



Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, JULY 10, 1997

AG
(202) 616-2765
TDD (202) 514-1888

**ADMINISTRATION PROPOSES FINETUNING FOR 1996 IMMIGRATION LAW
TO MITIGATE HARSH EFFECTS OF APPLYING NEW RULES TO
PENDING CASES**

WASHINGTON -- Fulfilling the promise by President Clinton to find a fair and reasonable solution for thousands of Central Americans and others whose cases were pending when Congress changed the standard for humanitarian relief from deportation, Attorney General Janet Reno today announced actions by the Administration to mitigate the harsh effects caused by applying new laws to their pending cases.

Reno announced that she would review a Board of Immigration Appeal (BIA) decision in the Matter of NJB, where BIA ruled that time spent in deportation proceedings could no longer count toward the residency requirement (the "stop-time" rule). By certifying the decision to herself under the law, the Attorney General will review the decision in NJB.

She also announced next week the Administration will transmit to Congress a legislative proposal that would eliminate certain provisions of the law governing suspension of deportation. In practical terms, the proposal would enable

(MORE)

applicants for suspension of deportation whose cases were pending prior to April 1, 1997 and who meet the standards which applied at that time, to be granted such relief on a case-by-case basis.

Reno said that she had called several Senators and Members of Congress to brief them on the Administration's plan, and had informed Speaker Gingrich that if the legislative proposals are not enacted, she is prepared to recommend to the President any available administrative option, including Deferred Enforced Departure, to protect from deportation ABC class members and participants in the Nicaraguan Review Program.

"We must recognize the special circumstances of individuals whose cases were pending when the new law was enacted, and avoid any unfairness that could come from applying new rules to pending cases," said Reno. "We want to ensure that the 1996 immigration law will not have an unduly harsh effect on those individuals who have made vital contributions to their local communities here in the United States, while putting down deep roots in our nation and abiding by our laws."

Background

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) severely restricts the availability of suspension of deportation -- the remedy traditionally available to deportable aliens who have resided in the U.S. for considerable periods of time. Under the old law, suspension

(MORE)

could be granted, at the discretion of the immigration judge, to an alien who has been present in the United States for seven years, shows good moral character, and demonstrates that deportation would cause "extreme hardship" to the alien or to a spouse, parent, or child who is a lawful permanent resident or a U.S. citizen.

The new law increased the length of time the alien must have been present in the U.S. to ten years, and requires them to demonstrate that their removal would cause "exceptional and extremely unusual hardship" to a lawfully permanent resident or U.S. spouse, parent or child. These provisions only apply to cases initiated on or after April 1, 1997. Two other provisions, however, have been applied to cases pending before April 1, 1997.

Under the old law, an individual could continue accruing time toward the needed seven years, even after the deportation proceedings had commenced. The new law imposes a "stop-time" rule, which requires that the requisite period be achieved before the proceeding begin. In a decision known as NJB, the Board of Immigration Appeals (BIA) held that this rule applies to all cases where the grant of suspension of deportation was not final on the date of enactment.

The law also sets a 4,000 cap on the number of suspensions of deportations that can be granted in any fiscal year, beginning with this year. This immediate application to cases already in the pipeline, many of which are still subject to adjudication

(MORE)

under the old standards, has caused disruption in normal case processing because it has imposed a quantitative limit on what had previously been a purely qualitative determination, administered in a decentralized fashion by over 200 immigration judges.

These changes dramatically reduce the number of migrants eligible for the humanitarian relief once offered by suspension. Consequences are most profound for Central Americans who entered the U.S. in the 1980s in response to civil war and political persecution, particularly two groups who had been authorized to remain in the U.S. under various special measures:

- ▶ Nicaraguans under the Nicaraguan Review Program (NRP) - A Reagan Administration program designed to provide an extra level of review by the INS for Nicaraguans whose applications for asylum had been denied. The program ended in June 1995;
- ▶ ABC Guatemalans and Salvadorans - As a result of a 1990 court settlement in *American Baptist Churches v. Thornburgh* (ABC), Salvadoran and Guatemalan asylum-seekers who came to the U.S. in the 1980s were protected from deportation until their asylum claims could be decided under special adjudication procedures.

The Immigration Reform Transition Act

The Administration's legislative proposal entitled the

(MORE)

"Immigration Reform Transition Act of 1997," will provide a needed transition for certain persons with immigration proceedings begun before the 1996 immigration law took effect but still not yet finally adjudicated.

Under the proposed legislation, applicants for suspension of deportation who were in the administrative pipeline before April 1, 1997, will be required to meet the standards that applied prior to the effective date of the new law. The "Immigration Reform Transition Act of 1997" will ensure that deserving requests for suspension -- including those by certain battered spouses and children -- filed before April 1 will not be denied because of the 4,000 case cap.

In addition, the legislation will:

- ▶ Clarify that the provision of the 1996 immigration law requiring a suspension applicant to have satisfied the physical presence requirement before INS instituted deportation proceedings against that individual only applies to cases filed after April 1, 1997. Persons who requested suspension before April 1 will be able to count their physical presence in the United States after INS began deportation proceedings against them.
- ▶ Specify that all members of the longstanding class action case American Baptist Churches v. Thornburgh who request suspension of deportation will be judged by the pre-April 1 standards.

(MORE)

- Give persons with final orders of deportation 180 days to file a motion to reopen their proceedings to request suspension. (Currently, such motions generally must be filed within 90 days of the date an order of deportation becomes final.)

"This administration's goal has always been to combat illegal immigration while preserving our proud history of legal immigration," said Reno. "We believe that the "Immigration Reform Transition Act of 1997" will provide the necessary finetuning to the 1996 law to allow it to achieve both goals."

###

97-290



Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, JULY 10, 1997

AG
(202) 616-2765
TDD (202) 514-1888

**ADMINISTRATION PROPOSES FINETUNING FOR 1996 IMMIGRATION LAW
TO MITIGATE HARSH EFFECTS OF APPLYING NEW RULES TO
PENDING CASES**

WASHINGTON -- Fulfilling the promise by President Clinton to find a fair and reasonable solution for thousands of Central Americans and others whose cases were pending when Congress changed the standard for humanitarian relief from deportation, Attorney General Janet Reno today announced actions by the Administration to mitigate the harsh effects caused by applying new laws to their pending cases.

Reno announced that she would review a Board of Immigration Appeal (BIA) decision in the Matter of NJB, where BIA ruled that time spent in deportation proceedings could no longer count toward the residency requirement (the "stop-time" rule). By certifying the decision to herself under the law, the Attorney General will review the decision in NJB.

She also announced next week the Administration will transmit to Congress a legislative proposal that would eliminate certain provisions of the law governing suspension of deportation. In practical terms, the proposal would enable

(MORE)

applicants for suspension of deportation whose cases were pending prior to April 1, 1997 and who meet the standards which applied at that time, to be granted such relief on a case-by-case basis.

Reno said that she had called several Senators and Members of Congress to brief them on the Administration's plan, and had informed Speaker Gingrich that if the legislative proposals are not enacted, she is prepared to recommend to the President any available administrative option, including Deferred Enforced Departure, to protect from deportation ABC class members and participants in the Nicaraguan Review Program.

"We must recognize the special circumstances of individuals whose cases were pending when the new law was enacted, and avoid any unfairness that could come from applying new rules to pending cases," said Reno. "We want to ensure that the 1996 immigration law will not have an unduly harsh effect on those individuals who have made vital contributions to their local communities here in the United States, while putting down deep roots in our nation and abiding by our laws."

Background

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) severely restricts the availability of suspension of deportation -- the remedy traditionally available to deportable aliens who have resided in the U.S. for considerable periods of time. Under the old law, suspension

(MORE)

could be granted, at the discretion of the immigration judge, to an alien who has been present in the United States for seven years, shows good moral character, and demonstrates that deportation would cause "extreme hardship" to the alien or to a spouse, parent, or child who is a lawful permanent resident or a U.S. citizen.

The new law increased the length of time the alien must have been present in the U.S. to ten years, and requires them to demonstrate that their removal would cause "exceptional and extremely unusual hardship" to a lawfully permanent resident or U.S. spouse, parent or child. These provisions only apply to cases initiated on or after April 1, 1997. Two other provisions, however, have been applied to cases pending before April 1, 1997.

Under the old law, an individual could continue accruing time toward the needed seven years, even after the deportation proceedings had commenced. The new law imposes a "stop-time" rule, which requires that the requisite period be achieved before the proceeding begin. In a decision known as NJB, the Board of Immigration Appeals (BIA) held that this rule applies to all cases where the grant of suspension of deportation was not final on the date of enactment.

The law also sets a 4,000 cap on the number of suspensions of deportations that can be granted in any fiscal year, beginning with this year. This immediate application to cases already in the pipeline, many of which are still subject to adjudication

(MORE)

under the old standards, has caused disruption in normal case processing because it has imposed a quantitative limit on what had previously been a purely qualitative determination, administered in a decentralized fashion by over 200 immigration judges.

These changes dramatically reduce the number of migrants eligible for the humanitarian relief once offered by suspension. Consequences are most profound for Central Americans who entered the U.S. in the 1980s in response to civil war and political persecution, particularly two groups who had been authorized to remain in the U.S. under various special measures:

- ▶ Nicaraguans under the Nicaraguan Review Program (NRP) - A Reagan Administration program designed to provide an extra level of review by the INS for Nicaraguans whose applications for asylum had been denied. The program ended in June 1995;
- ▶ ABC Guatemalans and Salvadorans - As a result of a 1990 court settlement in *American Baptist Churches v. Thornburgh* (ABC), Salvadoran and Guatemalan asylum-seekers who came to the U.S. in the 1980s were protected from deportation until their asylum claims could be decided under special adjudication procedures.

The Immigration Reform Transition Act

The Administration's legislative proposal entitled the

(MORE)

"Immigration Reform Transition Act of 1997," will provide a needed transition for certain persons with immigration proceedings begun before the 1996 immigration law took effect but still not yet finally adjudicated.

Under the proposed legislation, applicants for suspension of deportation who were in the administrative pipeline before April 1, 1997, will be required to meet the standards that applied prior to the effective date of the new law. The "Immigration Reform Transition Act of 1997" will ensure that deserving requests for suspension -- including those by certain battered spouses and children -- filed before April 1 will not be denied because of the 4,000 case cap.

In addition, the legislation will:

- ▶ Clarify that the provision of the 1996 immigration law requiring a suspension applicant to have satisfied the physical presence requirement before INS instituted deportation proceedings against that individual only applies to cases filed after April 1, 1997. Persons who requested suspension before April 1 will be able to count their physical presence in the United States after INS began deportation proceedings against them.
- ▶ Specify that all members of the longstanding class action case American Baptist Churches v. Thornburgh who request suspension of deportation will be judged by the pre-April 1 standards.

(MORE)

- Give persons with final orders of deportation 180 days to file a motion to reopen their proceedings to request suspension. (Currently, such motions generally must be filed within 90 days of the date an order of deportation becomes final.)

"This administration's goal has always been to combat illegal immigration while preserving our proud history of legal immigration," said Reno. "We believe that the "Immigration Reform Transition Act of 1997" will provide the necessary finetuning to the 1996 law to allow it to achieve both goals."

###

08/08/97 THE 10:00 FAX 101 456 9141 NSC DEACOR101 2115
NATIONAL SECURITY COUNCIL

FAX COVER SHEET

**Office of Democracy, Human Rights
and Humanitarian Affairs**

NATIONAL
SECURITY
COUNCIL

17th & Penn, N.W.
Washington, D.C.
20504

Did you get a complete,
clear transmission? If
not, please call:

(202) 456-9141

From: *Rob Malley*

To: *Leanne*

Agency:

Fax Number: *67028*

Date/Time:

No. of pages to follow: *12*

Message:

General Background and Talking Points on Migration Issues

As a result of the recent immigration and welfare bills, migration issues are among the more sensitive ones in our relations with Mexico and Central America. While the Administration is taking steps to address some of their concerns, their central demands will remain unanswered. In particular, Central Americans are requesting relief for the hundreds of thousands of their citizens (from El Salvador, Guatemala, and Nicaragua) who fled their war-torn countries in the 80s and now face deportation.

The most controversial issues include the following:

- A perception that provisions in the new immigration bill imposing tougher action against illegal migrants will result in massive deportations. This, in turn, would dry up a major source of remittances for countries in the region and overwhelm their economies.
- The perception, fueled by other developments at the state level, that the anti-immigrant mood is primarily an anti-Hispanic mood and that the law targets Mexicans and Central Americans. While the perception is misplaced, statistically most deportees will be from the region because they constitute a majority of illegal aliens in the US.
- The welfare bill's harsh restrictions on benefits to legal migrants. The Administration has succeeded in restoring some of these benefits.
- A provision in the immigration bill that significantly curtails suspension of deportation, the remedy traditionally available to illegal aliens who have resided in the US for considerable periods of time and whose deportation would cause extraordinary hardship. The Administration is delaying enforcement of one of the most onerous aspects of this provision (a cap on the annual number of suspensions) and is working with the Congress to mitigate its impact.
- Provisions in the immigration bill that would impose lengthy bars on admission to the US on aliens who have resided here illegally. The Administration is seeking to soften the impact of these provisions and would support appropriate legislative changes. However, our efforts need to be carefully calibrated as Congress' perception that we were overreaching on this could negatively impact our chances on the suspension issue.

