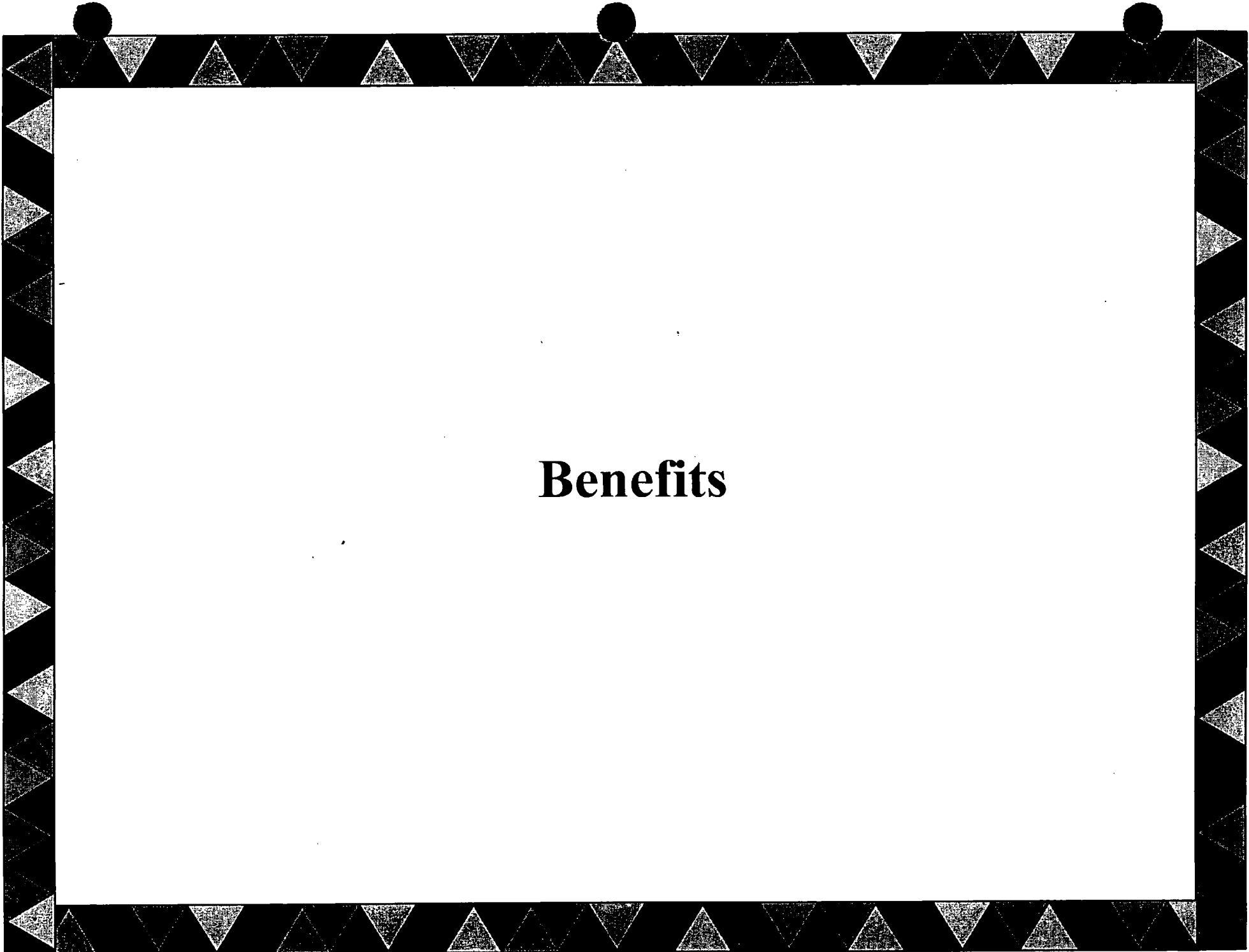




Benefits

BACKGROUND TO CONFERENCE SESSIONS

Day: Day 2

Session Title: Benefits

Session Moderator: Lin Liu, OPP

Other Presenters: Lisa Roney, OPP

Background Reference: INS Bulletin Board, Welfare page
INS Home Page, Welfare section

Documents in Conference
Notebook: Welfare Reform Fact Sheet
Welfare Reform Act, 96 Act, and current
law Side-By-Side
Qs and As
State and local contacts

Handouts at Session: Summary overview
Field Guidance Memo

Purpose of the Session: To discuss new Welfare Reform Act and 96
Act changes and implementation issues for
INS

Agenda and/or Topics
to be Discussed: Welfare reform overview
INS implementation issues:

- Verification
- Reporting requirements
- Lawfully present definition
- Affidavit of Support
- President's naturalization directive

10/30/96

FACT SHEET

Alien Eligibility for and Access to Public Benefits

Title IV, Personal Responsibility and Work Opportunity Reconciliation Act of 1996
(P.L. 104-193)

Title V, Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208)

Background

Two recently enacted pieces of legislation have made substantial changes to the eligibility of aliens for benefits in the United States. On August 22, 1996, President Clinton signed into law the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" (the Welfare Act). This legislation dramatically altered the current welfare system and, in Title IV, restricted the access of legal and illegal immigrants to a wide range of public benefits. The new law has a number of important implications for INS, including requiring the Service to establish a verification system to determine eligibility for most federal public benefits.

On September 30, 1996, the President signed the "Illegal Immigration Reform and Immigration Responsibility Act of 1996 (the '96 Act) into law. Title V of this law added to and amended sections of the Welfare Act. Among other provisions, this law changed the public charge inadmissibility standard for prospective immigrants and greatly strengthened the financial responsibility of petitioners for family based immigrants as well as for some employment based immigrants.

