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Mr. Arturo Vargas

Testimony

by

**Arturo Vargas, Executive Director
National Association of Latino Elected and Appointed
Officials (NALEO) Educational Fund**

before

**the United States House of Representatives
Committee on the Judiciary
Subcommittee on Immigration, Citizenship, Refugees,
Border Security, and International Law
on Naturalization Delays**

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Chairwoman Lofgren, Ranking member Representative King and members of the Subcommittee: I am Arturo Vargas, Executive Director of the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund. Thank you for the invitation to appear before you today on behalf of the NALEO Educational Fund to discuss the issue of naturalization delays and their impact on the Latino community and all of our nation's newcomers.

The NALEO Educational Fund is a non-profit, non-partisan organization that facilitates full Latino participation in the American political process, from citizenship to public service. Our constituency includes the more than 6,000 Latino elected and appointed officials nationwide. For the last two decades, the NALEO Educational Fund has been on the forefront of national and local efforts to promote U.S. citizenship, and assist eligible legal permanent residents with the naturalization process. Our efforts have included community workshops and other activities to help newcomers submit their application materials. Since 1985, we have operated a toll-free information and resource hotline for callers with questions about the naturalization process – in the last five years alone, we have assisted about 75,000 callers through the hotline. Since 1993, the NALEO Educational Fund has also conducted a comprehensive national public service media campaign to inform newcomers about the opportunities and requirements of U.S. citizenship.

One year ago, we launched our *ya es hora ¡Ciudadanía!* (*It's time, citizenship!*) campaign, a national effort to inform, educate and motivate eligible legal permanent residents across the United States to apply for U.S. citizenship. This campaign brought together over 400 national and regional organizations, including community and faith-based organizations, unions, public and private agencies, law offices and attorneys, elected and appointed officials, and private businesses. Over 23 cities across the country, from San Diego, California, to Boston, Massachusetts, conducted activities under the auspices of *ya es hora ¡Ciudadanía!*. Our organizational partners in this campaign include the National Council of La Raza, the Service Employees International Union, and the We Are America Alliance. In addition, our media partners, Univision Communications, Entravision Communications, and *impreMedia*, played a critical leadership role in the campaign's public education efforts, by producing programs, public service announcements, and advertisements to reach Latino viewers and readers. Nearly 100,000

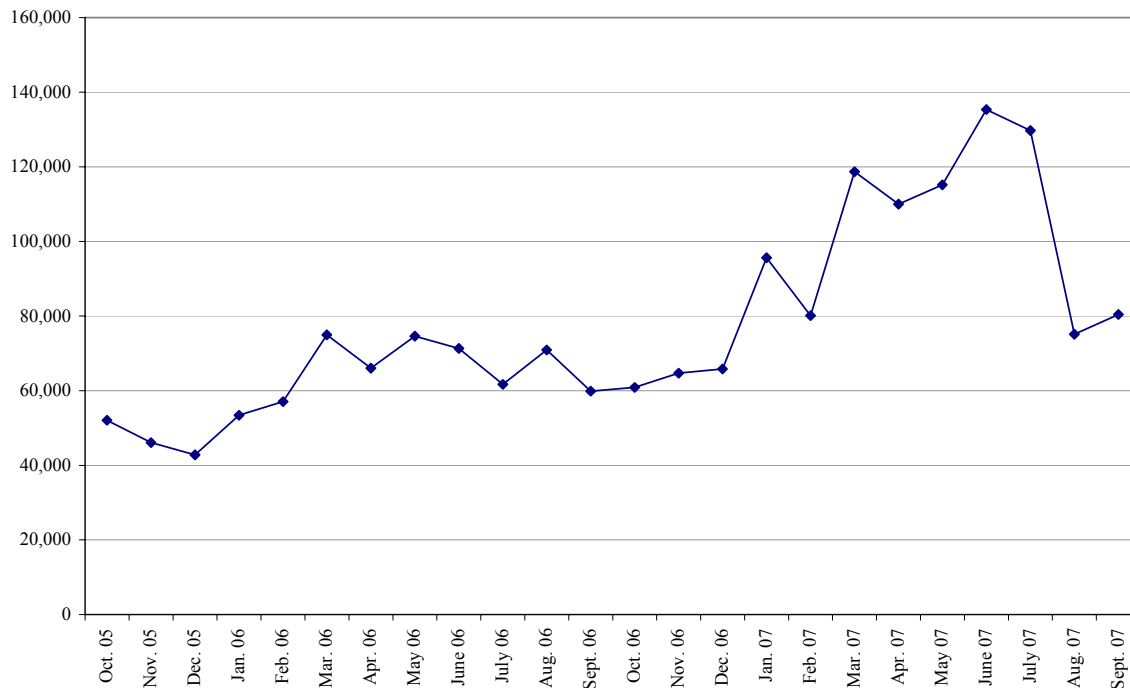
persons have visited the *ya es hora* website, and over 115,000 naturalization guides have been distributed to communities across the nation through the network of over 400 *ya es hora* citizenship centers. We believe that the *ya es hora ¡Ciudadanía!* campaign played a key role in the dramatic increase of naturalization applicants last year, and we surpassed our goal of fostering a movement that would motivate at least 1 million legal permanent residents to apply for naturalization in 2007. Data from the United States Citizenship and Immigration Services (USCIS) reveal that between January and October 2007, 1,029,951 newcomers applied for naturalization, a 59% increase over the same period in 2006.