- Termination of a provision of law that used to allow illegal aliens to legalize their status in the US without having to return to their home country. The Administration supports renewal of this provision.
- Incidents of police brutality against migrants. The Administration has vowed to respect the human rights of all migrants, regardless of their legal status, and to investigate all incidents of abuse.
- US practice of deporting criminal aliens without providing adequate advance notification to the home countries. The Administration has committed to having in place by June systematic procedures to notify governments of individuals removals.

Talking Points

- U.S. is nation of migrants, forged by people seeking freedom and refuge from persecution.
- Migrants give this country many times over what they ask from it.
- Diversity is defining feature of our country. World looks to us to see that it is possible for different groups to live and prosper together. Experience of other nations teaches that we gain strength from respecting each other and rising above tendency to divide in terms of ethnic, racial, tribal groups.
- Believe it critical to maintain our tradition of welcome to legal immigrants, and that is why I have objected to proposed measures around the country that would penalize migrants who work hard and play by rules.
- But tradition of generosity is threatened by those who abuse it -- only way to sustain support for legal immigration is by taking tough steps against illegal immigration.
- New immigration bill gives us tools to enforce law; that is why I signed it and why committed to enforcing it.
- At same time, concerned that some provisions of welfare and immigration laws are inconsistent with humanitarian tradition.

- Illegal immigration control policies should be tough, but not harsh, especially where young children are involved.
- Committed to take administrative steps and work closely with Congress to mitigate harm to immigrants who have played by the rules.
- Believe immigration efforts should be guided by following set of principles:
 - ⇒ Strong enforcement of U.S. laws against illegal migration and alien-smuggling to maintain integrity of our borders.
 - ⇒ Work in partnership with our neighbors to combat illegal immigration and minimize disruption on emerging market democracies caused by deportations. In particular:
 - ◊ avoid massive deportations that could have destabilizing effect;
 - ◊ provide countries with advance notification of return of criminal aliens so that they are better prepared to deal with them.
 - ⇒ Respect human rights of all migrants, regardless of status, and no tolerance for discriminatory treatment.
 - ⇒ Restore fair treatment for vulnerable legal immigrants affected by welfare bill, such as children and disabled.
 - ⇒ Minimize forced separation of families, particularly where young children are involved; work to maintain discretion to act humanely if faced with extraordinary humanitarian circumstances.
 - ⇒ Provide immigrants with fair notice of law; avoid inappropriate retroactive application of provisions that would impose harsh penalties for past actions.

Background and Talking Points on Specific Migration Issues

Issue: Suspension of Deportation (principally for Central Americans)

Background:

- Aliens unlawfully in the U.S. traditionally could apply for suspension of deportation if they had resided in the U.S. for 7 years and if deportation would cause "extreme hardship" to themselves or a close family member. Aliens who are granted suspension are authorized to work in the U.S. and can obtain permanent legal status virtually automatically. The recently enacted immigration bill significantly curtails this remedy by: (1) raising the standard for granting suspension; and (2) imposing a 4,000-person cap on the number of suspensions in any fiscal year, beginning in 1997.
- The 4,000 annual cap for FY97 already has been reached.
 - This is due primarily to a timing discrepancy in the law. The more restrictive standards took effect prospectively (for cases begun on or after April 1, 1997), but the cap became effective immediately (on September 30, 1996)
 - These two timetables are in direct tension: the 4,000 cap is tailored to the new standards, but is far too low for cases adjudicated under the earlier rules. This has created a transitional "spike" in the numbers of potentially eligible claims.
 - The full implications of establishing different effective dates appears to have been overlooked during Congressional consideration of the bill.
- This is of interest to hundreds of thousands of Central Americans who have been living in the U.S. under legal temporary status for years, many of whom expected to benefit from suspension of deportation. (There are an estimated 150,000 Salvadorans, 100,000 Guatemalans and 40,000 Nicaraguans in the United States.) Their deportation would split families and create great hardship to their home countries that depend on remittances from the U.S. and whose economies could not absorb all the returnees.

Status:

- INS will not issue orders of deportation until the end of FY 97 to aliens who would have qualified but for the cap.

- In the interim, we will work with the Congress to seek to address the problem raised during the transition phase. However, we should not oversell this to the Central Americans, as (1) there is not guarantee we will reach agreement with the Congress and (2) any fix would only minimally address their concerns; hundreds of thousands of Central Americans will in any case remain deportable.

Talking Points

- In enforcing its immigration laws, Administration is committed to humanitarian tradition that characterizes best of our nation's spirit.
- Nationals from Central America came here fleeing war-torn nations and have since worked hard and played by the rules, contributing to the well-being both of the U.S. and of their home countries.
- While remarkable progress in Central America means many can return home, our common goal should be to minimize disruption to our economies, to political stability, and to your citizens in the U.S.
- We are taking several steps to meet these goals:
 - First, you can be assured that there will be no massive deportations and no targeting of Central Americans.
 - Second, the Administration has decided that between now and September 30, 1997, no order of deportation will be issued to any person who would have qualified for suspension in the absence of the ceiling.
 - In the next 6 months, we will work closely with Congress to seek remedies to address this issue in a more humane way for individuals caught between old and new laws.
 - We also will keep you informed of any developments on these matters so that you can take appropriate steps -- both to inform your fellow citizens in the U.S. and to make any necessary preparations at home.

[ADDITIONAL ISSUE FOR NICARAGUANS]

Background:

Because of their specific circumstances, Nicaraguans in the United States would not benefit from this possible legislative change.

Talking Points:

- Understand concerns of Nicaraguan community in the U.S.
- Have asked DOJ and INS to look closely at how we can implement the law in a way that does not penalize them or other nationals -- respect due process and case-by-case determinations; no massive deportations; no change in enforcement priorities to target particular groups.

Issue: Extension of 245(i) -- adjustment of status (principally for Mexico)

Background:

- Under section 245(i) of the INA, certain eligible aliens could adjust their status while unlawfully present in the U.S. without first returning to their home country to obtain a visa. This required payment of a penalty fee. This section will sunset at the end of FY 97 and it is not extended in the new immigration law; in other words, illegal aliens will need to leave the U.S. in order to pick up their visa, regardless of whether they qualified while in the U.S.
- The most difficult case will involve an alien living illegally in the U.S. with a spouse or child who is a lawful permanent resident or U.S. citizen. The alien would be on a waiting list for an immigrant visa and, under the prior immigration laws, would pay a fine and adjust status under 245(i) without having to first return home. The change in the law would force such an alien to leave his or her family and receive his visa at home, in some instances having to wait for substantial periods of time.
- The government of Mexico (GOM) claims that tens of thousands of Mexicans who have applied for immigrant visas are living illegally in the U.S. with a lawful permanent spouse and children. In order to regularize their status and avoid future ineligibility for admission in the U.S., they would need to be separated from their families for extended periods of time.

Talking Points

- Agree that 245(i) should be extended; forcing aliens who have qualified for adjustment to return home to pick up their visa will impose senseless burden and might needlessly separate families.
- I have included a request for indefinite extension in the FY 98 budget submission, and Administration will fight for this.

Issue: Bars on Admission and Re-entry (principally Mexicans)

Background:

- Under the new law, aliens who are unlawfully present in the U.S. for 180 days after April 1, 1997 and then depart will be inadmissible for 3 years; similarly, aliens who are unlawfully present in the U.S. for one year or more after April 1, 1997 and then depart will be inadmissible for 10 years. (Section 212(a)(9)(b)).
- Imposition of these re-entry bars are waiveable on a case-by-case basis on humanitarian grounds, in instances where the unlawful alien is the spouse or child of a U.S. citizen or lawful permanent resident.
- The law also imposes a 10-year admissions bar on aliens who have been unlawfully present in the U.S. for an aggregate period of more than 1 year and who enter or attempt to re-enter the U.S. illegally. (Section 212(a)(9)(c))
- This bar is unwaiveable even in most extreme humanitarian circumstances -- such as where parent would be separated from his or her minor children living lawfully in U.S.
- During congressional consideration of these bars, Administration argued against automatic imposition of consequences for unlawful residence.

Status:

- Administration will support efforts to add waiver language in section (c) similar to that which exists in section (b).
- INS also will issue field guidance to make provision prospective.

Talking Points:

- Understand your concerns about 3/10 year bars and possible risk of separating families and asked Administration officials to closely consider your proposals.
- Let me first seek to reassure you on several points:

- These provisions will not result in any mass deportations or round-ups.
- Undocumented alien in U.S. is at no greater risk of apprehension and removal than under old law provided alien remains in U.S. If we succeed in extending 245(i), qualified alien will be able to adjust status in U.S. as under old law.
- Also commit that Administration will implement existing waiver provision humanely and with compassion.
- At same time, Administration is considering possible steps to soften harsh impact of law on persons unlawfully in the U.S. who leave and seek to re-enter. While we need to take steps against illegal immigration, I continue to oppose imposition of automatic consequences for unlawful stay. Administration should have ability to consider discretionary humanitarian factors that may justify relief in a particular case.
- Last year, my Administration sought waiver language on humanitarian grounds similar to that available in other parts of the law. I will continue to support that goal.
- In addition, Administration will avoid inappropriate retroactive application of law. Aim is to provide immigrants with fair notice of legal consequences of their actions.

Issue: Welfare Benefits for Legal Immigrants (principally for Mexico)

Background:

Welfare law denies most legal immigrants access to fundamental safety net programs unless they become citizens.

Status:

Administration's FY98 budget would correct welfare law's harsh provisions on legal immigrants. Includes \$14.6 billion to restore benefits for legal immigrants -- including Medicaid and Supplemental Security Income to legal immigrants children and to legal immigrants who become disabled after they entered the country.

Talking Points:

- Restoring fair treatment for legal immigrants is a key part of my agenda this year.
- Welfare law denies most legal immigrants access to fundamental safety net programs -- even though they are in the U.S. legally, are responsible members of our communities, and in many cases have worked and paid taxes.
- These provisions had nothing to do with real goal of welfare reform, which is to move people from welfare to work.
- My FY 98 budget would correct the law's harsh provisions on legal immigrants -- provisions that would burden State and local governments and that punish children and legal immigrants with severe disabilities.
- This country should protect legal immigrants and their families -- people admitted as permanent members of the American community -- when they suffer accidents or illnesses that prevent them from earning a living. Similarly, we should provide Medicaid to legal immigrant children if their families are impoverished.

Issue: Abusive Treatment of Aliens

Background:

Recent incidents involving police brutality against migrants and a *Human Rights Watch* report on the treatment of unaccompanied alien children detained by the INS have focused attention on the need to respect the human rights of migrants -- whether here legally or illegally. DOJ has committed to investigate the incidents and to make any necessary improvements to the juvenile detention policy.

Points:

- Respect human and civil rights of all individuals in U.S., regardless of immigration status.
- Deeply regret incidents involving violations of these rights. Will investigate and punish, where appropriate, perpetrators.
- Guidelines established within Department of Justice to ensure prompt investigations into allegations of abuse.
- Administration also committed to ensure safety and welfare of unaccompanied minors who are in US illegally. Majority of juveniles are released to family member in US.
- Welcome comments and criticism on juvenile detention facilities. Will closely review *Human Rights Watch* report and make any improvements that are warranted.

Issue: Pre-Notification on Return of Criminal Aliens

Background:

Mexico, Central American and Caribbean countries have complained that we do not provide them adequate or timely information when we deport criminal aliens. In response, we have committed to putting in place proper procedures by June, 1997.

Points:

- Agree that we need to improve existing procedures for notification on return of criminal aliens.
- Administration is committed to developing procedures for adequate and timely notification and providing additional background on returnees, consistent with our laws. INS will be consulting with you in near future on various concrete mechanisms to achieve this objective.
- New procedures will be in place by the summer.

Immigration Background/Talking Points

General Talking Point

- Last year, the United States admitted 960,000 legal immigrants. We are now the fifth largest Hispanic country in the world, with 22 million Hispanic Americans living in the United States.

Bars on Admission and Re-entry

Under the new law, aliens who are unlawfully present in the U.S. for 180 days after April 1, 1997 and then depart from the U.S. are inadmissible for 3 years. Aliens unlawfully present for one year or more after April 1, 1997 and then depart are inadmissible for 10 years. Imposition of these bars are waiveable on a case-by-case basis on humanitarian grounds.

The law also imposes a 10-year bar on aliens who have been unlawfully present in the U.S. for an aggregate of more than 1 year and who enter or attempt to enter illegally. This bar is unwaiveable even in extreme humanitarian circumstances. INS field guidance ensures prospective application of the provision. During consideration of the new immigration law, the Administration supported efforts to seek humanitarian waiver language for this provision.

