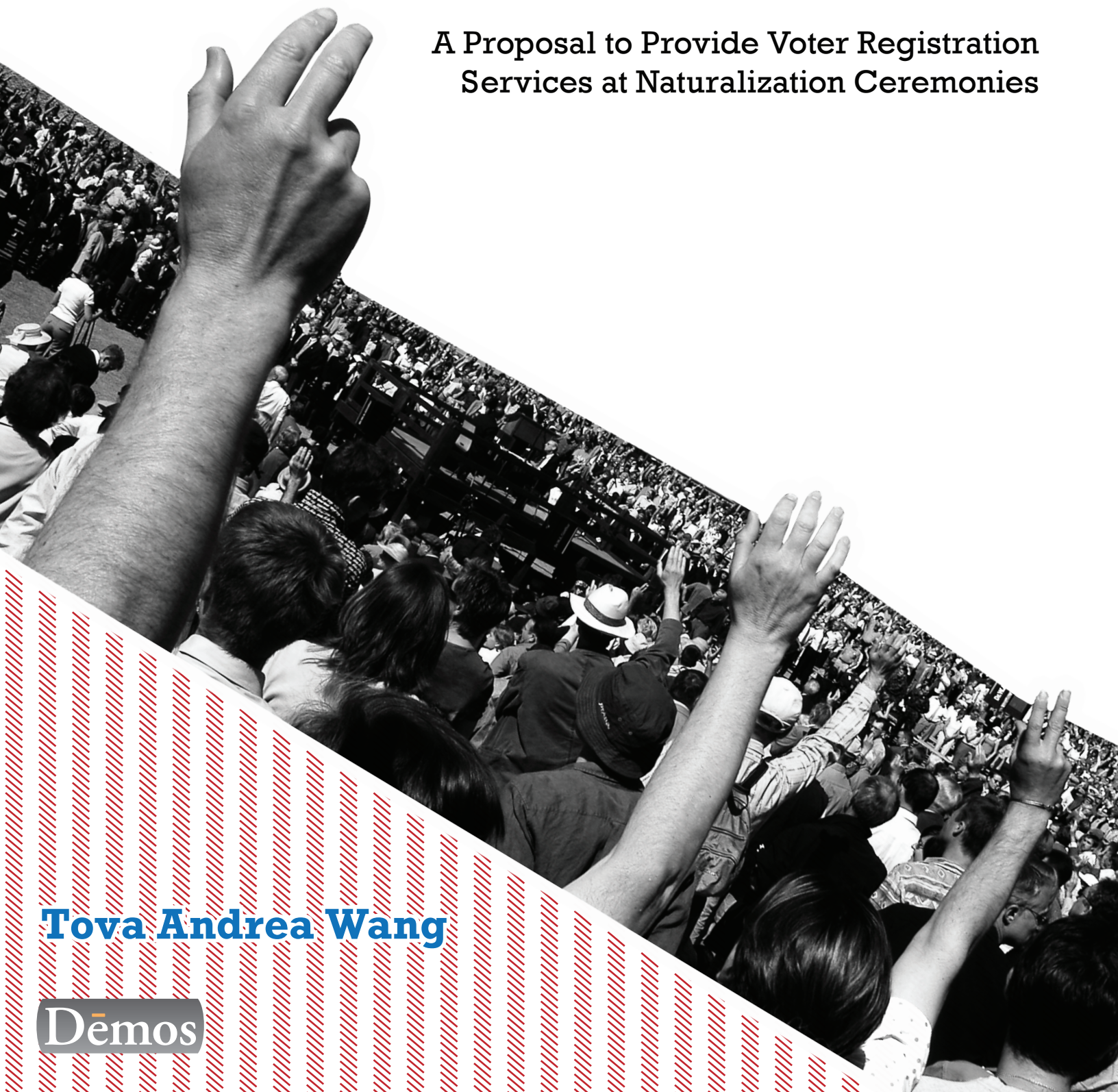


# A CITIZEN FROM DAY ONE:

A Proposal to Provide Voter Registration  
Services at Naturalization Ceremonies



**Tova Andrea Wang**

**Demos**

## About the Author

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**Tova Andrea Wang**, a nationally known expert on election reform and political participation, is Senior Democracy Fellow at Dēmos.

Her work focuses primarily on voting rights, but she has also done significant research and writing on civil rights and liberties, immigration, campaign finance reform and media reform.

She was the Executive Director of The Century Foundation's Post-2004 Election Reform Working Group, comprised of many of the preeminent election law scholars in the country. In 2001, she was staff person to the National Commission on Federal Election Reform, co-chaired by former Presidents Carter and Ford. She is the author of numerous election reform reports.

Her commentary on this subject has appeared in numerous print media outlets and she has frequently appeared on national radio and television, including NBC's the Today Show, ABC Nightly News, ABC Good Morning America, CBS Morning News, CNN, C-Span's Washington Journal, MSNBC, CBS Evening News, and NPR. She has been a featured speaker at a number of national election reform conferences and forums and has provided her expertise to members of Congress and state legislators, as well as advocates and legislators from around the world.

She is also a Democracy Fellow at The Century Foundation.

## Acknowledgements

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Lisa J. Danetz, Senior Counsel; Scott Novakowski, Senior Policy Analyst; and Susan Gershon, Staff Counsel, provided editing and assistance for this report.

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Dēmos is a non-partisan public policy research and advocacy organization. Headquartered in New York City, Dēmos works with advocates and policymakers around the country in pursuit of four overarching goals: a more equitable economy; a vibrant and inclusive democracy; an empowered public sector that works for the common good; and responsible U.S. engagement in an interdependent world.

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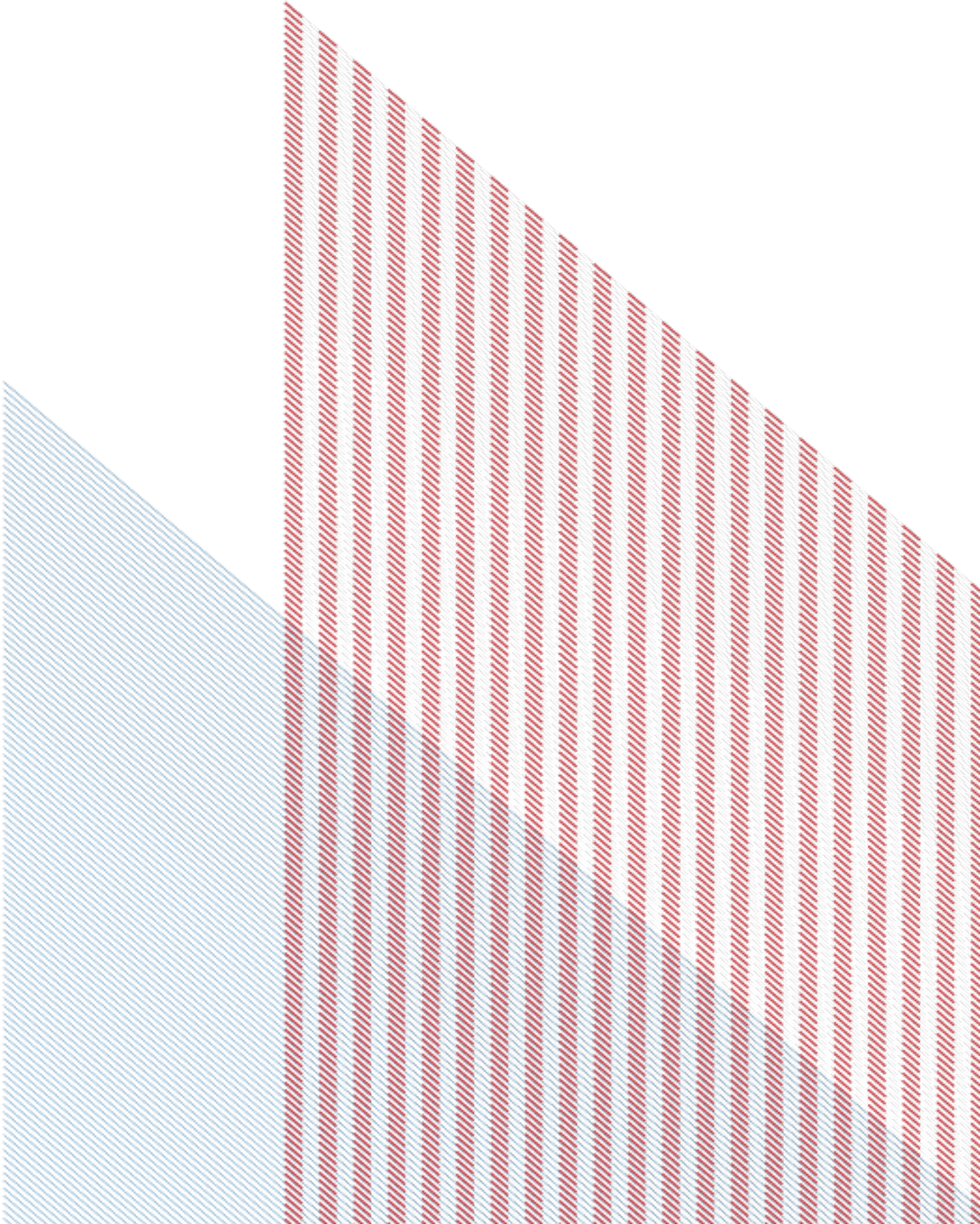
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# Introduction

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It may be a cliché that we are a nation of immigrants, but statistics show that it is as true today as in any other period in our history.<sup>1</sup> And while Americans may debate the best way to bring noncitizens into the civic life of our communities, there is widespread, strong agreement that when someone from another country takes the affirmative step to take the oath of loyalty and become a citizen of this country, he should be welcomed and encouraged to be a part of our country and our social and political life.

