



Testimony of USCIS Director Alejandro Mayorkas before the House Committee on the Judiciary, Subcommittee on Immigration Policy and Enforcement for a hearing entitled “Safeguarding the Integrity of the Immigration Benefits Adjudication Process”

Release Date: February 15, 2012

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Introduction

Chairman Gallegly, Ranking Member Lofgren, Members of the Subcommittee,

Thank you for the opportunity to testify before you about the efforts of U.S. Citizenship and Immigration Services (USCIS) to protect the integrity of our nation’s immigration system and to help safeguard our nation’s security. I appreciate this Committee’s interest in learning about our continued prioritization of the agency’s efforts, which are unprecedented in their scope and effect.

I want to take the opportunity to thank the men and women of USCIS whose dedication to the agency’s mission is unwavering and whose hard work makes our vital mission a reality. Together as an agency we are committed to administering our Nation’s immigration laws efficiently and with fairness, honesty, and integrity.

I also want to thank the U.S. Department of Homeland Security’s Office of Inspector General (OIG) for its role in reviewing our efforts. The OIG’s independent review of our agency’s operations assists us in our pursuit to improve each and every day, including in the priority areas of combating fraud and strengthening national security. In its report, *The Effects of USCIS Adjudication Procedures and Policies on Fraud Detection by Immigration Services Officers*, the OIG made valuable recommendations to improve our efforts to detect fraud in immigration benefit adjudications. We already have begun to implement many of the recommendations.

As soon as I took the oath of office as the Director of USCIS in August 2009, I began to deliver on my promise to the Senate Judiciary Committee and promptly commenced a top-to-bottom review of the agency. I did so through the perspective of my previous federal service.

From my current and former positions in the federal government, I know what can be accomplished when the dedicated men and women of a federal agency are motivated and supported to excel and deliver their very best in the service of our country. I previously had the honor to serve as United States Attorney for the Central District of California, leading an office of 245 Assistant United States Attorneys responsible for the largest federal judicial district in the nation, comprised of approximately 180 cities with an aggregate population of 18 million people. From my nearly twelve years as a federal prosecutor, I also know what it means to enforce the law and to do so in furtherance of our national security and public safety. It is these collective experiences, and the wise counsel of outstanding USCIS employees and current and former USCIS leaders, that I have applied to define the direction of the agency throughout these past few years.

Upon arriving at USCIS, I determined that there was an opportunity for organizational changes to both the culture and structure of the agency in several areas, including in our anti-fraud and national security programs. As I had emphasized to the Senate Judiciary Committee during my confirmation hearing:

Protecting our national security and public safety is a critical component of the USCIS mission, not an after-thought. This means we must continue to strive to improve the Agency’s fraud prevention and detection operations, increase collaboration with U.S. Immigration & Customs Enforcement (ICE) and other law enforcement agencies to respond to fraud, and improve the efficiency and accuracy of the E-Verify system.

Historically, USCIS has been challenged by a culture that primarily focuses upon making adjudication decisions quickly, resulting in

a significant and ongoing tension between the quality of adjudications and the speed with which they are made. This tension, in an agency that processes approximately seven million applications and petitions annually, has existed for many years.

The most recent decade provides a compelling snapshot. Ten years ago, Congress was focused on reducing the backlog of cases that arose from the then-Immigration and Naturalization Service's slow processing times. Five years ago, USCIS promulgated a fee rule that committed to proportionately faster-than-ever processing standards, requiring the agency to reduce its processing times by more than 20 percent. Indeed, when I came to the agency in August 2009, its first of ten top priorities was to achieve 2012 production and service goals.

Quality in Adjudication

Early in my tenure, I determined that we must enhance the emphasis on quality in our adjudicative approach. This means that immigration benefit decisions are informed, adhere to the law and the facts, are made in a timely manner, and further the integrity and goals of the immigration system. In order to institutionalize a culture of quality and one that reinforces the integrity of the immigration benefits system, in January 2010 – five months after my arrival – I realigned our agency's organizational structure.

