

Testimony of Eric Cohen
Executive Director of the Immigrant Legal Resource Center
House Judiciary Committee, Subcommittee on Immigration and Citizenship
“Policy Changes and Processing Delays at USCIS”
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Chairwoman Lofgren, Ranking Member Buck, and distinguished members of the Subcommittee on Immigration and Citizenship, my name is Eric Cohen and I am the Executive Director of the Immigrant Legal Resource Center (ILRC). The ILRC works with and educates immigrants, community organizations, and the legal sector to build a democratic society that values diversity and the rights of all people. We train attorneys, paralegals, and community-based advocates who work with immigrants around the country. We also inform the media, elected officials, and the public to shape effective and just immigration policy and law and we work with grassroots immigrant organizations to promote civic engagement and social change. I am honored to be with you today to address the important topic of Policy Changes and Processing Delays at USCIS, and I will explain how these changes and delays are negatively impacting the naturalization process.

The ILRC leads the New Americans Campaign (NAC), a national non-partisan campaign that brings together private philanthropic funders, leading national immigration and legal service organizations, and over two hundred local services providers across more than 20 different regions around the United States to help eligible lawful permanent residents (LPRs) apply for U.S. citizenship. The NAC is the single biggest naturalization collaboration in the history of the United States and helps immigrants realize the dream of becoming a United States citizen. To date, the NAC has helped over 400,000 people complete their naturalization applications, a feat no one would have thought possible six or eight years ago. As the lead organization for the NAC, the ILRC builds the capacity of local immigration legal services providers across the United States who help LPRs apply for naturalization.

I have worked with the ILRC for over thirty years and have extensive experience training attorneys, paralegals, community advocates, and organizers on immigration law and benefits. I specialize in naturalization and citizenship law, developed ILRC's community model for naturalization workshops, and co-authored the ILRC's treatise on naturalization and citizenship. I personally helped hundreds of people apply for naturalization and realize their dreams of becoming American citizens. Additionally, I worked on voter outreach and education programs for naturalized citizens.

Today, I will testify about citizenship and its benefits, the recent ballooning of processing times and backlogs for naturalization applications, the impact recent U.S. Citizenship and Immigration Services (USCIS) policies and practices are having on case processing times now and in the

future, and the impact these changes are having on individuals, their communities, and the nation. Based on my expertise I urgently call upon this Subcommittee to continue its investigation of the Department of Homeland Security (DHS) and demand answers as to why naturalization applicants, as well as other applicants for immigration benefits, are subject to inexplicable policy changes and damaging processing delays. These policy changes and processing delays result in dire circumstances for many families, harm family reunification -the bedrock of our immigration system- and circumvent immigration laws.

The Trump Administration policies have exacerbated unmanageable backlogs, the wait to naturalize has ballooned to unacceptable levels, and as a result naturalization applicants and their families are suffering. Our democracy suffers when eligible and willing immigrants cannot naturalize. If USCIS spent resources on decreasing the backlogs instead of implementing unfair and inefficient ways to lengthen the backlogs, we would not be in the position we are today. It is a travesty of justice that this Administration is purposely keeping eligible applicants from naturalizing by implementing unfair and inefficient processes instead of complying with the law and doing the job that the American people want them to do.

I. Introduction to Naturalization Law and Policy in the United States

American citizenship is the highest honor in our immigration system. In July of 2013, I was fortunate to speak on a panel at one of the first events at President George W. Bush's Presidential Library and Museum in Dallas, Texas. The event's focus was on United States citizenship, specifically naturalization. The event also included a naturalization swearing in ceremony at which President George W. Bush spoke. This speech had a lasting impact on me. At one particularly powerful moment in the speech, President Bush told the soon to be American citizens, "In a few moments, we will share the same title—a title that has meant more to me than any other, and I've had a lot—that would be Citizen of the United States."

The ability to naturalize is a foundational principle of the U.S. Constitution. Article One, Section 8 of the United States Constitution provides Congress with the power to establish a uniform rule of naturalization. Congress passed the first naturalization law in 1790 and during the next fifteen years, Congress made additional modifications, but has not made additional significant naturalization changes since that time.

But while naturalization has been a constant in the United States for nearly 200 years, with very few changes, there have been numerous changes to our immigration laws and policies. Throughout these various immigration law and policy changes, the bipartisan commitment to a smooth and efficient naturalization process has remained a constant. This reliability has helped immigrants understand whether they qualify for naturalization and has provided them with the tools to follow through with applying.

We recommend that Members of Congress ensure that the Executive Branch continues this same commitment to a fair, efficient, and prompt naturalization process.

