process issues and longstanding concerns, voiced by the Supreme Court, that the practice posed a risk of creating “second-class citizenship” for naturalized citizens.³⁷

³⁰ Agency Information Collection Activities; Revision of a Currently Approved Collection: Notice of Naturalization Oath Ceremony, 84 Fed. Reg. 1,188 (proposed February 1, 2019), <https://www.regulations.gov/document?D=USCIS-2006-0055-0011>.

³¹ Ibid.

³² See Public Comment from Doug Rand, Co-Founder, Boundless Immigration Inc. to U.S. Citizenship and Immigration Services (April 2, 2019), https://drive.google.com/file/d/1cKREd5OVQuy5nwQnVl6N_LQbdERp7z2Y/view.

³³ Ibid.

³⁴ See 5 U.S.C. § 553; 8 U.S.C. § 1443(c); Public Comment from Doug Rand, Co-Founder, Boundless Immigration Inc. to U.S. Citizenship and Immigration Services (April 2, 2019), https://drive.google.com/file/d/1cKREd5OVQuy5nwQnVl6N_LQbdERp7z2Y/view.

³⁵ Taxin, Amy, “US Launches Bid to Find Citizenship Cheaters”, Associated Press, June 12, 2018, <https://apnews.com/1da389a535684a5f9d0da74081c242f3>.

³⁶ Burke Robertson, Cassandra and Irina D. Manta (Un)Civil Denaturalization, 94 N.Y.U. Law Review 402, 422 (2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3241044.

³⁷ *Knauer v. United States*, 328 U.S. 654, 658 (1946)(quoting *Luria v. United States*, 231 U.S. 9, 22 (1913)).

While there is no comprehensive way of tracking denaturalization efforts by the Department of Justice (DOJ), the department that prosecutes the cases it gets referred from USCIS, there are at least two dozen civil denaturalization cases pending in federal court.³⁸ One of these cases is that of Norma Borgoño. Borgoño is a 63-year-old grandmother with a rare kidney disease who has been in the country since 1989 and naturalized in 2017.³⁹ She used to work as an office manager, but because her employer was eventually arrested and pled guilty to fraud and money laundering, and, as part of her job, she prepared paperwork that her employer used as part of fraudulent transactions, she was arrested and charged with conspiracy.⁴⁰ Borgoño previously provided the FBI with information that incriminated her employer and she accepted a plea deal, with five years of probation and that required her to pay \$5,000 in restitution. That plea deal may have been the result of ineffective assistance counsel, which the Supreme Court ruled occurs when defense counsel fails to inform their clients of the immigration consequences of pleas.⁴¹ Nevertheless, the government is arguing that Borgoño lacks the good moral character required for citizenship in its federal case against her, which is currently pending.⁴²

Another case involves Baljinder Singh, who came to the United States in 1991 at the age of 15 or 16 years old.⁴³ He married a citizen, applied for adjustment of status, became an LPR in 1998, and naturalized in 2006.⁴⁴ In 2017, federal attorneys filed a civil complaint against Singh, based on digitized fingerprints that matched Singh to a “Davinder Singh,” an asylum applicant who was ordered removed in absentia, and alleging fraud and willful misrepresentation.⁴⁵ That commenced the denaturalization proceedings but Singh never responded to the complaint.⁴⁶ The federal judge ruled that, by failing to do so, Singh defaulted, he was deemed to have admitted the federal government’s alleged facts, took those allegations to be true, found no evidence “impeach[ing] the credibility of this scientific fingerprint analysis,” and thus, granted a summary judgment in favor of the government and to denaturalize Singh.⁴⁷

These two cases represent the government’s reliance on newly digitized data and zero tolerance or increased enforcement with little to no regard for mitigating factors.⁴⁸ They also represent an unprecedented and growing amount of decades-old cases that USCIS, in coordination with Immigration and Customs Enforcement (ICE), is reviewing with the purpose of removing or denaturalizing people. USCIS and ICE are currently reviewing over a million cases that the agencies are considering referring to DOJ for denaturalization proceedings.⁴⁹

³⁸ Saleh, Maryam, "The Justice Department Singled Out this Man in Expanding Efforts to Strip Citizenship. A Judge Doesn't Think the Case is Open and Shut," *The Intercept*, February 23, 2019, <https://theintercept.com/2019/02/23/denaturalization-operation-janus-citizenship-trump/>.

