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NATURALIZATION OF ALIENS

Assessment of the Extent to Which Aliens Were Improperly Naturalized

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Naturalization of Aliens: Assessment of the Extent to Which Aliens Were Improperly Naturalized

Between September 1995 and September 1996, the Immigration and Naturalization Service (INS) received about 1.3 million naturalization applications; almost 1.05 million aliens were naturalized. During that period, INS initiated a number of efforts to streamline the naturalization process. While these efforts greatly increased the volume of applications processed and approved, the Department of Justice has identified errors in the naturalization process. Concerns have been raised that INS may have improperly naturalized aliens with felony convictions. For example, for about 180,000 aliens applying for naturalization, INS did not receive the results of a criminal history records check from the Federal Bureau of Investigation (FBI), even though aliens with criminal history records (e.g., certain felony convictions) may be barred from becoming naturalized citizens. This might have resulted in some aliens with criminal felony convictions improperly becoming naturalized citizens. Changes in the naturalization process to address this problem have since been made.

According to the Department of Justice, of the almost 1.05 million aliens who were naturalized between September 1995 and September 1996, two significant groups include (1) 71,557 aliens who had criminal history records with the FBI and (2) 179,524 aliens whose fingerprint cards were unclassifiable by the FBI or whose records for other reasons may not have been checked by the FBI for their criminal history.

The Department of Justice's Justice Management Division (JMD) and INS are reviewing records to determine the extent to which aliens were improperly naturalized. JMD has contracted with KPMG Peat Marwick LLP (Peat Marwick) to assist in overseeing this determination. Peat Marwick is to perform a number of tasks intended to assess INS' determination of the extent to which criminal aliens were erroneously naturalized. The Subcommittees have asked GAO to assess the soundness of Peat Marwick's methodologies for carrying out these tasks and its plans for implementing these methodologies.

Naturalization of Aliens: Assessment of the Extent to Which Aliens Were Improperly Naturalized

Messrs. Chairmen and Members of the Subcommittees:

I am pleased to be here today to discuss our efforts to assist your Subcommittees in the determination of the extent to which the Immigration and Naturalization Service (INS) might have improperly naturalized aliens between September 1995 and September 1996.

Between September 1995 and September 1996, INS received about 1.3 million naturalization applications; almost 1.05 million aliens were naturalized. During that period, INS initiated a number of efforts to streamline the naturalization process. While these efforts greatly increased the volume of applications processed and approved, the Department of Justice (DOJ) has identified errors in the naturalization process. These errors might have resulted in some aliens with certain disqualifying criminal felony convictions improperly becoming naturalized citizens.

In November 1996, INS made changes in the naturalization process intended to address this problem. In addition, INS is reviewing records of a subset of the aliens who were naturalized during this period to determine the extent to which aliens were improperly naturalized. JMD has contracted with KPMG Peat Marwick LLP (Peat Marwick) to oversee this determination and to review INS' controls over the naturalization process.

At your request, we will review and comment on Peat Marwick's methodology and implementation plans for overseeing INS' review of the records of aliens with felony charges. My testimony today will discuss our plans in this regard and our progress to date. To prepare this statement, we reviewed prior GAO and DOJ Office of Inspector General (OIG) reports and obtained data from and interviewed DOJ, INS, and Peat Marwick officials in Washington, D.C. The DOJ OIG has told us that it also plans to closely monitor INS' naturalization project and may perform additional reviews as it deems appropriate.

Background

INS requires that aliens applying for naturalization submit fingerprint cards with their applications. The fingerprint cards are to include a complete set of fingerprints and other identifying information, such as name and date of birth.¹ INS is to send each fingerprint card to the FBI to determine if an alien has a criminal history record on file.² Depending on the severity and timing

¹According to INS, this requirement applies to aliens between the ages of 14 and 75.

²INS charges a fee to process aliens' applications. Included in the fee is a charge by the FBI for checking its records for a possible criminal history of the alien.

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of their felony convictions, aliens with criminal history records may be denied citizenship. Aliens applying for naturalization are to be scheduled for hearings after they submit their applications. According to INS officials, the hearing dates are generally to be set to allow adequate time for the FBI to complete criminal history checks and to return the results (for aliens with arrest records) to INS.