A. Naturalization Applicants Undergo a Rigorous Screening Process

To achieve U.S. citizenship, a legal permanent resident (LPR) must demonstrate rigorous commitment and undergo an intensive and often costly process. Attorneys helping naturalization applicants do not consider this an easy process, but rather an enormously difficult one. Not only do the vast majority of LPRs have to wait five years to qualify for naturalization, they must also learn English, U.S. history, and government, and demonstrate that they have had good moral character for those years. They must go through a robust background check that dates to before they even became an LPR and they are subjected to a thorough review of their criminal history, identity, immigration history, and dozens of other activities. The naturalization application is twenty pages long and asks hundreds of questions all of which must be answered under penalty of perjury. This enormous amount of scrutiny comes after the applicants have already gone through extensive vetting to become LPRs and, in many instances, to become a refugee, asylee, or non-immigrant visa holder. Thus, all naturalization applicants have already been vetted at least once before applying for naturalization and many have been vetted two or even three times before applying for naturalization.

Indeed, many individuals remain LPRs for many years before making the decision to pursue citizenship due to the complex and rigorous requirements. As of January 2015, an estimated 13.2 million LPRs live in the United States, 9.0 million of whom were eligible to naturalize.¹ Sixty-five percent of the population eligible to naturalize - approximately 5.9 million people - were long-standing residents who had been LPRs for at least ten years.² Yet, less than nine percent (783,062) of those eligible applied for naturalization in 2015.

B. Naturalization Benefits the Applicant and the American People

Naturalization provides significant benefits to an individual and his or her family. A person who naturalizes is protected from deportation, can have his or her children under the age of eighteen gain citizenship alongside them, and file immigration petitions to reunite with family members including parents, siblings, and married adult sons and daughters. In addition, U.S. citizens are free to travel without restriction within the U.S. and enjoy the benefits of citizenship when

¹ Office of Immigration Statistics, *Population Estimates: Lawful Permanent Resident Population in the United States: January 2015*, U.S. Department of Homeland Security, (May 2019), available at https://www.dhs.gov/sites/default/files/publications/lpr_population_estimates_january_2015.pdf.

² *Id.*

traveling internationally, such as the ability to seek the help and protection of U.S. embassies and consulates abroad in the event of an emergency.

Economically, naturalized citizens on average fare better than non-citizens - as a group they earn between fifty and seventy percent more than noncitizens, have higher employment rates and are less likely to live below the poverty line.³ Additionally, U.S. citizens are able to vote and elect the leaders they believe will best represent themselves, their families and their communities, and even seek elected office themselves, fully participating in civic life. In sum, being able to identify oneself as a naturalized citizen fosters a sense of personal and political belonging.

The nation also benefits when we welcome more citizens into our communities. More citizens from different parts of the world means more diversity of thought in civic society and within our communities. Naturalization also benefits the U.S. economy. Studies show that more citizens result in an increased gross domestic product⁴, increased individual earnings, and billions in additional tax revenue.⁵ Policy changes and processing delays at USCIS, the topic of today's hearing, have undercut these benefits to lawful permanent residents, our country's families and the nation as a whole.

II. USCIS Naturalization Policy is in Need of Major Reform

Given the vast benefits of naturalization to individuals, communities, and the country, it is in the national interest to make procuring citizenship accessible and efficient. The Trump Administration policies have exacerbated unmanageable backlogs, the wait to naturalize has ballooned to unacceptable levels, and naturalization applicants and their families are suffering. Our democracy suffers when eligible and willing immigrants cannot naturalize because these individuals are not fully able to engage in civic life.

A. Potentially Eligible Immigrants for Naturalization Face Barriers Prior to Application

In addition to the high bars for eligibility to naturalization, eligible lawful permanent residents face barriers, including the high cost of the application, age and other personal barriers, and a lack of information about naturalization requirements. This Administration's anti-immigrant, and harmful enforcement-only immigration policies have exacerbated fear in immigrant

³ *Top 6 Benefits of Citizenship, The New Americans Campaign*, <https://www.newamericanscampaign.org/top-6-benefits-of-citizenship/>.

⁴ *America is Home: How Individuals, Families, Cities & Counties Benefit by Investing in Citizenship, The Popular Center for Democracy* (Sept. 12, 2018), <https://populardemocracy.org/news/publications/america-home-how-individuals-families-cities-counties-benefit-investing>.

⁵ Maria E. Enchaetegui & Linda Giannarelli, *The Economic Impact of Naturalization on Immigrants and Cities*, *Urban Institute* (Dec. 9, 2015), <https://www.urban.org/research/publication/economic-impact-naturalization-immigrants-and-cities>.

communities. This means that fewer immigrants will be willing to apply for naturalization out of fear of interacting with this Administration.

1. Naturalization Fees are Cost Prohibitive

Today, the cost of naturalization is the highest in U.S. history and among the highest in the world. The Trump Administration has argued that these fees are necessary for efficient processing but, naturalization delays are longer than ever. The Trump Administration has the financial resources to decrease processing times and backlogs yet, the opposite is happening.