³⁹ Burke Robertson, Cassandra and Irina D. Manta (Un)Civil Denaturalization, 94 *N.Y.U. Law Review* 402, 418 (2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3241044.

⁴⁰ *Ibid.*, 418-19.

⁴¹ *See Padilla v. Kentucky*, 559 U.S. 356, 374 (2010).

⁴² Burke Robertson, Cassandra and Irina D. Manta (Un)Civil Denaturalization, 94 *N.Y.U. Law Review* 402, 419 (2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3241044.

⁴³ *Ibid.*, 414.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*, 415-16.

⁴⁶ *Ibid.*

⁴⁷ Burke Robertson, Cassandra and Irina D. Manta (Un)Civil Denaturalization, 94 *N.Y.U. Law Review* 402, 416 (2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3241044.

⁴⁸ *Ibid.*, 414.

⁴⁹ Wesslet, Seth Freed, “Is Denaturalization the Next Front in the Trump Administration’s War on Immigration?,” *New York Times*, December 19, 2018, <https://www.nytimes.com/2018/12/19/magazine/naturalized-citizenship-immigration-trump.html>.

Despite the government’s history of using denaturalization for political purposes, and despite a backlog and processing delays that USCIS has been unable or unwilling to address, USCIS and other agencies continue to invest in the practice instead of investing in strategies that encourage more eligible LPRs to naturalize.

G. Second Wall Closures of USCIS International Offices in Charge of Adjudicating Citizenship and Other Applications

On March 12, 2019, USCIS announced that it was closing international agency offices that handle citizenship and other applications in over 21 countries, with 24 field offices and 240 employees.⁵⁰ The closures will impact the work of the offices, which includes logistical assistance to citizens; LPRs and refugees attempting to bring family members to the United States; refugee resettlement; Americans who are adopting internationally; military members and their families applying for citizenship; and fraud detection.⁵¹ Similar to every other single policy development mentioned in this issue brief, the decision came with insufficient planning for how it would impact the backlog and processing delays of applications.

H. New USCIS Acting Director Represents an Escalation of Second Wall Policies

Another development within USCIS that indicates its inability or unwillingness to address the issue of access to citizenship is the Trump administration’s decision to place Ken Cuccinelli as the agency’s acting director. Cuccinelli is a former state senator and attorney general in Virginia who has developed a long track record of being anti-immigrant, anti-LGBTQ, sexist, and has ties to anti-Muslim, anti-semitic, and white supremacist voices. In essence, Cuccinelli appears to share President Trump’s bigotry but he lacks any experience or expertise in managing a federal agency with 19,000 employees nationwide.

Some of Cuccinelli’s positions include: opposing birthright citizenship; supporting a ban on DREAMers attending public universities; comparing immigrants to rats, raccoons, and other animals and immigration policy to pest control; advocating for states to enforce immigration laws, in what the Supreme Court would largely strike down as unconstitutional; calling for those states to use national guard troops to reject migrants’ rights to seek asylum and have due process protections under international and domestic law; and prohibiting immigrants from speaking any language besides English at their workplaces.⁵²

⁵⁰ Jordan, Miriam, “Trump Administration Plans to Close Key Immigration Operations Abroad,” *New York Times*, March 12, 2019, <https://www.nytimes.com/2019/03/12/us/united-states-citizenship-immigration-uscis.html>.