The most obvious and fundamental form of civic participation is voting. In our democracy, the voting process is the means by which we ensure that every citizen has an equal voice and a role to play in self-governance, i.e. the decision making of the country and local communities. It is also a way to make the people of this country feel a part of our collective polity and our historic democratic system of governance. As a society, we should strive to ensure that new citizens become engaged, incorporated and invested in democracy by encouraging their participation in elections. This is especially appropriate given the level of commitment and devotion to this country these citizens demonstrate in going through the process of leaving their homes and taking all the steps one needs to take in order to become a citizen of the United States.

**As a society, we should strive to ensure that new citizens become engaged, incorporated and invested in democracy by encouraging their participation in elections.**

Indeed, speakers at naturalization ceremonies, including representatives from the government, typically extol the virtues of a participatory democracy and the importance of voting.<sup>2</sup> Unfortunately, the federal government takes few steps to facilitate new citizens' participation in our democracy. The government currently does nothing systematically to help new Americans to get registered or vote, and the efforts of non-profit organizations are under-resourced and cannot reach more than a fraction of newly naturalized citizens. And that is reflected in the poor voter participation numbers of recently naturalized Americans relative to native born citizens.

There is a simple way we can ensure that new citizens have the first tool they need to become active participants in the democratic system: The agency that is responsible for naturalizing new citizens can, at naturalization ceremonies, provide a means for them to register to

vote immediately by distributing registration forms, providing assistance in completing them, and transmitting them to the proper election authority. The agency in question—the United States Citizenship and Immigration Services agency within the Department of Homeland Security—has not yet taken on this role on a national basis. For USCIS staff to undertake this responsibility would be logistically compatible with the duties that they already carry out at these ceremonies, and would only serve to enhance the role of USCIS and its representatives in the naturalization process.

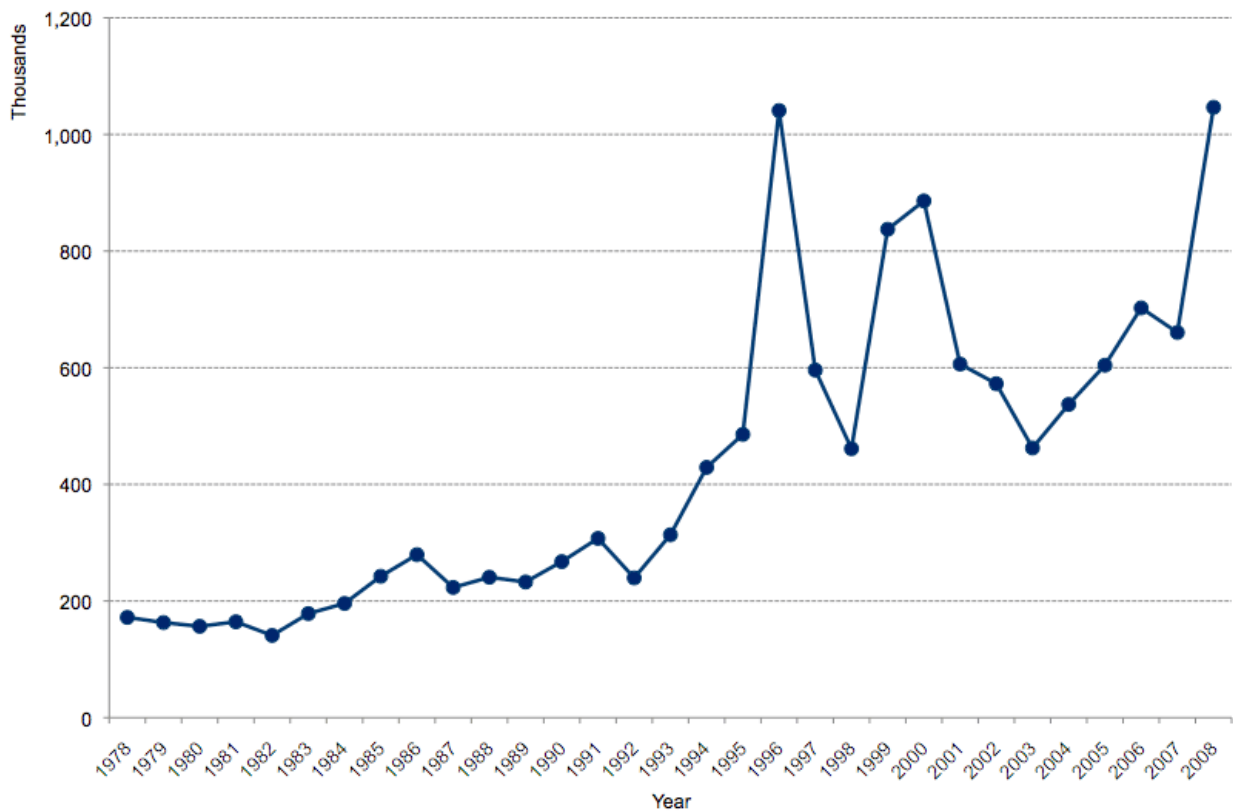
It is time, systematically and uniformly, to give every new citizen the most basic, simple tool to becoming part of our democracy: new citizens should be uniformly provided voter registration services and assistance at their naturalization ceremonies.

# I. New Americans

There were 38 million immigrants living in the United States as of 2008, of which 43 percent were naturalized U.S. citizens.<sup>3</sup> Nearly one out of every four people in the United States in 2008 was either an immigrant or the child of an immigrant.<sup>4</sup>

Additionally, naturalizations grew at a record pace between 2006 and 2008 with a total of 2.4 million immigrants becoming new citizens in the United States during that time.<sup>5</sup> The number of persons naturalized in the United States increased 58 percent from 660,477 in 2007 to an all-time record of 1,046,539 in 2008.<sup>6</sup> While there have been ebbs and flows, the number of new citizens has been increasing dramatically over the last few decades.

**Figure 1. Annual Number of New US Citizens, 1978 to 2008**



Source: Spotlight on Naturalization Trends, Migration Policy Institute , August 5, 2009

## II. Voting Among New Americans

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These new Americans have not been participating in elections on par with their native-born counterparts. In 2008, a year of historic turnout generally and enormous interest in the election, the turnout numbers for naturalized citizens barely improved relative to previous elections.<sup>7</sup> Nationwide, turnout among the native born was 64.4 percent, while among naturalized Americans it was 54 percent. The disparities in certain states were particularly stark.<sup>8</sup>

In 2006, there was a 12 point disparity in turnout, 49 percent of native born citizens versus an incredibly low 37 percent of naturalized Americans<sup>9</sup> and in 2004, there was an 11 percentage point gap.<sup>10</sup>

The significant difference in turnout rates between native-born and naturalized Americans is due, in part, to the significant disparities between the number of native-born and naturalized Americans who are registered to vote, a threshold requirement to casting a ballot in all but one state. For example, in 2004, 72.9 percent of native born Americans were registered, while only 61.2 percent of naturalized citizens were.<sup>11</sup> At the time of the 2006 general election, there were 13.94 million naturalized citizens 18 years or older. Of these non-native citizens just over half (54.3percent) were registered to vote by Election Day. Native citizens were registered at a rate of 68.6 percent during the 2006 election—a nearly 15 percentage point discrepancy.<sup>12</sup> In 2008, 71.8 percent of native born Americans were registered, while just 60.5 percent of naturalized Americans were registered to vote.<sup>13</sup>

**In 2008, 71.8 percent of native born Americans were registered, while just 60.5 percent of naturalized Americans were registered to vote.**

It is not that new Americans don't want to participate—once they are registered, immigrants vote overwhelmingly, reinforcing the need to facilitate voter registration. In fact, of those registered to vote, in the recent past new citizens have had higher rates of voter turnout than natives. According to a report by the Immigration Policy Center once new citizens

register to vote, they are more likely to show up at the ballot box than native-born citizens who are registered to vote. According to the Current Population Survey, 87 percent of new citizens who were registered to vote in 2000 actually did vote, compared to 85.5 percent of native-born registered voters. In other words, while new citizens are less likely than the native-born to take the crucial step of registering to vote, they are more likely to actually vote once they do so.<sup>14</sup>

The turnout rates among registered voters since 2000 have consistently been virtually equal between native born and naturalized citizens.

Evidence of naturalized citizens' desire to vote when given the tools to do so is also demonstrated by the period between the 2006 and 2008 elections. In 2006 and 2007 there was a massive effort to get immigrants naturalized and registered to vote by a group of immigrant rights organizations.<sup>15</sup> In 2008, as compared to 2006, registration for native citizens increased 3.2 percentage points; among naturalized Americans the increase was almost twice that, 6.2 percentage points.<sup>16</sup> The increase in voter turnout was also a bigger jump among naturalized citizens than for native born: 15.8 percentage points among the native born, versus 17.4 percentage points for naturalized.<sup>17</sup>



We have a mechanism to address the problem of registration disparities between native and naturalized American citizens. It's called the National Voter Registration Act.