It is important to understand that USCIS does not receive appropriations from Congress; it charges fees to cover the costs of immigration applications. In 1983, the fee for the N-400 was only \$35. By 2003 it was \$260 and only three years later it had risen to \$330. In the summer of 2007, fees for the N-400 jumped to \$595 plus an additional \$80 fee for biometrics for a total of \$675.⁶ Today, it costs \$725 to naturalize - this includes the naturalization fee of \$640 plus the \$85 biometrics fee. Just to put the fee amount in context, \$725 equates to 100 hours of work for someone making the federal minimum wage of \$7.25 per hour in the United States and is thus a very significant financial commitment. These fees are out of step with the rest of the world. An overwhelming number of European and North American countries have reasonable naturalization fee when compared to the United States.⁷ In addition, applicants often have to pay associated fees such as for an attorney or non-profit organization to help them complete the arduous 20-page application.

The naturalization fee is cost-prohibitive for many individuals. While current regulations allow fees to be waived for certain naturalization applicants who can demonstrate an inability to pay, the Trump Administration is making it harder to access fee waivers. Since September 2018, USCIS has published three new sets of fee waiver eligibility criteria. The new proposed fee waiver eligibility criteria would deny fee waivers for those who had been vetted for inability to pay prior to receipt of a means-tested benefit, which is currently the most common basis to qualify for a fee waiver. In addition, applicants who apply with a fee waiver, which is adjudicated prior to a naturalization interview, find themselves subject to additional levels of scrutiny and questioning by USCIS adjudicators. Adjudicators have often asked a series of questions about income of family members that has no relevance to citizenship. Being poor should not bar you from joining this great nation.

It is important to note that fee waivers do not cost taxpayers anything. If we keep the fee waiver program as is, we will ensure that more people will become naturalized citizens and these newly

⁶ MIRA Coalition, *Overcoming Obstacles to Citizenship: Hot Group Processing Can Better Serve Immigrant Communities*, available at https://miracoalition.org/images/stories/pdf/mira_overcoming_obstacles_1-9-13.pdf.

⁷ *Id.*

naturalized citizens will benefit from greater opportunity to and likelihood of increasing their earnings and supporting themselves and their families. Additionally, it would be concerning if we missed out on this opportunity for economic growth that benefits us all when more people become United States citizens.

For applicants who do not qualify for a waiver, the fee often causes them to delay applying for citizenship. In one survey, about eighteen percent of Latino immigrant respondents cited financial and administrative barriers, such as the cost of gaining citizenship, as the main obstacles to naturalizing.⁸ Additional research has shown that fee increases for naturalization also has had a significant impact on the composition of the population that naturalizes. An increase in the naturalization fee reduces the number of naturalized immigrants with less than a high school education, increases the number of years immigrants wait to become citizens, and changes the national-origin breakdown of the naturalizing population.⁹ These policy changes are a matter of grave concern as they conflict with one of the main benefits of our immigration system - robustly increasing the diversity and inclusiveness of our country.

2. The Current Naturalization Process is Confusing for Many Eligible Immigrants

Another common barrier is that the process to naturalize can seem confusing and complex to many eligible LPRs. A survey by a local network of immigration legal service providers in Boston found that thirty-five percent of respondents said that the lack of information on how to successfully complete a naturalization application was a top obstacle in the naturalization process.¹⁰ Although there is a wonderful outreach program for naturalization, it provides limited resources and when combined with the complexity involved in applying for naturalization, it just is not enough. Thus, there is an information gap surrounding the naturalization process. Without additional federal and local programs to promote naturalization, unfamiliarity with the naturalization process discourages eligible immigrants from applying and becomes another major barrier.¹¹

B. USCIS Needs to Improve Processing Times and Clear its Backlogs

Between 1970 and the 1990s, the number of naturalization applications filed was relatively steady. In the early 1990s, the number of applications rapidly increased, peaking at over 1.4

⁸ National Immigration Forum & The New Americans Campaign, *The Road to Naturalization: Addressing the Barriers to U.S. Citizenship*, available at <http://immigrationforum.org/wp-content/uploads/2016/09/The-Road-to-Naturalization.pdf>.

⁹ *Id.*

¹⁰ MIRA Coalition, *supra* note 6.

¹¹ *Id.*

million in 1997.¹² USCIS met this surge in applications by devoting more resources to adjudicating naturalization applications, completing almost 1.3 million adjudications in 2000.¹³ In 2007, USCIS faced another spike in applications when applications filed again reached almost 1.4 million.¹⁴ Once again, the agency was able to meet this need by adjusting resources, announcing in 2008 that:

“...[i]n response to the surge in applications, USCIS implemented a work plan to reduce the backlog, including implementing an aggressive hiring plan and expanded work hours. As a result of this effort, USCIS anticipates completing more than one million naturalization applications by the end of this fiscal year, including most of the applications received during the summer of 2007.”¹⁵

By the end of that fiscal year, USCIS had adjudicated almost 1.2 million naturalization applications.¹⁶ This demonstrated that when USCIS dedicates the necessary resources to application surges, the agency is able to reduce backlogs.