Talking Points

- The Administration understands concerns about the 3- and 10-year bars and the possible risk of separating families. As the President has stated, the provisions of the new immigration law will not result in any mass deportations or round-ups.
- The Administration is committed to implementing the existing waiver provision humanely and with compassion. Last year, the Administration sought humanitarian waiver language similar to that available in other parts of the law.
- The Administration will avoid inappropriate retroactive application of the new law. We will endeavor to provide immigrants with fair notice of the legal consequences of their actions.

Suspension of Deportation

Aliens unlawfully in the U.S. traditionally could apply for suspension of deportation if they had resided in the U.S. for 7 years and if deportation would cause "extreme hardship" to themselves or a close family member. This issue is of particular

interest to hundreds of thousands of Central Americans who have been living in the U.S., many of whom expected to receive suspension of deportation.

The new immigration law significantly curtails suspension by: 1) raising the standard for granting suspension for cases after April 1, 1997; and 2) imposing a 4,000-person annual cap beginning in FY 1997 on the number of suspensions which may be granted.

The 4,000-person cap has already been reached for the current fiscal year. However, it is estimated that thousands more individuals who had cases in the pipeline before April 1 would have been eligible to receive suspension of deportation but for the new annual cap. The Administration is currently reviewing options for these individuals.

Talking Points

- The Administration is committed to humane enforcement of our immigration laws. There will be no massive deportations and no targeting of particular groups in enforcing the laws.
- The Administration is looking into whether transitional options exist in FY 1997 for those individuals who would have qualified for suspension before April 1, under the old standard, but are now subject to the new 4,000-person cap.

Abusive Treatment of Aliens

Recent attention has been brought to police brutality against migrants, in addition to the treatment of illegal immigrant children detained by the U.S. The Department of Justice has committed to investigate the incidents and make necessary improvements.

Talking Points

- The Administration is committed to respecting the human rights of individuals in the U.S., regardless of immigration status. Incidents involving violations of these rights will be investigated and punished, where appropriate.
- Guidelines have been established at the Department of Justice to enure prompt investigations into alleged abuse.

Adjustment of Status

Under current law, for payment of a penalty fee, certain eligible aliens can adjust their status while unlawfully present in the U.S. without returning to their home country to obtain a visa. The new immigration law did not extend this provision, which is set to sunset at the end of FY 1997. This will require some aliens to leave his or her family to receive their visa at home, which may require substantial waiting time.

Talking Point

- The Administration supports extension of this provision of law (Section 245(l)). An indefinite extension of this provision is included in the FY 1998 budget submission.

DEPORTATION BRIEFINGS

50% of those over 7-year period were granted

met "hardship" and "moral character".

Was never actually a guaranteed thing even after 7yr.

→ New

(1) 10-year

(2) Good moral

(3) "exceptionally + extremely unusual hardship" to lawful resident or citizen (family)

after 4/1/97

in proceeding

Rules for bus of
Dinner
but rules proposed?
"Wider to show cause"

* Also, time period before you apply for suspension

→ could take 2-3 years

→ Made retroactive! Huge impact in pipeline

4,000 annual

* cap to combine cancellations

→ While 23,000 per year.

→ But end of Nicaraguan Review Program and ABC (?) settlement w/ Salvadorans

→ ? suspension was what people expected / had time.

* 4,000 met by February

* 5,900 (-410 remaining) above beyond

overall to put 14-35,000

Byline?
NIB rule
Doubtful what

6-5245

6-5638

mtg w/ Anti-Def. League

comm. / structure of.
 (- Town Halls
 - Comm.
 - Conference w/

not just BW - more than that

White crimes will be a part.
 ~~PROBABLY BT
 RACE~~

Lexicon important, not just racism
↳ important to include all aspects of problem.

PERCEPTION OF VOCABULARY:

↳ FROM CHURCH/STATE TO "URBAN DEVELOPMENT"
↳ Deal w/ aspects of education problem in cities.

re-examination of '64 act + private sector
(i.e. TEXACO)

↳ deal w/ before suits
↳ revisiting of legislation

ED on Federal workplace - Steering Committee place
↳ DRAFT GUIDELINES. / USEFUL, PROMPT PRIVATE EMPLOYERS.

2 wks - Nat'l Leadership Conference
w/ AG. (model statute)

PREJUDICE REDUCTION PROGRAM MUST BE SCHOOL-BASED

WAKE (PREJUDICE NEED TO BE A PART
OF EVERYTHING LIKE JUVI BILL)

- importance
of context
of comm.

↳ 2 wks. from Ed. - Stop the
Wake

- not just visibility

THE WHITE HOUSE

DRAFT

Office of the Press Secretary

For Immediate Release
July xx, 1997

"Immigration Reform Transition Act of 1997"

FACT SHEET

The President today transmitted to the Congress a legislative proposal entitled the "Immigration Reform Transition Act of 1997." This legislation provides a needed transition for certain persons with immigration proceedings begun before the 1996 immigration law took effect but still not yet finally adjudicated. This proposal will eliminate application of the new rules, effective April 1, 1997, to persons requesting suspension of deportation before the new law took effect. It will avoid the unfairness of applying certain new rules to pending immigration cases, and it recognizes the continuing effects of special legal measures taken over the last decade concerning Central American countries that were then mired in civil war. who

Under this legislation, applicants for suspension of deportation who were in the administrative pipeline before April 1, 1997, will be required to meet the standards that applied prior to the effective date of the new law. The new law significantly tightens the criteria for suspension eligibility, which is appropriate for newly-filed requests, but unduly harsh for cases filed prior to April 1. This legislation will fulfill the President's promise he made during his May, 1997, trip to Central America to correct that inequity.

Under the new immigration law, immigration judges only may award a total of 4,000 grants of suspension per year. That ceiling only should be applied to requests filed after the new law took effect. The "Immigration Reform Transition Act of 1997" will ensure that deserving requests for suspension -- including those by certain battered spouses and children -- filed before April 1 will not be denied because of the cap.

In addition, the legislation will:

Clarify that the provision of the 1996 immigration law requiring a suspension applicant to have satisfied the physical presence requirement before INS instituted deportation proceedings against that individual only applies to cases filed after April 1, 1997. Persons who requested suspension before April 1 will be able to count their physical presence in the United States after INS began deportation proceedings against them.

Specify that all members of the longstanding class action case American Baptist Churches v. Thornburgh (the ABC class, which the Federal government settled in 1991) who request suspension of deportation will be judged by the pre-April 1 standards.

Give persons with final orders of deportation 180 days to file a motion to reopen their proceedings to request suspension. (Currently, such motions generally must be filed within 90 days of the date an order of deportation becomes final.)

This legislative proposal will help ensure that the 1996 immigration law will not have an unduly harsh effect on those individuals who have made vital contributions to their local communities here in the United States, while putting down deep roots in our Nation and abiding by our laws. We must continue to combat illegal immigration while facilitating legal immigration. But we must do so with laws that are humane and compassionate. The "Immigration Reform Transition Act of 1997" will fine-tune the 1996 law so that it achieves both goals appropriately and clearly.

**SUSPENSION OF DEPORTATION LEGISLATION
("VICTIMS OF COMMUNISM RELIEF ACT")**

November 4, 1997

Background: The immigration bill passed last year significantly tightened the requirements for a form of immigration relief called suspension of deportation. Following the President's trip to Central America in the spring, the Administration transmitted to the Congress a legislative proposal that would have permitted persons with pending immigration cases, including many Central Americans, to benefit from the older, more generous rules relating to suspension of deportation. The Republicans have recently offered a counter-proposal – the so-called "Victims of Communism Relief Act" – that would: (1) grant amnesty to Nicaraguans and Cubans who arrived in the country before December 1995; (2) permit Salvadorans, Guatemalans, and persons who fled countries in the former Soviet Bloc prior to 1990 to be considered under the older, more generous suspension of deportation rules; (3) apply the strict new suspension rules to everyone else; and (4) reduce by 5,000 the number of visas available in the diversity and unskilled worker categories.

Q: What is the Administration's reaction to the current Republican counter-proposal to address the situation of Central Americans and others with pending claims to suspension of deportation?

A: The Administration welcomes Congressional efforts to ameliorate the harsh impact of the new immigration law, particularly as it relates to persons who have developed substantial ties to this country.

However, we are concerned about several aspects of the Republican proposal:

First, we are concerned that the Republican proposal inappropriately provides different treatment for similarly situated persons. We believe that persons who came to the United States because of persecution or civil strife war in their countries and have established substantial ties here should be treated similarly.

Second, we are concerned that the Republican proposal fails to address the situation of Haitians who the Bush Administration brought to this country after the overthrow of President Aristide in 1991. Like persons from Central America, these persons were fleeing persecution and civil strife and have developed substantial ties to the U.S. They deserve the same case-by-case consideration for relief that we have sought for others, including the Central Americans.

Third, we object to the failure of the Republican proposal to address the situation of others with pending immigration cases. These persons would be subject to the new, more strict suspension rules despite the fact that their cases were pending at the time the new rules took effect. We think fairness requires that persons with old cases be considered under the old rules.

Q: What is the Administration's view of the immigration legislation that addresses the situation of Central Americans?

A: The Administration is pleased that the Congress has acted on the President's initiative to ameliorate the harsh impact of the new immigration law as it relates to Central Americans. This makes good on the President's pledge when he went to Central America last spring. As the President made clear during that trip, the United States has a particular obligation to help these people -- not only because they have now established deep roots in our communities -- but also because sending them home at this time would very likely disrupt the important progress these countries have made towards peace, democracy, and economic reform.

Nevertheless, we are concerned about several aspects of the bill passed by Congress:

First, we believe it inappropriately provides different treatment for similarly situated persons. Central Americans who came to the United States because of persecution or civil strife war in their countries and have established substantial ties here should be treated similarly. However, we believe that these differences can be minimized in the implementation process. The President has asked the Attorney General to consider the ameliorative purposes of the legislation and the history and circumstances of the people covered by it in that process.

Second, we are concerned that it fails to address the situation of Haitians, many of whom the Bush Administration brought to this country after the overthrow of President Aristide in 1991. Like persons from Central America, these persons were fleeing persecution and civil strife and have developed substantial ties to the U.S. We will pursue a legislative solution for these people in the next session of Congress.

Third, Congress should not have continued to permit the application of new, harsher immigration rules to other persons with pending cases. Changing the rules in the middle of the game is unfair, unnecessary, and contrary to our values. We intend to revisit this issue as at the earliest opportunity.

NATIONAL SECURITY COUNCIL

FAX COVER SHEET

**Office of Democracy, Human Rights
and Humanitarian Affairs****NATIONAL
SECURITY
COUNCIL**17th & Penn, N.W.
Washington, D.C.
20504Did you get a complete,
clear transmission? If
not, please call:

(202) 456-9141

From: *Rob Malley*To: *Leanne*

Agency:

Fax Number: *67028*

Date/Time:

No. of pages to follow: *12*

Message:

General Background and Talking Points on Migration Issues

As a result of the recent immigration and welfare bills, migration issues are among the more sensitive ones in our relations with Mexico and Central America. While the Administration is taking steps to address some of their concerns, their central demands will remain unanswered. In particular, Central Americans are requesting relief for the hundreds of thousands of their citizens (from El Salvador, Guatemala, and Nicaragua) who fled their war-torn countries in the 80s and now face deportation.

The most controversial issues include the following:

- A perception that provisions in the new immigration bill imposing tougher action against illegal migrants will result in massive deportations. This, in turn, would dry up a major source of remittances for countries in the region and overwhelm their economies.
- The perception, fueled by other developments at the state level, that the anti-immigrant mood is primarily an anti-Hispanic mood and that the law targets Mexicans and Central Americans. While the perception is misplaced, statistically most deportees will be from the region because they constitute a majority of illegal aliens in the US.
- The welfare bill's harsh restrictions on benefits to legal migrants. The Administration has succeeded in restoring some of these benefits.
- A provision in the immigration bill that significantly curtails suspension of deportation, the remedy traditionally available to illegal aliens who have resided in the US for considerable periods of time and whose deportation would cause extraordinary hardship. The Administration is delaying enforcement of one of the most onerous aspects of this provision (a cap on the annual number of suspensions) and is working with the Congress to mitigate its impact.
- Provisions in the immigration bill that would impose lengthy bars on admission to the US on aliens who have resided here illegally. The Administration is seeking to soften the impact of these provisions and would support appropriate legislative changes. However, our efforts need to be carefully calibrated as Congress' perception that we were overreaching on this could negatively impact our chances on the suspension issue.

- Termination of a provision of law that used to allow illegal aliens to legalize their status in the US without having to return to their home country. The Administration supports renewal of this provision.
- Incidents of police brutality against migrants. The Administration has vowed to respect the human rights of all migrants, regardless of their legal status, and to investigate all incidents of abuse.
- US practice of deporting criminal aliens without providing adequate advance notification to the home countries. The Administration has committed to having in place by June systematic procedures to notify governments of individuals removals.