	Naturalized Citizens	Native Citizens
Alabama	17.1	62.7
Alaska	59.7	65.2
Arizona	48.3	60.8
Arkansas	28.1	54
California	58.2	64.7
Colorado	48.6	69.3
Connecticut	56.4	68.2
Delaware	53.8	67.8
District of Columbia	64.3	74.7
Florida	62.6	64
Georgia	59.5	64.5
Hawaii	35.4	54.4
Idaho	43	61.9
Illinois	40.3	64.4
Indiana	52	60.6
Iowa	50.1	70.8
Kansas	54.1	63.5
Kentucky	53.4	63.2
Louisiana	35.4	70.8
Maine	65.8	71.3
Maryland	59.9	69.1
Massachusetts	62.5	67.6
Michigan	50.1	68.5
Minnesota	51.6	75.8
Mississippi	0	69.9
Missouri	51.7	66
Montana	60.3	65.4
Nebraska	45.2	67.8
Nevada	49.3	61.4
New Hampshire	64.5	71.4
New Jersey	57.9	65.2
New Mexico	67.9	62.3
New York	46	61.1
North Carolina	47.1	68
North Dakota	62.6	67.5
Ohio	56.6	65.7
Oklahoma	27.1	59.7
Oregon	53.9	68.1
Pennsylvania	53.3	62.7
Rhode Island	59.2	68.2
South Carolina	68	65.6
South Dakota	48.3	68.1
Tennessee	38.2	56
Texas	42.6	57.1
Utah	34.9	53.7
Vermont	88.4	64.3
Virginia	70.5	68.6
Washington	47.1	68.4
West Virginia	51.7	53.5
Wisconsin	69.4	71.3
Wyoming	45.7	64.4
National Aggregate	54.0	64.4

### III. The NVRA

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The National Voter Registration Act of 1993 (“NVRA”) was enacted by Congress with a bipartisan majority to, among other things, increase the number of eligible citizens who register to vote in Federal elections.<sup>18</sup> In doing so, Congress expressly found that the “right of the citizens of the United States to vote is a fundamental right” and specifically indicated that local, state, and Federal governments have a duty to promote that right.<sup>19</sup>

The law is best known for its “motor voter” provision, which requires each state’s department of motor vehicles to make voter registration a part of its application for a driver’s license, including renewals, unless the client does not sign the voter registration portion of the form.<sup>20</sup>

A less well-known part of the law requires public agency-based voter registration, mandating that “each State shall establish procedures to register to vote in elections for Federal office... at a Federal, State, or nongovernmental office designated under [Section 7].”<sup>21</sup> Section 7, in turn, requires states to designate the following as voter registration agencies:

- (1) “all offices in the State that provide public assistance”<sup>22</sup>;
- (2) “all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities”<sup>23</sup>; and
- (3) some number of additional offices within the state, which may include “state or local government offices” or “Federal and nongovernmental offices, with the agreement of such offices.”<sup>24</sup> Federal offices must “to the greatest extent practicable, cooperate with the States” when designated.<sup>25</sup>

Additionally, the NVRA designates Armed Forces recruitment offices as voter registration agencies within each state.<sup>26</sup> At each of the designated agencies, staff must distribute a voter registration application form to each client, assist applicants, accept the completed form and transmit it to elections officials.<sup>27</sup>

Under category (3) listed above, a state must designate some number of offices beyond those that must otherwise provide voter registration services, but it is in the state’s discretion to determine what additional offices it wishes to designate. Thus, “public libraries, public schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus, government revenue offices, and unemployment compensation offices” may be designated.<sup>28</sup> More relevant here, however, is that federal government offices may be designated under this category.<sup>29</sup> Indeed, the NVRA provides that “[a]ll departments, agencies, and other entities of the executive branch of the Federal Government shall, to the greatest extent practicable, cooperate with the States in carrying out [agency-based registration], and all nongovernmental entities are encouraged to do so.”<sup>30</sup>

In the year following passage of the NVRA, President Clinton promulgated Executive Order 12926 “in order to ensure, as required by section 7(b) of the National Voter Registration Act, that departments, agencies, and other entities of the executive branch of the Federal Government cooperate with the States in carrying out the Act’s requirements.” Among other things, the Executive Order

directs federal departments, upon request by a state, to agree to be designated as a voter registration agency, provided that such a designation is consistent with the department's legal authority and availability of funds, and to ensure that its offices in that state have voter registration applications available to the public.<sup>31</sup>

Notwithstanding this directive, the NVRA's federal agency designation provision has remained largely unused. In 2008, several states designated the Department of Veterans Affairs as a voter registration agency but then—Secretary James Peake refused to agree to the designation, as is required by the NVRA before the designation may take effect.<sup>32</sup> More recently, several states have re-designated the Department of Veterans Affairs and have also designated USCIS, the Social Security Administration, Indian Health Services, and military pay and personnel offices. Most of these designations remain pending, although the Military and Overseas Voter Empowerment Act of 2009 provided separately for designation of military pay and personnel offices as NVRA agencies.<sup>33</sup> Thus, the potential for additional federal agencies to provide voter registration has yet to be realized.

## **IV. Current Agency-Based NVRA Implementation**

Where fully implemented, the agency provisions of the NVRA have been extremely effective. For example Dēmos has found with respect to state based public assistance agencies, that,

- » In Missouri, following litigation to require compliance with the NVRA's requirements, that state's Department of Social Services has submitted over 218,000 voter registration applications to election officials, an average of over 11,000 per month.<sup>34</sup> In the two years prior to the court order, the state's public assistance agencies averaged only 649 registrations per month.<sup>35</sup>
- » In Ohio, that state's Department of Job and Family Services has reported collecting 84,400 voter registration applications at state public assistance offices in the first five months of implementation, or approximately 16,900 per month.<sup>36</sup> During the two-year period prior to the filing of the lawsuit, the state's public assistance agencies reported an average of only 1,775 registrations per month.<sup>37</sup>
- » In North Carolina over 104,000 low-income citizens have applied to register to vote through that state's public assistance agencies in the three years since Dēmos and its partners worked with state officials to improve NVRA compliance—compared to only 11,600 in the 2005–2006 reporting period.<sup>38</sup>

As mentioned, prior to the MOVE Act, military recruitment centers have been the only federal entity that has been conducting voter registration services under the NVRA. According to self-reporting by the military services, this program seems to be working without any substantial problems.<sup>39</sup> As a result of the joint development of procedures, DOD regulations require each recruitment office to provide the National Mail Voter Registration Form to all prospective enlistees, provide registration forms to “each eligible citizen,” provide assistance equal to that provided for the office's own forms, and maintain statistical information and records on voter registration assistance.<sup>40</sup>

## Why Designate USCIS

Because of its emphasis on citizenship, the rights and responsibilities that accrue to a person through citizenship, and the naturalization ceremonies it administers that usually bring together many new citizens at the same time, USCIS is a logical choice for a federal agency to serve as a voter registration agency.

Designation of USCIS as a voter registration agency is clearly consistent with the vision and mission of USCIS, which includes “[enriching] the vitality of the American dream by promoting the integration of immigrants into the fabric of our nation,” through, in part, “resources that welcome immigrants, promote English language learning and education on the rights and responsibilities of citizenship, and prepare immigrants for naturalization and active civic participation.”<sup>41</sup> Facilitating voter registration of naturalized citizens aligns directly with the goals of increasing new citizens’ investment in U.S. civic principles and rights, such as voting.

In the sample questions the United States Citizenship and Immigration Services provided to applicants to prepare for their citizenship test prior to the 2008 revisions, one question and answer included, “What is the most important right granted to United States Citizens? The right to vote.” On page 3 of the Immigration Services “Guide to Naturalization,” the government states, “U.S. citizens have many responsibilities other than the ones mentioned in the Oath. Citizens have a responsibility to participate in the political process by registering and voting in elections.”<sup>42</sup>

## Getting new Americans registered to vote is critical to the goal of immigrant civic integration, a stated part of the USCIS mission.

Getting new Americans registered to vote is critical to the goal of immigrant civic integration, a stated part of the USCIS mission. Indeed an entire office has been set up for this purpose, the Office of Citizenship.<sup>43</sup> As one immigrant rights advocate puts it, the impact of registering new citizens at their naturalization ceremonies “begins a... domino process of integration, beginning with engagement through the electoral process, often the most visible aspect of engaging in the US decision-making process. This is also often the beginning of engagement with civic and electoral processes, and can provide a useful departure point for immigrant civic engagement.”<sup>44</sup>

Currently, although voter registration activities may be undertaken at the local office level in some places, USCIS does nothing systematically across the country to facilitate the exercise of voting rights by the new citizen. As has been evidenced, the voting disparity between native born Americans and naturalized citizens is stark—and in dire need of being addressed. USCIS can play an important part in ameliorating the problem.

There is already limited third party voter registration at many voter registration ceremonies. There are volunteers—often from third party registration groups like the League of Women Voters—at some naturalization ceremonies to provide the new citizens with registration forms and information about their new voting rights. Some state and local elections officials conduct voter registration at a certain number of ceremonies, and political parties occasionally conduct drives outside the ceremonies as well, although these activities have occasionally been troublesome as the two parties compete to register new Americans.<sup>45</sup> These efforts, while valuable, are limited rather than systemic, and there have been occasional efforts—even by the Department of Homeland Security itself—to block organizations from doing voter registration at naturalization ceremonies.<sup>46</sup>

Moreover, in a few jurisdictions, USCIS puts voter registration forms in the packets of information distributed to the applicants or has registration forms somewhere available for taking at the event. This is helpful but insufficient on its own. The model of NVRA agency registration incorporates direct assistance by agency personnel in completing a voter registration application and submitting the form to election officials, for those who choose to register. The importance of this aspect of the registration process was part of the impetus behind passage of Section 7 of the NVRA. According to the Senate Report published when the Act was being deliberated,<sup>47</sup>

[O]ne of the advantages of the agency-based program is that it is an interactive registration. That is, there are individuals to assist registrants in completing the information on the registration application. Birgit Seifert of the Mexican American Legal Defense Fund noted that “mail registration is important, but perhaps more important are the agency registration procedures because [it is]... an interactive form of registration. If you have a stack of mail registration cards available, that does not necessarily mean that people are going to pick them up and send them in.”