But this Administration has not prioritized the resources necessary to reduce backlogs and as a result, average processing times for naturalization applications has exploded, going from 5.8 months in FY 2015 to 10.3 months in FY 2017.¹⁷ As of March 2019, the average processing time is 10.1 months.¹⁸ These processing times are almost sure to keep rising, because the government has not kept pace with the volume of incoming applications. After a two-year spike in 2016 - 2017, the volume of citizenship applications returned to a typical level in 2018—but the government’s backlog processing efficiency remains at the lowest level in a decade.

In November 2017, the DHS Inspector General found that USCIS created many of the problems with naturalization processing by mismanaging the agency’s electronic processing program called ELIS, which is part of their multi-million-dollar program of digitization of application processing. Specifically, the Inspector General reported that USCIS’s application of ELIS to naturalization N-400s resulted in a long list of problems that slowed down processing. The problems ranged from failure of the USCIS system to print naturalization certificates to failure to upload documents, failure of the system to complete background checks, and system created

¹² Department of Homeland Security, *Table 20. Petitions for Naturalization Filed, Persons Naturalized, and Petitions for Naturalization Denied: Fiscal Years 1907 to 2017* (Oct. 2, 2018), <https://www.dhs.gov/immigration-statistics/yearbook/2017/table20> [hereinafter *DHS Table 20*].

¹³ *Id.*

¹⁴ *Id.*

¹⁵ U.S. Citizenship and Immigr. Services, *USCIS Updates Projected Naturalization Processing Times* (Aug., 11, 2008), <https://www.uscis.gov/archive/archive-news/uscis-updates-projected-naturalization-processing-times>.

¹⁶ *DHS Table 20*, *supra* note 12.

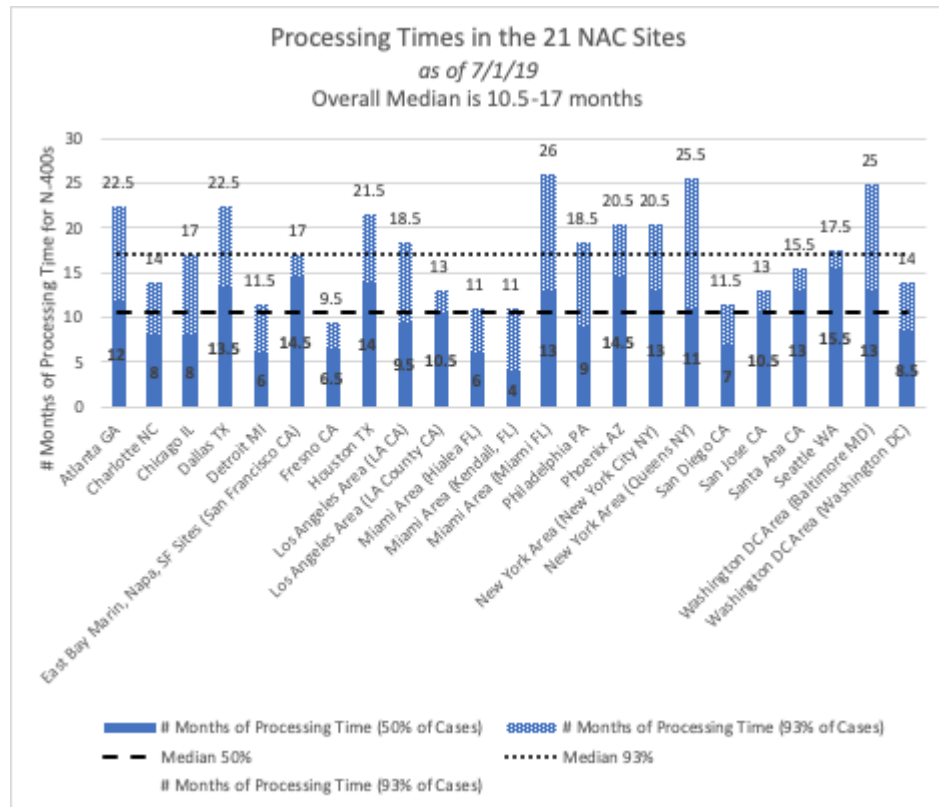
¹⁷ U.S. Citizenship and Immigr. Services, *Historical National Average Processing Time for All USCIS Offices*, <https://egov.uscis.gov/processing-times/historic-pt>.

¹⁸ *Id.*

scheduling errors. In fact, forty outages of ELIS took place in 2017, with little to no planning on alternatives.¹⁹ The system breakdowns necessitated manual re-dos of the steps to naturalization that the Inspector General found slowed naturalization processing to cause the largest case backlog in the last five years.

As the Inspector General stated, “The adverse impact of ELIS N-400 processing deployment was evident in recent agency-wide performance results, which indicated a precipitous drop in naturalization approvals and a spike in the number of pending cases.”²⁰ The Inspector General found that USCIS’ mismanagement of ELIS caused increases in processing times from 5 months for naturalization in FY 2015 and FY 2016, to an average of eight months as of February 2017.²¹

Additionally, processing times vary depending on where you live. Data tied to the twenty-one different NAC sites that the ILRC coordinates shows that there is a huge disparity between current processing times and what they were a few years ago.