Last year's dramatic increase in naturalization applications started in 2006, and by the end of federal fiscal year (FY) 2007, the number of applications filed was the highest annual number in a decade, and the third highest in our nation's history. In late-November 2007, the USCIS announced that it anticipates that there will be a significant increase in the processing time for many of the applications filed during this period – those filed since June 2007 – with the agency estimating that it may need 16-18 months to complete these cases. The legal permanent residents who applied for U.S. citizenship during the FY 2006 and 2007 increase are eager to demonstrate their commitment to this nation, and they want to help build our neighborhoods and communities. They are also motivated by a desire to make their voices heard in our democratic process, by participating in our elections. However, the delays announced by the USCIS will force many of these newcomers to defer their dream of becoming full Americans. We cannot allow this to occur. In my testimony, I will first present our perspectives on the reasons for the dramatic growth in naturalization applications, and raise some questions about the USCIS' preparations to address the increase in its workload. In addition, my testimony will also set forth policy recommendations concerning the need for the agency to take swift and effective action to ensure that all of the applicants who applied in FY 2006 and 2007 can realize their dream of U.S. citizenship by July 4, 2008 – Independence Day has been a traditional date for scheduling numerous swearing-in ceremonies throughout the country.

I. The FY 2007 Increase in Naturalization Applicants and the Growth of Naturalization Delays
During federal Fiscal Year (FY) 2007, the USCIS experienced a dramatic increase in the number

of legal permanent residents applying for naturalization, with that number hitting its peak in the summer of 2007. Generally, through Fiscal Years 2005 and 2006, the number of naturalization applications filed each month stayed in the range of 40,000 – 75,000. Throughout FY 2007, the number increased significantly, with the monthly volumes ranging from approximately 61,000 to 135,000 (see Figure 1).

Figure 1
Naturalization Applications Received
FY 2006 and FY 2007



Source: USCIS PAS G-22.3 data

According to the USCIS’ monthly statistical data, the number of Form N-400 naturalization applications filed in FY 2007 was 1,132,073; however, the agency acknowledges that these data may not fully reflect the actual number of applications filed, and in its published materials, the agency estimates that the true number is about 1.4 million.¹ This estimate represents a 92% increase – a near doubling - over the 730,642 filed in the previous fiscal year.

¹ The number of naturalization applications reported for FY 2007 in Figure 1 is based on USCIS data included in the agency’s Monthly Statistical Reports (MSR). The data on the receipt of applications in these reports generally reflect the date that the applications were entered into the agency’s case management system, rather than the actual date the applications were physically received by the USCIS. Because of delays in the entry of the applications, the FY 2007 MSR data do not reflect the full number of applications actually received by the agency during that fiscal year, particularly with respect to applications received in the last few months of the year.

We believe that there are several factors that contributed to the FY 2007 increase in naturalization applications. First, from our work with Latino immigrants, we have seen that newcomers are strongly motivated to pursue U.S. citizenship because of the opportunity it confers to become full Americans and to more actively participate in the civic life of our nation. Latino legal permanent residents care deeply about the same issues as all Americans – issues such as education, economic opportunity, and health care – and they want to shape the policies that affect their families and communities. In addition, Latino newcomers see naturalization as a critical step toward making their voices heard in our national debate on immigration, which has become increasingly intense in recent years.

In addition, our *ya es hora* campaign helped strengthen and sustain the momentum of the increase in naturalization applications. Our campaign provided newcomers with information about the opportunities of U.S. citizenship, and naturalization requirements and procedures. We helped eligible legal permanent residents obtain the broad range of services needed to initiate and complete the U.S. citizenship process, from English-as-a-Second Language instruction, to application assistance, to legal services.