**One of the advantages of the agency-based program is that it is an interactive registration.**

While mail registration procedures make registration convenient, in communities where resources are limited, it has been demonstrated to be ineffective in registering those who have historically been left out of the registration process. Thus, in some instances, mail registration is inferior to agency-based registration.

To institutionalize procedures and maximize voter registration of new Americans, USCIS should automatically provide registration services upon completion of the naturalization process. It is the only way to provide equity and uniformity across the nation in our collective effort to engage new Americans in our political process.

## **V. How it Would Work**

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Although there is no particular formula for successfully implementing such a process, there are several foundational principles of an effective voter registration program that can be easily summarized. In this section, the topics of how naturalization ceremonies work and how the voter registration activities could be woven into that process are described. This includes details on what USCIS staff would need to do, suggestions for how they might most effectively conduct registration activities at ceremonies, training needs, and other logistical issues.

### **Naturalization Ceremonies**

The Secretary of Homeland Security has exclusive authority to naturalize applicants, but it is the judicial branch that has authority to administer the oath of allegiance within 45 days of USCIS approval of a permanent resident’s application.<sup>48</sup> Historically, all ceremonies were judicial until statutory amendments to the immigration law in 1991; currently federal and state courts may assert exclusive jurisdiction to administer the naturalization ceremony at which the oath of allegiance is made.<sup>49</sup> In many jurisdictions, courts do not assert such authority, and USCIS administers the oath

to approved applicants in what is called an “administrative” oath ceremony.<sup>50</sup> As a result, there are essentially two types of naturalization ceremonies: administrative, which are conducted by representatives of USCIS, and judicial. The USCIS conducts “daily oath ceremonies” at which an applicant will be examined, approved and administered the oath of allegiance in the same day at USCIS offices.<sup>51</sup> However, “federal district courts in some of USCIS’ busier districts, including Chicago, Detroit, Los Angeles, and New York, retain exclusive jurisdiction over naturalization ceremonies.”<sup>52</sup> The law does contemplate some special cases “such as same-day ceremonies for those with physical disabilities, the elderly, and active duty members of the Armed Services. USCIS district officers also perform ‘humanitarian home visits’ to hospitals and hospice facilities to naturalize the disabled or infirm. In limited cases where courts have retained jurisdiction over the oath ceremony, courts have conferred a ‘blanket’ or ‘provisional’ permission for USCIS to provide administrative oath ceremonies in hardship cases where mobility, transportation, or military deployment may be a factor.”<sup>53</sup>

**If the applicants are educated in advance, if the issue of voter registration is integrated into the ceremony, and staff is sufficiently trained, it can be done without great inconvenience to anyone involved, and a tremendous step toward being a fully fledged member of the American family will have been taken by hundreds of thousands of new Americans a year.**

All applicants who have completed the naturalization process but for taking the oath of citizenship –no matter what type of ceremony they will attend— receive a USCIS appointment notice, Form N-445. The N-445 tells people to get to the ceremony site *one to two hours prior to the ceremony*. USCIS district offices conducting administrative oath ceremonies follow the protocol contained in the USCIS Adjudicator’s Field Manual.<sup>54</sup> The manual provides guidance on every aspect of adjudicating applications and petitions, but includes a section on the basics of how the naturalization ceremony is to be performed.

Naturalization ceremonies come in all sorts of shapes and sizes and there is no “typical” ceremony, but they all do include certain main components. The applicant must check in, return his or her legal permanent resident card, recite the oath of allegiance administered by a USCIS representative or a judge and receive a certificate of naturalization. The Adjudicator’s Field Manual “instructs that the administration of the oath be followed by the Pledge of Allegiance, a video message from the President, and patriotic music.” The Manual also provides guidance for guest speakers who are often prominent civic leaders.<sup>55</sup>

An applicant may take the oath on the same day as his interview, or be part of a crowd of a few thousand all taking the oath together. Each situation may need to be treated slightly differently by USCIS, but voter registration services should be fairly easily undertaken in every circumstance. If the proper steps are taken, civic organizations have proven that it can be done even in a stadium on the 4th of July.<sup>56</sup> If the applicants are educated in advance, if the issue of voter registration is integrated into the ceremony, and staff is sufficiently trained, it can be done without great inconvenience to anyone involved, and a tremendous step toward being a fully fledged member of the American family will have been taken by hundreds of thousands of new Americans a year. USCIS employees are already present at the ceremonies to ensure the smooth running of the process, and can fairly easily also provide voter registration forms and assistance. Since election administrators will be responsible for processing the forms, this will in no way add to the administrative burdens or backlog the agency experience.

## USCIS Staff Tasks

The appropriate office within USCIS to spearhead and oversee the operation nationally is the Office of Citizenship, which was created in 2003. According to the Task Force on New Americans, formed by former President George W. Bush,<sup>57</sup>

The federal government's first office for immigrant integration, the Office of Citizenship works as a public education and outreach office. Its activities include providing outreach on citizenship rights, responsibilities, and requirements and providing orientation information for newcomers; developing educational products and increasing the accessibility and availability of study tools and materials; creating a repository of citizenship education materials that are standardized, useful, and trustworthy; organizing training opportunities for teachers and volunteers who teach history and government to immigrants; and celebrating the meaning of citizenship.

Significant numbers of USCIS staff attend and perform many functions at naturalization ceremonies, including all judicial ceremonies. In the Los Angeles District, for example, thirty to forty USCIS staff and contractors may be present to facilitate at judicial ceremonies.<sup>58</sup> According to the USCIS ombudsman, USCIS staff duties include bringing<sup>59</sup>

boxes of supplies to the venue (which may be a courtroom), directing persons through check-in and verification procedures, seating them, presenting the motion to the court, handing out the certificates, educating applicants about benefits like passports and children's derivative status (which may be explained in packets USCIS places on each applicant's chair), and recording all pertinent data, including sending billing information to the courts for the court's reimbursement process.

According to the USCIS Adjudicator's Field Manual, ceremonies can be held at practically any "appropriate facility." Regardless of the site, the field office will "need to coordinate.... Site preparation, stage or dias, seating arrangements, processing tables for applicants, signs directing flow of applicants, signs to reserve seats for applicants with disabilities or special guests, U.S., D.H.S. and state flags, copies of the letter from the President of the United States, Audiovisual & PA systems, Parking, traffic, transportation accessibility, ADA issues (accessibility, sign language interpreter if needed, volunteers, speakers, music, security." The ceremony must include the following: an introduction, the national anthem, address or remarks by a speaker, presentation of candidates by a USCIS officer, roll call by country, administration of the oath of allegiance, presentation of certificates of naturalization in an individualized commencement style whenever possible, the pledge of allegiance, and the "President's Message and Lee Greenwood Video."<sup>60</sup> At the completion of the naturalization ceremony, new citizens are generally provided with a certificate of citizenship, a Citizen's Almanac, and a U.S. flag.

If USCIS were to become an NVRA agency, in addition to these practices and materials, USCIS representatives would be required to provide voter registration forms, answer questions and assist with registration issues, transmit completed applications to state election officials and maintain limited statistical data. Although recommended processes are detailed below, distributing the form can take place at any time prior to the ceremony, with submission and collection coming only after the recitation of the oath. As with all NVRA agency registration, new citizens would be informed

that the decision to register is theirs alone and that the decision whether or not to register will not affect the naturalization process.<sup>61</sup>

As with all other agency registrations under the NVRA, the actual processing of the voter registration application and the determination of the voter's eligibility to vote will remain with local election officials to whom the applications are submitted. As the legislative history makes clear about the NVRA,<sup>62</sup>

This bill provides only that the role of the agency-based registration program is to provide forms to applicants and receive completed voter applications for transmittal to the appropriate State voting registration official. It is the voter registration official who determines whether or not to accept the application and place the name on the voting roll for the appropriate voting jurisdiction. The bill requires that the appropriate voting registration office notify each applicant of the disposition of the application. There is no provision in this bill which would require or suggest that determination be made by anyone other than the appropriate voting registrar under State law.

### **Recommended Processes**

A number of civic organizations have been doing voter registration at naturalization ceremonies for several years, and there are many best practices that can be learned from them that might be instructive to USCIS as it seeks to most effectively register new voters with the greatest ease and efficiency. They include the following:

- » Integrate the idea of voting and registration into the ceremony itself. Make a presentation during the ceremony regarding the right to vote and the importance of political engagement and participation. Provide the basic instructions for filling out the registration form as part of the presentation as well if possible.
- » Distribute the registration forms before the ceremony; accept them upon completion of the oath and distribution of naturalization certificates
- » Use pre-ceremony waiting time to educate the soon-to-be Americans one on one or in small groups about registering to vote and how to fill out the registration form.
- » Station personnel to collect forms at all exit points
- » Emphasize during the education process how quick it is to complete a form and that the agency will, and is required by law to transmit the form to elections officials for them.
- » Institute uniform trainings and training materials

*Integrate the idea of voting and registration into the ceremony itself.*

The New York Immigration Coalition<sup>63</sup> has a great deal of experience registering new Americans to vote at ceremonies of all shapes and sizes, including very large scale ones. With enough volunteers and by utilizing some highly effective methods, they were able to register a great number of people upon their naturalizations at ceremonies. Indeed, the former director of the organization estimates that they registered an average of 75–90 percent of the people participating in naturalization cer-



emonies.<sup>64</sup> If this could have taken place across the country in 2008, up to 900,000 new Americans would have been registered that year.