¹⁹ Memorandum from John Roth, Inspector General to The Honorable L. Francis Cissna, Director of USCIS, *USCIS Has Been Unsuccessful in Automating Naturalization Benefits Delivery*, (Nov. 30, 2017) at 9, available at <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-23-Nov17.pdf>; DHS Citizenship and Immigration Services Ombudsman, *Annual Report 2018* (June 28, 2018) at 23, available at <https://www.dhs.gov/sites/default/files/publications/DHS%20Annual%20Report%202018.pdf>.

²⁰ *Id.* at 32.

²¹ *Id.* at 34.

In cities like Miami, Dallas, and New York, processing times for a significant number of cases has stretched to over two years. A report by Boundless Immigration analyzed data across all USCIS field offices and found that located in additional places like Minneapolis-St. Paul the wait time can be as long as 23.5 months.²² These processing delays can have a devastating impact on families seeking to fully realize their security, role and participation in the United States.

C. USCIS Adjudicators Need to Return to a Reasonable Method of Benefit Screening

In March 2019, the ILRC sent surveys to NAC partners across the nation asking them to report any changes in USCIS practice they have observed in the last eighteen-twenty-four months. The forty-seven respondents noted an increase in suspicion among adjudicators towards their clients, a “fraud first” mentality, longer interviews, and changes in the types of questions asked.

For example, thirty-six percent of those responding to the survey report that the naturalization interview is lasting longer than before. On average, they report it being approximately twice as long, from twenty-thirty minutes to forty-five-sixty minutes. This is true nationwide.

USCIS adjudicators are viewing LPR applicants with more suspicion. Twenty-six percent of respondents have reported that USCIS adjudicators are asking for more proof of marriage if the applicant is applying based on their marriage. In one case, an officer asked for house keys and compared them to make sure they were identical. In another case, the adjudicator asked for proof of marriage even though the couple has children together. Seventeen percent have seen other changes in adjudicators’ behavior during the interview related to marriage. One respondent stated, “[Adjudicators] are just behaving as though the default assumption is that applicants are engaged in fraud, even without any evidence of that.”

Often, adjudicator inquiries require applicants to provide information outside the scope of their applications. Fifteen percent of respondents have seen USCIS adjudicators asking for travel history beyond the five-year statutory period that is required to demonstrate continuous residence. Twenty-six percent have seen adjudicators improperly asking applicants for additional information about their N-648 (Medical Certification for Disability Exceptions) that is not required (i.e. asking for medical records, asking why their condition was not disclosed in previous immigration applications).

Other disturbing trends respondents have observed in naturalization processing over the past eighteen-twenty months include:

²² Boundless Immigration, *The State of New American Citizens* (Feb. 4, 2019), <https://www.boundless.com/american-citizenship-report/>.

- Thirty-four percent of respondents have seen USCIS adjudicators exercising less positive discretion (i.e. Good Moral Character denied in cases where it might not have been in the past);
- Nine percent of respondents have seen USCIS adjudicators denying naturalization based on lack of evidence of child support in a country that documents child support informally; and
- Fifteen percent of respondents have seen adjudicators questioning the legitimacy of fee waiver applicants' low-income status by asking irrelevant questions about family finances, after the fee waiver has already been approved, such as how they could afford to travel if they are low-income.

In addition, twenty-one percent have seen changes to how applicants are being given the English or civics test during the interview. One respondent commented, “We had a case where the client was over sixty-five years old but because the officer didn't think she looked over sixty-five, he asked her questions from the 100 questions instead of asking her questions from the short list (twenty questions). Client failed, has second interview next week and we will be sending a legal rep with her.”²³ Thirty-eight percent of respondents have seen something else different happen during the interview. Examples include, “[Hearing] from applicants that the adjudicators are asking counter questions after the reply "No" for the Good Moral Character questions. Such as: Have you ever voted before? Applicant replied "No." The following question was asked, "Why not?"” Given the long and strenuous process LPRs must undergo prior to their naturalization interviews, the additional barriers presented by the naturalization interviews conducted by this Administration leave applicants feeling fearful, anxious, and concerned about the fate of their applications and security in the communities of which they are a part.