⁵¹ *Ibid.*

⁵² See Reyes, Raul, “Ken Cuccinelli Neither Deserving Nor Qualified to Play Any Role in Immigration Policy,” *The Hill*, May 29, 2019, <https://thehill.com/opinion/immigration/445910-ken-cuccinelli-neither-deserving-nor-qualified-to-play-any-role-in-immigration>; Hananoki, Eric, “Right-wing Pundit Ken Cuccinelli is an Anti-LGBTQ Bigot, and Trump is Set to Appoint Him to a Senior DHS Position,” *Media Matters for America*, May 21, 2019, <https://www.mediamatters.org/blog/2019/05/21/right-wing-pundit-ken-cuccinelli-anti-lgbtq-bigot-and-trump-set-appoint-him-senior-dhs-position/223760>; Hananoki, Eric, “Potential DHS Senior Official Ken Cuccinelli Suggested that States Invoke ‘War Powers’ to Turn Back Migrant ‘Invasion,’” *Media Matters for America*, May 23, 2019, <https://www.mediamatters.org/blog/2019/05/23/potential-dhs-senior-official-ken-cuccinelli-suggested-states-invoke-war-powers-turn-back-migrant/223778>; Barr, Jeremy, “Ken Cuccinelli’s On-Air Clashes Are a Problem for CNN,” *The Hollywood Reporter*, February 7, 2018, <https://www.hollywoodreporter.com/news/ken-cuccinellis-air-clashes-are-a-problem-cnn-1082724>; Hananoki, Eric,

The Trump administration’s appointment of Cuccinelli as acting director seems to have been done in a manner that circumvents the Federal Vacancies Reform Act, as was noted by Representatives Jerrold Nadler, Elijah E. Cummings, and Bennie G. Thompson, the Chairmen of the House Committees on the Judiciary, Oversight and Reform, and Homeland Security, respectively.⁵³ Instead of complying with the Act, which limits who an administration can appoint as an acting director to three categories of persons, the first of which is the “first assistant” to the director, the administration realized that Cuccinelli did not qualify as one of those categories and that the Senate had explicitly stated that it would not confirm him.⁵⁴ So the administration announced his appointment as acting director and later stated that it had initially appointed him as the “Principal Deputy Director,” a position that has never existed in USCIS’s entire 16 years of existence and appears to have been created as a way of facilitating Cuccinelli’s appointment over other, more qualified individuals.⁵⁵

Congress should ensure that the administration is following the rule of law and separation of powers, and that, rather than allowing USCIS to escalate second wall policies, both branches work to increase access to citizenship.

III. Tearing Down the Second Wall and Ensuring Accountability and Transparency

In July 2018, the National Partnership for New Americans (NPNA), our member organizations across 35 states, and allies launched the campaign to “Tear Down the Second Wall” and encourage eligible LPRs to “Naturalize NOW.” Our analysis of USCIS’ backlogs was successful in getting: over 50 Congressional members to scrutinize the agency; nearly 50 Mayors and County Executives to send a letter condemning the backlog; and a city council resolution demanding action.⁵⁶

“Potential DHS Immigration Director Ken Cuccinelli Praised Diatribe from Anti-Muslim Leader Brigitte Gabriel,” Media Matters for America, May 31, 2019, <https://www.mediamatters.org/blog/2019/05/31/Potential-DHS-immigration-director-Ken-Cuccinelli-praised-diatribefrom-anti-muslim-leader/223842>; Tashman, Brian, “Ken Cuccinelli Donor Linked To Kidnapping Case, Anti-Semitic Newspapers,” Right Wing Watch, October 17, 2013, <http://www.rightwingwatch.org/post/ken-cuccinelli-donor-linked-to-kidnapping-case-anti-semitic-newspapers/>; Blue, Miranda, “Cuccinelli Touts Endorsement Of Radical Gun Group With Ties To White Supremacists, Conspiracy Theorists,” Right Wing Watch, October 22, 2013, <http://www.rightwingwatch.org/post/cuccinelli-touts-endorsement-of-radical-gun-group-with-ties-to-white-supremacists-conspiracy-theorists/>.

⁵³ Letter from Representatives Jerrold Nadler, Elijah E. Cummings, and Bennie G. Thompson, House of Representatives to Kevin K. McAleenan, Acting Secretary, U.S. Department of Homeland Security (June 18, 2019), <https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/06-18-2019%20Letter%20to%20Acting%20Secretary%20McAleenan.pdf>.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Iníguez-López, Diego, “Tearing Down the Second Wall: Ending USCIS Backlog of Citizenship Applications and Expanding Access to Naturalization for Immigrants,” National Partnership for New Americans, July 2, 2018, https://drive.google.com/file/d/0B82AwIa7WIa_RmtxM3BUZEtOcV9vdVdwVU85U2hwbHd1QmVj/view; Letter from Representative Zoe Lofgren, et al. to L. Francis Cissna, Director, U.S. Citizenship and Immigration Services (June 29, 2018), https://drive.google.com/file/d/0B82AwIa7WIa_NTF5MGNzY3RqaTM1ekJnM1dSMXE4dS1HQVJB/view; Letter from Mayor Rahm Emanuel, et al. to L. Francis Cissna, Director, U.S. Citizenship and Immigration Services (July 30, 2018), https://drive.google.com/file/d/0B_RDXQk6QObAZU1VQmZXUFVFTjhfSW5sWF9yRmN4VVILREFB/view; City of Seattle Resolution 31832 (2018), <https://seattle.legistar.com/View.ashx?M=F&ID=6584585&GUID=E4AC5DDB-E016-4FD3-A62F-002C5AA36DB0>.