After INS accepts an alien's application, a clerk in an INS field unit is to separate the fingerprint card from the application and mail the card to the FBI. According to the FBI, it checks the fingerprint card (but not the fingerprints at this point) to determine if the alien's name, gender, and date of birth, as well as the name of the originating INS district office, have been completed. If any of the information is missing, the FBI is to reject the card and return it to the originating INS office, if known, with an explanation for the rejection. It is our understanding that the FBI does not record the receipt and return of rejected fingerprint cards. INS officials are to submit a new fingerprint card to the FBI if the original fingerprint card was rejected because of missing background information.

If the background information on the fingerprint card is complete, the FBI is to check the fingerprints against its criminal history database, which contains the names of over 30 million people. Under its previous procedures, if a match was found, the FBI was to mail a copy of the criminal history record and the fingerprint card to the originating INS office. Under INS' June 1996 procedures to centralize the receipt of FBI criminal history checks, the FBI is now to send the results to INS' Nebraska Service Center, which is to provide the results to the originating office.

FBI officials said that, until recently, if the fingerprint check did not disclose any match, they—per INS' request—did not send any record back to INS. According to an INS official, under its policy, if a response was not received from the FBI within a given time period, its examiners were to construe that the FBI found no criminal background. The net result is that INS examiners did not have any positive means of determining the status of an FBI fingerprint check or telling why the files did not contain criminal history records. There were several possible reasons why files might not contain criminal history records: (1) the FBI did not find a match, (2) the matching process was still in progress, or (3) the match was not requested by INS or was lost.

The FBI is also to reject fingerprint cards if one or more of the prints are illegible and is to return the rejected cards to INS with an explanation of

their rejection. If the fingerprints are illegible, the FBI says it will still run a name check comparing the alien's name and other identifying background information with the names in its criminal history database.³ INS officials are to submit a new fingerprint card with a new set of fingerprints to the FBI if the fingerprints on the original card were rejected.

On November 29, 1996, INS issued instructions for how its employees are to implement revised naturalization procedures that are intended to enhance and monitor the quality of the naturalization process. Under the revised procedures, no naturalization cases are to be scheduled for interview or oath ceremony until a definitive response has been received from the FBI regarding the criminal history record search. The response should be that the alien either has or does not have a criminal history record. INS is working on several procedures intended to better ensure that all cases have cleared FBI processing and that INS officers have sufficient information to accurately adjudicate applications in relation to aliens' criminal histories.

Prior OIG and GAO Reports

Prior DOJ OIG and GAO audit reports have identified problems related to the naturalization process. In February 1994, the DOJ OIG reported that INS did not verify that fingerprints submitted by applicants for naturalization and permanent residency actually belonged to the aliens who submitted them.⁴

The report also pointed out that INS examiners had inappropriately approved some applications after assuming that applicants had no criminal history because no criminal history records were included in the aliens' files when they adjudicated the cases. The OIG report also found that INS frequently did not submit new sets of fingerprints to the FBI when the original sets of prints were rejected by the FBI as illegible.

In our December 1994 report, we also pointed out that INS examiners approved an alien's application after assuming, sometimes incorrectly, that criminal history checks had been completed when no record appeared in the alien's file.⁵ Such an assumption could prove to be incorrect because the results of criminal history reports might have been delayed or not filed in a timely manner. We found that under INS' procedures at the time of our

³If through the name check an alien is found to have a criminal history, that information is to be sent to INS. However, although a name-based check is helpful, it is not as definitive as a fingerprint check.

⁴U.S. Department of Justice Office of Inspector General, Alien Fingerprint Requirements in the Immigration and Naturalization Service (Feb. 16, 1994).

⁵INS Fingerprinting of Aliens: Efforts to Ensure Authenticity of Aliens' Fingerprints (GAO/GGD-95-40, Dec. 22, 1994).

review, examiners could not determine whether FBI fingerprint checks had been completed because, at INS' request, the FBI returned a report only if a criminal history record was found. We pointed out that the assumption that the absence of a report meant there was no criminal history could be incorrect. According to INS district officials, without a control to ensure that the FBI had completed a fingerprint check, aliens with criminal history records (e.g., certain felony convictions) had had their naturalization applications inappropriately approved.