Talking Points

- U.S. is nation of migrants, forged by people seeking freedom and refuge from persecution.
- Migrants give this country many times over what they ask from it.
- Diversity is defining feature of our country. World looks to us to see that it is possible for different groups to live and prosper together. Experience of other nations teaches that we gain strength from respecting each other and rising above tendency to divide in terms of ethnic, racial, tribal groups.
- Believe it critical to maintain our tradition of welcome to legal immigrants, and that is why I have objected to proposed measures around the country that would penalize migrants who work hard and play by rules.
- But tradition of generosity is threatened by those who abuse it -- only way to sustain support for legal immigration is by taking tough steps against illegal immigration.
- New immigration bill gives us tools to enforce law; that is why I signed it and why committed to enforcing it.
- At same time, concerned that some provisions of welfare and immigration laws are inconsistent with humanitarian tradition.

Background and Talking Points on Specific Migration Issues

Issue: Suspension of Deportation (principally for Central Americans)

Background:

- Aliens unlawfully in the U.S. traditionally could apply for suspension of deportation if they had resided in the U.S. for 7 years and if deportation would cause "extreme hardship" to themselves or a close family member. Aliens who are granted suspension are authorized to work in the U.S. and can obtain permanent legal status virtually automatically. The recently enacted immigration bill significantly curtails this remedy by: (1) raising the standard for granting suspension; and (2) imposing a 4,000-person cap on the number of suspensions in any fiscal year, beginning in 1997.
- The 4,000 annual cap for FY97 already has been reached.
 - This is due primarily to a timing discrepancy in the law. The more restrictive standards took effect prospectively (for cases begun on or after April 1, 1997), but the cap became effective immediately (on September 30, 1996)
 - These two timetables are in direct tension: the 4,000 cap is tailored to the new standards, but is far too low for cases adjudicated under the earlier rules. This has created a transitional "spike" in the numbers of potentially eligible claims.
 - The full implications of establishing different effective dates appears to have been overlooked during Congressional consideration of the bill.
- This is of interest to hundreds of thousands of Central Americans who have been living in the U.S. under legal temporary status for years, many of whom expected to benefit from suspension of deportation. (There are an estimated 150,000 Salvadorans, 100,000 Guatemalans and 40,000 Nicaraguans in the United States.) Their deportation would split families and create great hardship to their home countries that depend on remittances from the U.S. and whose economies could not absorb all the returnees.

Status:

- INS will not issue orders of deportation until the end of FY 97 to aliens who would have qualified but for the cap.

- In the interim, we will work with the Congress to seek to address the problem raised during the transition phase. However, we should not oversell this to the Central Americans, as (1) there is not guarantee we will reach agreement with the Congress and (2) any fix would only minimally address their concerns; hundreds of thousands of Central Americans will in any case remain deportable.

Talking Points

- In enforcing its immigration laws, Administration is committed to humanitarian tradition that characterizes best of our nation's spirit.
- Nationals from Central America came here fleeing war-torn nations and have since worked hard and played by the rules, contributing to the well-being both of the U.S. and of their home countries.
- While remarkable progress in Central America means many can return home, our common goal should be to minimize disruption to our economies, to political stability, and to your citizens in the U.S.
- We are taking several steps to meet these goals:
 - First, you can be assured that there will be no massive deportations and no targeting of Central Americans.
 - Second, the Administration has decided that between now and September 30, 1997, no order of deportation will be issued to any person who would have qualified for suspension in the absence of the ceiling.
 - In the next 6 months, we will work closely with Congress to seek remedies to address this issue in a more humane way for individuals caught between old and new laws.
 - We also will keep you informed of any developments on these matters so that you can take appropriate steps -- both to inform your fellow citizens in the U.S. and to make any necessary preparations at home.

[ADDITIONAL ISSUE FOR NICARAGUANS]

Background:

Because of their specific circumstances, Nicaraguans in the United States would not benefit from this possible legislative change.

Talking Points:

- Understand concerns of Nicaraguan community in the U.S.
- Have asked DOJ and INS to look closely at how we can implement the law in a way that does not penalize them or other nationals -- respect due process and case-by-case determinations; no massive deportations; no change in enforcement priorities to target particular groups.

- Illegal immigration control policies should be tough, but not harsh, especially where young children are involved.
- Committed to take administrative steps and work closely with Congress to mitigate harm to immigrants who have played by the rules.
- Believe immigration efforts should be guided by following set of principles:
 - ⇒ Strong enforcement of U.S. laws against illegal migration and alien-smuggling to maintain integrity of our borders.
 - ⇒ Work in partnership with our neighbors to combat illegal immigration and minimize disruption on emerging market democracies caused by deportations. In particular:
 - avoid massive deportations that could have destabilizing effect;
 - provide countries with advance notification of return of criminal aliens so that they are better prepared to deal with them.
 - ⇒ Respect human rights of all migrants, regardless of status, and no tolerance for discriminatory treatment.
 - ⇒ Restore fair treatment for vulnerable legal immigrants affected by welfare bill, such as children and disabled.
 - ⇒ Minimize forced separation of families, particularly where young children are involved; work to maintain discretion to act humanely if faced with extraordinary humanitarian circumstances.
 - ⇒ Provide immigrants with fair notice of law; avoid inappropriate retroactive application of provisions that would impose harsh penalties for past actions.

Issue: Extension of 245(i) -- adjustment of status (principally for Mexico)

Background:

- Under section 245(i) of the INA, certain eligible aliens could adjust their status while unlawfully present in the U.S. without first returning to their home country to obtain a visa. This required payment of a penalty fee. This section will sunset at the end of FY 97 and it is not extended in the new immigration law; in other words, illegal aliens will need to leave the U.S. in order to pick up their visa, regardless of whether they qualified while in the U.S.
- The most difficult case will involve an alien living illegally in the U.S. with a spouse or child who is a lawful permanent resident or U.S. citizen. The alien would be on a waiting list for an immigrant visa and, under the prior immigration laws, would pay a fine and adjust status under 245(i) without having to first return home. The change in the law would force such an alien to leave his or her family and receive his visa at home, in some instances having to wait for substantial periods of time.
- The government of Mexico (GOM) claims that tens of thousands of Mexicans who have applied for immigrant visas are living illegally in the U.S. with a lawful permanent spouse and children. In order to regularize their status and avoid future ineligibility for admission in the U.S., they would need to be separated from their families for extended periods of time.

Talking Points

- Agree that 245(i) should be extended; forcing aliens who have qualified for adjustment to return home to pick up their visa will impose senseless burden and might needlessly separate families.
- I have included a request for indefinite extension in the FY 98 budget submission, and Administration will fight for this.

Issue: Bars on Admission and Re-entry (principally Mexicans)

Background:

- Under the new law, aliens who are unlawfully present in the U.S. for 180 days after April 1, 1997 and then depart will be inadmissible for 3 years; similarly, aliens who are unlawfully present in the U.S. for one year or more after April 1, 1997 and then depart will be inadmissible for 10 years. (Section 212(a)(9)(b)).
- Imposition of these re-entry bars are waiveable on a case-by-case basis on humanitarian grounds, in instances where the unlawful alien is the spouse or child of a U.S. citizen or lawful permanent resident.
- The law also imposes a 10-year admissions bar on aliens who have been unlawfully present in the U.S. for an aggregate period of more than 1 year and who enter or attempt to re-enter the U.S. illegally. (Section 212(a)(9)(c))
- This bar is unwaiveable even in most extreme humanitarian circumstances -- such as where parent would be separated from his or her minor children living lawfully in U.S.
- During congressional consideration of these bars, Administration argued against automatic imposition of consequences for unlawful residence.

Status:

- Administration will support efforts to add waiver language in section (c) similar to that which exists in section (b).
- INS also will issue field guidance to make provision prospective.

Talking Points:

- *Understand your concerns about 3/10 year bars and possible risk of separating families and asked Administration officials to closely consider your proposals.*
- *Let me first seek to reassure you on several points:*

- These provisions will not result in any mass deportations or round-ups.
- Undocumented alien in U.S. is at no greater risk of apprehension and removal than under old law provided alien remains in U.S. If we succeed in extending 245(i), qualified alien will be able to adjust status in U.S. as under old law.
- Also commit that Administration will implement existing waiver provision humanely and with compassion.
- At same time, Administration is considering possible steps to soften harsh impact of law on persons unlawfully in the U.S. who leave and seek to re-enter. While we need to take steps against illegal immigration, I continue to oppose imposition of automatic consequences for unlawful stay. Administration should have ability to consider discretionary humanitarian factors that may justify relief in a particular case.
- Last year, my Administration sought waiver language on humanitarian grounds similar to that available in other parts of the law. I will continue to support that goal.
- In addition, Administration will avoid inappropriate retroactive application of law. Aim is to provide immigrants with fair notice of legal consequences of their actions.

Issue: Welfare Benefits for Legal Immigrants (principally for Mexico)

Background:

Welfare law denies most legal immigrants access to fundamental safety net programs unless they become citizens.

Status:

Administration's FY98 budget would correct welfare law's harsh provisions on legal immigrants. Includes \$14.6 billion to restore benefits for legal immigrants -- including Medicaid and Supplemental Security Income to legal immigrants children and to legal immigrants who become disabled after they entered the country.

Talking Points:

- Restoring fair treatment for legal immigrants is a key part of my agenda this year.
- Welfare law denies most legal immigrants access to fundamental safety net programs -- even though they are in the U.S. legally, are responsible members of our communities, and in many cases have worked and paid taxes.
- These provisions had nothing to do with real goal of welfare reform, which is to move people from welfare to work.
- My FY 98 budget would correct the law's harsh provisions on legal immigrants -- provisions that would burden State and local governments and that punish children and legal immigrants with severe disabilities.
- This country should protect legal immigrants and their families -- people admitted as permanent members of the American community -- when they suffer accidents or illnesses that prevent them from earning a living. Similarly, we should provide Medicaid to legal immigrant children if their families are impoverished.

Issue: Abusive Treatment of Aliens

Background:

Recent incidents involving police brutality against migrants and a *Human Rights Watch* report on the treatment of unaccompanied alien children detained by the INS have focused attention on the need to respect the human rights of migrants -- whether here legally or illegally. DOJ has committed to investigate the incidents and to make any necessary improvements to the juvenile detention policy.

Points:

- Respect human and civil rights of all individuals in U.S., regardless of immigration status.
- Deeply regret incidents involving violations of these rights. Will investigate and punish, where appropriate, perpetrators.
- Guidelines established within Department of Justice to ensure prompt investigations into allegations of abuse.
- Administration also committed to ensure safety and welfare of unaccompanied minors who are in US illegally. Majority of juveniles are released to family member in US.
- Welcome comments and criticism on juvenile detention facilities. Will closely review *Human Rights Watch* report and make any improvements that are warranted.

Issue: Pre-Notification on Return of Criminal Aliens**Background:**

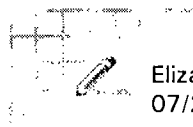
Mexico, Central American and Caribbean countries have complained that we do not provide them adequate or timely information when we deport criminal aliens. In response, we have committed to putting in place proper procedures by June, 1997.

Points:

-- Agree that we need to improve existing procedures for notification on return of criminal aliens.

-- Administration is committed to developing procedures for adequate and timely notification and providing additional background on returnees, consistent with our laws. INS will be consulting with you in near future on various concrete mechanisms to achieve this objective.

-- New procedures will be in place by the summer.



Elizabeth R. Newman
07/25/97 11:43:00 AM

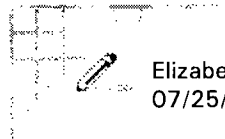
Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Correction: Fact Sheet: Immigration reform Transition act of 1997

----- Forwarded by Elizabeth R. Newman/WHO/EOP on 07/25/97 11:40 AM -----



Elizabeth R. Newman
07/25/97 11:13:54 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Fact Sheet: Immigration reform Transition act of 1997

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

July 25, 1997

FACT SHEET

"Immigration Reform Transition Act of 1997"

The President yesterday transmitted to the Congress a legislative proposal entitled the "Immigration Reform Transition Act of 1997." This legislative proposal would provide a needed transition for certain persons who had immigration cases pending before the 1996 immigration law took effect (the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA; Public Law 104-208). It would prevent the unfairness of applying certain new rules to pending immigration cases. It also recognizes the compelling circumstances of certain Central Americans who fled civil war and political persecution and the clear U.S. foreign

policy interests associated with our treatment of these individuals.

Under this legislative proposal, applications for suspension of deportation (now called "cancellation of removal") that were in the administrative pipeline prior to April 1, 1997, would continue to be governed by the pre-IIRIRA standards. IIRIRA significantly and appropriately tightens the suspension/cancellation eligibility standards for newly filed cases. This legislative proposal merely recognizes that extending these standards to pre-IIRIRA applications would be grossly unfair. This proposal would fulfill the President's promise, made during his May 1997 trip to Central America, to correct this deficiency in IIRIRA's provisions.