One of the keys to getting people registered to vote at ceremonies was to integrate the idea of voting and registration into the ceremony itself. In the case of NYIC, they were allowed to make a presentation during the ceremony regarding the right to vote and the importance of political engagement and participation. An excerpt from the speech follows:<sup>65</sup>

Through voting, you can shape the direction of your government. Unlike other forms of government, in a democracy, the power and responsibility of governing is delegated to every citizen. If you do not vote, you are putting the power to communicate your needs to elected officials in the hands of other people who may not represent your interests. Remember! Our elected officials are our servants. You have the right to vote them in and out of office if you feel they do not represent your interests or those of your family and community. However, this power is only yours if you choose to use it.

The presentation also briefly explained how to fill out the registration form so that less time would be needed to help individuals after the swearing-in.

The League of Women Voters does the most voter registration at naturalization ceremonies on a national basis and, recognizing the many gaps in coverage, has been trying to expand its operations.<sup>66</sup> Like the NYIC, the League encourages its local chapters to request the ability to make a statement during the ceremony, and that the process be explained as part of the announcement. They suggest this message:<sup>67</sup>

On behalf of the League of Women Voters, congratulations on becoming a United States citizen. As a citizen, you are eligible to vote in local, state, and national elections. The right to vote may be new for some of you. It gives you an opportunity to help decide who is in charge of your government.

You can register to vote today. There are people from the League of Women Voters to help those interested, complete a voter registration card.

You can fill out the form while you wait for the ceremony to begin, but please DO NOT sign the card until AFTER the ceremony. When the ceremony is completed, we will collect the cards and take them to the Secretary of State's office. Or you can mail the card in by yourself.

We hope that you become active participants in the political process. Learn about the candidates and the issues before you vote. As new citizens, ask questions and feel free to voice your opinions. Again, congratulations to all of you!

*When filling out the card, please write very carefully! If they can't read your card, they will be unable to complete your registration. You will receive a card in the mail telling you that you are registered, and where you need to go to vote... this is your polling place, and you must go to the polling place that is for your neighborhood. When you have registered, your name will be at the polling place. But it is always a good idea to have a Driver's License or some identification with a picture and current address when you go to vote for the first time.*

In Illinois, USCIS permitted representatives from the Illinois Coalition for Immigrant and Refugee Rights<sup>68</sup> (ICIRR) to make an announcement about the availability of voter registration during the ceremony until 2007. After that a USCIS representative announced the availability of voter registration during the ceremony. The director of this program for ICIRR believes that regardless of who does it, announcing and talking about voter registration during registration is absolutely key.<sup>69</sup>

*Distribute the registration forms before the ceremony; accept them upon completion of the oath and distribution of naturalization certificates; Use pre-ceremony waiting time to educate the soon-to-be Americans one on one or in small groups about registering to vote and how to fill out the registration form.*

In New York, NYIC was allowed to distribute the registration forms before the ceremony began, but of course did not accept any of them for transmittal until after the oath of office was completed. They also used pre-ceremony waiting time to talk to the soon-to-be Americans about registering to vote and how to do so. As noted above, USCIS asks applicants to arrive extremely early to the ceremony so there is a great deal of unused time prior to the ceremony's commencement. They had volunteers in all the sections with blown up poster size reproductions of the voter registration form.

ICIRR was not able to obtain the same level of cooperation as the group in New York. ICIRR was only able to distribute voter registration forms to new citizens as they left the ceremony, outside of the courtroom. According to ICIRR, this was because the courts objected to having various groups doing registration inside, yet not even the clerk of Cook County was allowed to conduct registration inside the room. However, according to ICIRR, there is no formal barrier disallowing registration inside the courtroom; this was a local decision.

To try to make up for this lack of access, they emphasized to those leaving how quick it would be to complete a form and that the organization would and could be trusted to transmit the form to elections officials for them. Indeed, ICIRR estimates that each person could be processed in a minute or so. While the group was able to register many to vote, its 50 percent success rate falls below that of the NYIC, likely to some degree because of their inability to reach out to applicants before the ceremony began.

The League of Women Voters also encourages distribution of the registration forms prior to the commencement of the ceremony, and signature and submission after the swearing in has been completed.<sup>70</sup>

#### *Station personnel to collect forms at all exit points*

NYIC volunteers were stationed at all exit points to collect forms and found this to be another key to success. NYIC reports that because so much had already been explained ahead of time during the pre-ceremony period, volunteers did not need to spend much time at all assisting people in filling out the forms as they left.

### *Institute uniform trainings and training materials*

All of these groups of course trained the volunteers doing voter registration at ceremonies. Although there are important points that volunteers must be educated on, the forms are simple enough that the training need not be more than an hour. All of the groups have training guides that spell out procedures and rules, and particularly emphasize the need to remain nonpartisan under all circumstances.

USCIS staff would also be responsible for getting the forms to the appropriate elections administrator. The transmittal procedure would be coordinated with states and counties, but should be straightforward. Elections officials could pick up the voter registration applications from USCIS or USCIS staff could drop off the voter registration applications with elections officials on a regular basis, or USCIS could mail the voter registration applications. The voter registration applications must be considered submitted at the time received by USCIS. All of the forms must be transmitted to the proper county election administrator no later than 10 days after the date of acceptance, or if a registration application is accepted within 5 days before the last day for registration to vote in an election, the application shall be transmitted to the appropriate State election official not later than 5 days after the date of acceptance.<sup>71</sup>

### **Staff Training**

As mentioned, USCIS staff already has to be trained on a number of procedures pertaining to their duties at naturalization ceremonies and this would be an additional category. The training that would be required of USCIS staff working at naturalization ceremonies will actually be even less of a challenge than it is for others conducting voter registration drives because staff can be certain that those who have gone through the naturalization process are citizens over the age of eighteen.<sup>72</sup>

The basic components of the training include:

- » The basics regarding the NVRA and USCIS' role as a designated agency
- » How to best approach each new citizen with the form when distributing and collecting it
- » To only accept forms from those who have been handed their naturalization certificate
- » The fields in the form, which ones are required, and what should be filled in for each of them
- » Being able to answer questions about filling out the data fields
- » Ensuring that the form is completely filled out and legible
- » The strict legal prohibition on partisanship
- » The strict rules around confidentiality
- » The Virginia and North Carolina Boards of Election have strong examples of training guides designed for public assistance agencies containing many of these key points that can be referenced.<sup>73</sup>

## Data, Monitoring, and Coordination

To facilitate consistent implementation of the NVRA, agency officials should appoint an NVRA Coordinator in each local field office (possibly the community liaison officer). The coordinator should be responsible for maintaining voter registration supplies, sending completed applications to election officials, and reporting NVRA data to agency and election officials (see below). Most importantly, NVRA Coordinators should have sufficient training that they can orient new staff and provide guidance to existing staff at their office in proper voter registration procedures.<sup>74</sup>

**There is unlikely to be a great amount of cost involved in implementing this program, and there is certainly no evidence that cost has been prohibitive at other agencies providing voter registration services.**

Data collection and monitoring are key parts of effective NVRA implementation at voter registration agencies. Monitoring each office's performance, through a review of frequent and regular reporting of the numbers of voter registration applications completed at each ceremony, will help to assess whether the procedures being implemented are effective and will allow offices that service those ceremonies with low performance to be identified for remedial action. In addition, collection of such data will help a state to report information required for the Election Assistance Commission to make its mandated biennial report to Congress on the impact of the NVRA.<sup>75</sup>

District offices and election officials should have regular communication about NVRA implementation and compliance. Each district office site should provide state election officials with the name of the NVRA Coordinator. USCIS officials should be in regular contact with state and local election offices for assistance with any additional questions or training needs.

There is unlikely to be a great amount of cost involved in implementing this program, and there is certainly no evidence that cost has been prohibitive at other agencies providing voter registration services. Dēmos' experience working with states implementing highly effective agency based registration services suggests that costs are not prohibitive.<sup>76</sup> In addition, when the bill designed to make the Veterans Administration a voter registration agency was under consideration, the Congressional Budget Office estimated that it would cost the agency less than \$500,000 over a four year period.<sup>77</sup> As the CBO pointed out at that time regarding the VA, not all of the cost would be borne by the agency. Elections officials would play a role in training, and would be responsible for supplying USCIS staff with registration forms. All USCIS needs is to have trained staff implementing the program at a function they would be working at in any case. The only potential for increased cost is if some offices feel they need additional workers to staff the ceremonies in order to be able to do it effectively,<sup>78</sup> perhaps additional staff time if current staff is utilized, and minimal postage costs. There is also the possibility of seeking dedicated appropriated funds from Congress, as has been done for other individual USCIS programs. In no case should it necessitate an increase in applicant fees, which is the main funding source for services at USCIS.