The USCIS’ increase in the fees to start the U.S. citizenship application process also contributed to the dramatic growth of naturalization applications in FY 2007. In late-July 2007, the fees to initiate the process jumped from \$400 to \$675, and during the months preceding the fee hike, the monthly number of applicants grew significantly (Table 1).

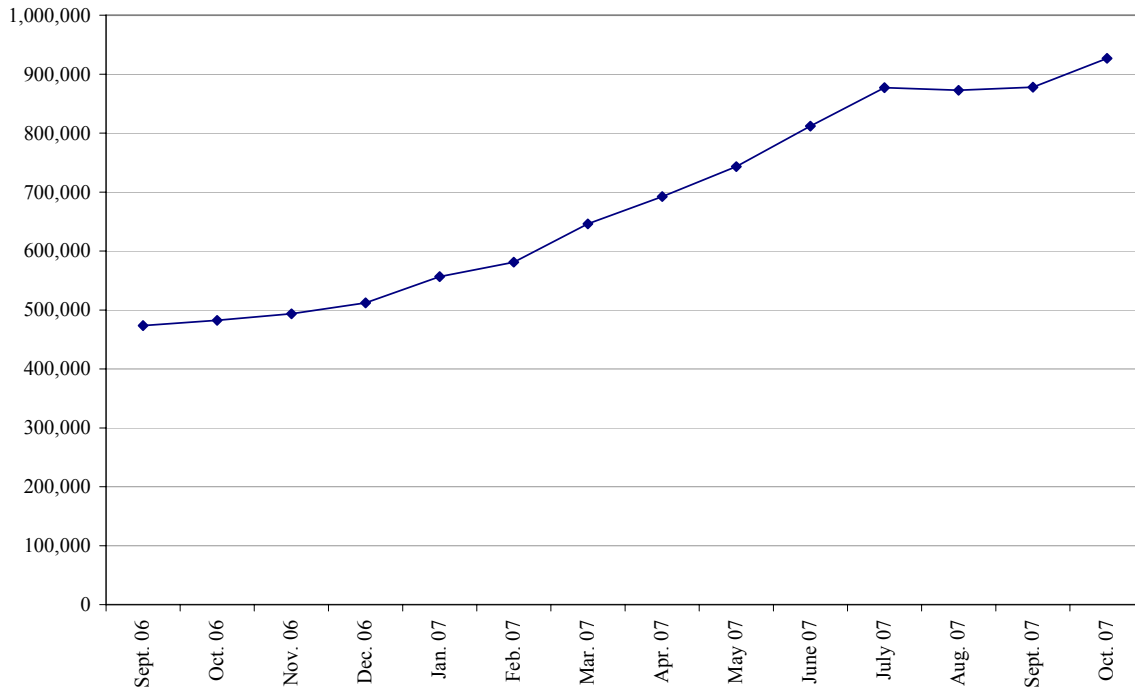
Table 1
Naturalization Applications Filed by Month
October 2006 – July 2007

October 2006	60,894
November 2006	64,665
December 2006	65,782
January 2007	95,622
February 2007	80,105
March 2007	118,656
April 2007	110,020
May 2007	115,175
June 2007	135,326
July 2007	129,699

Source: USCIS PAS G-22.3 data

As the dramatic increase in naturalization applicants proceeded, the USCIS’ application backlog² began to grow steadily as well, and applicants started to experience longer processing times. At the end of FY 2005 and 2006, the number of naturalization applications pending was 552,940 and 473,467, respectively. By October 2007 – the first month of FY 2008 - that number had reached 926,864, a 96% increase from the end of FY 2006 (Figure 2).

Figure 2
Naturalization Applications Pending
September 2006 - October 2007



Source: USCIS PAS G-22.3 data

When the USCIS announced its estimate of a 16–18 month processing time for applications filed after June 2007, we were deeply concerned about the impact of this delay on newcomers who stepped forward to become Americans by choice. According to the USCIS’ monthly application statistics, about a half a million legal permanent residents submitted applications between June 2007 and October 2007, and the agency’s estimates that the actual number of applications exceeds the

² For the purposes of its operations, the USCIS defines its “backlog” through a formula that starts with the number of applications pending, and makes deductions for cases which are not “ripe” for processing because the agency is awaiting the results of record checks from other agencies, additional information from an applicant, or for other reasons the agency believes are not in its control. To provide information on the full scope of the applications awaiting adjudication, our testimony includes the full number of pending naturalization applications in the backlog.

number reflected in these data. From our experiences with applicants, we have seen that the demand for naturalization assistance has persisted even after the late-July 2007 fee increase. For example, in August 2007, the USCIS announced its intention to implement a program requiring newcomers to replace their legal permanent residency card if those cards have no expiration date. Although the USCIS does not appear to have any immediate plans to move forward with this proposal, Latino immigrants are very aware of it, and many are now choosing to naturalize as an alternative to replacing their permanent residency cards. Even if the monthly application numbers for November 2007 – January 2008 fall to the lowest level experienced at the beginning of FY 2007 (about 61,000 per month), about 183,000 additional applicants will join the more than half a million affected by the agency's announced processing delay.