Chief among the organizational changes I made was the creation of the Fraud Detection and National Security Directorate (FDNS), an elevation and expansion from its previous status as an office within a directorate. The previous alignment did not fully reflect my priorities. At the time, I informed all USCIS employees that “[t]his change reflects the prioritization of our anti-fraud and national security responsibilities and will bring greater focus to them.” The prioritization of these core responsibilities has in fact enabled us to achieve unprecedented results, most of which were not included in the Inspector General's report. For example, our significant achievements since January 2010 include the following:

Fraud Detection Enhancements

- To date, we have increased the number of FDNS officers, analysts, and staff to more than 780, an approximately 25 percent increase over the prior two years, and allocated new FDNS positions in field offices and service centers to strengthen coordination and collaboration with our front-line employees.
- We established a new National Security Branch in our Field Operations Directorate to achieve more integrated and effective coordination on national security and fraud matters, both within Field Operations and with other USCIS offices. The new National Security Branch supports our enhanced collaboration on intelligence and enforcement matters via the Joint Terrorism Task Forces (JTTFs) around the country.
- We enhanced our overseas verification efforts, increasing the number of FDNS officers posted overseas. Our overseas verification program combats immigration fraud by helping foreign-based USCIS officials confirm statements and authenticate documents that originate overseas. We developed standardized protocols to enhance the program's consistency and effectiveness and have continued to increase the staffing of FDNS officers overseas.
- We increased the staffing of our Administrative Site Visit Verification Program (ASVVP) and expanded the analytical use of ASVVP data. Through ASVVP, we conduct unannounced pre- and post-adjudication site inspections to verify information contained in certain visa petitions. The program is designed both to detect and deter fraud. We hired and trained more than 74 new federal officers to replace contractors, hired 13 senior officers and analysts to oversee the program, performed more than 17,000 ASVVP inspections in FY 2011 (an increase of over 2,000 ASVVP inspections from the previous fiscal year) and began to use data derived from ASVVP in analytical studies that inform and improve our ongoing anti-fraud efforts.
- We launched the Validation Instrument for Business Enterprises (VIBE), a Web-based tool that uses commercially available information to validate the business operations of companies and organizations looking to employ foreign workers. VIBE enhances USCIS's ability to adjudicate employment-based immigrant and nonimmigrant petitions efficiently and accurately.
- We enhanced the analytics and reporting capabilities of our Fraud Detection and National Security Data System (FDNS-DS). The system is used to document, analyze, and manage our agency's fraud and national security cases. Among other steps, the separate applications previously used to manage fraud cases and national security cases, respectively, were combined into a single system. The new, consolidated system allows officers to conduct person-centric queries and display all relevant information about an applicant, petitioner, or beneficiary. We also expanded the system's ability to import application-related data from other USCIS systems, substantially enhancing the breadth, accuracy, and utility of records in FDNS-DS.
- We launched fraud reporting tools and began delivering fraud bulletins in real-time to agency personnel. The fraud-detection bulletins are designed to inform our officers of the latest fraud issues, including identifiable trends and practices.

National Security, Screening and Vetting Enhancements

- We created a new office to centralize and effectively manage our screening initiatives with partners inside and outside the

agency and enhanced our rigorous existing screening for national security threats. We broadened the scope of our screening protocols and also increased their frequency to ensure that we address national security threats as soon as they are identified within the Department of Homeland Security or by other law enforcement and intelligence partners. We also developed a comprehensive recurrent vetting strategy to lead the Department's biographic and biometric screening initiatives and studies.