Data on Aliens Naturalized Between September 1995 and September 1996

According to INS records, 1,049,872 aliens were naturalized between September 1995 and September 1996. On the basis of available DOJ data as of January 14, 1997, of those aliens:

- 71,557 aliens had criminal history records with the FBI;⁶
- 752,073 aliens had no criminal history records with the FBI;
- 113,126 aliens' fingerprint cards were rejected by the FBI because the cards were unclassifiable;
- 66,398 aliens' records were not documented as having been received by the FBI for criminal history checks;
- 44,145 aliens were not between the ages of 14 and 75, and therefore were not required to submit fingerprint cards with their naturalization applications; and
- 2,573 aliens' records were still being reviewed by the FBI.⁷

Of the 71,557 aliens with criminal history records, INS' ongoing review, as of January 14, 1997, had identified about 10,800 as possibly having felony charges. This number could increase as INS continues its review of these records. The aliens with criminal history records who do not have felony charges may have been charged with or convicted of (1) misdemeanors or (2) administrative violations (e.g., working without authorization), neither of which would preclude them from becoming naturalized citizens.

⁶Included in the group of 71,557 aliens with criminal history records were 445 aliens not between the ages of 14 and 75, despite the fact that INS does not require criminal history checks for these individuals.

⁷To develop these numbers of aliens, INS used its databases to identify all naturalized aliens for the period, and the FBI used its database of INS requests for possible criminal histories of aliens. The FBI and INS compared their respective databases to identify the above groups of aliens. As INS completes its review of the almost 1.05 million naturalized alien files and its database match with the FBI, the number may change.

Peat Marwick's Activities and Our Role

INS adjudicators, under the oversight of Peat Marwick, are reviewing the current files of aliens with felony charges to determine whether these files contain any information that now would disqualify the aliens for naturalization.⁸ According to JMD officials, under its contract with JMD, Peat Marwick is to perform a number of tasks. First, Peat Marwick designed the approach and implementation plan for INS' review of the files of the estimated 10,800 aliens with felony charges to determine whether they were properly naturalized. Second, Peat Marwick is to oversee a subsequent review by immigration judges of 1,000 of these felony and other naturalization cases to help substantiate INS' adjudicatory review. Third, Peat Marwick is to take a random sample of about 6,000 naturalized aliens from the almost 1.05 million naturalized to validate INS' review of the procedural steps it followed in its original adjudication. According to JMD officials, this will enable a determination of whether the naturalization requirements were applied consistent with the Immigration and Nationality Act and INS policies and procedures.

Our role in assisting your Subcommittees will be to review Peat Marwick's methodologies to carry out these tasks and its plans to implement these methodologies. As this work progresses, we plan to provide comments to Peat Marwick, DOJ, and your Subcommittees on an ongoing basis. To this end, we have been meeting with your Subcommittees to fully understand the most important questions you want to be addressed. We have also met with Peat Marwick staff to discuss methodological and sampling issues.

With regard to the sampling of the universe of cases, we will review Peat Marwick's sampling plans and comment on the degree to which those plans correspond to the Subcommittees' needs for information. Specifically, we will review the sampling plan and comment on the extent to which it will provide information about two significant groups. These groups are (1) the aliens whose fingerprint cards were rejected by the FBI because the cards were unclassifiable (for example, illegible) and (2) the aliens for whom the FBI said it did not receive fingerprint cards from INS for criminal history checks.

On the basis of our work to date, Peat Marwick's methodology and implementation plans for the review of the records of naturalized aliens with felony charges appear to have the potential to produce useful data for the Subcommittees' oversight. We plan to visit INS' Nebraska Service Center to observe this work in progress. This visit will provide us with a snapshot of how this work is being implemented.

⁸The review is being done at INS' Nebraska Service Center.

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We have agreed to provide the Subcommittees with our overall comments shortly after the completion of our review of Peat Marwick's work, which is scheduled to be completed by early June 1997. To date, DOJ and Peat Marwick have been very cooperative in response to our requests for information and receptive to our comments.

Agency Comments

We discussed a draft of this statement with DOJ and Peat Marwick officials. We incorporated their comments where appropriate.

Messrs. Chairmen, this concludes my prepared statement. I would be pleased to answer any questions.

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