The 16–18 month application processing time represents a significant increase over waiting times experienced by applicants in recent years. From our work with naturalization applicants, we found that in many parts of the country, newcomers were able to complete the naturalization process in 6–9 months. In September 2006, the USCIS announced that average processing times for naturalization applications had fallen to an average of five months. When the agency made the final announcement of its late-July 2007 fee increase, it re-affirmed its commitment to reducing processing times, and again cited the five-month figure as both a goal and one justification for the increase. Ironically, many of the newcomers who will be affected by the agency's delays are the very applicants who paid the higher fees.

The USCIS' challenges in addressing the naturalization backlog will be exacerbated by problems it continues to experience with its background check process. Before the FY 2007 increase in naturalization applications, the USCIS had made significant progress in reducing the average application processing time for all applicants. However, we know that many individual applicants have confronted lengthy and unfair delays in their applications because of the failure of the Federal Bureau of Investigation (FBI) to complete their background checks, which involves the FBI checking the applicant's name in several databases, to ensure the applicant does not have a criminal background or is otherwise ineligible for naturalization. The USCIS will not move forward with an applicant's naturalization unless this check is completed, but the agency also does not impose any time limit on the FBI for its completion. Thus, applicants awaiting the

results of this check are left in a “bureaucratic limbo,” with no information about if or when they will ever become U.S. citizens.

There have been several lawsuits filed against the USCIS because of FBI name checks – in one of the most recent brought by advocates including the American Civil Liberties Union Foundation of California, the Asian Pacific American Legal Center and the National Immigration Law Center, one of the plaintiffs has been waiting since May 2003 and another has been waiting since April 2005 for the completion of their applications. Most of the calls we now receive from applicants we have assisted concern name check delays, and some of our applicants have been waiting as long as two years without their checks being completed. We are deeply concerned that FBI name check delays will make the challenges faced by the USCIS in addressing its increased workload even worse, and exacerbate naturalization processing delays for applicants throughout the nation.

The USCIS has announced several actions that it is taking to address the backlog. For example, the agency is in the process of hiring 1,500 new employees for its operations, and it will be implementing an emergency plan to re-hire about 700 retired employees. From discussions with both district and national level staff, we understand that the agency is utilizing a wide range of additional strategies, including accelerating the use of overtime by its staff, allowing the use of all overtime authorized for FY 2008 in the first six months of the fiscal year; allowing offices to schedule second shifts for staff; making some current “term” employee positions permanent; encouraging offices to schedule examination interviews on the weekend if there are appropriate facilities available; utilizing some asylum officers and offices to conduct interviews; and encouraging offices to see if some of the more “ministerial” tasks taken care of by examiners during interviews can instead be handled by clerical or information officer staff. However, we understand that the agency does not believe these measures will have an impact soon enough to ensure that most applicants who filed in FY 2007 will become U.S. citizens in FY 2008. For example, the agency has cited the time it takes for new employees to be recruited, trained and deployed in their new positions, and the fact that there will be a several month lag between when hiring first occurs, and when the new staff will provide a meaningful enhancement to the agency’s processing capabilities.