In August 2018, NPNA, represented by the Center for Human Rights and Constitutional Law and the Coalition for Humane Immigrant Rights, and joined by UnidosUS, CASA, Michigan United, Mi Familia Vota, New York Immigration Coalition, and OneAmerica, filed a Freedom of Information Act (FOIA) request to uncover the reasons for the backlog.⁵⁷ Based on USCIS' lack of response, we filed suit against the agency in the United States District Court for the Central District of California, Western Division, on Citizenship Day, September 17, 2018.⁵⁸ Almost a year after filing the FOIA request, USCIS has not responded to our inquiries, which suspect and seek to uncover racial, ethnic, and/or religious bias as well as intentional voter suppression strategies. We remain determined to obtain the information requested and to demand transparency and hold USCIS accountable.

Our campaign has also responded to the numerous proposed policy changes by opposing further limitations on access to citizenship and by strengthening the statutory and regulatory framework to expand access. This includes opposing the proposed rule on fee waivers. It also includes supporting legislation that would statutorily protect fee waivers based on receiving a means-tested benefit.⁵⁹

In February 2019, NPNA, the Colorado Immigrant Rights Coalition, and allies testified before the Colorado State Advisory Committee to the U.S. Commission on Civil Rights and its hearing on the backlog of citizenship applications, urging the Commission to use its investigatory and subpoena powers to hold USCIS accountable.

We call on Congress to use its full powers to uncover the reasons for the backlog and processing delays of citizenship and other applications, make USCIS accountable and transparent, and encourage the agency to expand, not limit access to citizenship.

While NPNA, our members, and our allies have opposed the numerous second wall policies, we have also worked closely with our communities to encourage eligible LPRs to apply for citizenship in order to get better opportunities, protect themselves and their families, and be more civically engaged in our democracy, including by voting. And that despite the second wall policies, they should not be discouraged and they should not be afraid.

NPNA's Family Protection Network consists of 29 DOJ recognized organizations, 150 attorneys and legal representatives, and over 15,000 community navigators across the nation. They stand ready to respond to increased interior enforcement, which has increasingly targeted women and encountered United States citizens.⁶⁰ And they also stand ready to help the nearly nine million eligible LPRs apply for citizenship.

NPNA and our members and allies have set the goal of encouraging one million eligible LPRs to apply for citizenship by 2020. We call on USCIS to not oppose these efforts by refusing to be another

⁵⁷ Macias Jr., Martin, "Feds Sued Over Citizenship Processing Backlog," Courthouse News, September 17, 2018, <https://www.courthousenews.com/feds-sued-over-citizenship-processing-backlog/>.

⁵⁸ Ibid.

⁵⁹ See Congresswoman Norma Torres, "Torres, Menendez Introduce Bicameral Bill to Preserve and Expand Access to Naturalization" (press release, June 13, 2019), <https://torres.house.gov/media-center/press-releases/torres-menendez-introduce-bicameral-bill-preserve-and-expand-access>.

⁶⁰ See Cantor, Guillermo, et. al., "Changing Patterns of Interior Immigration Enforcement in the United States, 2016 - 2018," American Immigration Council, 2019, https://www.americanimmigrationcouncil.org/sites/default/files/research/changing_patterns_of_interior_immigration_enforcement_in_the_united_states.pdf.

enforcement agency within the Department of Homeland Security and to instead substantially reduce the backlog and processing delays of citizenship and other applications and withdraw or reverse other second wall policies. We also urge Congress, cities, and other stakeholders to hold USCIS accountable and work with us to expand access to citizenship.