

NCLR
NATIONAL COUNCIL OF LA RAZA



UNLOCKING THE GOLDEN DOOR

HISPANICS AND THE
CITIZENSHIP PROCESS



THE NATIONAL COUNCIL OF LA RAZA (NCLR)

The National Council of La Raza (NCLR), the largest constituency-based national Hispanic organization, exists to improve life opportunities for the more than 22 million Americans of Hispanic descent. In addition to its Washington, D.C. headquarters, NCLR maintains field offices in Los Angeles, California; Phoenix, Arizona; McAllen, Texas; and Chicago, Illinois. NCLR has four missions: applied research, policy analysis, and advocacy on behalf of the entire Hispanic community; capacity-building assistance to support and strengthen Hispanic community-based organizations; public information activities designed to provide accurate information and positive images of Hispanics; and special innovative, catalytic, and international projects. NCLR acts as an umbrella for more than 130 affiliated Hispanic community-based organizations which together serve 36 states, Puerto Rico, and the District of Columbia and reach more than two million Hispanics annually.

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HISPANICS AND THE CITIZENSHIP PROCESS

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EXECUTIVE SUMMARY

Obtaining citizenship through the naturalization process is the most important step that an immigrant can take to establish ties with the United States. Citizenship brings with it the ability to participate in the democratic decision-making process as well as enhanced opportunities in the educational and economic life of the United States.

Despite the benefits of U.S. citizenship, Hispanic immigrants naturalize at one of the lowest rates of any ethnic group; only about 17% of those Hispanics eligible to naturalize do so. Maximizing Hispanic naturalization rates is becoming a pressing issue for the Hispanic community. Other research by the National Council of La Raza (NCLR) has shown that the socioeconomic problems facing Hispanics are worsening; Hispanics lost significant ground economically during the 1980s and Hispanics remain the most undereducated major segment of the U.S. population. If Hispanic naturalization were increased, new Hispanic citizens could have a strong positive impact on the community's political participation and the solution of its problems.

Now is the ideal time for cooperative action to increase Hispanic naturalization rates. Together, the Immigration and Naturalization Service (INS), Congress, and community-based organizations with ties to the Hispanic immigrant community can encourage Hispanic immigrants to obtain citizenship. The size of the Hispanic immigrant population eligible for naturalization will soon increase dramatically. The Immigration Reform and Control Act of 1986 (IRCA) led to the legalization of over three million people, approximately 85% of them Hispanic. This population will soon fulfill its residency requirement for naturalization. IRCA represents an unprecedented opportunity to encourage Hispanic immigrants to become citizens.

Cooperation is also needed to improve the efficiency of the naturalization system. Congress enacted major reforms to U.S. naturalization law in 1990, including the establishment of an administrative naturalization system. These reforms provide an opportunity to make the citizenship process more efficient and welcoming to potential applicants.

Problems in the current citizenship process deter immigrants, particularly Hispanics, from seeking and obtaining citizenship. These problems include immigrant distrust of the INS, inefficient implementation of the process, inconsistent administration of the naturalization exam, and a lack of outreach and counseling for potential applicants to encourage and assist them through the process. As a result of these obstacles, many Hispanics are afraid even to begin the citizenship process. Many more Hispanics who do attempt the process but fail the exam do not return to take the exam again.

The private and community sectors have developed a variety of citizenship programs to encourage immigrants to naturalize and to assist them through the process. These programs – which have been sponsored by unions, corporations, and private nonprofit organizations, sometimes with cooperation from local INS offices – offer valuable lessons for any new citizenship initiatives.

Drawing upon the examples provided by the above programs and anticipating the new administrative naturalization system, NCLR recommends the following actions:

- **Streamlining of the Naturalization Process** – The INS should centralize and standardize the oral citizenship exam, implement the proposed standardized written naturalization test in a way that encourages applicants to take it, and use at least part of its revenue from recent fee increases to reduce backlogs in the process.
- **Successful Implementation of the Administrative Naturalization System** – The INS should take advantage of the opportunity offered by the new administrative naturalization system to reduce backlogs in the current system. In addition, the agency should implement an effective appeals process for applicants who fail the exam, and should not create unnecessary delays in the process by forcing applicants whose denials are reversed by the courts to return to the INS to be sworn in and to obtain their Certificates of Naturalization.
- **Outreach to the Immigrant Community** – The INS and community-based organizations together should conduct both direct outreach to immigrants eligible for naturalization, and a targeted media campaign to overcome immigrant fears and misconceptions about the naturalization process. Additional efforts should be made to encourage those applicants who fail the exam on their first attempt to reapply. The INS should improve its information delivery system so that staff who are informed about the naturalization process are readily available to answer questions. Distribution of a video explaining the citizenship process, in both English and Spanish, to local and Spanish-language media, as well as community-based organizations, would also help immigrants understand the process.
- **Appropriation of Outreach Funds** – The Immigration Act of 1990 authorized funding for naturalization outreach. Congress should ensure that these funds are appropriated.
- **Development of Private-Sector Citizenship Programs** – The INS should increase its efforts to coordinate citizenship programs with unions, corporations, national nonprofit organizations, and community-based organizations. An effective way to reach the newly legalized population would be to transform legalization programs into naturalization programs. As part of

this effort, legalization English and Civics classes should be revised to meet the needs of naturalization candidates. In addition, these programs should offer counseling to assist applicants step-by-step through the naturalization process.

Newly naturalized Hispanic citizens can empower the Hispanic community as a whole. Their voting power and ability to hold elective offices will give Hispanics a stronger voice in the U.S. political process, a key to overcoming the problems the community is currently facing. In turn, the nation as a whole will benefit by preventing the expansion of another disenfranchised minority. If implemented, the initiatives recommended in this report would go far toward increasing the naturalization rate in the Hispanic community, by rendering the process more efficient and inviting immigrants to become new citizens.

I. INTRODUCTION

Naturalization is the process by which a person born outside the United States becomes a U.S. citizen. In a nation of immigrants, it is the most important step that an immigrant can take to establish ties with the United States. This remains as true for the Hispanic immigrants of today as for the European immigrants of past decades.

Some benefits of citizenship are quite tangible. For example, U.S. citizens have greater access to immigrant visas for their family members than do permanent residents. They are the only group who can obtain visas for their spouses and unmarried minor children almost immediately, and who have the right to petition for their married children, parents and siblings. Permanent residents may only petition for their spouses and unmarried children and must do so through the "preference system." The preference system is subject to numerical limits, which have caused huge backlogs in recent years.*

Obtaining citizenship also expands a person's employment opportunities. Certain government and security-sensitive jobs are open only to U.S. citizens, as are some licensed professions in the private sector.¹

Moreover, citizenship opens the doors to other jobs that, although nominally available to both citizens and permanent residents, are effectively closed to non-citizens due to the employer sanctions provisions of the Immigration Reform and Control Act of 1986 (IRCA). Congress enacted employer sanctions to deter employers from hiring undocumented workers who have entered the country illegally. Out of fear of sanctions fines, however, many employers have reacted to the law by refusing to hire anyone who cannot prove U.S. citizenship, regardless of whether the job applicant is legally in the United States. Although this practice is illegal, studies suggest that it is a growing response to employer sanctions.² A recent government study found that 430,000 -- or 9% of -- U.S. employers have responded to IRCA by hiring only U.S. citizens.³

* The preference system is the mechanism with which permanent immigration to the United States is controlled. Each year it distributes visas to certain family members of citizens and permanent residents and certain employees to enter and reside permanently in the United States. Each year numerical limitations restrict both the number of visas allowed to each family category and the number of visas allowed to each country. As a result, permanent residents from Mexico, for example, must wait for as long as 10 years to reunite with their spouses and children. Backlogs also exist in the categories for the parents and siblings of U.S. citizens, depending on the country of origin. Legal immigration reform recently enacted by Congress may reduce these backlogs, although the same legislation also set an overall cap on the family preference categories for the first time in the history of U.S. immigration. See the Immigration Act of 1990, P.L. 101-649, 104 Stat. 4978, November 29, 1990.

Citizenship also increases a person's educational opportunities. Certain forms of financial aid, such as Reserve Officer Training Corps (ROTC) scholarships and some private scholarships, are available only to citizens.

Other benefits of naturalization are less tangible but, in some ways, are even more important to the process of acculturation. These include the right to vote and the right to hold elective office.

With issues that have a tremendous impact on the Hispanic community squarely on the national agenda, such as education and poverty, Hispanic participation in the democratic decision-making process has become critical to the advancement of the community. Recent statistics reveal that Hispanics in the United States suffer from severe economic and educational problems. An analysis of Hispanic poverty rates released by the National Council of La Raza (NCLR) revealed that Hispanics lost significant ground economically during the 1980s; Hispanics' median family income declined both in terms of real dollars and in comparison with other groups.⁴ Another NCLR report found that Hispanics remain the most undereducated major segment of the U.S. population. Compared to Blacks and Whites, Hispanics enter school later, leave school earlier, and are less likely to complete high school and enter or complete college.⁵

A recent survey by the National Association of Latino Elected and Appointed Officials (NALEO)⁶ noted that because of their citizenship status more Hispanics were ineligible to vote in the 1988 presidential and congressional elections than were actually registered to vote.⁶ That year almost five million adult Hispanics residing in the United States, out of a total of just over 13 million, were ineligible to vote because they were non-citizens.⁷ Of those who were citizens and thus eligible to vote, approximately 4.6 million were registered to vote.⁸

The ability to vote directly correlates with the ability to resolve problems affecting one's community; Hispanics are less likely to wield political clout over their political representatives at all levels if the majority remain non-citizens. On the other hand, if Hispanic naturalization were increased, Hispanic immigrants could have a strong positive impact on the community's political participation and the resolution of its concerns. Significantly, the NALEO survey revealed that naturalized Hispanic immigrants have a higher rate of voter registration than either the U.S. population as a whole or the U.S. native-born Hispanic voting-age citizen population.⁹

Moreover, the issue of Hispanic political participation is becoming more pressing, since the size of the Hispanic legal resident, non-citizen population has increased dramatically

⁶ In 1989 NALEO conducted an extensive survey of naturalization attitudes and patterns in the Hispanic community. This survey, *The National Latino Immigrant Survey*, has become a centerpiece of research on citizenship and Hispanics.

as a result of IRCA. IRCA led to the legalization of over three million people who had been residing in the United States illegally. Approximately 85% of these persons are Hispanic.¹⁰

The population for whom legalization opened the doors to participation in American life therefore provides an unprecedented opportunity to encourage Hispanic immigrants to naturalize; the Immigration and Naturalization Service (INS) has estimated that the legalization-generated pool of potential applicants could result in as many as 3.9 million additional naturalization applications.¹¹ (This number is presumably higher than the number of persons actually legalized, because some family members will enter the United States to reunite with their legalized family members and will themselves pursue naturalization once eligible to do so).