## Responsibilities of Election Administrators

Section 10 of the NVRA requires that each state "designate a State officer or employee as the

chief State election official to be responsible for coordination of State responsibilities under [the NVRA].<sup>79</sup> In most states, this chief election official is the Secretary of State although, in others, it may be a board or a director of elections. The chief election official's coordination responsibility is considered to include assistance with training of agency staff on the voter registration process and providing training materials that are updated on a regular basis.<sup>80</sup> This responsibility makes sense: It is that office that has the requisite expertise, is responsible for implementation of election laws including the NVRA, and ultimately it will make the job of election administrators easier if the registration activities USCIS conducts are done properly and efficiently. This may mean that elections officials directly hold trainings for USCIS personnel or conduct train-the-trainers with the individual responsible in the local USCIS office for overseeing voter registration at naturalization ceremonies.

Frequently, the chief election official has appointed someone within his or her office as responsible for overseeing agency implementation. This person also would act as a liaison between the elections office and USCIS.

As with all voter registration in a state, the local election administrators must receive and process registration forms they receive through USCIS.

### **Role of Civic Organizations**

Civic organizations throughout the country have years of experience and have had tremendous success in some select places registering newly naturalized Americans to vote. It would be wrong and counterproductive to cut them out of the process. USCIS should, in those instances where there are groups with a proven track record of excellence and nonpartisanship in this area, enter into partnerships to do or assist with registration activities, with the understanding that this does not absolve USCIS staff from having ultimate responsibility for providing voter registration services to these persons. Indeed, the community liaisons should actively seek out reliable partner groups in this effort that may have particular trust in the immigrant communities. Such nongovernmental organizations should also be permitted to collect the names and contact information of the new registrants so that they can do the crucial follow up work with them to make sure their registration is processed and that they are provided with information about the voting process itself.

In addition, civic organizations have a key potential role in training volunteers to do voter registration at naturalization ceremonies. Although it is the responsibility of the chief election official of the state to oversee the training of agency staff there is nothing to bar election administrators or USCIS from working collaboratively with these organizations in developing training materials and conducting training sessions.

Federal regulations already embed this principle with respect to helping with the naturalization process:<sup>81</sup>

§332.4 Cooperation with official National and State organizations.

The Central Office and the field offices shall take steps to obtain the aid of and to cooperate with official National and State organizations in the Service's program of promoting instruction and training of applicants for naturalization for their citizenship duties and responsibili-

ties. Similar action shall be taken in relation to duly accredited unofficial educational, social service, welfare, and other organizations having as one of their objects the preparation of applicants for naturalization for their citizenship duties and responsibilities.

Organizations can also still send volunteers to naturalization ceremonies to play other roles beyond that of voter registrar. As detailed above under certain circumstances they may be authorized to play a supplemental role in the voter registration process, but more importantly these organizations can continue to send volunteers to talk to new Americans—who have already completed the process of registering pending notification by elections officials—and work with them to understand their new voting rights and how the voting process works. They can focus on providing them with the tools to take the next crucial step: voting. Groups, who often include trusted faces from the community, can offer to assist the new registrant to follow up to ensure that his voter registration application has been processed correctly. Moreover, through this process, they can collect information to follow up with new Americans for Get-Out-the-Vote work that needs to be done to ensure maximum participation levels.

## VI. Method of Enactment

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There are a few ways to make USCIS a voter registration agency in accordance with NVRA, including state designation within existing provisions of NVRA, via an agency directive that directs employees to provide voter registration assistance, or an executive order. An executive order is likely the simplest, most direct route to achieving this goal. Legislation is also an option.

State designation of USCIS as a voter registration agency is provided for in the NVRA,<sup>82</sup> but it relies on both proactive state action on one side—to make the request—and federal agency acceptance on the other. As a result, designation of a federal agency for voter registration per a state’s request is not a guaranteed path. It might also lead to disparities among the states wherein people at ceremonies in some parts of the country would be given the affirmative option of registering to vote and people in other areas would not.<sup>83</sup>

The opportunity to achieve designation of USCIS as a voter registration agency may also exist through an agency directive. USCIS issues large numbers of such directives requiring staff to undertake various duties. However, this would fall short of a legal and enforceable mandate.

A more direct route to pursue is the use of a Presidential executive order requiring the USCIS to provide voter registration services under the terms of Section 7 of the NVRA. The President has authority to issue such a directive as it would be in furtherance of an existing statute, the NVRA, and gives direction as to the duties and responsibilities of employees within an executive agency. Generally, a president has broad latitude to issue written directives in the exercise of powers granted by constitutional or statutory provisions.<sup>84</sup> Executive orders “are, loosely speaking, presidential directives that require or authorize some action within the executive branch.”<sup>85</sup>

There are at least three possible approaches an executive order could take. First might be an executive order requiring USCIS to accept state designations. Another option is to issue an executive order directing the heads of the Department of Homeland Security and USCIS to establish a program of voter registration of naturalized citizens on a par with state based public assistance agencies under Section 7 of the NVRA. The third option would be an executive order that directly establishes the USCIS as an NVRA agency. The latter two options both have the advantage of creating a uniform policy, but this third option would likely have the biggest impact on the number of new citizens registered to vote.

## VII. Voter Registration Modernization

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“Voter Registration Modernization” (“VRM”) is a reform that would streamline the registration process by using existing government databases to populate and update voter registration rolls for eligible citizens. This transformation of our voter registration would result in a much more effective and inclusive system, because the burden of registering to vote and making sure one stays on the rolls would no longer rest exclusively on the individual citizen. Voter registration modernization has widespread, bipartisan support and is under discussion in the United States Congress and in the states.<sup>86</sup> Under “VRM” departments of motor vehicles, public assistance agencies, and other governmental offices would collect basic information from their client databases and transmit to state election officials all the data necessary—and only that which is necessary—for adding citizens to the voter rolls. Individuals preferring not to register to vote could exercise an opt-out option. Any eligible voter who was missed by automatic voter registration procedures would have an opportunity to add herself to the voter rolls and cast a regular ballot on Election Day.

While no in-depth examination has been undertaken, it would appear that USCIS’ database of persons who successfully naturalize could at some point be made to work well within a VRM system. As a result, it may be that at some future date, the system of registration proposed here could be converted into a more automatic voter registration system within the VRM scheme.

USCIS has many databases, but the one that seems most appropriate for VRM is the CLAIMS 4 database. CLAIMS 4 is a tracking and processing system that is used to monitor the different stages of the naturalization process, including the oath ceremony and the granting of citizenship.<sup>87</sup>

The database includes all of the information necessary for voter registration, including, obviously citizenship status. The database also contains such needed data as names and addresses, telephone numbers, birth information, death information, Social Security Numbers (SSN), and criminal history information.<sup>88</sup>

Most of the information in the CLAIMS 4 database is obtained from the applicants and entered by USCIS staff. “CLAIMS 4 information is also checked for accuracy through database technical controls (e.g., a program that checks the zip code to ensure it matches the city, state and street), inherent business logic built into the system, and a manual review process (e.g., interviews with the applicants).”<sup>89</sup>

USCIS is in the process of modernizing its information technology across the board, and is still largely paper-based.<sup>90</sup> In addition, it must be noted that experts have questioned the accuracy of other related databases.<sup>91</sup> USCIS systems’ readiness for VRM requires more study to ensure efficiency, fairness and accuracy before steps are taken to implement such a transition.



## VIII. Conclusion

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The single biggest distinction between being a citizen and being a noncitizen in the United States are the political rights that accompany citizenship. Perhaps most importantly, a foreign born person who successfully naturalizes acquires the right to a vote that is equal to that of anyone born in this country. He acquires the right to freely participate in the process of self-governance and the politics of this country in a way he was barred from doing previously.

It is only logical, then, that completion of the naturalization process should include the opportunity to register to vote, so that new Americans may participate in the most fundamental aspect of American citizenship. It is incumbent upon the government to honor our commitment to a participatory democracy by taking reasonable steps to ensure the new citizen knows about the requirements for registering to vote and is given the opportunity to do so as soon as he gains the right to do so. There is nothing to suggest that such an undertaking would in any way be burdensome or distracting for USCIS personnel. To the contrary: it would seem to be an obvious and integral part of the mission of USCIS, and will only bring the agency into higher regard among naturalized Americans, those seeking to naturalize, and all Americans.

Voter registration and turnout rates among naturalized citizens lag well behind that of Americans born in this country. It is important for the full functioning of our democratic system that this gap be remedied. Designating the United States Citizenship and Immigration Services as a voter registration agency under the National Voter Registration Act is a simple and effective start to do just that.

# Endnotes

1. According to the Migration Policy Institute, between 1860 and 1920, immigrants as a percentage of the total population fluctuated between about 13 and 15 percent, peaking at 14.8 percent in 1890 mainly due to European immigration. By 1930, immigrants' share of the US population had dropped to 11.6 percent (14.2 million individuals).

The share of foreign born in the US population continued to decline between the 1930s and 1970s, reaching a record low of 4.7 percent in 1970 (9.6 million individuals). However, since 1970, the percentage has risen rapidly, mainly due to large-scale immigration from Latin America and Asia.

In 1980, according to the US Census Bureau, the foreign born represented 6.2 percent (14.1 million individuals) of the total US population. By 1990, their share had risen to 7.9 percent (19.8 million individuals) and, by the 2000 census, they made up 11.1 percent (31.1 million individuals) of the total US population.

As of 2008, immigrants comprised 12.5 percent (38.0 million) of the total US population.