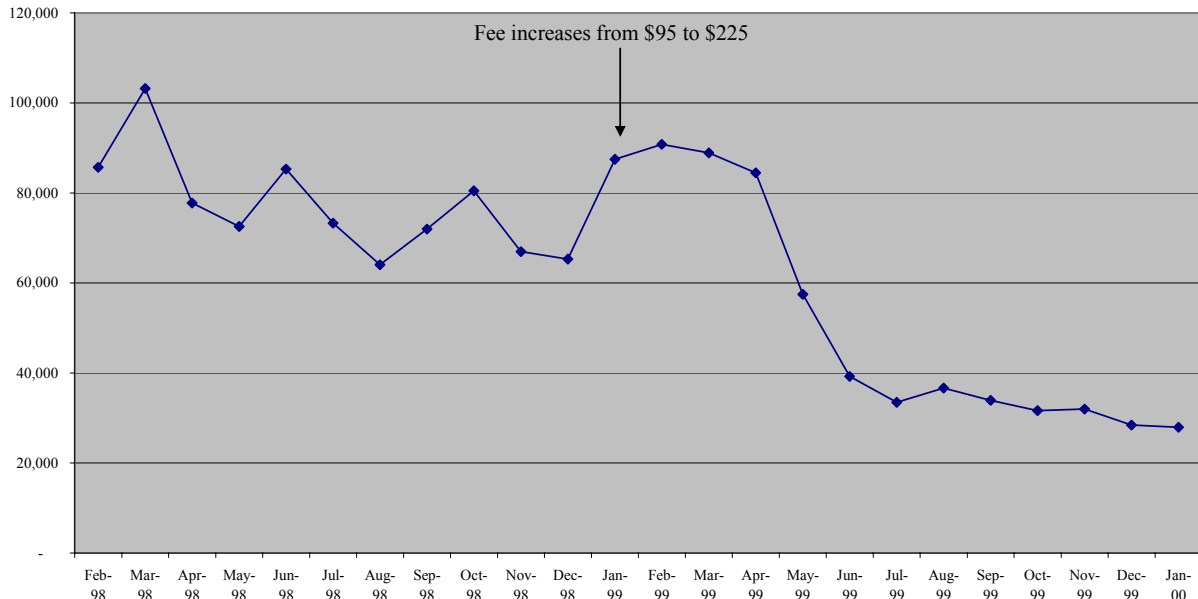
We believe that the USCIS' apparent contention that its capacity enhancement measures will not have a significant impact on reducing processing times during FY 2008 raises some serious questions about why the agency did not start to take action earlier to address the potential backlog. First, we provided the agency with as much advance notice as possible about our *ya es hora* campaign and the dramatic increase in applicants we thought our efforts would help produce. As early as November 2006, we initiated meetings with USCIS staff at both the district and national level, where we laid out our campaign plans. In fact, as we implemented different components of our campaign, we consulted frequently with USCIS district staff, and exchanged information about application numbers and our outreach efforts.

Other immigrant advocates and service providers also informed the USCIS of the anticipated increase of applicants in FY 2007. In April 2007, when many organizations filed their comments on the proposed fee hike, they expressed their concerns about the increased applications that they expected before the final implementation of the fee hike.

Moreover, we believe that past trends in naturalization application numbers also should have forewarned the agency about the potential for the FY 2007 increase. For example, in the mid-1990's, the social climate affecting naturalization was quite similar to the conditions that existed in 2006 and 2007. The federal government and some states enacted measures which imposed new restrictions on certain types of government assistance for non-citizens, and made dramatic changes in the policies affecting the detention and deportation of new immigrants, as well as their due process rights. The national and state debate of these measures was frequently framed in divisive and inflammatory terms, with immigrants being "scapegoated" for a broad range of social and economic problems. During this period, both private businesses and philanthropic organizations decided to make substantial investment in naturalization promotion and assistance, helping many groups, including ours, to mount U.S. citizenship campaigns and expand our capacity to provide naturalization services. Additionally, in January 1999, the Immigration and Naturalization Service (the predecessor of the USCIS) imposed a significant increase in the fees for naturalization, from \$95 to \$225.

All of the foregoing factors contributed to increases in naturalization applications leading up to the 1999 increase, followed by a significant drop thereafter. In FY 1993 and 1994, the number of naturalization applications filed each year was about 523,000 and 543,000 respectively. Between FY 1995 and FY 1998, the number of naturalization applications jumped dramatically, with the annual number ranging from about 930,000 to 1.4 million. In FY 1999, the annual numbers fell to about 765,000. Generally, the USCIS has experienced a similar pattern of application increases in the months before its major fee hikes, followed by a decrease in applications thereafter. The following three figures, which present the number of applications filed in the 12 months preceding and the 12 months following each of the major naturalization application fee hikes, demonstrate this trend. We note that the following figures show the impact of the “frontlogs” experienced by the USCIS – the delay between the time an application is actually received by the agency, and the time the agency enters it into its case management system, which can become particularly pronounced during times of heavy application volumes. Thus, in these figures, the decline in the number of applications filed does not appear until one to four months after the imposition of the fee increases.