- We enhanced our collaboration with JTTFs and other intelligence and law enforcement partners. FDNS officers have established working relationships with 39 local JTTFs and all State and Major Urban Area Fusion Centers. FDNS officers are detailed to the U.S. Immigration and Customs Enforcement National Security Unit, the U.S. Customs and Border Protection National Targeting Center, the Department of Homeland Security's Office of Intelligence and Analysis, the Department of Homeland Security's Threat Task Force, the National Joint Terrorism Task Force, the National Counter-Terrorism Center, the Department of State's Kentucky Consular Center and National Visa Center, the FBI's Operational Deconfliction and Analysis Team, the Terrorist Screening Center, the FBI's National Name Check Program, the Central Intelligence Agency, and INTERPOL's U.S. National Central Bureau.
- We strengthened the international exchange of threat information, including biometrics. Working with US-VISIT, we expanded our exchange of information related to asylum claimants under existing data-sharing agreements with foreign-government partners.
- We developed and implemented with the intelligence community new vetting protocols for refugee applicants. The new vetting protocols subject refugee applicants to more rigorous screening against a number of security databases to ensure that they are eligible for refugee status and that they do not pose a threat to national security or public safety.

Anti-Fraud and National Security Improvements to Process Integrity

- We issued a newly designed, more secure naturalization certificate to reduce fraud. The redesigned certificate features the naturalization candidate's digitized photograph and signature embedded into the document. The background also features a color-shifting ink pattern that is difficult to reproduce. In addition, we began using a more secure printing process that renders the certificate more tamper-proof.
- We issued a newly designed, more secure Employment Authorization Document and a more secure permanent resident card, commonly known as the "Green Card." State-of-the-art technologies incorporated into the new cards, including more secure optical media, holographic images, laser engraved fingerprints, and high resolution micro-images, prevent counterfeiting, obstruct tampering, and facilitate quick and accurate authentication of card holders.
- We expanded the Secure Mail initiative. We partnered with the U.S. Postal Service to enable delivery confirmation for secure immigration documents (Permanent Resident Cards, employment-authorization documents, and travel documents). Secure Mail allows our agency to confirm mailing and delivery and enables the U.S. Postal Service to track delivery and respond to applicants' status queries. The initiative enhances the integrity of the system and improves customer service.
- We further strengthened the E-Verify program's anti-fraud capabilities. We introduced U.S. passport photo-matching as a new feature in the E-Verify program, enhancing the program's integrity by enabling E-Verify to check the validity and authenticity of all U.S. passports and passport cards presented for employment verification. This tool enhances E-Verify's previous, more limited, capacity to detect identify theft by enabling the employer to ensure that the identity document presented belongs to the applicant. We also began expanding E-Verify's anti-fraud capabilities in partnership with state motor-vehicle bureaus. The new effort allows USCIS for the first time to verify driver's licenses presented for employment authorization against state records. We began piloting the effort with one state, with opportunities for other states to participate as the program expands.
- We promoted E-Verify to attract wider use, developing a robust customer service and outreach staff to increase public awareness of E-Verify's significant benefits and inform employers and employees of their rights and responsibilities. In fiscal year 2011 alone, we informed more than 37 million people about E-Verify through radio, print, and online ads in English and Spanish, and approximately a half million more through 130 live presentations, 111 conference exhibitions, 305 live webinars, and distribution of informational materials. We also handled more than 98,000 calls from employees through our employee hotline. As a result of these collective efforts, 17.4 million queries were run in fiscal year 2011, one million more than the previous year. More than 958,000 worksites were enrolled, with more than 1,000 employers enrolling per week.
- We worked with the Department of Justice and the Federal Trade Commission to launch the Unauthorized Practice of Immigration Law initiative. Together, we partnered with state and local governments to develop and implement a comprehensive initiative that combats the unauthorized practice of immigration law by building capacity to deliver legitimate assistance, educating the public about finding bona fide legal advice, and strengthening prevention and enforcement efforts.

I am proud of these initiatives and the steps that we have taken to combat fraud and advance our nation's security. Some members of the public have not been so pleased. In fact, some stakeholders have been critical of our prioritization of these efforts, believing that

the balance is shifting away from efficiency in favor of security.

Despite these public criticisms, I have been unwavering in my steadfast commitment to the fraud detection and national security aspects of our work. I believe firmly that as a federal fee-for-service agency, it is our mandate and our responsibility to deliver both efficiency and security in our adjudications for the benefit of the customers we serve and for the country we protect. As I repeated to agency personnel last year, "USCIS has no mission more important than guarding against those who might seek access to the United States to do our nation harm." I have continued to set this tone for the agency, and our top strategic priority for the last two years emphasizes this effort: "Strengthen National Security Safeguards and Combat Fraud."