In recent years Congress has debated ways to increase the naturalization rate of the immigrant community as a whole. Many of these proposals have sought to increase naturalization through "carrot-and-stick" measures. For example, a provision was attached to the employer sanctions portion of IRCA that required an immigrant to certify his or her intent to obtain citizenship before being allowed to seek redress for employment discrimination.¹² In addition, one of the main justifications for maintaining the preference system, thereby allowing citizens greater access to family visas than permanent residents, is to provide an incentive for people to seek citizenship.¹³

Provisions such as these, rather than highlighting the benefits of U.S. citizenship, use punitive approaches to encourage citizenship. Other legislative proposals, however, have emphasized procedural reforms to streamline the naturalization process, which has been repeatedly criticized as cumbersome and unnecessarily complicated. Still other proposals have

¹² This provision was repealed by the Immigration Act of 1990, because it was believed to be an unnecessary paperwork requirement. See the Immigration Act of 1990, P.L. 101-649, 104 Stat. 4978, November 29, 1990, sec. 533. The provision had required those desiring to file a discrimination claim with the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), the agency established by IRCA to handle IRCA-related discrimination allegations, to complete Form I-772, a "declaration of intending citizenship," and to actually file a naturalization application within six months of becoming eligible to do so. In addition, to remain eligible for OSC protection, the person was required to actually achieve citizenship within two years of filing the naturalization application. In practice, however, administrative law judges did not enforce the requirement, and thus the provision was repealed. See "IRCA's Anti-Discrimination Provision: An Analysis of Recent Cases and Policy Trends," *Immigration Law Report*, prepared by the law firm of Fragomen, Del Rey, & Bernsen, March 1990, p. 28.

called for INS outreach programs to educate the immigrant community about the benefits of citizenship. Such efforts have never been tried.*

Compared to punitive measures, making the naturalization process more inviting to potential applicants by making it a relatively straightforward and focused process, combined with outreach to the immigrant community, would be more in keeping with the U.S. spirit of welcoming potential new citizens. This paper therefore proposes several areas in which Congress, the INS, and community-based organizations could work together on procedural reforms and educational efforts to increase the naturalization rate in the Hispanic community.

* The Immigration Act of 1990 includes provisions that seek to accomplish both these goals. The legislation establishes a system of administrative naturalization, designed to diminish backlogs that exist in the current naturalization system. The Immigration Act of 1990, P.L. 101-649, 104 Stat. 4978, November 29, 1990, sec. 401. The Act also mandates INS outreach to encourage immigrants to naturalize. *Ibid*, sec. 406. Both of these provisions are scheduled to take effect in October 1991. *Ibid*, sec. 408. These changes are explained in detail in Section II of this paper.

II. HISPANIC NATURALIZATION

A. Overview

In the past decade, Hispanics have represented the largest proportion of immigrants to the United States.⁶ Hispanics have a very low rate of naturalization, however.

INS data reveal major disparities between naturalization rates by both nationality and ethnicity. In 1989, the INS compared naturalization rates for immigrants of different nationalities who had entered the United States between 1970 and 1979. It found that Mexicans had the second lowest naturalization rate, 13.2%, lower than any other nationality group except Canadians. By contrast, most Asian groups experienced very high rates of naturalization. For example, Vietnamese immigrants naturalized at a rate of 74.4%, while Chinese, Filipino, and Korean immigrants all had rates of about 60% (see Figure 1).⁷

Compared with other ethnic groups, Hispanics as a whole also have a comparatively low rate of naturalization. For those who entered the United States in 1970, the overall rate for Hispanic immigrants was approximately 17% (see Figure 2).⁸ Asian immigrants, on the other hand, naturalized at the much higher rate of 48% (see Figure 3).⁹

In addition, although immigrants are eligible to naturalize after five years of permanent residence, data from 1989 show Hispanics typically wait nine to 15 years to naturalize. By contrast, Asian immigrants naturalize in seven to eight years and European immigrants in 10 years (see Figure 4 for waiting periods for selected countries).¹⁰

⁶ This conclusion is based on data from the 1989 INS Statistical Yearbook. When the number of immigrants from 1981 to 1989 is added to the number of people legalized under IRCA, approximately 4.8 million Hispanic immigrants have entered the U.S. in those years. The next largest contingent of immigrants is from Asia and numbers approximately 2.6 million for that same time period. Asians represent a larger immigrant contingent when looking only at those who entered the country legally through the preference system; however, the legalized population was overwhelmingly Hispanic.

⁷ This figure was extrapolated from data used by immigration experts Portes and Rumbaut. For immigrants who entered the United States in 1970, the authors found that the naturalization rates for Cubans was 47%, for Mexicans 3%, and for South and Central Americans 20%. These rates were then averaged. See Alejandro Portes and Rubén G. Rumbaut, *Immigrant America: A Portrait*, University of California Press, Berkeley, California, 1990, p. 120.

NALEO analyzed much of the above data in its 1989 survey of naturalization patterns and attitudes in the Hispanic community. Its work revealed some startling facts that undermine common notions about naturalization and Hispanics. Most importantly, while the statistics on Hispanic naturalization rates appear to support the belief that Hispanic immigrants plan eventually to return to their home countries, a belief frequently voiced by the government officials and community activists whom NALEO surveyed, NALEO found that 98% of Hispanic immigrants actually plan to stay in the United States. In addition, 87% believe that obtaining citizenship is an important goal. Supporting this apparent interest in U.S. citizenship is the fact that more than half of those surveyed had taken some action in the process toward naturalization.⁶ These results suggest that the low rate of naturalization in the Hispanic community is primarily the result of procedural problems and confusion about the naturalization process, rather than a lack of desire to naturalize.