I would like to share three examples of how policy changes, processing delays, and attitudinal changes of adjudicators are having a personal impact on NAC clients – legal permanent residents seeking to realize their goals of becoming US citizens:

- Ms. C, an applicant for naturalization whose application has been pending for two years, completed an interview and received no specific explanation from USCIS as to why her application is delayed. Ms. C is a Cameroonian asylee who became an LPR and sought naturalization nearly a decade after her asylum interview. The case has been pending for two years. It took a year to get an interview, and it has been a year since the interview

²³ An officer gives special consideration to an applicant who is sixty-five years of age or older and who has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence. The age and time requirements must be met at the time of filing the naturalization application. An officer only asks questions from the three “65/20” test forms when administering the civics test to such applicants. The test forms only contain twenty specially designated civics questions from the usual list of 100 questions. See U.S. Citizenship and Immigr. Services, *Policy Manual* (May 3, 2019), <https://www.uscis.gov/policy-manual/volume-12-part-e-chapter-2>.

with no decision. USCIS no longer provides an opportunity to inquire directly with its offices, as it used to through the InfoPass system, Ms. C has no information on why the adjudication is taking so long. The online case status is not updated; it just says pending. Ms. C is left in limbo and USCIS has no effective means of communication with her about the status of her case.

- Ms. H, an eighty-two-year-old who suffered a stroke. During her naturalization interview, she was asked to revisit the traumatic events that were the basis of her asylum claim. Ms. H successfully won her petition for asylum nine years ago and later became an LPR. Ms. H suffered a stroke. She was not applying for a disability waiver and was fully prepared to take the English and Civics exams. However, during her naturalization interview in 2019 the USCIS interviewer revisited minute details of her asylum case and the trauma she suffered in Iran, which caused her to break down and be unable to continue. She was told she failed the naturalization interview.
- Another NAC partner has shared that naturalization applicants with disabilities presenting N-648s face hostility and extreme skepticism from USCIS interviewers. It is common for interviewers to interrogate such applicants about the medical diagnosis the doctor has testified to and question family members who are present – “just how disabled actually is your mother,” for example, generally expressing extreme skepticism about the waivers. In addition, if an applicant has a driver’s license, the interviewer will approach that as a fact which negates the disability diagnosis from the medical doctor.

The Trump Administration has also executed a number of policy directives that have lengthened processing times and backlogs. For example, in 2017, USCIS implemented a new in-person interview requirement for employment-based green card applications and refugee/asylee relatives - putting additional work on adjudicators already heavy plates - without providing meaningful justification.²⁴ Because so many adjudicators now have to spend time on interviews for employment-based green card applications and refugee/asylee relatives, they have less time to spend on naturalization interviews. In 2018, a number of groups filed a lawsuit against USCIS demanding more information about how the Administration’s policy of “extreme vetting” was affecting naturalization applications.²⁵

²⁴ American Immigr. Lawyers Ass’n, *AILA Policy Brief: USCIS Processing Delays Have Reached Crisis Levels Under the Trump Administration* (Jan. 30, 2019), <https://www.aila.org/infonet/aila-policy-brief-uscis-processing-delays>.

²⁵ Maria Secchetti, *Trump Administration: After Decline, U.S. Citizenship Numbers Are Rising*, *Wash. Post*, https://www.washingtonpost.com/local/immigration/trump-administration-after-decline-us-citizenship-numbers-are-rising/2018/10/03/015bd9d2-c5a6-11e8-b2b5-79270f9cce17_story.html?utm_term=.1655351425f7.

D. Trump Administration Changes to Naturalization Adjudications Need to Be Reversed

The Trump Administration has made several policy and practice changes that are negatively affecting the adjudication of naturalization applications in the future, including:

- **Changes to Naturalization Form N-400:** In 2018, USCIS published proposed changes to the N-400 (Application for Naturalization) form under the Paperwork Reduction Act. The ILRC submitted a comment to the Federal Register expressing our concerns, noting “the increased time burden of an already laborious information collecting tool; adding unclear and legally overbroad questions, inviting arbitrary and inconsistent adjudications; and the resulting chilling effect, which is compounded by unclear and burdensome instructions that discourage people from applying. The instructions and demand for evidence that reaches beyond the statutory eligibility for naturalization is particularly troubling considering new policies to deny applications in cases where the agency determines initial evidence to be lacking.”²⁶
- **Ramp Up of Denaturalization:** In previous years, the government pursued denaturalization sparingly, averaging eleven per year from 1990 to 2017, and focusing on serious human rights violators and war criminals. Under the Trump administration DHS has ramped up its denaturalization efforts. In January 2018, USCIS stated its intention to refer approximately 1,600 citizens to the Department of Justice (DOJ) for prosecution.²⁷ In its 2020 budget request, the U.S. Immigration and Customs Enforcement (ICE) requested that USCIS transfer over \$200 million from its Immigration Examination Fee Account so that it could review the files of 700,000 U.S. citizens, putting even more individuals into the denaturalization pipeline.²⁸ It is unconscionable that in the face of such processing delays that USCIS would spend resources on stripping Americans of citizenship rather than reducing the backlog.
- **Changes to Fee Waiver Eligibility Criteria:** In 2018 USCIS published changes under the Paperwork Reduction Act that proposed to eliminate the eligibility ground of receipt of a public benefit for the application for a fee waiver. The ILRC submitted public comments to the Federal Register, noting that “the proposed changes will further burden

²⁶ Letter from Erin Quinn, Senior Staff Attorney with Immigrant Legal Resource Center, to Samantha L. Deshommes, Chief, Regulatory Coordination Division (Jan. 22, 2019), available at <https://www.regulations.gov/document?D=USCIS-2008-0025-0161>.