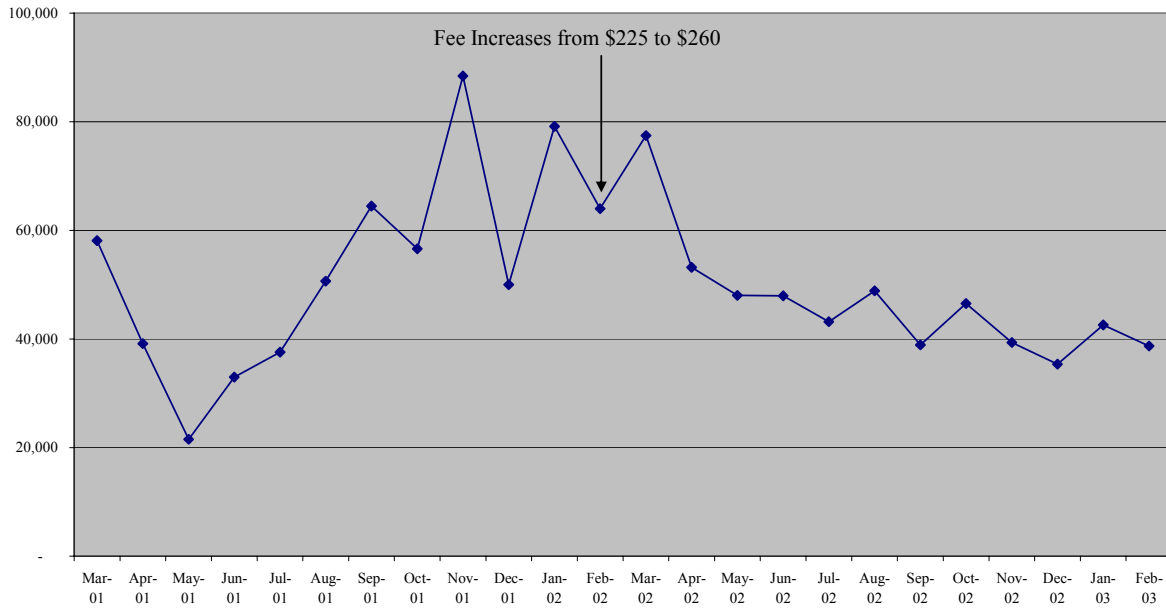
Figure 3
Naturalization Applications Filed*
February 1998 - January 2000



Source: USCIS data

*The data in this figure reflect the month applications were entered into the naturalization case management system, rather than the actual month the applications were filed. Because of delays in the entry of applications, the data presented for a given month may include applications that were actually filed in previous months.

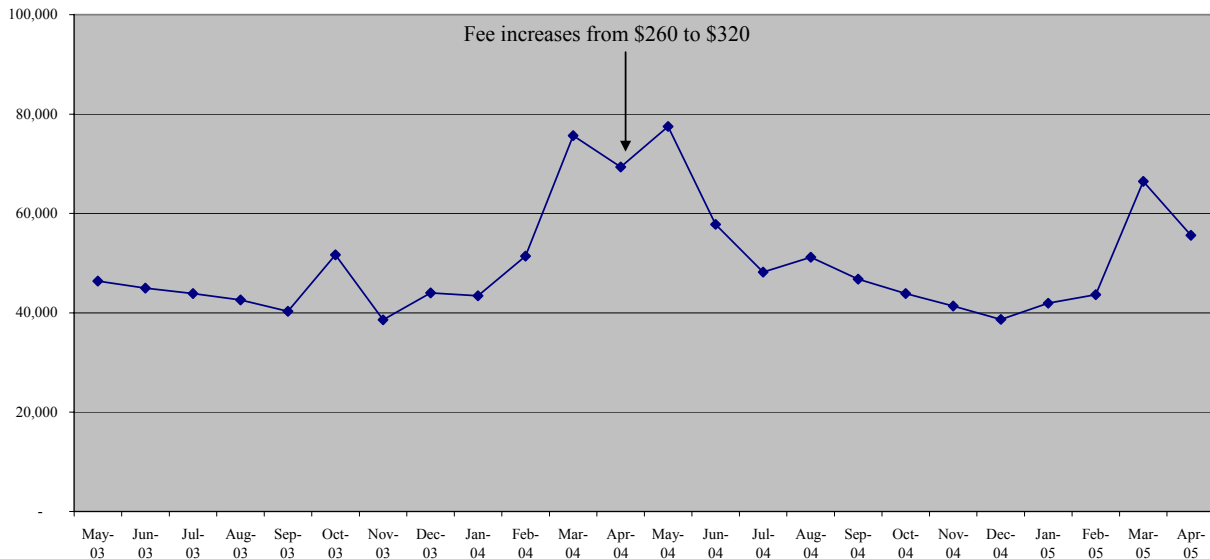
Figure 4
Naturalization Applications Filed*
March 2001 - February 2003



Source: USCIS data

*The data in this figure reflect the month applications were entered into the naturalization case management system, rather than the actual month the applications were filed. Because of delays in the entry of applications, the data presented for a given month may include applications that were actually filed in previous months.