FIGURE 1

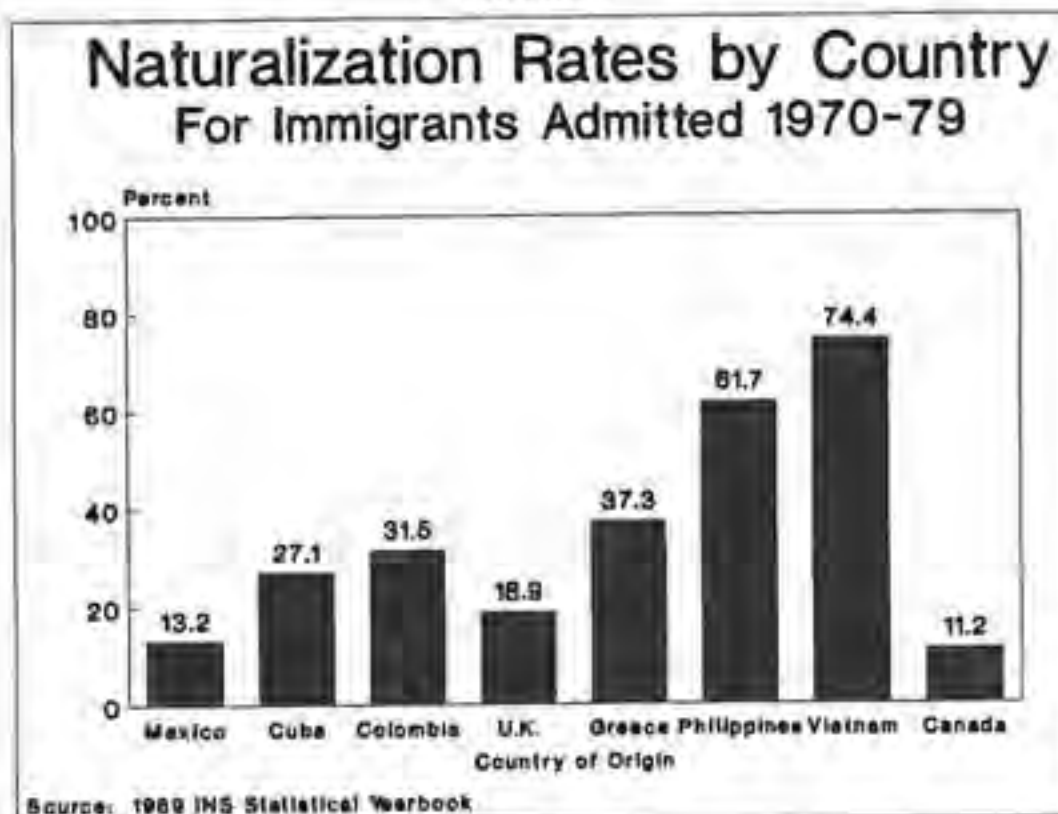


FIGURE 2

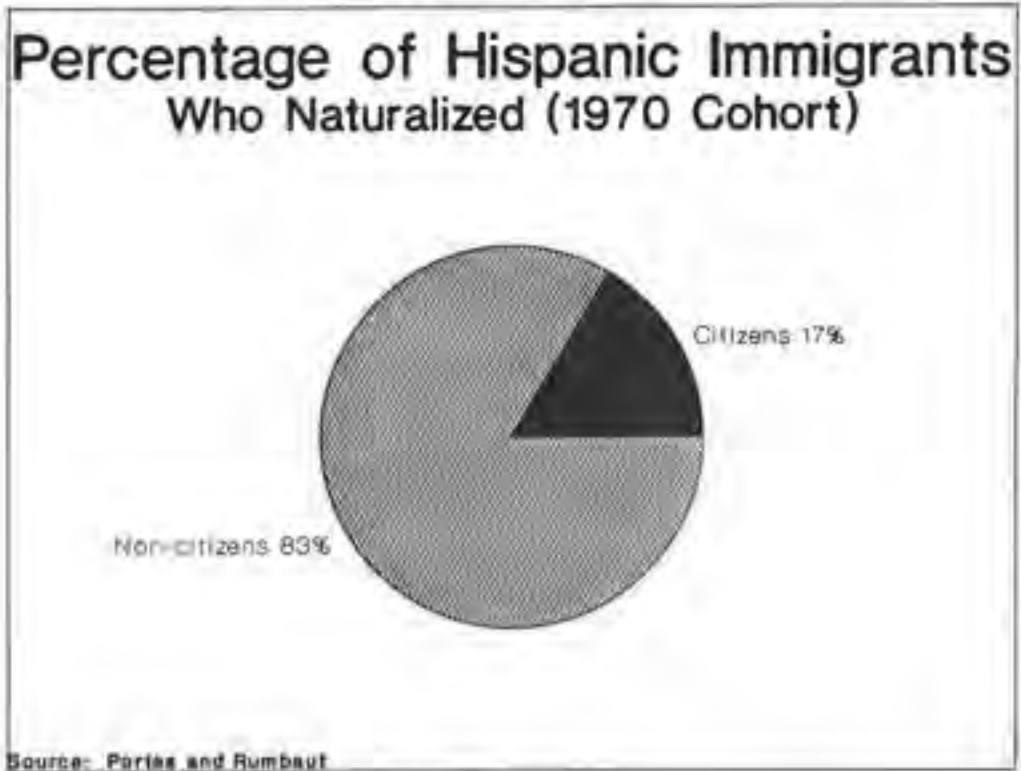


FIGURE 3

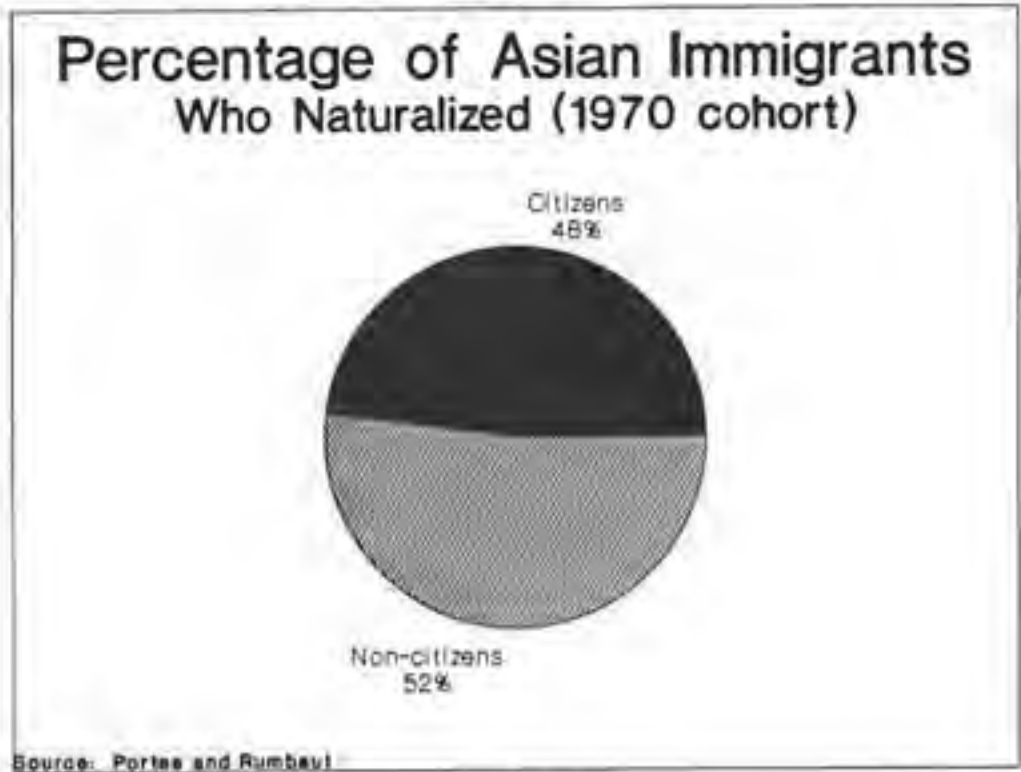
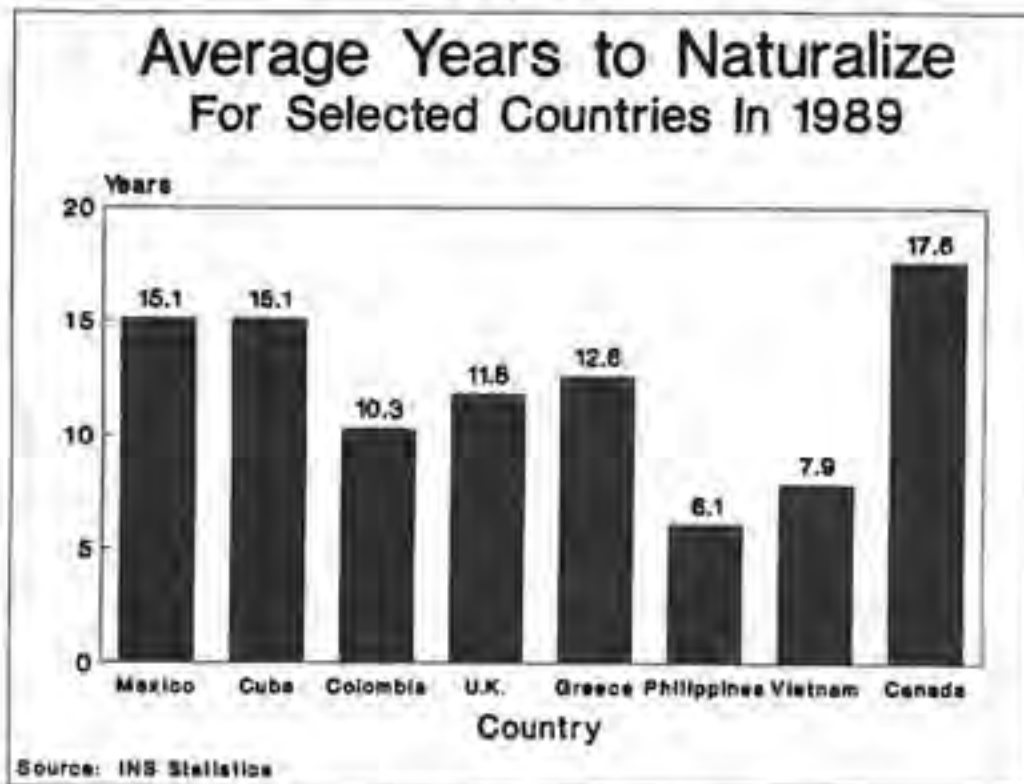


FIGURE 4



B. Factors Influencing an Hispanic's Decision to Naturalize

Many factors influence the decision by individual Hispanics to naturalize. Generally speaking, as noted researcher Robert R. Alvarez has pointed out:

Naturalization should be viewed as the holistic outcome of the combination and feedback of a variety of variables rather than the outcome of isolated factors such as jobs or length of time in the United States. Some specific factors appear more important than others but it is the interplay and combination of factors that most often leads to decisions in favor of citizenship.¹⁷

According to NALEO's findings, the reasons most cited by Hispanics for seeking naturalization include:

- The ability to vote;
- The enhancement of opportunities for a naturalized person's children;
- The ability to petition for visas for more relatives with the chance of faster admission;

- More protection under U.S. laws;
- The eligibility of a naturalized person's children for U.S. citizenship;
- Greater eligibility for U.S. government programs;
- Expanded employment opportunities;
- More equal participation in American life;
- Better quality of life in general; and
- Enhanced earning capability.¹⁸

In contrast, the reasons for not seeking citizenship cited by those surveyed include the following:

- No real benefits accrue from U.S. citizenship;
- The citizenship examination is too difficult;
- Hispanics are subject to discrimination in the United States;
- Relinquishing citizenship in the home country may result in losing property rights there;
- Changing allegiances would lead to a feeling of disloyalty to the home country;
- The desire to maintain political and cultural ties to the country of origin;
- A fear of mistreatment by the INS; and
- Continuing hopes of returning to the home country eventually.¹⁹

Other researchers have identified several additional factors that influence the decision whether to naturalize. Immigration scholars Alejandro Portes and Rubén G. Rumbaut outline three such determinants: the educational level of the immigrant, the geographic proximity of the country of origin, and the political origin of the migration. For example, well-educated Cubans fleeing communism in the early 1970s had a high propensity to naturalize. By contrast, recent Cuban immigrants, who generally have much lower levels of education than their predecessors and entered the United States for economic reasons, are exhibiting a much

lower rate of naturalization. The lowest rates of naturalization, moreover, are those of Canadians and Mexicans, whose home countries are contiguous to the United States. Portes and Rumbaut conclude:

...each additional year of education increases a group's rate of naturalization by about 1.5 percent; coming from Mexico or Canada reduces it by 21 percent; and arriving as a political refugee increases naturalizations by about 13 percent, holding other factors constant.²⁹

Portes and John W. Curtis of Johns Hopkins University performed a separate analysis in which determinants of citizenship acquisition within the Mexican community alone were explored. Their research found that interest in naturalization in that community was contingent on three general factors:

...roots in the United States, such as home ownership and number of children; residential patterns, both in Mexico and the ethnicity of the neighborhood in the United States; and the barriers and attitudes faced during periods of legal residence, such as type of immigrant visa and discrimination faced in the United States.³¹

Portes and Curtis' research challenged some widely-held notions about why immigrants pursue U.S. citizenship. For example, they found that age, educational attainment, knowledge of English, length of residence in the United States and income level did not significantly influence a Mexican immigrant's desire to obtain citizenship. They point out, however, that the factors that influence the decision to naturalize were interrelated in a very complex manner. For example, although they found that English proficiency alone did not significantly affect the decision to naturalize, it contributed greatly to the ability to acquire citizenship. On the other hand, while politically astute immigrants were more likely to pass the citizenship exam, their political awareness dissuaded them from seeking citizenship, because they tended to be more critical of their treatment in American society.³²

By contrast, Robert Alvarez, after interviewing a small pool of newly naturalized citizens, found that many of the factors traditionally cited as influencing the decision to naturalize did play some role in the process:

In most cases decisions to naturalize stemmed from long residences in the United States. Daily life, marriage, U.S. born children, job stability, new friends, and the enjoyment of a relatively high standard of living combined to favor naturalization.³³

Alvarez' findings paralleled those of the NALEO survey, which revealed that fear of rejection in the homeland, fear of discrimination in the United States, expectation of returning to one's country of origin, fear of the citizenship exam, poor knowledge of English, fear of

social reprisal from friends, and myths about rejection of applicants from certain countries were reasons cited by immigrants for not seeking citizenship.²⁹

Hispanic immigrants often cite procedural roadblocks, confusion, or misunderstandings about the naturalization process as reasons for not pursuing U.S. citizenship. The next sections therefore outline the naturalization process as it is currently implemented, analyze the problems that exist in the process, and offer recommendations to overcome both procedural difficulties and community misconceptions about naturalization.

III. THE CITIZENSHIP PROCESS

A. *The Procedure*

A person can legally reside in the United States on a permanent basis without becoming a citizen. Citizenship is a matter of choice because an applicant must formally renounce his or her former allegiance during the naturalization ceremony.²³ Naturalization is therefore a very emotional decision, symbolizing an affirmation of allegiance to the United States and a breaking of ties with the person's native country.

This section will focus on the most common route to naturalization. Procedures exist through which particular persons, such as spouses and children of U.S. citizens and members of the military, can naturalize, but these will not be discussed.