Aaron Terrazas and Jeanne Batalova, "Frequently Requested Statistics on Immigrants and Immigration in the United States, Migration Policy Institute, October 2009.

2. See Thomas Perez, Assistant Attorney General, Civil Rights Division, United States Department of Justice, Remarks as Prepared for Delivery at a Naturalization Ceremony for 50 Citizenship Candidates, Washington, D.C., March 1, 2010. Perez stated, "Your participation in our democracy is essential to making it work. The right to participate actively in our democracy is one for which women and men have fought, and even given their lives. We owe it to them, as well as to ourselves and to our children, to stay actively engaged, and to vote."
3. American Community Survey, Table B05011, Period of Naturalization, Universe: Foreign-Born Population, available at [http://factfinder.census.gov/servlet/DTTable?\\_bm=y&-state=dt&-context=dt&-ds\\_name=ACS\\_2008\\_1YR\\_G00\\_&-CONTEXT=dt&-mt\\_name=ACS\\_2008\\_1YR\\_G2000\\_B05011&-tree\\_id=308&-redoLog=true&-caller=geoselect&-geo\\_id=01000US&-geo\\_id=NBSP&-search\\_results=01000US&-format=&-\\_lang=en&-SubjectID=17471510](http://factfinder.census.gov/servlet/DTTable?_bm=y&-state=dt&-context=dt&-ds_name=ACS_2008_1YR_G00_&-CONTEXT=dt&-mt_name=ACS_2008_1YR_G2000_B05011&-tree_id=308&-redoLog=true&-caller=geoselect&-geo_id=01000US&-geo_id=NBSP&-search_results=01000US&-format=&-_lang=en&-SubjectID=17471510). An estimated 12.6 million Legal Permanent Residents lived in the United States on January 1, 2008. Nancy Rytina, Estimates of the Legal Permanent Resident Population in 2008, Department of Homeland Security, Office of Immigrant Statistics, October, 2009. Although the number of undocumented persons is not

definitively known, the Department of Homeland Security estimates are that it is about 10.8 million. Michael Hoefer, Nancy Rytina, and Bryan C. Baker, Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2009, Department of Homeland Security, Office of Immigrant Statistics, January 2010.

4. American Roots In The Immigrant Experience: Immigrants and Children of Immigrants Comprise Nearly One Quarter of the U.S. Population, Immigration Policy Center, October 19, 2009.
5. Bryan Baker, "Trends in Naturalization Rates: 2008 Update," Department of Homeland Security, Office of Immigration Statistics, June 2009.
6. James Lee and Nancy Rytina, "Naturalizations in the United States: 2008," Department of Homeland Security, Office of Immigration Statistics, March 2009.
7. Compare United States Census Bureau, "Voting and Registration in the Election of November 2008," Table 2, May 2009, p. 4 with United States Census Bureau, "Voting and Registration in the Election of 2006, June 2008, p. 6
8. Analysis by Demos based on U.S. census data.
9. United States Census Bureau, "Voting and Registration in the Election of 2006, June 2008, p. 18.
10. United States Census Bureau, "Voting and Registration in the Election of 2004, March 2006, p. 2.
11. U.S. Census Bureau, Current Population Survey, November 2004, Chart 13 at 2004: [www.census.gov/population/socdemo/voting/cps2004/tab13.xls](http://www.census.gov/population/socdemo/voting/cps2004/tab13.xls).
12. "Voting and Registration in the Election of November 2006" US Census Bureau, June 2008. Available at: <http://www.census.gov/prod/2008pubs/p20-557.pdf>.
13. U.S. Census Bureau, Voting and Registration in the Election of November 2008—Detailed Tables, Table 13 at [www.census.gov/hhes/www/socdemo/voting/publications/p20/2008/tables.html](http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2008/tables.html).
14. Rob Paral, "Power and Potential: The Growing Electoral Clout of New Citizens," Immigration Policy Center, October 1, 2004.
15. Darryl Fears, Immigrants Prepare for Next Step, Washington Post, September 14, 2006 <http://www.washingtonpost.com/wp-dyn/content/article/2006/09/13/AR2006091301820.html>.
16. Compare United States Census Bureau, Voting and Registration in the Election of November 2006, Table 13, available at <http://www.census.gov/hhes/>

[www.socdemo/voting/publications/p20/2006/tab13.xls](http://www.socdemo/voting/publications/p20/2006/tab13.xls) with U.S. Census Bureau, Voting and Registration in the Election of November 2008, Table 13, available at <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2008/Table%2013.xls>.

17. *Id.*
18. 42 U.S.C. § 1973gg(b)(1).
19. 42 U.S.C. § 1973gg(a).
20. 42. USC1973gg-3
21. 42 U.S.C. § 1973gg-2(a)(3)(B).
22. 42 U.S.C. § 1973gg-5(a)(2)(A).
23. 42 U.S.C. § 1973gg-5(a)(2)(B).
24. 42 U.S.C. § 1973gg-5(a)(3).
25. 42 U.S.C. § 1973gg-5(b).
26. 42 U.S.C. § 1973gg-5(c).
27. 42 U.S.C. § 1973gg-5(a)(4)(A).
28. 42 U.S.C. § 1973gg-5(a)(3)(B)(i).
29. 42 U.S.C. § 1973gg-5(a)(3)(B)(ii).
30. 42 U.S.C. § 1973gg-5(b) (emphasis added).
31. Exec. Order No. 12,926, 59 Fed. Reg. 47,227 (Sept. 12, 1994) (“EO 12926”).
32. In the spring and summer of 2008, California, Connecticut, Vermont, North Carolina, and Arkansas designated the Department of Veterans Affairs under Section 7. The VA refused to agree to California’s designation. Subsequently, both Houses of Congress considered legislation: the House passed a bill that would have required the VA to agree to designation but the Senate adjourned amidst extensive negotiation over a similar bill. Arguably, all but California’s designation remain pending.
33. The following state designations occurred in 2009.: California, Kansas, Vermont, North Carolina, and Ohio have designated the Department of Veterans Affairs; California, Kansas, Vermont, and North Carolina have designated USCIS; California, Kansas, and North Carolina have designated the Social Security Administration; California, Kansas, and North Carolina have designated Indian Health Services; North Carolina has designated military pay and personnel offices. These designations remain pending except Kansas’s designation of the Social Security Administration, which was refused, and North Carolina’s designation of Indian Health Services, which was refused because there were no appropriate facilities within North Carolina. Additionally, the 2009 MOVE Act authorized the Secretary of Defense to allow designation of military pay and personnel offices as NVRA agencies, and the Secretary of Defense announced his intent to proceed with such designations in December 2009. Letter dated December 16, 2009 to Senator Jon Cornyn and Senator Charles Schumer from Deputy Secretary of Defense William J. Lynn III.
34. Data provided by Missouri Department of Social Services pursuant to compliance plan in ACORN v. Scott, No. 2:08-cv-04084 (W.D. Mo.).
35. U.S. Election Assistance Commission, The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 2005–2006, at 34, available at [http://www.eac.gov/program-areas/research/doc/the-impact-of-the-national-voter-registration-act-on-federal-elections-2005-2006/attachment\\_download/file](http://www.eac.gov/program-areas/research/doc/the-impact-of-the-national-voter-registration-act-on-federal-elections-2005-2006/attachment_download/file).
36. Based on information provided under the Settlement Agreement in Harkless v. Brunner, No. 06-cv-2284 (N.D. Ohio 2006). (on file with Demos).
37. Impact of the National Voter Registration Act of 1993, *supra* note 35, at 34.
38. Data provided by the North Carolina State Board of Elections (on file with Demos); Impact of the National Voter Registration Act of 1993, *supra* note 35, at 34.
39. Inspector General of the United States, Department of Defense, 2008 Evaluation of the DOD Voting Assistance Program,” April 30, 2009, pp 13–14. The report details that with respect to training of personnel providing the voter registration services, the military recruitment programs were compliant: 100% of inspected Army units were compliant; 83% in the Navy completed the training, which is available online through the Navy Knowledge On-line portal, a 20% increase over 2007. The Air Force reported that it was in compliance, with minor exceptions noted. The Marine Corps reported that it was in compliance.

With respect to the provision of the voter registration application and the voter registration information form, and the timely transmittal of completed forms the Army again reported 100% compliance where inspections were done. The Navy reported that it was in compliance. The Air Force reported that it was in compliance with minor exceptions noted. The Marine Corps reported that the voter registration applications and voter registration information forms were “not in all cases” provided, but that the Marine Corps was in compliance with

regard to timely transmittal.