IIRIRA also imposes a cap of 4,000 on the total number of suspensions and adjustments plus cancellations and adjustments that the Attorney General may grant in any given fiscal year. That ceiling should apply only to cases initiated on or after April 1, 1997, the date much of the new law took effect. The "Immigration Reform Transition Act of 1997" would ensure that individuals whose cases were pending before April 1 will not be ineligible for suspension/cancellation because of the cap. The legislative proposal would also exempt from the cap certain battered spouses and children.

In addition, the legislative proposal would:

Eliminate, for cases initiated before April 1, the provision of IIRIRA that had been interpreted by the Board of Immigration Appeals as requiring a suspension applicant in deportation proceedings to accrue 7 years of continuous physical presence before the Immigration and Naturalization Service (INS) served an Order to Show Cause. Such persons would be able to count their physical presence in the United States after the INS began deportation proceedings against them.

more

(OVER)

Specify that certain individuals in removal proceedings who are covered by the 1990 settlement agreement in American Baptist Churches v. Thornburgh (ABC), and certain other Central Americans with long-pending asylum claims, who request cancellation of removal, will be judged by the pre-April 1 standards (standards applicable to suspension of deportation cases prior to IIRIRA).

Give certain persons with final orders of deportation 180 days to file a motion to reopen their proceedings to request suspension. (Currently, such motions generally must be filed within 90 days of the date an order of deportation becomes final.)

This legislative proposal will provide for a humane, phased transition to the new immigration law and ensure that the new law does not have an unduly harsh effect on individuals who have made vital contributions to their communities and who have put down deep roots in our Nation. It will also address the important U.S. foreign policy interest of promoting peace and democracy in Central America. We must continue to combat illegal immigration while facilitating legal immigration. We must do so, however, with laws that ease the transition for the individuals affected. The "Immigration Reform Transition Act of 1997" will fine-tune the 1996 immigration law to achieve these goals in a just and compassionate manner.

WILLIAM J. CLINTON

#

Message Sent To: _____

NATIONAL SECURITY COUNCIL

FAX COVER SHEET

**Office of Democracy, Human Rights
and Humanitarian Affairs****NATIONAL
SECURITY
COUNCIL**17th & Penn, N.W.
Washington, D.C.
20504Did you get a complete,
clear transmission? If
not, please call:

(202) 456-9141

From: *Rob Malley*To: *Laura Marcus / Jeanne Shimabukuro*

Agency:

Fax Number: *62271 / 47028*

Date/Time:

No. of pages to follow: *13*

Message:

Laura/Leanne:

Attached are background and talking points that have been cleared by DOJ and INS. Also seen by Warnath. I will be forwarding to you additional points and qs and as later this afternoon.

Laura: Please pass to Rahm Emanuel for his quick clearance, as requested by Sylvia and Sandy (by 3:00 pm would be ideal).

For Leanne: Please pass to Bruce and let me know if there are any problems.

Also, could you both please run by Bruce and Rahm the following paragraph from the draft joint communique with Central Americans and seek their views:

"Having expressed their concerns to the President of the United States, the Presidents of Central America and the Dominican Republic and the Prime Minister of Belize are confident that the recent immigration legislation approved by the United States will be implemented with full respect for the human rights and dignity of the individuals it may affect, and welcome the United States government's initiation of consultations with its Congress on the scope and consequences of the law on our people, with a view to achieving our common humanitarian goals."

for press

General Points on Migration

- Made the point repeatedly at home: U.S. is country of migrants, and migrants give this country many times over what they ask from it.
- Also have stressed that defining feature of our country is our diversity. Experience of other nations -- Bosnia; Northern Ireland -- teaches that we gain strength from respecting each other and rising above tendency to divide in terms of ethnic, racial, tribal groups.
- So, while true that illegal immigration is difficult problem our nation must tackle, must carefully balance control and compassion. I am committed to maintaining our proud tradition of welcome for legal immigrants who come to our country to work hard and play by the rules and of respect for human rights of all migrants.
- Our approach must rely on working in partnership with you, our neighbors, to find joint solutions to these problems.

2267?

Issue: Suspension of Deportation (principally for Central Americans)

Background:

- Aliens unlawfully in the U.S. traditionally could apply for suspension of deportation if they had resided in the U.S. for 7 years and if deportation would cause "extreme hardship" to themselves or a close family member. Aliens who are granted suspension are authorized to work in the U.S. and can obtain permanent legal status virtually automatically. The recently enacted immigration bill significantly curtails this remedy by: (1) raising the standard for granting suspension; and (2) imposing a 4,000-person cap on the number of suspensions in any fiscal year, beginning in 1997.
- The 4,000 annual cap for FY97 already has been reached.
 - This is due primarily to a timing discrepancy in the law. The more restrictive standards took effect prospectively (for cases begun on or after April 1, 1997), but the cap became effective immediately (on September 30, 1996)
 - These two timetables are in direct tension: the 4,000 cap is tailored to the new standards, but is far too low for cases adjudicated under the earlier rules. This has created a transitional "spike" in the numbers of potentially eligible claims.
 - The full implications of establishing different effective dates appears to have been overlooked during Congressional consideration of the bill.
- This is of interest to hundreds of thousands of Central Americans who have been living in the U.S. under legal temporary status for years, many of whom expected to benefit from suspension of deportation. Their deportation would split families and create great hardship to their home countries that depend on remittances from the U.S. and whose economies could not absorb all the returnees.

Status:

- INS will not issue orders of deportation until the end of FY 97 to aliens who would have qualified but for the cap.
- In the interim, we will work with the Congress to seek to address the problem raised during the transition phase.

Sept 30
1997

- Options include: (i) Making cap applicable only to cases commenced on or after April 1, to eliminate timing discrepancy; (ii) raising the cap for FY 97; (3) allocating FY97 suspension grants that exceed the ceiling over the next several years.

Talking Points

- In enforcing its immigration laws, Administration is committed to humanitarian tradition that characterizes best of our nation's spirit.
- Nationals from Central America came here fleeing war-torn nations and have since worked hard and played by the rules, contributing to the well-being both of the U.S. and of their home countries.
- While remarkable progress in Central America means many can return home, our common goal should be to minimize disruption to our economies, to political stability, and to your citizens in the U.S.
- We are taking several steps to meet these goals:

- First, you can be assured that there will be no massive deportations and no targeting of Central Americans.
- Second, the Administration has decided that between now and October 30, 1997, no order of deportation will be issued to any person who would have qualified for suspension in the absence of the ceiling. (harder std)
- In the next 6 months, we will work vigorously with the Congress to seek remedies to address this issue in a more humane way.
- We also will keep you informed of any developments on these matters so that you can take appropriate steps -- both to inform your fellow citizens in the U.S. and to make any necessary preparations at home.

not immediately

Sept 30?

Qs and As

Q.: Why did you sign the bill with this provision?

A.:

- Administration opposed the cap during deliberations on the bill. But this provision was part of a lengthy, complex bill which generally supported my objectives of fighting illegal immigration through strengthened border control, tougher worksite enforcement and increased removal of criminal and other deportable illegal immigrants. I signed the bill for that reason.
- Addressing this problem is consistent with the principles that guide my Administration's immigration policies: keeping unauthorized immigrants out of the U.S., welcoming legal immigrants; and maintaining our nation's humanitarian traditions.
- This measure in its present form threatens to tear apart families and does not do justice to migrants who have spent years in the U.S. working hard and playing by the rules. Our illegal immigration control policies should be tough, but not harsh, especially where young children are involved.

Q.: Given the responsibility of the U.S. in the civil wars that drove Central Americans to flee, isn't the right thing to do to legalize their status and allow them to remain in the U.S.?

A.:

- U.S. welcomed Central Americans at a time when their home countries were devastated by war. Was right, humanitarian thing to do, consistent with our traditions.
- Countries have now made remarkable progress toward democracy, peace and reconciliation. Migrants no longer would face danger at home and it is time to think of return -- U.S. cannot accommodate everyone who wishes to come here.
- Our task is to do this as humanely as possible and by working closely with countries of region to minimize disruption to their economies and to the lives of the migrants.

[ADDED ISSUE FOR NICARAGUANS]

Background: Nicaraguans in the U.S. face the additional obstacle that the new law retroactively changes the manner in which their years of residence in the U.S. will be calculated for purposes of establishing eligibility for suspension. This retroactive

provision means that, because of the particular judicial procedures that were used in their case, a vast majority of Nicaraguans are unlikely to be granted suspension even if the cap were lifted.

Status:

no admin steps for most
~~DOJ/INS is considering administrative steps to address this problem.~~

Talking Points:

- Understand concerns of Nicaraguan community in the U.S.
- Have asked DOJ and INS to look closely at how we can implement the law in a way that does not penalize them or other nationals.

human treatment

Nicaraguans, El Salvadorans

Issue: Extension of 245(i) -- adjustment of status (principally for Mexico)

Background:

- Under section 245(i) of the INA, certain eligible aliens could adjust their status while unlawfully present in the U.S. without first returning to their home country to obtain a visa. This required payment of a penalty fee. This section will sunset at the end of FY 97 and it is not extended in the new immigration law; in other words, illegal aliens will need to leave the U.S. in order to apply for a visa, regardless of whether they qualified while in the U.S.
- The most difficult case will involve an alien living illegally in the U.S. with a spouse or child who is a lawful permanent resident or U.S. citizen. The alien would be on a waiting list for an immigrant visa and, under the prior immigration laws, would pay a fine and adjust status under 245(i) without having to first return home. The change in the law would force such an alien to leave his or her family and receive his visa at home, in some instances having to wait for substantial periods of time.
- The government of Mexico (GOM) claims that tens of thousands of Mexicans who have applied for immigrant visas are living illegally in the U.S. with a lawful permanent spouse and children. In order to regularize their status and avoid future ineligibility for admission in the U.S., they would need to be separated from their families for extended periods of time.

Talking Points

- *Agree that 245(i) should be extended; forcing aliens who have qualified for adjustment to return home to pick up their visa will impose senseless burden and might needlessly separate families.*
- *I have included a request for indefinite extension in the FY 98 budget submission, and Administration will fight for this.*

Qs and As:

Q.: If these are illegal aliens, why should we allow them to stay in the U.S. and become legal?

A.: The issue is whether aliens who have qualified for legal status in the U.S. need to leave the country simply for the purpose of picking up their visa -- imposing a burden and disrupting their family lives for no sensible reason. ✓

With 245(i), alien is permitted to legalize status without leaving but must pay a penalty because they were here illegally. Penalty has helped us fund INS detention programs. ✱

Issue: Bars on Admission and Re-entry: (principally Mexicans)Background:

- Under the new law, aliens who are unlawfully present in the U.S. for 180 days after April 1, 1997 and then depart will be inadmissible for 3 years; similarly, aliens who are unlawfully present in the U.S. for one year or more after April 1, 1997 and then depart will be inadmissible for 10 years. (Section 212(a)(9)(b)).
- Imposition of these re-entry bars are waiveable on a case-by-case basis on humanitarian grounds, in instances where the unlawful alien is the spouse or child of a U.S. citizen or lawful permanent resident. ✓
- The law also imposes a 10-year admissions bar on aliens who have been unlawfully present in the U.S. for an aggregate period of more than 1 year and who enter or attempt to re-enter the U.S. illegally. (Section 212(a)(9)(c)) ✱
- This bar is unwaiveable even in most extreme humanitarian circumstances -- such as where parent would be separated from his or her minor children living lawfully in U.S.
- ✓ • During congressional consideration of these bars, Administration argued against automatic imposition of consequences for unlawful residence.

Status:

- Administration will support efforts to add waiver language in section (c) similar to that which exists in section (b).
- INS also will issue field guidance to make provision prospective.

Talking Points:

- Understand your concerns about 3/10 year bars and possible risk of separating families and asked Administration officials to closely consider your proposals.
- Let me first seek to reassure you on several points:

- These provisions will not result in any mass deportations or round-ups.

- Undocumented alien in U.S. is at no greater risk of apprehension and removal than under old law provided alien remains in U.S. If we succeed in extending 245(i), qualified alien will be able to adjust status in U.S. as under old law.

- Also commit that Administration will implement existing waiver provision humanely and with compassion.

- One way of accelerating adjustment of status for undocumented alien is for his/her relative to naturalize. If the relative naturalizes, then the alien will be able to legalize status in the next year. This is a message you may wish to convey to your nationals in U.S. In the meantime, we will continue efforts to improve our naturalization system.

- At same time, Administration is considering possible steps to soften harsh impact of law on persons unlawfully in the U.S. who leave and seek to re-enter.

- While we need to take steps against illegal immigration, I continue to oppose imposition of automatic consequences for unlawful stay. Administration should have ability to consider discretionary humanitarian factors that may justify relief in a particular case.