1. Current Law

Article II, Section 8 of the U.S. Constitution gives Congress the authority to enact a uniform rule of naturalization. Congress enacted the first naturalization laws in 1790, which defined the substantive requirements for acquiring citizenship. Although it delegated the authority to naturalize to the courts, it did not define procedures to carry out this authority. As a result, the procedure for naturalization varied from court to court, resulting in uneven implementation and widespread fraud. In 1906, Congress established a procedural framework for naturalization which delegated the administrative supervision of naturalization to a federal agency (now the INS) but retained the courts' ultimate authority to grant or deny naturalization.²⁴

The 1790 and 1906 naturalization laws are essentially the same as those in place today. For all practical purposes, the INS continues to carry out the bulk of the naturalization process by overseeing the application procedure, conducting the required examinations, and recommending the appropriate decision to the courts. The only major reforms to the naturalization system occurred in 1990 and are scheduled for implementation in October 1991. These reforms are discussed in the next section.

A person must meet five basic requirements in order to naturalize in the United States. He or she must:

- Have permanent resident status;
- Have resided in the United States for a period of five years, with certain limited exceptions;
- Have knowledge of the government, Constitution, and history of the United States;

- Have a basic knowledge of the English language; and
- Meet certain character requirements, such as not having committed certain criminal acts, not having participated in Nazi activities during World War II, and not having been a member of the Communist Party.

The steps required to complete the naturalization process are outlined by David North in "The Long Grey Welcome," an overview of the naturalization process. The following is a summary of his analysis (see Figure 5). (As North points out, some variations in the process exist among the INS districts).

The first step that a naturalization applicant takes is to complete a three-part application packet. This packet consists of a four-page application (Form N-400, "Application to File Petition for Naturalization") with two pages of instructions.* The form contains 51 questions asking for biographical data. It also contains a one-page biographical statement (Form G-325) and a fingerprint form.

After completing the application packet, the applicant must file it with the INS. A filing fee of \$90 is charged for adults and \$80 for children. These fees represent increases, adopted in March 1991, from previous fee levels of \$60 and \$50 respectively.²⁷

The INS sends the applicant a receipt once it has received the application and the appropriate fees. Alternatively, if the application is incomplete in any way, the INS mails the application back for completion. This disposition is called a "return."²⁸

If the application is complete and the INS finds no apparent reason not to process it, such as the applicant having a police record, the next notice sent to the applicant is an N-430 or N-430A (a computerized version of the N-430). The N-430 instructs the applicant to go to the INS for a preliminary examination.

The exam, which is conducted orally by an INS officer, tests both the applicant's English ability and knowledge of U.S. government and history. The law specifies that the examiner should not impose "extraordinary or unreasonable" conditions on the applicant asked to show such knowledge. Although the INS does not provide guidelines regarding the types of questions examiners should ask, the following represent typical questions:

- In what year was the Constitution adopted?
- Name one power of the President.
- Name two reasons why Europeans settled in the New World.

* A parent filing a petition for naturalization on behalf of his or her child must complete Form N-402.

THE NATURALIZATION PROCESS

Under Current Law

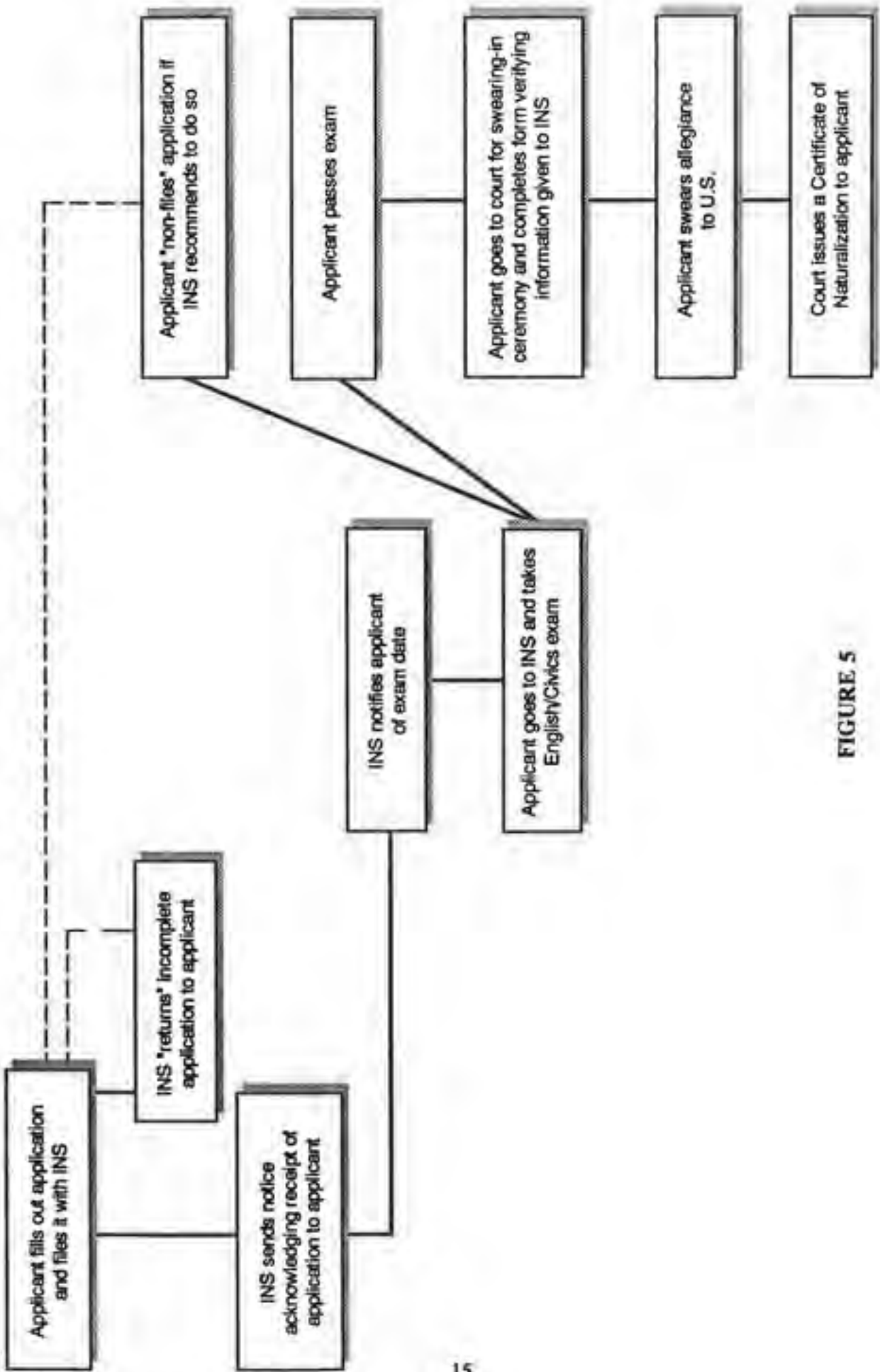


FIGURE 5

The INS officer generally asks the applicant to respond orally to a few such questions. In addition, the applicant is instructed to read or write a couple of sentences or expressions in English. The entire interview is conducted in English, with limited exceptions for the elderly and those physically unable to speak, read, or write English.

At the end of the interview, the applicant is supposed to be told whether he or she has passed the exam. If the examiner finds the applicant's performance on the examination inadequate, the applicant is allowed to withdraw the application. This results in a "non-file"; in effect, the INS will behave as if the application was never filed and allow the applicant to return to the end of the line and reapply.⁷

An applicant who has passed the exam must sign the N-400 application and complete Form N-405, the formal petition for naturalization. The applicant also must pay a filing fee of \$70 to the clerk of the court that will conduct the swearing-in ceremony. This fee was also recently increased from its previous level of \$50.⁸ Once the filing fee has been paid, the applicant is given notice of the date on which the swearing-in will occur.

On the day of the swearing-in ceremony, the applicant must relinquish his or her alien registration receipt card ("green card") and other immigration documents, and submit Form N-445 or N-445A (a computerized version of the former). The questions appearing on these forms cover the same information as those in the N-400 and naturalization petition; the court confirms this information simply to determine whether any changes have occurred between the time of the initial application and the date of swearing-in. Generally, however, the court relies on the findings and recommendations of the INS officer who performed the naturalization examination.⁹

The swearing-in ceremony is a very formal occasion over which a state or federal judge presides in either a courtroom or a civic auditorium. These ceremonies typically are scheduled on a frequent basis in urban areas and less frequently in rural areas.

During the ceremony, the judge usually informs the soon-to-be citizens of the responsibilities that accompany U.S. citizenship. The judge may also order name changes for certain applicants if they requested such changes on their petitions. Most importantly, the judge administers the oath of allegiance. The new citizens must recite the following:

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by law; that I will perform non-combatant service in the armed forces of the United States when required by law; that I will perform work of national importance under civilian direction when required by law; and that I take this

obligation freely without any mental reservation or purpose of evasion; so help me God.³²

The court then either issues Certificates of Naturalization at the conclusion of the ceremony or mails them to the new citizens.

2. Reforms Enacted Under the Immigration Act of 1990

To alleviate the backlogs that have developed in the current naturalization system, the Immigration Act of 1990 provides for a system of administrative naturalizations, whereby the entire process is handled by the INS and is thus shifted from the jurisdiction of the judiciary to that of the Attorney General. The Attorney General, and the INS acting under the Attorney General's authority, now make the final decision on a petition for naturalization. The INS is currently drafting regulations to implement these reforms, which are scheduled to take effect on October 1, 1991.³³

Under the administrative naturalization system, the courts are involved in the naturalization process in only three situations. First, the Act gives the courts an oversight role. The applicant may appeal a denial to the judiciary; the Act gives federal district courts the authority to conduct *de novo* reviews of naturalization petitions, a procedure which allows the courts to determine the applicant's eligibility anew. Current law requires the INS examiner to inform an applicant of the reasons for his or her denial, but the courts generally simply affirm the INS's decision if the applicant then appeals that denial; this provision may now take on new meaning with an appeals process in which the reasons for denial may be examined. Before seeking court relief, however, a denied applicant must first seek an administrative hearing before an immigration officer. As one immigration scholar noted:

Presumably this officer will not be the same person who conducted the original examination. The law does not say how quickly the INS must hear an administrative appeal from a denial. The INS is considering requiring denied naturalization applicants to file a formal notice of appeal. According to the Service, this might help clarify the issues on appeal, so that the agency can determine whether the matter can be easily resolved just by scheduling another English or U.S. government test, or whether it will require a substantive hearing. The proposed regulations may also limit the amount of time the INS has to decide an appeal.³⁴

³³ Establishing a system of administrative naturalizations was a concept that Congress had considered at various times during the 1980s. See, for example, Letter from Senator Edward M. Kennedy to Raúl Yzaguirre, President of NCLR, December 15, 1987, seeking input on proposed legislation to create an administrative naturalizations system, and NCLR Response, January 25, 1988, supporting an administrative naturalization system, and recommending legislative action mandating INS public education, outreach, and assistance in the area of naturalization.