²⁷ U.S. Citizenship and Immigr. Services, *USCIS Partners with Justice Department and Secures First Denaturalization As a Result of Operation Janus* (Jan. 10, 2018), <https://www.uscis.gov/news/news-releases/uscis-partners-justice-department-and-secures-first-denaturalization-a-result-operation-janus>.

²⁸ ACLU and ILRC, *The Trump Administration’s Plan to Strip Citizenship from Thousands of Americans* (Sept. 2018), https://www.ilrc.org/sites/default/files/resources/trump_plan_strip_cit_from_1000s_americans-20190107.pdf.

adjudication of immigration petitions and naturalization applications at USCIS, an agency already plagued by well-documented adjudication backlogs across all types of cases.”²⁹

- **Possible Fee Increases:** USCIS has indicated in the Spring 2019 Unified Regulatory Agenda that it will publish a fee schedule in August 2019. In its June 2019 Federal Register notice requesting additional public comments on changes to fee waiver eligibility criteria, USCIS stated that it “expects that DHS will be required to increase the fees that it charges for benefit requests for which fees are not waived.”³⁰ A recent draft of a new fee rule for USCIS included a naturalization fee of more than one thousand dollars
- **RFE/NOID Policy Memo:** In 2018, USCIS published a policy memorandum giving adjudicators the ability to deny cases without issuing a request for evidence or a notice of intent to deny. This change means that any small mistake or lack of information on an application could result in a denial without giving the applicant a chance to correct the mistake. One result of this policy is that it can cause more work for all involved by forcing the completion of a whole new application instead of merely correcting small mistakes through the RFE (Request of Evidence) process.
- **Increase in Issuance of Notices to Appear (NTAs):** In October 2018 USCIS announced new guidance dictating the initiation of removal proceedings against individuals whose application for immigration benefits is denied. This can include naturalization applicants in cases where USCIS attacks the basis for an individual’s permanent residence. This is particularly concerning because given the current policy on Requests for Evidence, an applicant may not have an opportunity to refute charges during the application process.
- **Shift in USCIS Mission:** On February 2, 2018, USCIS changed its mission statement to remove the former mission to “secure America’s promise as a nation of immigrants by providing accurate and useful information to customers, granting immigration and citizenship benefits, promoting awareness and understanding of citizenship...” to a new mission, which removes any reference to “nation of immigrants,” “customers,” “education” or “understanding,” and states that USCIS, “administers the nations lawful immigration system, safeguarding its integrity..by efficiently and fairly adjudicating requests for immigration benefits while protecting Americans, securing the homeland....”

²⁹ Letter from Melissa Rodgers, Director of Programs of Immigrant Legal Resource Center, to USCIS Desk Officer (May 6, 2019), *available at* https://www.ilrc.org/sites/default/files/resources/fee_waiver_ilrc_comment_may_2019.pdf.

³⁰ Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for Fee Waiver; Exemptions, Fed. Reg. 84, 108 (June 5, 2019), <https://www.federalregister.gov/documents/2019/06/05/2019-11744/agency-information-collection-activities-revision-of-a-currently-approved-collection-request-for-fee>

Just last week, Acting Director Ken Cucinelli stated, “We are not a benefit agency, we are a vetting agency.”³¹ The shift in agency direction from customer service to law enforcement mission, away from education and encouragement of citizenship, has impacted every aspect of USCIS policy, including naturalization.

These initiatives are slowing the agency’s work on its core mission and effectively costing time and effort without showing any results that are helping the country. USCIS has not shown us that there was any need for enhanced vetting in the first place, nor that its efforts are resulting in any improvement in adjudications – all we know is that this is tying things up and frustrating aspiring citizens and their American families and communities. These policy and practice changes, in addition to others such as the expansion of public charge, and DHS’s plan to enforce affidavits of support, also are contributing to an atmosphere of fear and mistrust within the immigrant community. This fear prevents immigrants from applying for naturalization and it is already a herculean task to encourage people to naturalize. The government should not be putting even more barriers in place to discourage people from accessing a benefit that positively impacts communities and the entire nation.