- Last year, my Administration sought waiver language on humanitarian grounds similar to that available in other parts of the law. I will continue to support that goal.

- * In addition, INS intends to issue field guidance to make this provision applicable prospectively only, to give aliens proper notice and provide them with a transition period.

Admin will avoid inapprop retract.
of law - am fair notice of legal conseq.
of actions

Qs. and As.

Q.: Why did you sign a bill with such a harsh provision?

A.:

- Administration opposed these provisions during deliberations on the bill. But this provision was part of a lengthy, complex bill which generally supported my objectives of

★?

proposed legislation

legislation

staff

NO?

David Martin
quiver

ok

fighting illegal immigration. I signed the bill for that reason.

- The modifications we are seeking are fully consistent with the principles that guide our migration policies: keeping unauthorized immigrants out of the U.S., welcoming legal immigrants; and maintaining our nation's humanitarian traditions.
- Administration needs to maintain discretion to act humanely if faced with extraordinary humanitarian circumstances. Congress recognized this in other parts of the bill; waiver ability should be extended to 10 year bar for one-year aggregate unlawful residence. ✓
- Principles of fairness also guide request for making law prospective. People are on notice, and from now on should face consequence if violate law. But not consistent with U.S. traditions to impose such harsh consequences for past actions without warning.
- We ought to be tough, but not harsh, especially where young children are involved.

Issue: Welfare Benefits for Legal Immigrants (principally for Mexico)

Background:

Welfare law denies most legal immigrants access to fundamental safety net programs unless they become citizens.

Status:

Administration's FY98 budget would correct welfare law's harsh provisions on legal immigrants. Includes \$14.6 billion to restore benefits for legal immigrants -- including Medicaid and Supplemental Security Income to legal immigrants children and to legal immigrants who become disabled after they entered the country.

Talking Points:

- Restoring fair treatment for legal immigrants is a key part of my agenda this year.
- Welfare law denies most legal immigrants access to fundamental safety net programs -- even though they are in the U.S. legally, are responsible members of our communities, and in many cases have worked and paid taxes.
- These provisions had nothing to do with real goal of welfare reform, which is to move people from welfare to work.
- My FY 98 budget would correct the law's harsh provisions on legal immigrants -- provisions that would burden State and local governments and that punish children and legal immigrants with severe disabilities.
- This country should protect legal immigrants and their families -- people admitted as permanent members of the American community -- when they suffer accidents or illnesses that prevent them from earning a living. Similarly, we should provide Medicaid to legal immigrant children if their families are impoverished.

NATIONAL SECURITY COUNCIL

5/1

FAX COVER SHEET

**Office of Democracy, Human Rights
and Humanitarian Affairs****NATIONAL
SECURITY
COUNCIL**17th & Penn, N.W.
Washington, D.C.
20504Did you get a complete,
clear transmission? If
not, please call:

(202) 456-9141

From: *Rob Malley*
To: *Leanne Shimabukuro*
Agency:
Fax Number: *67028*
Date/Time:
No. of pages to follow: *3*
Message:

President's main book

General Background and Talking Points on Migration Issues

As a result of the recent immigration and welfare bills, migration issues are among the more sensitive ones in our relations with Mexico and Central America. While the Administration is taking steps to address some of their concerns, their central demands will remain unanswered. In particular, Central Americans are requesting relief for the hundreds of thousands of their citizens (from El Salvador, Guatemala, and Nicaragua) who fled their war-torn countries in the 80s and now face deportation.

The most controversial issues include the following:

- A perception that provisions in the new immigration bill imposing tougher action against illegal migrants will result in massive deportations. This, in turn, would dry up a major source of remittances for countries in the region and overwhelm their economies.
- The perception, fueled by other developments at the state level, that the anti-immigrant mood is primarily an anti-Hispanic mood and that the law targets Mexicans and Central Americans. While the perception is misplaced, statistically most deportees will be from the region because they constitute a majority of illegal aliens in the US.
- The welfare bill's harsh restrictions on benefits to legal migrants. The Administration is seeking to restore some of these benefits.
- A provision in the immigration bill that significantly curtails suspension of deportation, the remedy traditionally available to illegal aliens who have resided in the US for considerable periods of time and whose deportation would cause extraordinary hardship. The Administration is delaying enforcement of one of the most onerous aspects of this provision (a cap on the annual number of suspensions) and is working with the Congress to mitigate its impact.
- Provisions in the immigration bill that would impose lengthy bars on admission to the US on aliens who have resided here illegally. The Administration is seeking, through both administrative and legislative means, to soften the impact of these provisions.

- Termination of a provision of law that used to allow illegal aliens to legalize their status in the US without having to return to their home country. The Administration supports renewal of this provision.
- Incidents of police brutality against migrants. The Administration has vowed to respect the human rights of all migrants, regardless of their legal status, and to investigate all incidents of abuse.
- US practice of deporting criminal aliens without providing adequate advance notification to the home countries. The Administration has committed to having in place by June systematic procedures to notify governments of individuals removals.

Talking Points

- U.S. is nation of migrants, forged by people seeking freedom and refuge from persecution.
- Migrants give this country many times over what they ask from it.
- Diversity is defining feature of our country. World looks to us to see that it is possible for different groups to live and prosper together. Experience of other nations teaches that we gain strength from respecting each other and rising above tendency to divide in terms of ethnic, racial, tribal groups.
- Believe it critical to maintain our tradition of welcome to legal immigrants, and that is why I have objected to proposed measures around the country that would penalize migrants who work hard and play by rules.
- But tradition of generosity is threatened by those who abuse it -- only way to sustain support for legal immigration is by taking tough steps against illegal immigration.
- New immigration bill gives us tools to enforce law; that is why I signed it and why committed to enforcing it.
- At same time, concerned that some provisions of welfare and immigration laws are inconsistent with humanitarian tradition.

- Illegal immigration control policies should be tough, but not harsh, especially where young children are involved.
- • Committed to take administrative steps and work closely with Congress to mitigate harm to immigrants who have played by the rules.
- Believe immigration efforts should be guided by following set of principles:
 - ⇒ Strong enforcement of U.S. laws against illegal migration and alien-smuggling to maintain integrity of our borders.
 - ⇒ Work in partnership with our neighbors to combat illegal immigration and minimize disruption on emerging market democracies caused by deportations. In particular:
 - ◊ avoid massive deportations that could have destabilizing effect;
 - ◊ provide countries with advance notification of return of criminal aliens so that they are better prepared to deal with them.
 - ⇒ Respect human rights of all migrants, regardless of status, and no tolerance for disriminatory treatment.
 - ⇒ Restore fair treatment for vulnerable legal immigrants affected by welfare bill, such as children and disabled.
 - ⇒ Minimize forced separation of families, particularly where young children are involved; work to maintain discretion to act humanely if faced with extraordinary humanitarian circumstances.
 - ⇒ Provide immigrants with fair notice of law; avoid inappropriate retroactive application of provisions that would impose harsh penalties for past actions.

Issue: Welfare Benefits for Legal Immigrants (principally for Mexico)

Background:

Welfare law denies most legal immigrants access to fundamental safety net programs unless they become citizens.

Status:

Administration's FY98 budget would correct welfare law's harsh provisions on legal immigrants. Includes \$14.6 billion to restore benefits for legal immigrants -- including Medicaid and Supplemental Security Income to legal immigrants' children and to legal immigrants who become disabled after they entered the country.

Talking Points:

- Restoring fair treatment for legal immigrants is a key part of my agenda this year.
- Welfare law denies most legal immigrants access to fundamental safety net programs -- even though they are in the U.S. legally, are responsible members of our communities, and in many cases have worked and paid taxes.
- These provisions had nothing to do with real goal of welfare reform, which is to move people from welfare to work.
- My FY 98 budget would correct the law's harsh provisions on legal immigrants -- provisions that would burden State and local governments and that punish children and legal immigrants with severe disabilities.
- This country should protect legal immigrants and their families -- people admitted as permanent members of the American community -- when they suffer accidents or illnesses that prevent them from earning a living. Similarly, we should provide Medicaid to legal immigrant children if their families are impoverished.

NATIONAL SECURITY COUNCIL

FAX COVER SHEET

Office of Democracy, Human Rights and Humanitarian Affairs

NATIONAL
SECURITY
COUNCIL

17th & Penn, N.W.
Washington, D.C.
20504

Did you get a complete,
clear transmission? If
not, please call:

(202) 456-9141

From: *Rob Malley*

To: *Laura Marcus / Jeanne Shimabukuro*

Agency:

Fax Number: *62271 / 67028*

Date/Time:

No. of pages to follow: *13*

Message:

Laura / Jeanne

*Attached are more general points for
POTUS press event - Please run by Deborah Brug
& get back to me ASAP - (In clearance
process - / DJS)*

Background and Talking Points for Press Events

Background:

The major points of contention in our migration relationship with Mexico and Central America include:

- A perception that the provisions in the new immigration bill imposing tougher action against illegal migrants will result in massive deportations. This, in turn, would dry up a major source of remittances for countries in the region and overwhelm their economies.
- The perception, fueled by other developments at the state level, that the anti-immigrant mood is primarily an anti-Hispanic mood and that the law targets Mexicans and Central Americans. While the perception is misplaced, statistically most deportees will be from the region because they constitute a majority of illegal aliens in the US.
- The welfare bill's harsh restrictions on benefits to legal migrants. The Administration is seeking to restore some of these benefits.
- A provision in the immigration bill that significantly curtails suspension of deportation, the remedy traditionally available to illegal aliens who have resided in the US for considerable periods of time and whose deportation would cause extraordinary hardship. The Administration has suspended application of some of the most onerous aspects of this provision and is working with the Congress to mitigate its impact.
- Provisions in the immigration bill that would impose lengthy bars on admission to the US on aliens who have resided here illegally. The Administration is seeking, through both administrative and legislative means, to soften the impact of these provisions.
- Termination of a provision of law that used to allow illegal aliens to legalize their status in the US without having to return to their home country. The Administration supports renewal of this provision.
- Incidents of police brutality against migrants. The Administration has vowed to respect the human rights of all

migrants, regardless of their legal status, and to investigate all incidents of abuse.

- US practice of deporting criminal aliens without providing adequate advance notification to the home countries. The Administration has committed to having in place by June systematic procedures to notify governments of individuals removals.

Talking Points

- U.S. is nation of migrants, forged by people seeking freedom and refuge from persecution.
- Migrants give this country many times over what they ask from it.
- Diversity is defining feature of our country. World looks to us to see that it is possible for different groups to live and prosper together. Experience of other nations -- Bosnia; Northern Ireland -- teaches that we gain strength from respecting each other and rising above tendency to divide in terms of ethnic, racial, tribal groups.
- Believe it critical to maintain our tradition of welcome to migrants, and that is why I have objected to proposed measures around the country that would penalize migrants who work hard and play by rules.
- But tradition of generosity is threatened by those who abuse it -- only way to sustain support for legal immigration is by taking tough steps against illegal immigration.
- New immigration bill gives us tools to enforce law; that is why I signed it and why committed to enforcing it.
- At same time, several provisions of immigration and welfare laws go too far and are inconsistent with nation's humanitarian tradition -- restrict benefits to legal immigrants, split families, fail to take account of immigrants' valuable contribution to US, and cause hardship on emerging democracies countries in our hemisphere.
- Committed to take administrative steps, where possible, and seek legislative steps, where necessary, to mitigate these provisions.

- Believe immigration efforts should be guided by following set of principles:

⇒ Strong enforcement of U.S. laws against illegal migration and alien-smuggling to maintain integrity of our borders.

⇒ Work in partnership with our neighbors to combat illegal immigration and minimize disruption on emerging market democracies caused by deportations. In particular:

- 0 avoid massive deportations that could have destabilizing effect;

- 0 provide countries with advance notification of return of criminal aliens so that they are better prepared to deal with them.

⇒ Respect human rights of all migrants, regardless of status.

⇒ Restore fair treatment for legal immigrants affected by welfare bill.

⇒ Minimize forced separation of families, particularly where young children are involved; maintain case-by-case discretion in immigration decisions to allow consideration of humanitarian factors.

⇒ Provide immigrants with fair notice of law; avoid retroactive application of provisions that would impose harsh penalties for past actions.

NATIONAL SECURITY COUNCIL

FAX COVER SHEET

**Office of Democracy, Human Rights
and Humanitarian Affairs**

NATIONAL
SECURITY
COUNCIL

17th & Penn, N.W.
Washington, D.C.
20504

Did you get a complete,
clear transmission? If
not, please call:

(202) 456-9141

From:

To: *Rob Melby*
Laurin Morris / Grace Shinnick

Agency:

Fax Number: *62271167028*

Date/Time:

No. of pages to follow:

Message:

Find package -
Q & A

Qs and As

Q.: There are about 5 million illegal immigrants in the United States, most of whom are from Mexico. What are you doing about securing our borders?