If the applicant does not obtain relief at the administrative level, he or she may then go to court for de novo review. In conducting this review, the court must make its own findings of fact and conclusions of law. INS Deputy Assistant Commissioner for Adjudications R. Michael Miller has indicated that regulations will probably allow the applicant to choose either a review of the INS decision by the court or an entirely new examination by the court.³⁴

Once a naturalization matter reaches the court, one immigration expert has asserted that "jurisdiction for decisionmaking and conducting the final oath of citizenship lie with the court."³⁵ Miller has indicated, however, that although the court may find an applicant eligible for naturalization, regulations will most likely require the court to remand the case to the INS for a decision consistent with the court's findings and for issuance of a Certificate of Naturalization.³⁶

In recent Congressional testimony, U.S. District Judge Robert M. Parker pointed out that this requirement would place an additional burden on applicants, who would have to return to the INS for the actual swearing-in and to obtain their Certificates of Naturalization. Parker expressed concern that this step could result in delays and would leave applicants without their "green cards" or proof of citizenship. He suggested that the courts be allowed to conduct swearing-in ceremonies when they have determined citizenship eligibility and that the INS forward Certificates of Naturalization to the courts to be distributed to new citizens immediately after their ceremony.³⁷

Second, applicants may seek relief in the courts if the INS has not made a determination on a naturalization application within 120 days after conducting the interview. The 1990 Act, however, does not allow recourse to the courts if the INS delays in scheduling the interview after an application has been filed with it, or if the INS delays in administering the oath of allegiance. It may be possible in these situations to seek relief from the courts through a motion to calendar or a mandamus petition, which are judicial remedies that a person can seek to compel an agency to fulfill some ministerial duty.³⁸

Third, the Act allows the applicant to opt for the traditional swearing-in ceremony in a court. This is presumably to allow applicants who so desire to take the oath of allegiance in a traditional, and possibly more impressive, setting than the INS may provide.

For those successful applicants who choose to have the INS, rather than a court, conduct their swearing-in, it is unclear how the INS plans to administer the oath of allegiance. The 1990 Act does spell out that the Attorney General is to hold public swearing-in ceremonies in keeping with the dignity of the occasion. As one commentator observed, moreover:

The legislative history encourages the INS to develop a model plan for administrative naturalization ceremonies, and to provide ceremonies in cities

that lack INS offices, so that communities, families and friends "may share in welcoming the new citizens into their midst."³⁷

Miller recently noted, however, that the INS hopes to maintain as much flexibility as possible in the administration of the swearing-in ceremony. He pointed out that in some cities, such as Los Angeles, the INS has already had to seek alternative sites even for judicial ceremonies, due to the overwhelming demand for courtroom space. Because reserving space in alternative sites is also difficult in Los Angeles, and presumably elsewhere as well, the administrative naturalization system may only serve to place increased demands on already limited spaces. The INS thus plans to be creative in its choice of locations; it will explore using facilities such as high school auditoriums, music halls, convention centers, and sports arenas.³⁸

Miller also indicated that the agency will allow INS districts a great deal of flexibility in the scheduling of swearing-in ceremonies. For example, he noted that the Atlanta INS office is interested in scheduling ceremonies on a weekly basis every Friday afternoon. Applicants from out-of-state will be interviewed on Friday mornings and sworn in that afternoon if they pass the exam, a process that will save them time and travel expenses. Those who live closer to the Atlanta office will take the exam earlier in the week, and then return to the office on Friday for the swearing-in ceremony.³⁹

Miller emphasized, however, that the INS will not be flexible with regard to the person administering the oath of allegiance. Because the agency feels bound by the statutory requirement to uphold the dignity of the event, only a District Director, officer in charge, or someone to whom the District Director delegates authority to administer the oath will be allowed to conduct the swearing-in ceremony. This stipulation makes it unlikely that an applicant will have the option of going through a swearing-in process, perhaps administered by the examiner, on an individual basis immediately after passing the examination.⁴⁰

Another provision of the 1990 Act may ease backlogs in the current system by allowing applicants to file their petition for naturalization three months before their five-year residence requirement has actually been met. Also, the residence requirement has been made less restrictive, in that applicants need only have resided within an INS district or state for three months prior to application, rather than within the same state for six months prior to application. In addition, those applicants who move may now ask the INS to transfer their applications to another INS district. These changes are particularly important to the population legalized under IRCA, since it has typically been a very mobile one.⁴¹

The legislation also expands an exception to the English proficiency requirement. Under prior law, a person over 50 years of age who had been living in the United States at least 20 years in permanent resident status was exempt from the English language requirement. The 1990 Act extends this exemption to permanent residents over 55 years of age who have been living in the United States for at least 15 years.

B. Problems with Current Procedure

The current system of naturalization manifests several problems that deter eligible immigrants, particularly Hispanics, from seeking and obtaining citizenship. David North's analysis discusses some of these problems. They include immigrant distrust of the INS, implementation difficulties arising from the bureaucratic nature of the INS, inconsistencies in the exam itself, and a lack of outreach and counseling for persons eligible for naturalization.

In isolation, these problems may not discourage eligible persons from seeking and obtaining naturalization, but in combination they appear to deter a substantial proportion of the eligible immigrant population, especially those who are Hispanic.

1. Distrust of the INS

The INS is a bifurcated agency, charged with both enforcement and service duties. The schizophrenia that results from these often clashing roles has been pointed out repeatedly by both immigration specialists and the General Accounting Office (GAO), the research arm of Congress.⁴⁶

Many immigrants, particularly those who entered the United States illegally and then legalized under IRCA, view the INS more as an enforcement than service agency, because it is in charge of deporting persons living illegally in the United States. In general, the role of the INS in border enforcement and work site raids, and the violence that often results from this role, gain more publicity than the agency's role as a service provider.⁴⁷ This exacerbates immigrants' fear of the INS, and operates as a barrier to naturalization.

The agency's image problem is not limited to those immigrants who entered the country illegally. Many immigrants who entered the country legally and native-born citizens of Hispanic descent have an intuitive distrust of the INS, dating back to a series of "repatriation" campaigns in the early and mid-1900s in which thousands of citizens and permanent residents were deported without benefit of due process. In recent years, many Hispanic immigrants and citizens have alleged that immigration law enforcement continues to have a discriminatory effect on Hispanics.

The institutional nature of the INS generally perpetuates this image. In past years, many of the high-level positions in the agency were held by former Border Patrol agents, who were trained in enforcement policy.⁴⁸ In addition, the agency's budget favors enforcement activities; in 1990, 62% of the INS budget was allotted to enforcement functions, while only 12% was targeted at services.⁴⁹ One researcher has deemed the service side to be "the neglected sibling" in the INS.⁵⁰

Hispanic distrust of the INS, combined with the agency's institutionalized bias toward enforcement rather than service delivery, makes many Hispanics reluctant to pursue

naturalization, NALEO's survey revealed that potential mistreatment by the INS alone prevents 15% of Hispanic immigrants from seeking citizenship.

This entrenched fear is exacerbated by reports of the difficulty of the naturalization exam and the bias against Hispanics exhibited by some INS examiners. Certain myths are also prevalent in the community, such as the belief that failing the examination is grounds for deportation.⁶⁹

Unfortunately, the fear that the INS might discriminate against Hispanic naturalization applicants appears to have some basis in fact. A study conducted by the INS itself revealed that the denial rate for Hispanic applicants taking the naturalization exam for the first time is significantly higher than for all other ethnic groups, except Africans. A recent NALEO analysis indicated:

In areas with significant Latino immigrant populations, naturalization applicants from the Spanish-speaking areas of Latin America and the Caribbean are more likely than applicants from other regions of the world to be administratively denied....Of [all] the applications studied in the report, 16.0% were denied. However, applicants from the Spanish-speaking areas of Latin America and the Caribbean faced a 19.1% denial rate....Of the eleven INS district offices serving large volumes of Latino immigrants, ten have higher denial rates for their Latino applicants than their non-Latino applicants.⁷⁰

Of course, the question remains as to whether this discrepancy in denial rates is attributable to discrimination or to some other factor, such as the language barrier.

The pass rate of Hispanics taking the exam a second time is roughly the same as that for other groups. Approval rates, however, vary a great deal between INS districts; in Newark and San Jose, for example, Hispanic applicants who reapply have a much lower pass rate than non-Hispanics.⁷¹

In addition, according to one INS study, approximately two-thirds of Hispanic applicants who failed the exam on the first attempt did not retake the exam within a 10 to 13 month period (the period of the study) after their initial failure. The percentage who did not return was even higher in areas with high Hispanic denial rates. In Los Angeles and New York, for example, the reapplication rates for Hispanics were only 7.7% and 13.9% respectively.⁷²

2. Implementation Problems

Bureaucratic hurdles and delays are an unfortunate part of the naturalization process. Naturalization therefore often seems a daunting task to potential applicants.

David North's study graphically outlines the experience of a typical applicant, revealing a process that is discouraging and confusing. The INS offices are grey and sterile. The forms that an applicant is required to fill out are lengthy, unclear, and poorly formatted, and request unnecessary information. As North points out:

The forms, brochures, and form letters used by the Service need to be rewritten. These documents are needlessly cold, and potentially alarming to some. The language is often needlessly ponderous and above the average education level of most of the applicants. The graphics range from uninspired and cramped to messy and illegible.⁵¹

Typically, moreover, the applicant has to wait in lengthy lines to obtain these forms. This often requires taking time off from work, thereby placing undue financial stress on applicants.

Furthermore, the naturalization exam itself is confusing. Often the applicant is not explicitly informed at the end of the exam whether he or she passed. Also, clear instructions are not given to those who do not pass as to how they should resubmit their applications.⁵²

Implementation problems are also manifested in the form of backlogs in the naturalization system. In the early 1980s, these backlogs were attributed primarily to delays in the application stage administered by the INS. In Los Angeles, for example, an applicant had to wait for as long as three years between the filing of the application and the scheduling of the interview. After widespread criticism, the INS aimed at reducing this waiting period to four months. In 1986 it reported accomplishing this goal; the average processing time had decreased to 3.7 months. This improvement was attributed to an increase in staff and a transition to computerized application processing.⁵³

A 1991 report by the GAO, however, indicated that this improvement was not lasting. The GAO revealed that since 1986 the INS-wide processing time for naturalization has climbed as high as 6.2 months (see Figure 6).⁵⁴

The GAO also concluded that processing times actually were probably much longer than the averages revealed and that a large percentage of naturalization cases were not being processed within the four-month time frame.⁵⁵ For example, the GAO found that delays in the larger INS districts, which serve the vast majority of immigrants, were much greater; the processing time in 1989 for naturalization cases was 8.8 months in the Chicago district and 11.6 months in the Miami district (see Figure 7).⁵⁶ In addition, the GAO noted that even

⁵¹ This confusion may be alleviated by the reforms enacted in the 101st Congress, which require the INS examiner to inform those applicants who fail the exam of remedies available to them. See the Immigration Act of 1990, P.L. 101-649, 104 Stat. 4978, November 29, 1990, sec. 401.