Figure 5
Naturalization Applications Filed*
May 2003 - April 2005



Source: USCIS data

*The data in this figure reflect the month applications were entered into the naturalization case management system, rather than the actual month the applications were filed. Because of delays in the entry of applications, the data presented for a given month may include applications that were actually filed in previous months.

In light of the foregoing trends, we would question why the USCIS did not start to more effectively prepare to address the potential of serious application delays in Second and Third Quarter FY 2007, when it became clear that both the number of naturalization applications filed and the number of pending applications were increasing dramatically.

II. Policy Recommendations

We believe that the members of this subcommittee, the leadership of the USCIS, and those of us who work with and on behalf of our nation's newcomers, share the common goal of ensuring that all legal permanent residents who are pursuing their dream of U.S. citizenship can have their applications adjudicated in a timely and accurate manner. In order to achieve this goal, the USCIS must take swift and effective action to address naturalization processing delays. As it moves forward, the USCIS will need to work closely with Congress, other federal agencies, and state and local governments. The agency should also strengthen its relationships with national and local immigrant advocacy and service organizations, as well as private entities (such as the Spanish-language media) who can provide valuable assistance for the USCIS' efforts. In this regard, we recommend the following:

The USCIS must develop and implement a comprehensive plan that will significantly reduce future processing times from its current estimates. Under this plan, the agency must ensure that all qualified naturalization applicants who filed in FY 2007 are sworn-in as U.S. citizens by July 4, 2008.

- The USCIS' backlog elimination plan must provide a specific timetable for reducing the naturalization processing backlog, with measurable milestones and outcomes.
- To help ensure accountability for meeting its timetable, the USCIS should provide monthly reports to the public on pending naturalization applications and naturalization processing times. These reports should provide this information for each district office and sub-office that processes naturalization applications. To help community-based groups obtain these reports, they should be accessible in both a hard-copy format and on-line. In the past, the USCIS provided these data fairly consistently to a national working group of immigrant advocates and service providers; in recent years, the agency has been less consistent in providing national data, and has not broken down the data by district offices.

- The USCIS must provide specific information on how it intends to deploy the 2,200 new or re-hired workers it is bringing to the agency, and how this enhanced capacity will affect its ability to meet its plan's milestones and outcomes, including the timeline for the hiring and training of the workers, and their workload priorities.
- The USCIS' backlog elimination plan must examine other options available to the agency to reduce naturalization application processing times, which should include a thorough review of the management, process and technological enhancements that are available to the agency. In this connection, the USCIS should address how it will utilize the components of the business and infrastructure modernization plan, which was one of the justifications for imposing its fee increase, to eliminate the backlog. In addition, based on our discussions with the agency, it appears that the USCIS does not consider obtaining appropriated funding a viable strategy for backlog reduction. We urge the agency to at least explore whether additional resources could help in its efforts – we note that in the past, the USCIS sought and utilized appropriated monies as part of a five-year initiative to reduce application backlogs. Those resources assisted the agency in achieving a five-month average naturalization application processing time in 2006; the USCIS must seriously consider whether additional resources from appropriated funding could make its backlog reduction efforts more effective.

In implementing its backlog elimination plan, the USCIS must work closely with national and local immigration advocacy and naturalization service providers, and private businesses that reach the newcomer community. On the national level, the USCIS has met regularly with working groups of stakeholders on a variety of naturalization policy issues, including the preparations for its newly re-designed U.S. citizenship examination. These meetings have allowed the key USCIS staff who have “hands on” responsibility for naturalization operations to consult with and provide information to organizations that have a deep understanding of the needs of naturalization applicants. These meetings have helped the agency arrive at practical solutions to some of the challenges faced as it moves forward with new programs, and helps the agency gain valuable knowledge about the impact of its policies on the immigrant community. By providing the stakeholders with updates on its plans and progress, the USCIS helps ensure that community members get reliable information about the naturalization process.

The USCIS must also issue strong directives to the leadership of its district offices so that officials in those offices meet regularly with local naturalization stakeholders. From our work in various parts of the country, we have found that there is great variance in the extent to which different district officials are willing to consult with and provide information to local stakeholders. In the Los Angeles USCIS district office, we have an extremely effective partnership with the office's leadership that not only benefits the immigrant community, but also assists the district office itself in carrying out its activities. Participants in our *ya es hora* campaign met regularly with staff in the district, and those meetings helped the office in its planning for the dramatic increase of applicants that occurred in FY 2007. These meetings enable district officials to provide information that help them conduct their operations more efficiently. For example, the district has informed *ya es hora* stakeholders of the importance of naturalization applicants keeping their interview and swearing-in appointments, and the challenges the office faces when applicants do not show up. These officials also let the *ya es hora* stakeholders know about their plans to start scheduling interviews on Saturdays. This information enabled the *ya es hora* stakeholders to educate naturalization applicants about the need to keep appointments, and to give them advance notice about the policy of Saturday interviews.