40. DoD Directive 1344.13, "Implementation of the National Voter Registration Act (NVRA)," November 21, 2003, § 5.4.4.
41. Office of Citizenship Vision and Mission at <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=a5e314c0cee47210VgnVCM100000082ca60aRCRD&vgnnextchannel=a5e314c0cee47210VgnVCM100000082ca60aRCRD>.
42. "A Guide to Naturalization," U.S. Citizenship and Immigration Services, rev. January 1, 2007, p. 3.
43. U.S. Citizenship and Immigration Services, "About the Office of Citizenship," <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=3a1827f3ddbcd010VgnVCM100000d1f1d6a1RCRD&vgnnextchannel=2af29c7755cb9010VgnVCM10000045f3d6a1RCRD>.
44. Email exchange with Suman Raghunathan, Immigrant Voter Mobilization Coordinator, February 11, 2009.
45. See Joel Stein, "Grand Old Party Animal," The Los Angeles Times, May 2, 2008; Shipra Shukla, "A Very American Voter Education: New Citizens Run an Electioneering Gauntlet," Newsdesk.org, October 25, 2004.
46. See Harold Meyerson, "Blocking the Latino Ballot," The American Prospect, September 23, 2004;" Nonpartisan Voter Reg Group Sues Homeland Security, City of Miami Beach over Denial of Access to New Citizens," People for the American Way, September 15, 2004.
47. S. REP.NO. 103-6, at 14-15 (1993).
48. Department of Homeland Security, Office of the Citizenship and Immigration Services Ombudsman, "Study and Recommendations on Naturalization Oath Ceremonies," December 16, 2008, p.2. Note that while 8 U.S.C. § 1421 states that the authority rests in the Attorney General, under 8 U.S.C.A. § 1103 that power appears to be transferred to the Department of Homeland Security, as is reflected in the Ombudsman Study.
49. Section 310(b) of Immigration and Nationality Act.
50. Department of Homeland Security, Office of the Citizenship and Immigration Services Ombudsman, "Study and Recommendations on Naturalization Oath Ceremonies," December 16, 2008, p.2.
51. Id. at p. 4.
52. Id. p.6.
53. Id. at p.4.
54. Id.
55. Id.
56. Celia W. Dugger, "In a Quest for New Voters, Politicians Fight the I.N.S.," The New York Times, July 4, 1997.
57. U.S. Department of Homeland Security, Task Force on New Americans, Building an Americanization Movement for the Twenty-first Century: A Report to the President of the United States from the Task Force on New Americans, Washington, DC 2008, p.p. 37- 38.
58. Department of Homeland Security, supra note 50 at pp. 6-7.
59. Id.
60. Adjudicator's Field Manual, Redacted Public Version, Chapter 75, The Oath of Naturalization, 75.2 The Oath Ceremony.
61. Under the law, the new citizen can also opt to take the form home and fill out and send it in on their own.
62. S. REP.NO. 103-6, at 16 (1993).
63. All information regarding the New York Immigration Coalition's activities was obtained through an interview with Suman Raghunathan, Immigrant Voter Mobilization Coordinator, on January 14, 2010.
64. Interview with Suman Raghunathan on January 14, 2010.
65. An Investigation of the Immigration and Naturalization Service's Citizenship USA Initiative, "INS Partnerships with Community-Based Organizations," Office of the Inspector General, U.S. Department of Justice, July 2000.
66. League of Women Voters, "Engaging New Citizens as Voters: A Guide to Naturalization Ceremonies from the League of Women Voters," February 2008.
67. Id. at Appendix C.
68. All of the information obtained regarding ICIRR was through an interview with Fred Tsao, Policy Director and Juan Jose Gonzalez, consultant, on January 15, 2010.
69. Email exchange with Juan Jose Gonzalez on April 19, 2010.

70. League of Women Voters, *supra* at note 66, at Appendix C.

71. 42 U.S.C. 1973gg-5(d).

72. The registration form requires the applicant to declare under oath subject to criminal penalties that he is a citizen, over the age of eighteen and, in most states, whether he has been convicted of a felony. Felony records are double checked by election administrators before the registration is processed. Nonetheless, USCIS staff can also be more certain than those providing registration services under other circumstances that the registrant is not an ex-felon. Certain felony convictions permanently bar a person from naturalizing, and others bar applying for citizenship within a certain number of years. Moreover, because some felonies compel deportation, even though they do not bar naturalization, a person is unlikely to even apply for citizenship if they have a felony conviction and are advised that he could risk deportation by doing so. Furthermore, in order to be granted citizenship one must be deemed of "good moral character." According to USCIS, the following are "Examples of Things That Might Demonstrate a Lack of Good Moral Character:

- » Any crime against a person with intent to harm.
- » Any crime against property or the Government that involves "fraud" or evil intent.
- » Two or more crimes for which the aggregate sentence was 5 years or more.
- » Violating any controlled substance law of the United States, any State, or any foreign country.
- » Habitual drunkenness.
- » Illegal gambling.
- » Prostitution.
- » Polygamy (marriage to more than one person at the same time).
- » Lying to gain immigration benefits.
- » Failing to pay court-ordered child support or alimony payments.
- » Confinement in jail, prison, or similar institution for which the total confinement was 180 days or more during the past 5 years (or 3 years if you are applying based on your marriage to a United States citizen).
- » Failing to complete any probation, parole, or suspended sentence before you apply for naturalization.
- » Terrorist acts.
- » Persecution of anyone because of race, religion, national origin, political opinion,

or social group.

See U.S. Citizenship and Immigration Services, Guide to Naturalization, January 2009, p. 25.

73. Available at the North Carolina Board of Elections Website at <http://www.sboe.state.nc.us/content.aspx?id=76>.

74. North Carolina, Virginia, and Missouri all require NVRA Coordinators in each local office. Lisa Danetz and Scott Novakowski, "A North Carolina Case Study, Expanding Voter Registration for Low Income Citizens: How North Carolina Is Realizing the Promise of the National Voter Registration Act," April 2008; Allegra Chapman and Scott Novakowski, "A Virginia Case Study, "Expanding Voter Registration for Low-Income Virginians: The Impact of the National Voter Registration Act of 1993," October 2008. Improved NVRA compliance procedures in Missouri are as a result of court order in *Ass'n of Cmty. Orgs. for Reform Now v. Scott*, No. 08-CV-4084-NKL (W.D. Mo. Jul. 15, 2008) (order granting preliminary injunction).

75. Lisa J. Danetz, Demos Senior Counsel, National Voter Registration Act, Section 7: The challenges that public assistance agencies face Testimony before the Committee on House Administration, Subcommittee on Elections United States House of Representatives, April 1, 2008.

76. Letter to Lisa J. Danetz, Senior, Counsel, Demos from Gary O. Bartlett, Executive Director of the North Carolina State Board of Elections, September 12, 2008. In the letter, Mr. Bartlett states, "At the time the NVRA was passed in 1993 and became effective in 1995, many county agencies in North Carolina stated they could not comply with the NVRA because of the extra costs compliance with it would entail. However, at no time since 1995, when the NVRA was actually implemented, am I aware that any North Carolina county or state agency covered by the NVRA continues to make costs and expenditures complaints to the extent of bringing them to the attention of our agency, the North Carolina General Assembly, or the United States Congress for action or requesting reimbursement. I believe that this lack of the continuation of the cost argument as to NVRA implementation has resulted from the fact that, contrary to the fears first expressed by some agencies, there have not been extensive additional expenditures of funds and manpower created by the NVRA mandates placed on agencies."

- 77.** Letter from the Congressional Budget Office, to Representative Robert Brady, Chair, Committee on House Administration, regarding H.R. 6625, the Veteran Voting Support Act, September 15, 2008.
- 78.** USCIS reimburses the courts for all oath ceremonies they perform, at a per capita rate of \$14.09, which is deducted from the N-400 filing fee. Department of Homeland Security, Office of the Citizenship and Immigration Services Ombudsman, “Study and Recommendations on Naturalization Oath Ceremonies,” December 16, 2008, p. 6. USCIS allocated \$8.7 million for FY 2008 to reimburse the courts. *Id.* Based on the IAA, USCIS pays the AOUSC a specific per capita fee that is designed to cover the personnel, space rental, automation system support, and other overhead expenses incurred by the courts. Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of the Director, Memorandum from Michael Aytes, Acting Deputy Director to Michael T. Dougherty, Citizenship and Immigration Services Ombudsman, “Response to Recommendation 37, Study and Recommendation on Naturalization Oath Ceremonies,” March 27, 2009, p.5.
- 79.** 42 U.S.C. § 1973gg-8.
- 80.** See *Harkless v. Brunner*, 545 F.3d 445, 451-452 (6th Cir. 2008).
- 81.** 8 C.F.R. 332.4 (22 FR 9818, Dec. 6, 1957. Redesignated at 56 FR 50495, Oct. 7, 1991).
- 82.** 42 U.S.C. § 1973gg-5(a)(3)(B)(ii).
- 83.** See note 33, *supra*, for a description of past state designations of federal agencies and their outcome.
- 84.** See Vanessa K. Burrows, “Executive Orders: Issuance and Revocation,” Congressional Research Service, March 25, 2010.
- 85.** Kenneth R. Mayer, *With the Stroke of a Pen: Executive Orders and Presidential Power*, Princeton University Press, 2002, p.p. 4-5.
- 86.** “Vote For This: A Bipartisan Chance To Repair An Antiquated Registration System,” *The Washington Post*, Editorial, August 31, 2009; Dan Eggen, “New Bipartisan Group Calls for Voter Registration Reform,” *The Washington Post*, August 31, 2009; Elizabeth Newlin Carney, “Toward a Better Registration System,” *National Journal*, December 15, 2008”.
- 87.** Department of Homeland Security, Privacy Impact Assessment for the Computer Linked Application Information Management System (CLAIMS 4), September 5, 2008, p. 1.
- 88.** *Id.* at p. 2. Indeed, the database contains a lot of other information about new Americans, including some that is sensitive and should by no means be shared with voting registrars. Any VRM system will of course need appropriate safeguards to ensure that only the information relevant to voter registration is shared with elections officials.
- 89.** *Id.* at p.11.
- 90.** See U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services’ Progress in Modernizing Information Technology, July 2009.
- 91.** See Tony Romm, “Report: E-Verify immigration system suffers from low accuracy rate,” *The Hill*, February 25, 2010.

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