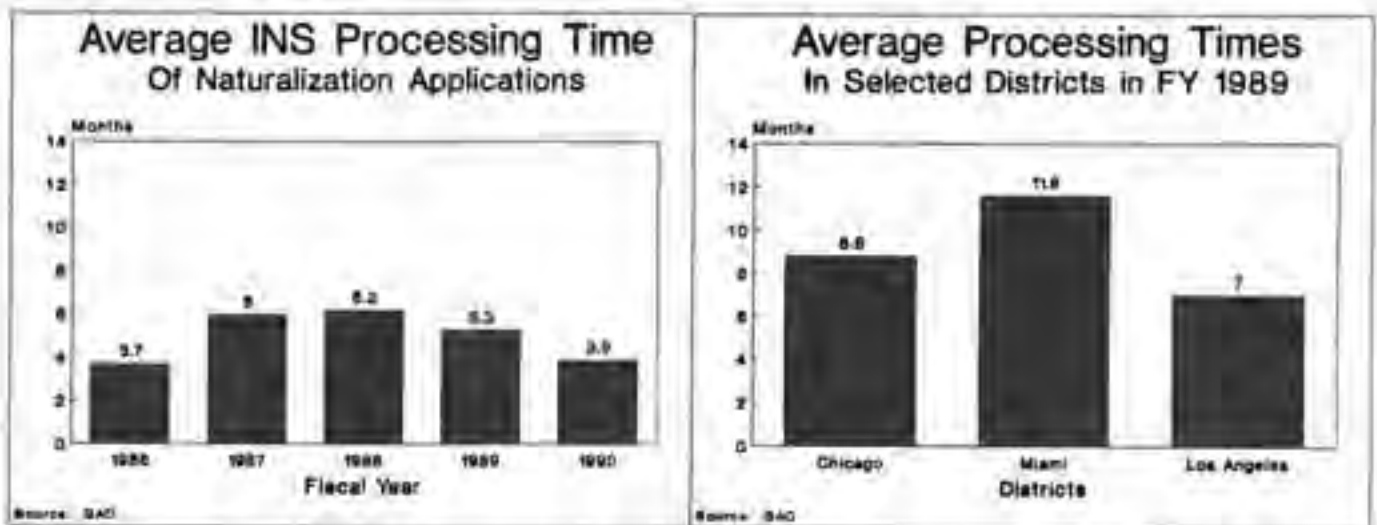
these estimates may be understated due to a lack of clerical staff to enter data into the various systems the INS uses for tracking applications:

For example, Los Angeles had about 6,000 more naturalization cases pending than the workload statistics show because these cases had not been entered in the Naturalization Casework System, which tracks naturalization cases. With this number figured in, it would take Los Angeles 7 months to process naturalization cases, rather than...5.3 months....⁵⁸

The GAO surveyed INS managers and found that over 50% believed that the INS was not adjudicating naturalization cases in a timely manner.⁵⁹ The GAO attributed the sluggishness of adjudications to an inefficient use of resources and a misallocation of staff time.⁶⁰

FIGURE 6

FIGURE 7



The above figures are even more disturbing in light of the fact that the total expenditures for the INS Adjudications program increased from \$43 million in FY 1986 to over \$82 million in FY 1989. As the GAO report points out, "this represents a 90 percent increase in expenditures, while the program's workload in terms of cases received during this same period has only increased modestly--by about 7 percent."⁶¹

Of course, this budgetary figure includes all the programs administered by the Adjudications program, a component of the INS that is responsible for adjudicating such benefits as adjustment of status, asylum, temporary worker visas, and family visa petitions as well as naturalization. However, under a new budgetary system implemented in FY 1989, known as the Immigration Examinations Fee Account System, all these programs, except asylum adjudications, are to be self-sustaining rather than deriving their funding from the INS budget. Given the fact that naturalization fees for adults have increased from a total of \$50 at the start of 1989, to \$110 at the end of that year, to the current level of \$160, it would seem appropriate to expect the INS to be able to administer the naturalization program in a more efficient and timely manner. In addition, Deputy Assistant Commissioner Miller has warned that the new fee does not take into account any added expenses that will be incurred by the INS in its management of the new administrative naturalization program, and that another fee hike may occur when that program gets under way.⁴³

In response to criticism of its efficiency, the INS has stated that delays in adjudications will dissipate as it trains new staff, implements an automated system to process applications, and centralizes adjudications.⁴⁴ Management attention that was diverted to legalization, moreover, may now be focused on other activities, including naturalization.⁴⁵

While it is true that the INS has hired 500 new examiners in the past two years, implementation of the new software needed for automating application processing is more than a year behind schedule.⁴⁶ In addition, persons legalized under IRCA will place increased pressure on the system when they have fulfilled the residence requirement for naturalization. In the interim, moreover, the 1990 Act calls for several major new programs, including "family fairness", Temporary Protected Status for those Salvadorans fleeing turmoil in their home country, and a restructured and expanded visa system. The application procedures that these programs will require will place even greater pressure on INS management and resources.⁴⁷

The Department of Justice, which oversees the INS, recently expressed its displeasure with INS inefficiency and the sluggishness with which promised changes have been implemented. After the issuance of the highly critical 1991 GAO report on INS management, two other GAO critiques of INS financial management and data collection, several Department of Justice Inspector General studies, and the leak of a scathing internal memo by the INS' General Counsel, Attorney General Richard Thornburgh ordered the demotion of three top INS managers, including the Associate Commissioner for Management, the Associate Commissioner for Information Systems, and the Comptroller.⁴⁸ In addition, the

⁴³ The number of family members of the newly legalized eligible for family fairness is unknown, but probably exceeds 100,000. The estimates of the number of Salvadorans eligible for Temporary Protected Status range from 200,000 to 500,000, although as of the end of June 1991 only about 100,000 had come forward to apply. The Act increased the number of permanent legal immigration visas by 35%.

House Judiciary Subcommittee on International Law, Immigration, and Refugees and the Senate Judiciary Subcommittee on Immigration and Refugee Affairs conducted oversight hearings on INS management. In response to this pressure, the INS is instituting a new management system, which may improve its efficiency.⁸⁷

The INS, however, is not solely to blame for the slow processing of naturalization applications. Substantial delays in scheduling swearing-in ceremonies by the judiciary also exist. The typical time lapse between filing an application with the court and being sworn in is anywhere from 10 months in the New York area to 20 months in Dallas.⁸⁸ These backlogs vary from region to region due to the decentralized nature of the process; each INS district office makes its own arrangements with the courts in its area. For example, while ceremonies in the New York area are scheduled on a weekly basis, those in Miami are performed much less frequently but include huge numbers of people.⁸⁹

Congress enacted the system of administrative naturalizations to decrease the waiting period between passing the exam and taking the oath of allegiance. As discussed in the previous section, administrative naturalization allows an applicant to choose between the traditional judicial swearing-in ceremony and an INS-administered swearing-in.

To address effectively the problem of backlogs, however, administrative naturalizations will require an INS geared up to process naturalizations more quickly than at its current rate and able to swear in applicants soon after they pass the examination. Otherwise, the formality of being sworn in, and the accompanying backlog, will merely be shifted from the courts to the INS. Early indications are that the Service, although aware of the need to develop a time-efficient system, is also acutely aware of its statutory mandate to uphold the dignity of the event, a requirement that may actually serve to undermine the agency's ability to process applications quickly.

3. Examination Inconsistencies

INS examiners have a great deal of latitude in the examination process; they can make the English and Civics portions of the exam quite difficult if they wish. Operating under the assumption that flexibility will allow examiners to match the difficulty of an exam to the skills of the applicant, the INS does not issue guidelines to examiners. Moreover, examinations are not monitored, giving examiners complete jurisdiction over the questions asked.

Although there are questions that are frequently asked, examiners often also make up their own questions, which can be extraordinarily difficult. NALEO has reported, for example, that some examiners have asked applicants to identify the fifth president of the United States and to give the name of the wife of their Governor.⁹⁰ NCLR recently received a complaint from an applicant who had been asked to identify the number of district courts in the United States. Few native-born U.S. citizens can answer such questions, let alone the

average naturalization applicant; it is hard to avoid the conclusion that some examiners ask obscure questions to intimidate the applicant.

For some applicants, being asked to respond to such difficult questions is upsetting and causes them to fail the exam. Applicants who fail the exam are told that their applications will be rejected by the courts, unless they choose to have their applications administratively non-filed.⁷¹ Although non-filing allows an applicant to retake the exam, as noted previously, many are deterred from returning.

For other immigrants, reports of the difficulty of the exam have a chilling effect on even beginning the naturalization process. Lack of outreach makes the traditional form of publicity, word-of-mouth, more potent. Unfortunately, the "horror stories" tend to spread more quickly than the tales of success. Robert Alvarez notes:

The perception and fear concerning the process is exacerbated by the stories people hear and experiences people have with the Immigration and Naturalization Service. This includes... fear of being rejected in the process, leading to deportation.⁷²

Also, as indicated earlier, NALEO has found that Hispanic applicants are denied at a higher rate than other ethnic groups.⁷³ This reality only serves to reinforce the fears of other Hispanics who are eligible to apply.

The INS is in the process of developing a standardized exam as a means to counteract the arbitrariness in the current system. This exam will test an applicant's knowledge of U.S. history and government. English ability will continue to be tested at the INS through the oral verification of the applicant's eligibility for citizenship.

A similar effort was made during legalization through the Educational Testing Service (ETS), which developed a test to evaluate the English and Civics knowledge of second stage applicants.⁷⁴ This program met with limited success; although the legalization applicants who used the test to fulfill their English and Civics requirements approved of the test, very few applicants actually used it, due to insufficient advertising of its availability and poor implementation.⁷⁵ To promote the use of the standardized naturalization exam, the INS has indicated that it will conduct outreach regarding its availability in conjunction with community-based organizations and may involve such groups in the actual administration of

⁷¹ Legalization is a two-step process; in Stage I the applicant was awarded temporary residence, and in Stage II -- a stage that is still in process -- the applicant is awarded permanent residence.