A.:

-- More effective control of our borders is a major concern for the Administration.

-- New immigration bill that I signed into law strengthens our ability to control our borders: increases law enforcement presence at borders; streamlines immigration procedures; toughens penalties for illegal immigration; and mandates construction of fencing in border areas where illegal entry most often occurs.

-- Administration will strictly enforce law.

-- Also working closely with Mexico to strengthen cooperation against alien trafficking.

Q.: Why haven't you asked President Zedillo to put a stop to the flow of illegal migrants from Mexico?

A.:

-- Mexico and the U.S. have an open and frank dialogue on the issue of illegal migration from Mexico.

-- In the past few years, bilateral cooperation with Mexico on migration issues has improved greatly through the Binational Commission (BNC) Working Group on Migration and Consular Affairs.

-- We have made progress in working with Mexico to combat alien trafficking along our southern border and elsewhere.

-- In particular, Mexico deports over 120,000 third-country nationals annually who enter Mexico in order to gain access to the United States.

Q.: Why did you sign immigration bill, given harsh consequences on immigrants from the region?

A.:

-- US nation of migrants, and I strongly believe in our tradition of generosity toward immigrants.

-- But convinced only way can sustain this tradition is by taking strong steps against those who abuse it. Immigration bill gives us tools to fight illegal immigration -- strengthened border control, tougher worksite enforcement and increased removal of criminal and other deportable illegal immigrants. I signed the bill for that reason.

-- At same time, believe unanticipated consequences of particular provisions are too harsh.

-- Therefore, believe we should enforce law humanely and, where necessary, work with Congress on possible legislative changes to preserve humanitarian tradition of fair treatment to immigrants.

-- Our illegal immigration control policies should be tough, but not harsh, especially where young children are involved.

Q. What can you say to hundreds of thousands of families from Mexico and Central America living in fear of deportation?

A.

-- We are nation of laws, and must take steps to deter illegal entry. But we are committed to doing so humanely, recognizing deep roots many immigrants have developed in our communities and valuable contributions they have made to well-being of our nation.

-- Concretely, means that in implementing immigration laws we will adhere to fundamental principles: Respect for human rights of all, regardless of legal status; no discriminatory treatment; no massive deportations; humane enforcement of law, particularly where young children are involved.

-- Will seek to achieve these goals through administrative means where possible, by working with Congress where necessary. Any legislative modifications we would support will be fully consistent with our central goals: keeping unauthorized immigrants out of the U.S., welcoming legal immigrants; and maintaining our nation's humanitarian traditions.

Q.: Given the responsibility of the U.S. in the civil wars that drove Central Americans to flee, isn't the right thing to do to legalize their status and allow them to remain in the U.S.?

A.:

-- U.S. welcomed Central Americans at a time when their home countries were devastated by war. Was right, humanitarian thing to do, consistent with our traditions.

-- Countries have now made remarkable progress toward democracy, peace and reconciliation. Migrants no longer would face danger at home and it is time to think of return -- U.S. cannot accommodate everyone who wishes to come here.

-- Our task is to do this as humanely as possible and by working closely with countries of region to minimize disruption to their economies and to the lives of the migrants.

NATIONAL SECURITY COUNCIL

FAX COVER SHEET

**Office of Democracy, Human Rights
and Humanitarian Affairs****NATIONAL
SECURITY
COUNCIL**17th & Penn, N.W.
Washington, D.C.
20504Did you get a complete,
clear transmission? If
not, please call:

(202) 456-9141

From: *Rob Malley*To: *Laura Marcus / Jeanne Shimabukuro*

Agency:

Fax Number: *62271 / 67028*

Date/Time:

No. of pages to follow: *13*

Message:

*Laura / Jeanne**Attached are more generic points for
POTUS press event - Please run by Robert Bruce
& get back to me ASAP - (In clearance
process - 1 D05)*

Background and Talking Points for Press Events

Background:

The major points of contention in our migration relationship with Mexico and Central America include:

- A perception that the provisions in the new immigration bill imposing tougher action against illegal migrants will result in massive deportations. This, in turn, would dry up a major source of remittances for countries in the region and overwhelm their economies.
- The perception, fueled by other developments at the state level, that the anti-immigrant mood is primarily an anti-Hispanic mood and that the law targets Mexicans and Central Americans. While the perception is misplaced, statistically most deportees will be from the region because they constitute a majority of illegal aliens in the US.
- The welfare bill's harsh restrictions on benefits to legal migrants. The Administration is seeking to restore some of these benefits.
- ✓ A provision in the immigration bill that significantly curtails suspension of deportation, the remedy traditionally available to illegal aliens who have resided in the US for considerable periods of time and whose deportation would cause extraordinary hardship. The Administration has suspended application of some of the most onerous aspects of this provision and is working with the Congress to mitigate its impact.
- ✓ Provisions in the immigration bill that would impose lengthy bars on admission to the US on aliens who have resided here illegally. The Administration is seeking, through both administrative and legislative means, to soften the impact of these provisions.
- Termination of a provision of law that used to allow illegal aliens to legalize their status in the US without having to return to their home country. The Administration supports renewal of this provision.
- Incidents of police brutality against migrants. The Administration has vowed to respect the human rights of all

migrants, regardless of their legal status, and to investigate all incidents of abuse.

- US practice of deporting criminal aliens without providing adequate advance notification to the home countries. The Administration has committed to having in place by June systematic procedures to notify governments of individuals removals.

Talking Points

- U.S. is nation of migrants, forged by people seeking freedom and refuge from persecution.
- Migrants give this country many times over what they ask from it.
- Diversity is defining feature of our country. World looks to us to see that it is possible for different groups to live and prosper together. Experience of other nations -- Bosnia; Northern Ireland -- teaches that we gain strength from respecting each other and rising above tendency to divide in terms of ethnic, racial, tribal groups.
- Believe it critical to maintain our tradition of welcome to migrants, and that is why I have objected to proposed measures around the country that would penalize migrants who work hard and play by rules. *Legal? here legal?*
- But tradition of ~~generosity~~ is threatened by those who abuse it -- only way to sustain support for legal immigration is by taking tough steps against illegal immigration. *(in)*
- New immigration bill gives us tools to enforce law; that is why I signed it and why committed to enforcing it.
- At same time, several provisions of immigration and welfare laws go too far and are inconsistent with nation's humanitarian tradition -- restrict benefits to legal immigrants, split families, fail to take account of immigrants' valuable contribution to US, and cause hardship on emerging democracies countries in our hemisphere. *drawn*
- Committed to ~~take~~ administrative steps, ~~where possible~~, and ~~seek~~ legislative steps, ~~where necessary~~, to mitigate these provisions. *working w/ Congress*

harm to those who play by rules.

- Believe immigration efforts should be guided by following set of principles:

⇒ Strong enforcement of U.S. laws against illegal migration and alien-smuggling to maintain integrity of our borders.

⇒ Work in partnership with our neighbors to combat illegal immigration and minimize disruption on emerging market democracies caused by deportations. In particular:

0 avoid massive deportations that could have destabilizing effect;

0 provide countries with advance notification of return of criminal aliens so that they are better prepared to deal with them.

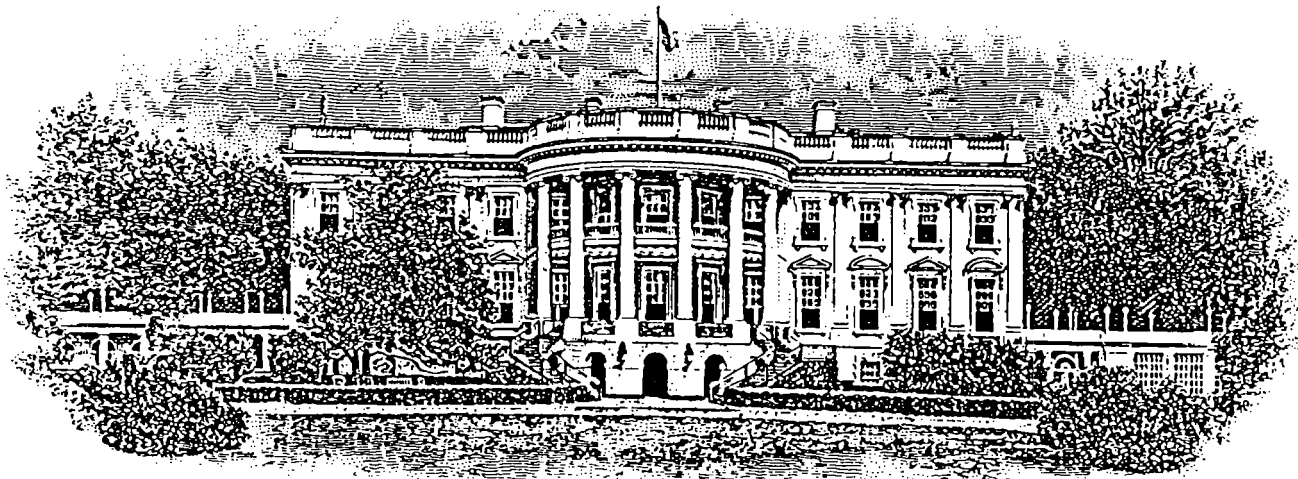
⇒ Respect human rights of all migrants, regardless of status.

⇒ Restore fair treatment for ^{disabled and} legal immigrants ^{who are disabled & disabled} affected by welfare bill. *

⇒ Minimize forced separation of families, particularly where young children are involved; ^{work to} maintain case-by-case discretion in immigration decisions to allow consideration of humanitarian factors.

⇒ Provide immigrants with fair notice of law; avoid ^{unappropriate} retroactive application of ~~provisions that~~ would impose harsh penalties for past actions.

The White House



DOMESTIC POLICY

FACSIMILE TRANSMISSION COVER SHEET

TO: Kim Apfel

FAX NUMBER: 55730

TELEPHONE NUMBER: _____

FROM: Leanne Shmatuk

TELEPHONE NUMBER: _____

PAGES (INCLUDING COVER): _____

COMMENTS: Please call Leanne at 65574

w/ comments ASAP. Thanks!

Issue: Welfare Benefits for Legal Immigrants (principally for Mexico)

Background:

Welfare law denies most legal immigrants access to fundamental safety net programs unless they become citizens.

Status:

Administration's FY98 budget would correct welfare law's harsh provisions on legal immigrants. Includes \$14.6 billion to restore benefits for legal immigrants -- including Medicaid and Supplemental Security Income to legal immigrants children and to legal immigrants who become disabled after they entered the country.

Talking Points:

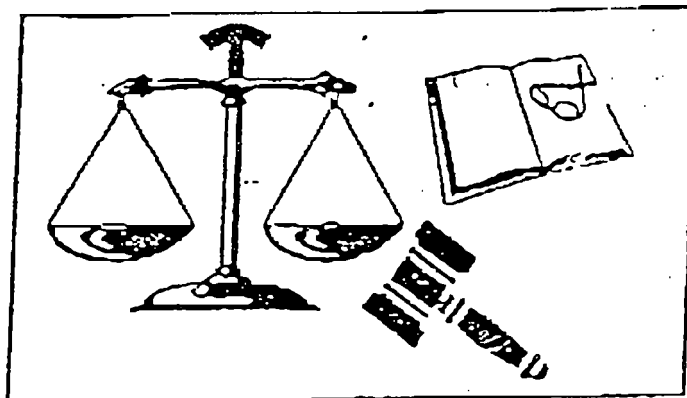
- Restoring fair treatment for legal immigrants is a key part of my agenda this year.
- Welfare law denies most legal immigrants access to fundamental safety net programs -- even though they are in the U.S. legally, are responsible members of our communities, and in many cases have worked and paid taxes.
- These provisions had nothing to do with real goal of welfare reform, which is to move people from welfare to work.
- My FY 98 budget would correct the law's harsh provisions on legal immigrants -- provisions that would burden State and local governments and that punish children and legal immigrants with severe disabilities.
- This country should protect legal immigrants and their families -- people admitted as permanent members of the American community -- when they suffer accidents or illnesses that prevent them from earning a living. Similarly, we should provide Medicaid to legal immigrant children if their families are impoverished.

U.S. DEPARTMENT OF JUSTICE

OFFICE OF LEGISLATIVE AFFAIRS

Suspension

FACSIMILE COVER SHEET



TO:

Leanne ShimabukuroDPL

FAX NO.:

458-7028

FROM:

John Trasviña

PHONE

202/514-2111FAX: 202/305-2643

DATE:

7/30

NO. OF PAGES:

2

(EXCLUDING COVER)

COMMENTS:

1- to of Senate bill

SS8190

CONGRESSIONAL RECORD—SENATE

July 28, 1997

In the project to the extent that such minimum child support is not paid in a month by the noncustodial parent.

(d) **TREATMENT OF CHILD SUPPORT PAYMENT.**—Any assured minimum child support payment received by an individual under this Act shall be considered child support for purposes of determining the treatment of such payment under—

- (1) the Internal Revenue Code of 1986; and
- (2) any eligibility requirements for any means-tested program of assistance.