III. USCIS Naturalization Processing Delays and Backlogs is Harming Eligible Immigrants and Slowing Down the Naturalization Process

NAC partners are finding that they need to provide more services to applicants, stretching organizational time, resources, and expenses. In addition, increased wait times are having harmful effects on applicants. For example:

- A Washington D.C. NAC partner described needing to help more applicants renew their green cards because more are expiring during the longer naturalization waiting period.
- An organization in New York reported that some fee waivers are being rejected because the tax returns are no longer current once the application is finally reviewed after having waited so long for the naturalization interview.
- A Seattle NAC organization gave an example of a client who was eligible to apply for naturalization through her marriage, but whose husband died during the longer wait time, which then made her ineligible.
- A NAC partner in Pennsylvania reported needing to handle a lot more phone calls from nervous clients. Every phone call and every additional client meeting cost organizations resources and keeps them from helping others.
- Seattle organizations report that adjudicators are not accepting the stamps in applicants’ passports anymore, but instead saying it is the responsibility of the applicants to renew their green cards. Renewing green cards requires more time

³¹ Louise Radnofsky, *Ken Cucinelli Takes Reins of Immigration Agency with Focus on Migrant Vetting*, *Wall Street J.* (June 6, 2019), <https://www.wsj.com/articles/ken-cucinelli-takes-reins-of-immigration-agency-with-focus-on-migrant-vetting-11562410802>.

and money for applicants and service providers and thus adds to the long backlog of naturalization cases.

IV. Recommendations: I have outlined several recommendations below, which are divided into A) Congressional oversight and legislative recommendations and B) Administrative recommendations. My recommendations are as follows:

A. Congressional Action: Congress should provide rigorous oversight and demand answers about why these policy changes are being made and what plans the agency has to address processing delays. It is imperative that USCIS provide legally sound and permissible justifications for these changes. As part of its oversight responsibilities Congress should ensure the Administration does the following:

- Dedicate resources within USCIS to hire more adjudicators tasked with clearing the naturalization and other benefits' backlogs. In addition, Congress should remain open to appropriating funding for adjudication of naturalization and other applications whenever there is a significant backlog.
- Request monthly briefings or bi-monthly from the Administration on their efforts to address the backlogs, including data on the length of time naturalization applications are adjudicated from application date and length of time between grant of applications and swearing in of applicants.
- Limit the ability of USCIS to divert resources for denaturalization and prohibit the Administration from transferring USCIS funding designated for adjudications to be used for denaturalization efforts. This is especially important as USCIS is an agency that is self-funded, and the customers' fees must go to adjudications not enforcement or denaturalization.
- Congress should also enact legislation to protect the ability of applicants to access fee waivers using streamlined application procedures and ensure that USCIS does not increase the fees for naturalization and other immigration applications.
- To ensure full transparency around the fee schedule process, Congress should enact legislation to direct that fees should cover direct costs of adjudication only and not be used for programs like SAVE, etc.
- We applaud the House FY20 appropriations measure that would discretionarily fund the Office of Citizenship for the first time. These efforts to ensure that DHS proactively promotes citizenship pay exponential dividends.
- Congress should consider creating a quasi-independent U.S. Citizenship Foundation to permanently underwrite creative and impactful integration assistance and citizenship promotion work.

B. Administrative Action: USCIS should immediately take the following steps:

- Redistribute the naturalization caseload across field offices. On June 17, 2019, USCIS announced that it would begin transferring applications for naturalization and permanent residency from busy field offices to reduce wait times. While this is a positive development, USCIS must ensure that applicants will not be negatively affected by having to travel farther to appear for their mandatory interviews.
- End in-person interview requirements for employment based green cards and for relatives of refugees and asylees. In 2017, USCIS announced that it would be requiring in-person interviews for employment-based green card applications and for relatives of refugees and asylees. This shift in policy worsened USCIS' processing delays by diverting resources away from processing applications to focus on in-person interviews that are unnecessary and wasteful.
- Hire more permanent and temporary employees to process naturalization applications and assist with administrative tasks. USCIS has authorized the hiring of 737 new employees (a five percent increase) in fiscal year 2019, but it is not enough and unclear whether USCIS plans to assign any of these employees to process naturalization applications.
- Work towards a goal of completing all naturalization interviews within thirty minutes.
- Streamline naturalization applications such that irrelevant questions outside the scope of the application are not asked on a regular basis.
- Cut down on the amount of resources dedicated to denaturalization efforts.
- Open up new naturalization offices in busy USCIS districts, a solution previously employed to address backlogs.
- Abandon current plans to increase application fees for naturalization and other immigration benefits and preserve access to fee waivers.
- Rescind policies that erect barriers to naturalization and that are diverting resources away from processing applications, including the new NTA and RFE/NOID memos.
- Re-engage with community advocates who represent applicants and who, in the past, have enjoyed open channels of communication with USCIS personnel at local and national levels, through which they have been able to share helpful information and recommendations that have helped USCIS excel.

V. Conclusion

Immigrants contribute to our economy, our culture, and our communities, and we are fortunate when they decide to permanently call themselves American. There is no better compliment to this great nation. We should not place obstacles in the way of those who wish to join us, but

should work to ensure that our system of naturalization operates in an efficient and fair manner. Our commitment to this country requires a commitment to those who have chosen to call the United States their home. Our current naturalization system is entrenched in backlogs, unnecessary delays, and repetitive investigations. We must work together to repair this system so it can continue to operate smoothly for those who will soon call themselves American.