⁷² INS Outreach Director E. B. Duarte has stated that approximately 2% of legalization applicants used the exam. Telephone conversation, June 13, 1991.

the exam.²⁴ These organizations would subcontract with the testing entity overseeing the exam, such as ETS.

4. Lack of INS Outreach

The INS has never engaged in an extensive national public outreach and education effort to encourage potential naturalization applicants to apply. When added to the complicated nature of the application procedure, immigrant distrust of the INS, and confusion about the process, this lack of outreach exacerbates the reluctance of potential applicants to attempt the naturalization process.

Positive outreach and education efforts have been made at the INS district level, such as in El Paso where the INS district created a corporate citizenship program, which is discussed later, and in Houston where the district office developed a video explaining the steps necessary to achieve citizenship. The INS Central Office has also engaged in some outreach efforts in conjunction with its Centennial celebration. For example, it recently distributed copies of a poster encouraging immigrants to naturalize to its district offices for their subsequent distribution to community organizations. Until such efforts are undertaken on a national level, however, some immigrants will continue to view naturalization as a process which requires unwanted contact with the INS, and which might result in the realization of one of their greatest fears, deportation.

The INS has performed extensive outreach in other programs it administers. For example, Congress mandated INS outreach regarding the legalization program, which resulted in an extensive publicity effort. This experience offers several important lessons for any naturalization outreach program.

In the first stage of the legalization program, in conjunction with a public relations organization called the Justice Group, the INS initiated a national outreach campaign using mass media messages aimed at increasing public awareness of the legalization program. This outreach effort, however, failed to address the specific concerns of immigrants about legalization, or to inform potential applicants about the availability of assistance from nonprofit organizations. This approach proved inadequate by the end of the first six months. Various analyses concluded that independent outreach by community-based organizations in the form of community forums, public service announcements on ethnic media, and outreach materials addressing immigrant community concerns about legalization were much more effective. As a result, the INS ultimately followed the example set by community agencies and changed the focus of its outreach to address the specific concerns of applicants.²⁵ The Service also recognized the crucial role played by community-based organizations by advertising the services offered by such groups. Several key observers credit this shift in approach with increasing significantly participation in legalization.

The legalization experience suggests that the most effective outreach to the immigrant population is that which addresses individual fears and misconceptions. Moreover, the INS'

most successful legalization outreach was carried out in conjunction with, and modeled after the efforts of, community-based organizations.

A second INS outreach effort in the context of legalization offers additional lessons for any naturalization outreach program. The INS has attempted to contact directly by mail those who have fulfilled the time requirement for Stage I of legalization, and are thus eligible to apply for permanent residence in Stage II. This form of direct outreach has not reached all potential applicants, largely because the newly legalized community is very mobile, and the INS does not always have the most recent addresses of the immigrants in its files.

In addition, many would-be applicants for Stage II of legalization, even though aware of the need to complete the second step of the process, have reported receiving incorrect information from INS staff.⁷⁶ Other applicants attempting to contact the INS have been unable to obtain any information; the INS is notorious for putting people on hold on the telephone or not answering calls at all. As Warren Leiden, Executive Director of the American Immigration Lawyers Association, recently explained in Congressional testimony:

...[A]t many INS offices the electronic switchboard is an effective barrier to making inquiries. It is remarkably difficult to reach a human voice, but even if the caller is successful (which generally involves a long and sometimes endless delay), he or she is told that there is either no record of the case or that the caller needs to call back at a different time or call elsewhere for assistance....Contact representatives regularly provide misleading or incomplete information to the general public, likely for want of training or up-to-date information. Since INS does not or cannot respond in a timely fashion through written communications, the importance of adequate telephone access becomes even greater.⁷⁷

In the case of naturalization outreach, community-based organizations could assist the INS in avoiding such problems. These groups typically have more accurate records of the addresses of potential naturalization applicants, as a result of their counseling role during the legalization program. The relationship that these agencies developed with legalization clients would enable such groups to disseminate effectively information regarding naturalization.

The most direct means of reaching the Hispanic community is to use Spanish-language television and radio. During the legalization program, the INS initially channeled its resources into the English-language media; it received a better response from the immigrant community when it began to use ethnic media.⁷⁸ For example, the INS District Director in Chicago, A.D. Moyer, ran his own talk show on Spanish-language television, an effort much appreciated by the Hispanic community in that area.⁷⁹

Legalization has laid much of the groundwork for any INS-community agency joint naturalization outreach program. Since assuming his position in 1989, INS Commissioner Gene McNary has fostered growing cooperation between Hispanic organizations and the

Service. A naturalization outreach program which takes advantage of this relationship and draws upon the experience of community groups is likely to improve the image of the INS while promoting an important benefit to immigrants.

The Immigration Act of 1990 has given the INS the opportunity to assess the benefits of naturalization outreach. The Act provides for public outreach and promotion of naturalization in consultation with community-based organizations, private voluntary agencies and other organizations. It also authorizes the appropriation of funds for this purpose. Although the final legislation did not specify the amount to be appropriated, prior versions of the bill did; the Senate version set the amount at \$1 million, while the House version specified that the INS spend no less than 1% of the Examinations Fee Account on naturalization outreach. The INS, however, did not seek funding for this purpose in its FY 1992 budget request.

IV. INNOVATIVE CITIZENSHIP INITIATIVES

The private and community sectors have developed a variety of citizenship programs to encourage immigrants to naturalize. For example, various unions, corporations, and NALEO have all sponsored independent initiatives to increase naturalization rates within their respective target groups. The INS has assisted in some of these programs.

The International Ladies Garment Workers Union (ILGWU) has directed a citizenship program for its immigrant members for several years. This program has included English and Civics courses, as well as counseling services to actually assist applicants step-by-step through the naturalization process. The overwhelming majority of applicants using this program have successfully achieved citizenship.⁸⁹

Corporate involvement has also proven an effective means to guide people successfully through the naturalization process. In January 1989, the INS District Office in El Paso implemented a program designed to reach eligible naturalization candidates in the area through their employers. Companies that participated included Farah Manufacturing, Levi Strauss and Tonka Toys.

The first step in the program was to schedule several "Ask Immigration" question-and-answer sessions at various manufacturing sites in the district. At these sessions, which were attended by anywhere from 60 to 200 employees, INS officers gave an overview of the citizenship process, distributed applications and sample exam questions and answers, conducted mock interviews, and answered questions from the audience.

Next, the companies assisted their employees through the naturalization process. Each company assisted employees in filling out applications and fingerprint cards and obtaining the requisite photographs. The INS processed applications from each company as a group. The company then provided the INS office space in which to conduct interviews. The examiners collected all the necessary fees and petitions and took them to the clerk of the court, thus saving the applicant a trip to that office.

In conjunction with this program, a local television station produced a video explaining the program's results and offering some brief advice to other companies undertaking similar initiatives. In addition, the INS distributed flyers to the companies, as well as to churches and schools in the area.

Almost 1,000 applicants successfully naturalized through these corporate programs. In addition, the INS and the companies involved received very positive public attention for their efforts. For the companies and the employees, the program also minimized costs in terms of lost working hours.

Other corporations have conducted outreach efforts. For example, Nestle, USA, Inc. has produced a series of guides to naturalization which have been distributed free to

individuals and organizations on request. These brochures, written in both English and Spanish, lay out clearly the steps necessary to naturalize and give some basic information to study in preparation for the naturalization exam.

NALEO has conducted "citizenship workshops" across the United States. These workshops typically are one-day events held in public arenas, such as high school auditoriums. Volunteers answer immigrants' questions about the citizenship process, and assist them in completing the requisite forms. In addition, NALEO sponsors an "800" number telephone hotline to answer the questions of those needing information about the process. NALEO estimated in May 1991 that more than 5,000 individuals had become citizens through their workshops and that its hotline had handled more than 200,000 calls.⁸¹

In addition, community-based organizations currently sponsor legalization programs that could serve as natural precursors to naturalization programs. During the debate over IRCA, Congress adopted an amendment offered by Congressman Jim Wright (D-TX) that required legalization applicants to pass a test, or to show that they are successfully pursuing a 40-hour course of study, in English and Civics in order to qualify for permanent residence. Congressman Wright offered his amendment with the reasoning that it would provide an incentive to the legalized population to "cross the bridge into full participation" in U.S. society. To help students meet the Wright amendment requirement, many community-based organizations, known as "Qualified Designated Entities" (QDEs), sponsored English and Civics courses.

Many students have benefited from these classes — so much so that service providers have reported great pressure from students who want to continue their studies past the 40-hour requirement. Many providers, however, have been forced to focus on helping students through the 40-hour curriculum only, in order to maximize the number who become permanent residents, rather than on long-term integration into U.S. society.

The Wright amendment, therefore, although establishing the need for English and Civics classes, also has limited their depth. In the long-term, however, classes that were designed for legalization can be developed to prepare students for the citizenship exam. The curriculum may need revision, but the resources and effort needed to expand such classes would be well-spent. Experience has shown that those who participate in English and Civics classes before taking the citizenship exam have a much higher rate of success than those who study independently; research by NALEO has shown that 80 to 90% of those who successfully complete the naturalization process took some form of citizenship class.⁸²

V. CONCLUSIONS AND RECOMMENDATIONS

A. *Conclusions*

Although as an ethnic group Hispanics represent the largest proportion of the recent immigrant population in the United States, they naturalize at one of the lowest rates. Their resulting inability to participate fully in the U.S. political process hinders their upward mobility in U.S. society and probably contributes to their high rate of poverty and their low rate of educational attainment.

Research reveals that a complicated interaction of a range of factors contributes to the low rate of naturalization in the Hispanic community. These factors, however, generally fall into one of two categories: procedural problems with the naturalization process itself or misconceptions and fears in the Hispanic community about the naturalization process. These categories together either act to deter Hispanics from attempting the naturalization process at all or discourage those already within the system from completing the process.

Procedural problems in the system include:

- **A cumbersome and unwelcoming application process** – Naturalization forms are poorly designed and confusing, INS offices are needlessly sterile, and waiting lines to obtain forms are frustratingly long and a burden for financially-strapped applicants who must take time off from work.
- **Persistent and worsening backlogs** – Backlogs exist both in the time between filing of the application and scheduling of the examination and between passage of the examination and administration of the oath of allegiance. Despite some initial improvement, INS processing of examinations seems to be deteriorating again. In addition, judicial delays in conducting swearing-in ceremonies are considerable.
- **Inconsistent and confusing administration of the naturalization exam** – Examinations may be relatively straightforward or may involve answering unreasonably difficult questions, due to the autonomy given to naturalization examiners. Moreover, the pass rate for Hispanics indicates that they fail the exam more frequently than others. Applicants often leave the exam confused about whether they passed or failed, and about what the next step is in either case. Stories of these problems deter many potential applicants from attempting the naturalization process at all.