I appreciate that the DHS Inspector General, in his recent report, recognized and praised our anti-fraud efforts and noted the many recent advances our workforce achieved to further integrate our efforts:

Through process improvements and additional systems checks, USCIS has taken important steps to improve national security and fraud detection. USCIS has also increased fraud detection resources and training.

The Inspector General then made several recommendations as to how the agency could better achieve its goal of combating immigration fraud. We concurred with many of the recommendations and are already implementing them. For example, efforts to promote better collaboration between FDNS officers and our adjudications officers are underway, and training programs are being strengthened for all decision-makers, including improved guidance on the roles and responsibilities of officers and supervisors in the area.

The Inspector General's report, admittedly based on limited testimonial information and not empirical data, captures the reality that the tension, whether real or perceived, between quality and speed still exists. No one has sought to tackle the breadth of the age-old tension between quality and speed more vigilantly than I. I have not only articulated my expectations both inside and outside the agency, I also have made structural improvements to strengthen a culture of quality within the agency.

In addition to the creation of the FDNS directorate in January 2010, I also created an Office of Performance and Quality to ensure that our agency prioritized quality throughout its adjudication practices and mission-support processes. In addition, we have been working to reform the agency's performance management system, striving to implement metrics that reinforce a broader focus on quality rather than production alone. The Inspector General recognized the importance of this undertaking:

USCIS recently revised its policies and reorganized its organizational structure to address immigration security concerns and facilitate fraud detection. One key change is a shift from employee performance measures that focus on the number of applications or petitions that an [Immigration Services Officer] processes.

Conclusion

It is of paramount importance to me that no USCIS employee, whether because of any perceived pressure to process an immigration benefit quickly or for any other reason, ever adjudicates a case other than in accordance with what the law and the facts warrant. This is an ethic I have articulated and reinforced since I first became the Director of USCIS. Indeed, in a public question-and-answer session in early 2010, an immigration attorney articulated her hope that USCIS adjudicators will exercise their discretion "to get to yes." My response was clear and direct on this point: "[T]he discretion to get to yes can be as pernicious as the discretion to get to no. It's supposed to be the discretion to get to 'right'." In a conversation with the USCIS workforce last year, I reiterated to an employee who expressed concern about the effect of time pressure on adjudicative quality:

And if in fact there is a supervisor that is instructing an individual to just be fast at the expense of quality, then that's something that one should raise to the top leadership . . . who would not tolerate that instruction and who, I can assure you, would find that instruction to be not consistent with the teachings of the program nor the agency as a whole.

I appreciate that the Inspector General emphasized that this is the ethic that I and the leadership of the agency continue to demand and promote:

USCIS has taken action to diminish threats to the immigration benefits system. General employee concerns about the impact of production pressure on the quality of an ISO's [Immigration Services Officer's] decisions do not mean that systemic problems compromise the ability of USCIS to detect fraud and security threats. No ISOs presented us with cases where benefits were granted to those who pose terrorist or national security threats to the United States.

....

The Director of USCIS informed us that managers and supervisors must ensure the integrity of each benefit determination, based on the evidence presented in the case file. ISOs who are pressured to approve cases that do not

warrant approval should report such incidents to OSI [the Office of Security and Integrity].

Mr. Chairman, Ranking Member Lofgren, and Members of the Subcommittee, thank you again for the opportunity to share with you the great work we in U.S. Citizenship and Immigration Services have done and continue to do to safeguard our national security and combat fraud. This work allows us to remain the welcoming nation of immigrants we are so proud to be. Thank you again to the Inspector General for his independent work to further these efforts.

And, finally, I want to once again express my deep thanks and appreciation to the men and women of USCIS who dedicate each and every day to our noble mission, and whose hard work and commitment to our principles have made our achievements possible.

This page was last reviewed/modified on February 15, 2012.