In Los Angeles, district officials meet regularly with stakeholders through a Naturalization Advisory Council. These officials are also willing to hold *ad hoc* meetings with stakeholders to address emerging or unanticipated concerns. We believe that it is critical that the USCIS replicate the model of the USCIS-stakeholder partnership that exists in Los Angeles. This directive should come from the highest USCIS national leadership, and should be included in the performance objectives of district officials.

The USCIS should work with the Department of Homeland Security (DHS) to examine whether the current policies on the acceptance of gifts by federal agencies from non-federal sources need to be streamlined, to enable the agency to use facilities or other infrastructure provided by state and local government to assist with backlog reduction. In order to expand its capacity to conduct naturalization interviews, in some districts, USCIS offices would benefit from being able to utilize space made available by state or local government agencies (such as agency office space

or public school sites). However, we understand that the current policies governing the acceptance of gifts by the USCIS from non-federal sources are posing a bureaucratic obstacle and impairing the ability of the USCIS to quickly make use of the facilities and resources that may be available from state and local governments. The USCIS and DHS should make an expeditious determination of whether appropriate changes in gift acceptance policies would enable the USCIS to more effectively utilize these resources. Should these changes require Congressional approval, the DHS should work with Congress to obtain that approval as quickly as possible.

The USCIS, the OMB and Congress must work together to ensure expeditious approval of the agency's reprogramming request. We understand that in order to address the naturalization backlog, the USCIS will need to spend more in FY 2007 than was initially approved by Congress. To obtain this spending authority, the agency has submitted a reprogramming request to the Office of Management and Budget (OMB), and Congress must approve this request after the OMB reviews it. In the past, Congress has taken several months to act on agency reprogramming requests, which has delayed critical agency initiatives. We urge Congress to approve the current reprogramming request as soon as possible after the request comes before it.

USCIS and FBI must institute new policies to eliminate naturalization processing delays caused by uncompleted background checks. These lengthy application delays are simply unacceptable, and the USCIS must work with the FBI to address them immediately. As noted above, even before the FY 2007 increase in applicants, FBI name check problems contributed to unfair processing delays for many individuals. The extra workload resulting from the FY 2007 increase will exacerbate these problems, and slow naturalization processing for applicants throughout the nation. We understand that the name checks play an important role in protecting our national security and their purpose is to ensure that applicants meet the eligibility requirements for naturalization. However, we believe we can institute policies that will allow us to simultaneously achieve these goals and ensure that newcomers are treated fairly when they pursue U.S. citizenship.

First, the USCIS should impose a 90-day deadline for the completion of background checks from the date the agency submits its request to the FBI, and the FBI should start to thoroughly document the reasons for its failure to complete any checks within this period. The FBI and the USCIS should conduct a thorough review of background checks practices, which should include information about the number of checks conducted on naturalization applicants, the types of such checks, and the average time spent on them. The review should also examine the obstacles that prevent the timely completion of the checks. The FBI should report to Congress and the DHS on checks that are delayed extensively – such as checks that have not been completed in six months. Finally, the FBI should also provide an annual report about its background check performance, which includes the efforts being undertaken by the agency to ensure that all checks are completed within 90 days.

III. Conclusion

Madam Chair, legal permanent residents who choose to become U.S. citizens are eager to express their commitment to our nation and embrace its democratic traditions and values. When they apply for naturalization, our nation has an opportunity to extend a welcome that affirms and strengthens their commitment. When the U.S citizenship process becomes a “bureaucratic steeplechase,” and newcomers are confronted with lengthy delays, they are seeing the worst face of this nation at the very time they should be seeing it at its best. By eliminating unfair naturalization processing delays, we will ensure that both immigrants and our nation reap the benefits of U.S. citizenship. Naturalization enriches our economy and society by enabling talented newcomers to fill jobs and embrace opportunities that are only available to U.S. citizens. When new Americans participate in the electoral process, they help renew and maintain the vigor and vitality of our civic life. Newcomers share our dream of a country with a robust economy and a vibrant democracy. We call on the USCIS to take swift and effective action to ensure that a bureaucratic nightmare does not thwart the realization of this dream.

I thank the Chairwoman, the Ranking Member, and the Subcommittee once again for providing us with the opportunity to share our views today on the naturalization delays.