In addition to the problems within the actual process, the INS currently has no significant outreach effort to overcome Hispanic fears and misconceptions about naturalization.

These problems will not diminish until positive and cooperative efforts are made to overcome them by both the INS and the community-based organizations that work with the Hispanic community. Indeed, without significant intervention, it is likely that the low naturalization rate in the Hispanic community may worsen in the near future.

Newly legalized immigrants will soon be eligible to enter fully into U.S. society by obtaining citizenship, a final step Congress hoped they would take when it enacted the legalization program. A large percentage of this population is Hispanic, however, and thus subject to the same fears and misconceptions described above. Also, the sheer number of those legalized will place great strain on the naturalization process. This is therefore an appropriate time to institute reforms in the naturalization system in the form of:

- Procedural streamlining;
- Implementation of the administrative naturalization system in a way which diminishes current backlogs;
- Community outreach to facilitate the full integration of Hispanic immigrants into U.S. society; and
- Creation and expansion of private-sector citizenship programs.

B. Recommendations

The INS and community-based organizations both independently and cooperatively should undertake several initiatives to encourage Hispanic and other immigrants to enter and complete the naturalization process. NCLR recommends the following actions.

1. Streamlining the Naturalization Process

The INS should centralize and standardize the traditional citizenship examination. Commissioner McNary began his tenure at the INS by emphasizing that his goals are to professionalize and centralize the Service bureaucracy.⁹⁷ These themes have also been reiterated in the context of the new INS management restructuring. Implementing a naturalization examination process in which the INS Central Office closely monitors the range of questions asked and the types of responses considered acceptable would be consistent with Commissioner McNary's goals. The INS should eliminate undue examiner discretion by issuing guidelines to examiners and by ensuring effective hearings through which failures based on unreasonable exams can be reversed.

Naturalization fee increases, both recent and future, should be dedicated to rendering the naturalization process more efficient. Fee increases should be used to alleviate backlogs, conduct outreach, and make the citizenship process more inviting. Under no circumstances should they be diverted into INS enforcement activities.

The INS should ensure effective implementation of the standardized naturalization exam by advertising its availability, rendering it readily accessible to applicants, and coordinating its administration through community-based organizations. Otherwise, the exam will be underutilized in the same manner as the standardized legalization exam. The exam should be offered on a regular and frequent basis in as many locations as possible, and at as low a fee as possible. Offering the exam on-site at community-based organizations that have ties to the immigrant community would ensure that applicants feel comfortable taking the test, since they would be in familiar surroundings. Community agencies would also be able to encourage those applicants who fail to return to try the exam again. In addition, the INS should allow applicants who fail the exam to reschedule a second examination as quickly and easily as possible without paying a second fee.

2. Successful Implementation of Administrative Naturalizations

The INS should take advantage of the opportunity that the administrative naturalization system offers to reduce backlogs in the naturalization system. For example, the agency should expedite the scheduling of swearing-in ceremonies after an applicant has passed the exam. The process that the Atlanta District Office is considering, whereby ceremonies are held on a weekly basis, may be an appropriate model for other districts to adopt. In addition, INS districts that exhibit faster processing rates may serve as useful examples of ways to improve rates in districts such as Chicago and Miami.

The INS should implement a review process that allows an applicant sufficient review of a negative decision on his or her application. Examiners should be required to explain in writing the rationale for a denial in enough detail to allow adequate review of their decisions. This would create more consistency in the process and would perhaps contribute to the elimination of any discrepancy in pass rates based on ethnicity.

If upon review the court reverses a negative INS decision, jurisdiction should remain with the court to administer the swearing-in and issue the Certificate of Naturalization. The intent of administrative naturalizations was to speed up the citizenship process. Creating unnecessary steps, such as forcing applicants to return to the INS for the swearing-in and to receive their Certificates, only serves to delay the process.

3. Outreach

The INS and community-based organizations together should conduct a two-pronged outreach effort. By working cooperatively and by pooling their resources, they could reach more immigrants more effectively. One form of outreach needed is direct contact to inform individuals of their eligibility. A second form is a targeted media campaign to overcome the fear of the process prevalent in the immigrant community and to debunk some of the popular myths regarding naturalization.

a. Direct Outreach

The INS and community-based organizations should directly contact permanent residents, after they have completed their five-year residence requirement, to inform them of their eligibility for naturalization. Direct outreach would do much to overcome potential applicants' confusion and would help them to understand the steps necessary to naturalize. The INS could reach many potential applicants by mailing information directly to their home addresses, as it has done for those eligible to apply for the second stage of legalization. To avoid the problem of failing to contact those whose addresses are unknown, community-based organizations could help by notifying the immigrants with whom they are in contact, but whose addresses may not be known to the INS, of their eligibility. An effective outreach effort would include a simple description of the naturalization process, and if costs would permit, copies of the necessary application forms. In addition, the package should provide an up-to-date list of area agencies that offer assistance to naturalization applicants. Such lists were provided during the legalization program, and the INS has released similar lists to assist Salvadorans applying for Temporary Protected Status.

The INS should conduct an additional individualized outreach effort targeting applicants who fail the exam. The INS should make every effort to inform these people immediately of the reasons for their denial and explain the procedure for reapplication. The agency should follow up by sending denied applicants outreach materials that encourage them to reapply and that again explain the procedure for doing so.

Community-based organizations could participate in this outreach effort by monitoring the outcome of their clients' cases, encouraging those who fail the exam to reapply, and assisting in the reapplication process. Denied applicants have already exhibited a desire to become U.S. citizens and it would be a shame not to encourage them to persist in their efforts to naturalize.

The INS should establish an efficient information delivery system. The frontlines of communication are crucial in the attempt to encourage naturalization. To ensure the effectiveness of any outreach effort, the INS should make a concerted effort to train its staff about the requirements for naturalization, so that they can adequately respond to any inquiries they may receive. Moreover, an improved telephone information network is necessary to make it easy to contact those INS staff who are knowledgeable about the requirements and process for naturalization.

The INS should further encourage information delivery by referring inquiries regarding naturalization to community-based organizations prepared to help potential applicants. However, it is important that the INS provide correct information regarding these agencies by supplying correct and updated addresses and telephone numbers.

b. Media Campaign

The INS would be well-served by a media campaign advertising the benefits of naturalization and addressing the specific concerns of immigrants about naturalization. In developing this media effort, the INS must keep in mind its experience with legalization. It found, after an initial effort, that outreach to Hispanics was much more effective when it:

- Was carried out with input from community-based organizations that were well-informed about the fears and needs of the immigrant community;
- Addressed the specific concerns of immigrants regarding the process; and
- Used Spanish-language television, radio, and newspapers.

Public Service Announcements (PSAs) would go far toward increasing naturalization rates. A Spanish PSA simply showing a friendly INS examination or a swearing-in ceremony and explaining the initial steps needed to undertake the naturalization process might encourage potential applicants to explore the possibility of becoming citizens. Other PSAs could follow up this initial effort by addressing some of the more specific misconceptions of the process that are prevalent in the community.

A more in-depth outreach effort could take the form of a video depicting an applicant going through the naturalization process from the time of application to the swearing-in ceremony. The video developed by the INS District Office in Houston could be shown on local television stations. In addition, a Spanish-language version should be developed for use on Spanish-language television. The INS could also distribute such videos to unions, companies, and community-based organizations that have ties to the immigrant community. Of course, any videos currently in use will need to be revised once the administrative naturalization system takes effect.

Congress should appropriate the outreach funds authorized by the Immigration Act of 1990. Such outreach is quite expensive and would be difficult for the INS and community-based organizations to perform without appropriated funds. Those amounts noted in the earlier versions of the legislation should serve as guidelines for the amount of the appropriation. Because such outreach would generate additional applications – and therefore increased fee revenue – it is expected that this activity would "pay for itself."

4. Private-Sector Citizenship Programs

The INS should work with unions, corporations, and organizations who have ties with the immigrant community to develop joint citizenship programs. INS District Directors, as well as the INS Central Office, should cooperate with such entities by providing the materials, staff, and official encouragement necessary to sponsor such programs.

The INS should also consider coordinating citizenship programs with community-based organizations. Because they enjoy the trust of the immigrant community, community-based organizations were instrumental in the success of the legalization program. These entities are well-situated to encourage the newly-legalized population to continue on the path toward acculturation by achieving citizenship.

An effective way to increase the naturalization rate for Hispanics would be to transform community-based organizations that aided in the legalization process into naturalization entities. These groups already have close ties to the Hispanic community and have developed a strong understanding of its needs. As the second stage of legalization draws to an end in October 1992, the creation of "naturalization QDEs" would enhance the ability of Hispanic permanent residents to become full-fledged members of U.S. society.

An essential element of a community-based organization citizenship initiative would be the availability of English and Civics classes, and groups should be encouraged to develop such classes or preserve those classes that already exist to fulfill legalization requirements. English and Civics classes help overcome the literacy and education barriers to a higher Hispanic naturalization rate.

Organizations that sponsor courses designed to fulfill the English and Civics requirements for legalization should expand and revise these courses to meet the needs of naturalization applicants. The English and Civics requirements for naturalization are more rigorous than those for the second stage of legalization. The curricula of legalization English and Civics courses were frequently fairly limited and would need to be revised to meet the needs of naturalization applicants.

In addition to sponsoring classes in English and Civics, these organizations should offer counseling services to aid applicants step-by-step through the citizenship process. The programs developed by the ILGWU and corporations such as Levi Strauss serve as models. These services could aid in the completion and filing of applications. In addition, organizations could act as advocates with the INS to monitor the processing of applications and the decisions reached on applications, much as they did during legalization.

Any outreach effort that the INS undertakes must emphasize the availability of the English and Civics classes offered by community-based organizations. The INS should also offer community-based organizations guidance in the development of course curricula.

Channeling attention and resources toward increasing the rate of naturalization in the Hispanic community would improve the quality of life for Hispanics by giving them a stronger voice in the U.S. political process. Moreover, it would benefit the nation as a whole by minimizing the growth of a disenfranchised population. If implemented, the individual and cooperative efforts by the INS, and private and community sectors outlined above would go far toward overcoming the Hispanic community's reluctance to attempt the naturalization

process. These initiatives would create an efficient and welcoming process and debunk some of the common myths about naturalization.

The acculturation of immigrants has historically been an enriching experience for both the immigrant and the nation. The Hispanic immigrants of today, if educated about and encouraged through the naturalization process, will prove to be no exception.

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