(e) **DURATION.**—A demonstration project conducted under this section shall commence on October 1, 1997, and shall be conducted for not less than 3 and not more than 5 consecutive fiscal years, except that the Secretary may terminate a project before the end of such period if the Secretary determines that the State conducting the project is not in compliance with the terms of the application approved by the Secretary under this section.

(f) **EVALUATIONS AND REPORTS.**—

(1) **STATE EVALUATIONS.**—

(A) **IN GENERAL.**—Each State administering a demonstration project under this section shall—

(i) provide for evaluation of the project, meeting such conditions and standards as the Secretary may require; and

(ii) submit to the Secretary reports, at the times and in the formats as the Secretary may require, and containing any information (in addition to the information required under subparagraph (B)) as the Secretary may require.

(B) **REQUIRED INFORMATION.**—A report submitted under subparagraph (A)(ii) shall include information on and analysis of the effect of the project with respect to—

(i) the amount of child support collected for project recipients;

(ii) the economic circumstances and work efforts of custodial parents;

(iii) the work efforts of noncustodial parents;

(iv) the rate of compliance by noncustodial parents with support orders;

(v) project recipients' need for assistance under means-tested assistance programs other than the project administered under this section; and

(vi) any other matters that the Secretary may specify.

(C) **METHODOLOGY.**—Information required under this paragraph shall be collected through the use of scientifically acceptable sampling methods.

(2) **REPORTS TO CONGRESS.**—The Secretary shall, on the basis of reports received from States administering projects under this section, submit interim reports, and, not later than 6 months after the conclusion of all projects administered under this section, a final report to Congress. A report submitted under this paragraph shall contain an assessment of the effectiveness of the State projects administered under this section and any recommendations for legislative action that the Secretary considers appropriate.

(g) **FUNDING LIMITS; PRO RATA REDUCTIONS OF STATE MATCHING.**—

(1) **FUNDS AVAILABLE.**—There shall be available to the Secretary, from amounts made available to carry out part D of title IV of the Social Security Act, for purposes of carrying out demonstration projects under this section, amounts not to exceed—

(A) \$27,000,000 for fiscal year 1998;

(B) \$55,000,000 for fiscal year 1999; and

(C) \$70,000,000 for each of fiscal years 2000 through 2003.

(2) **PRO RATA REDUCTIONS.**—The Secretary shall make pro rata reductions in the amounts otherwise payable to States under this section as necessary to comply with the funding limitation specified in paragraph (1).

SEC. 5. MANDATORY REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS FOR TANTÉ RECIPIENTS.

Section 488(a)(10) of the Social Security Act (42 U.S.C. 655(a)(10)) is amended—

(1) in subparagraph (A)(i), by striking "or, if there is an assignment under part A, upon the request of the State agency under the State plan or of either parent"; and

(2) by adding at the end the following:

"(D) **MANDATORY 3-YEAR REVIEW FOR PART A ASSIGNMENTS.**—Procedures under which the State shall conduct the review under subparagraph (A) and make any appropriate adjustments under such subparagraph not less than every 3 years in the case of an assignment under part A."

By Mr. MACK (for himself, Mr. GRAHAM, and Mr. KENNEDY) (by request):

S. 1076. A bill to provide relief to certain aliens who would otherwise be subject to removal from the United States; to the Committee on the Judiciary.

THE IMMIGRATION REFORM TRANSITION ACT OF 1997

Mr. MACK. Mr. President, today I join my friends Senator GRAHAM and Senator KENNEDY in introducing a bill which would ease the transition into implementation of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 [IRAIRA] for certain Central American immigrants. This legislation, which has been requested by President Clinton, is designed to ensure that those immigrants who were in the administrative pipeline at the time IRAIRA took effect will have their cases decided under the set of rules in place before enactment of IRAIRA. This legislation will by no means grant amnesty to anyone; it will ensure that each individual will have their application for suspension of deportation given full and fair consideration.

This legislation is a matter of freedom, justice, human rights and fundamental fairness. During consideration of IRAIRA, I maintained that those immigrants who were already in this country should not have the rules changed on them midstream. Many Central American immigrants have planted deep roots in the United States and are valued members of their communities. They should be free from the fear of deportation without a full consideration of their request for suspension of that deportation under the set of rules in place at the time that they applied.

Ten years ago, in the mountains of Nicaragua, I spoke to thousands of young men who were fighting for freedom. I told them then that we would not forget them, and I tell them now that we will not forget them.

I urge the Senate's expedient consideration and passage of this legislation.

Mr. GRAHAM. Mr. President, today I am honored to join my colleague and friend Senator CONNIE MACK in introducing the Immigration Reform Transition Act of 1997.

This is a bipartisan, humane solution to concerns that were raised by the Il-

legal Immigration Reform and Immigrant Responsibility Act of 1996.

Thousands of families, hard-working, law-abiding, taxpaying individuals who had followed every rule and regulation up to the passage of the immigration bill last year now live in fear of deportation.

Working together, and working swiftly, Congress has the opportunity to correct this injustice.

The families that we are helping came to our Nation in the 1980's. Our own Government encouraged them to flee the Communist regimes and civil unrest of Central America at that time.

Our Nation's foreign policy gave them a safe haven; our Immigration Service allowed for their work authorization and they settled in to our American society.

Ten or fifteen years later, these families have homes here. They have U.S. citizen children. They have jobs; they pay taxes, and they make tremendous contributions to our local communities.

The Illegal Immigration and Immigrant Responsibility Act of 1996 severely restricted the avenues of relief that were traditionally available to aliens who have resided in the United States on a long-term basis.

Then, on February 20 of this year, the Board of Immigration Appeals interpreted a section of the immigration bill as applying, in all essence, retroactively.

Forty thousand Nicaraguans in Miami alone who, under the old law, would have qualified for suspension of deportation, would now be deportable because of Board's decision.

Families would be torn apart. Close-knit communities would evaporate. Businesses would suffer. In my heart, I don't believe this was the intent of Congress when the immigration bill was passed last year.

Janet Reno made an important step toward fairness and justice on July 11, when she agreed to review the Board of Immigration Appeal's decision. I supported her action, and appreciate her help in finding a humane and reasonable solution to these concerns.

In her July 11 press release, the Attorney General informed Congress that legislative action would be necessary to fully resolve this specific issue.

I am pleased to work with her, and my Senate colleagues, today to take the first step in accomplishing our legislative goal.

This legislation is crafted very narrowly. It recognizes the special circumstances in which Nicaraguans, and other Central Americans, came to the United States during a specific period of time—when they were fleeing the unrest created by the Communist governments of the era.

It allows this specific group of individuals and families to complete the process that they may have started 10 or 15 years ago—and importantly—to complete the process under the same set of rules that they started with.

July 28, 1997

CONGRESSIONAL RECORD — SENATE

S8191

Critics may say that we are undoing the immigration bill of last year. We are not. The 1000-per-year cap on suspensions of deportation is still intact, we are just not applying it to this specific group of individuals.

The stronger standards to qualify or suspension of deportation still remain current law. We are just allowing this group to go through the process without changing the rules in midstream.

Also important: this is not an amnesty bill. Each request will be decided on a case by case basis. If someone has been of bad moral character, they will not qualify. If someone has not been here the required amount of time, they will not qualify.

We are saying that those who played by the rules will have a fair opportunity to have their case heard by an immigration judge.

I welcome comments from the broader community on this legislation, and look forward to the opportunity to work with the Senate Judiciary Committee and Immigration Subcommittee to ensure its future success.

I ask my Senate colleagues to join with me today in this bipartisan effort to ensure fairness to hard working families.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator MACK and Senator GRAHAM in introducing the Immigration Reform Transition Act of 1997 proposed by President Clinton.

Without this legislation, thousands of Central American refugee families who fled death squads and persecution in their native lands would be forced to return. Republican and Democratic administrations alike promised them repeatedly that they will get their day in court to make their claims before an immigration judge to remain in the United States.

But last year's immigration law turned its back on that commitment and closed the door on these families. This legislation reinstates the promise and guarantees these families the day in court they deserve.

Virtually all of these families fled to the United States in the 1980's from El Salvador, Nicaragua, or Guatemala. Many were targeted by death squads and faced persecution at the hands of rogue militias. They came to America to seek safe haven and freedom for themselves and their children.

The Reagan administration, the Bush administration, and the Clinton administration assured them that they could apply to remain permanently in the United States under our immigration laws. If they have lived here for at least 7 years and are of good moral character, and if a return to Central America will be an unusual hardship, they are allowed to remain.

Last year's immigration law eliminated this opportunity for these families by changing the standard for humanitarian relief.

President Clinton has promised to find a fair and reasonable solution for these families, and the administration

will use its authority to help as many of them as possible. But Congress must do its part too, by enacting this corrective legislation.

These families are law-abiding, tax-paying members of communities in all parts of America. Their children have grown up here. In fact, many of their children were born here and are U.S. citizens by birth. They deserve this chance.

Mr. President, it is my hope not only that we can move on this legislation—and move quickly—but also that certain issues can be addressed as the Senate considers it. In particular, I believe that the limitations on judicial review contained in the administration's bill are both unnecessary and unwise. There are already substantial limitations on judicial review contained in last year's immigration law that would also apply in this instance. We should not add to them in this legislation. Instead, we should ensure that, if mistakes are made, the courts can correct them.

Again, I commend the administration for this important initiative and am pleased to join Senator MACK and Senator GRAHAM in cosponsoring the legislation.

By Mr. MCCAIN (for himself and Mr. INOUE):

S. 1077. A bill to amend the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN GAMING REGULATORY ACT
AMENDMENTS ACT OF 1997

Mr. MCCAIN. Mr. President, I am pleased to be joined today by Senator INOUE, in sponsoring the Indian Gaming Regulatory Act Amendments Act of 1997. I want to associate myself with Senator INOUE's remarks regarding this legislation and the issue of Indian gaming. I commend Senator INOUE for his outstanding leadership over the years on this complex issue. This legislation is intended to stimulate discussion in the Congress and among the tribes on this important issue.

The bill I am introducing today would provide for a major overhaul of the Indian Gaming Regulatory Act of 1988. It will provide for minimum Federal standards in the regulation and licensing of class II and class III gaming as well as all of the contractors, suppliers, and industries associated with such gaming. This will be accomplished through the Federal Indian Gaming Regulator, Commission which will be funded through assessments on Indian gaming revenues and fees imposed on license applicants. The bill also provides a new process for the negotiation of class III compacts which authorizes the Secretary of the Interior to negotiate compacts with Indian tribes in those instances where a State chooses not to participate in compact negotiations or where an Indian tribe and a State cannot reach an agreement on a compact. This process is consistent with recent Federal court decisions.

In addition, the bill is consistent with the 1987 decision of the U.S. Supreme Court in the case of California versus Cabazon Band of Mission Indians in that it neither expands nor further restricts the scope of Indian gaming. The laws of each State would continue to be the basis for determining what gaming activities may be available to an Indian tribe located in that State.

Since the enactment of the Indian Gaming Regulatory Act in 1988, there has been a dramatic increase in the amount of gaming activity among the Indian tribes. Indian gaming is now estimated to yield gross revenues of about \$6 billion per year and net revenues are estimated at \$750 million. There are about 160 class II bingo and card games in operation and over 145 tribal/State compacts governing class III gaming in 2 States. Indian gaming comprises about 3 percent of all gaming in the United States. Gaming activities operated by State governments comprises about 36 percent of all gaming, and the private sector accounts for the balance of the gaming activity in the Nation.

Indian gaming has become the largest source of economic activity for some Indian tribes. Annual revenues derived from Indian agricultural resources have been estimated at \$550 million and have historically been the leading source of income for Indian tribes and individuals. Annual revenues from oil, gas, and minerals are about \$230 million and Indian forestry revenue are estimated at \$61 million. Gaming revenues now equal or exceed all of the revenues derived from Indian natural resources. In addition, Indian gaming has generated tens of thousands of new jobs for Indians and non-Indians. On many reservations, gaming has meant the end of unemployment rates of 90 to 100 percent and the beginning of an era of full employment.

Under the Indian Gaming Regulatory Act of 1988, Indian tribes are required to expend the profits from gaming activities to fund tribal government operations or programs and to promote tribal economic development. Profits may only be distributed directly to the members of an Indian tribe under a plan which has been approved by the Secretary of the Interior. Only a few such plans have been approved. Virtually all of the proceeds from Indian gaming activities are used to fund the social services, education, and health needs of the Indian tribes. Schools, health facilities, roads and other vital infrastructure are being built by the Indian tribes with the proceeds from Indian gaming.

In the years before enactment of the 1988 act, and even since its enactment, we have heard concerns about the possibility of organized criminal elements penetrating Indian gaming. Both the Department of Justice and the FBI have repeatedly testified before the Committee on Indian Affairs and have indicated that there is not any substantial criminal activity of any kind