GENERAL BENEFIT ELIGIBILITY RESTRICTIONS FOR ALIENS

Illegal immigrants, who were ineligible for most major federal public benefits programs before passage of welfare reform, are now explicitly ineligible for a broader set of federal public benefits programs and for state and local public benefit programs. If states want to provide benefits to illegal immigrants, they must pass laws to do so.

Welfare reform created a new eligibility category called "qualified aliens" which consists of: lawful permanent residents; refugees (including conditional entrants), asylees, and persons who have had their deportation withheld; parolees admitted for at least 1 year; and certain battered aliens and alien parents of battered children (added by the '96

Act). All other categories are considered "not qualified aliens."

Welfare reform bars most qualified aliens from food stamps and Supplemental Security Income (SSI) with certain exceptions. It also bars qualified aliens admitted to the United States on or after August 22, 1996 from federal means-tested programs for 5 years. The Department of Justice is currently working on a definition of Federal means-tested programs.

Current permanent residents remain eligible for all benefits except food stamps and SSI, unless the states they live in choose to bar them from Temporary Assistance for Needy Families (TANF, replacing Aid to Families with Dependent Children); Medicaid; and Title XX Social Services (a block grant funding such services as child care and services for the elderly).

The Department of Agriculture and the Social Security Administration must recertify eligibility of persons currently receiving food stamps and SSI by August 22, 1997. Those aliens who have not naturalized or are not in a category excepted from the bar will receive notice of losing benefits sometime before that date. The '96 Act extended the beginning of recertification of current food stamp recipients to April 1, 1997.

States can decide to bar qualified aliens from three programs: TANF, Medicaid, or Title XX Social Services. States may not begin barring current recipients from these programs before January 1, 1997.

Three groups of qualified aliens are exempt from the food stamps and SSI restrictions, the optional state restrictions on TANF, Medicaid, Title XX Social Services, and the 5-year bar on federal means-tested public benefit programs:

Certain aliens admitted for humanitarian reasons for 5 years (refugees, asylees and those with their deportation withheld); Veterans, those on active duty in the Armed Forces, their spouses and unmarried dependent children; and Lawful permanent residents who can be credited with 40 qualifying quarters and who did not receive any federal means-tested benefits during any of those quarters after 12/31/96.

Qualified aliens are eligible for certain programs: emergency Medicaid, short-term, non-cash emergency relief, services provided under the National School Lunch Act and the Child Nutrition Act, immunizations, testing and treatment for communicable diseases, foster care and

adoption assistance, student assistance under the Higher Education Act and the Public Health Service Act, means-tested programs under the Elementary and Secondary Education Act, Head Start, and the Job Training Partnership Act. Qualified aliens also remain eligible for programs, services or assistance the Attorney General specifies as necessary for the protection of life or safety, including child protection, treatment of mental illness or substance abuse, short-term shelter or housing assistance for the homeless and for victims of domestic abuse, soup kitchens, food banks, and medical and public health services.

Under the '96 Act, states are allowed to limit or prohibit eligibility for all or certain categories of aliens for state general cash public assistance. However, states cannot place greater restrictions on alien eligibility than comparable federal programs place on alien eligibility.

PUBLIC CHARGE AND AFFIDAVITS OF SUPPORT

*Under the '96 Act, **all** family-based immigrants must have **legally enforceable** affidavits of support.* Employment-based immigrants coming to work for relatives or for companies where relatives have significant financial interest must also have affidavits of support. The '96 Act also establishes in law new factors to be considered in determining whether a prospective immigrant is likely to become a public charge, including age, health, family status, assets, education, and skills.

The Attorney General must develop a new legally enforceable affidavit of support by December 29, 1996 and put it into use by March 1997.

Sponsors must be the petitioning relative, at least 18 years old, and live in the United States or a US territory or possession. Sponsors must have incomes equal to 125 percent of the poverty level, as defined annually by HHS, for the number of persons that they will support, including themselves, their families/dependents, the sponsored immigrants, and accompanying family members. Sponsors on active duty in the armed services need only have income at 100 percent of the poverty level. The '96 Act makes provisions for additional persons accepting "joint and several liability" to join petitioners as sponsors under certain circumstances.

INS must provide information on the names and addresses of sponsors to benefit providing agencies through SAVE. These agencies, not INS, will enforce affidavits of support. The new affidavits are enforceable until

citizenship or until sponsored immigrants can be credited with 40 qualifying quarters of work. Special provisions apply to certain indigent or battered sponsored immigrants. INS is also required to maintain sponsors' Social Security numbers in an automated system.

The sponsor's income is deemed available to the sponsored immigrant in determining eligibility for all federal means-tested benefits. States can choose to deem for their public benefit programs. Federal or state agencies that provide means-tested benefits to sponsored immigrants can sue sponsors. Sponsored immigrants can also sue sponsors for failure to provide the promised support.

The law requires that sponsors notify the Attorney General as well as the state in which the sponsored immigrant lives within 30 days of moving.

INS is required to establish a pilot program in five district offices under which new immigrants would be required to post bonds in addition to the affidavits of support filed on their behalf by sponsors.

LAWFUL PRESENCE

Several provisions of the welfare and immigration reform laws require that aliens be "lawfully present" in the United States. This includes aliens applying for Title II Social Security benefits (retirement, survivors and disability insurance payments) after December 1996, aliens issued driver's licenses under state pilot programs, and certain post-secondary education benefits.

The Attorney General has defined "lawfully present" to mean: qualified aliens; nonimmigrants in status; many parolees; applicants for asylum or withholding of deportation who have employment authorization; and other aliens permitted to remain in the United States for humanitarian or other public policy reasons (TPS, DED, temporary resident status, Cuban-Haitian entrants, family unity beneficiaries, aliens in deferred action status, and aliens who are the spouses or children of U.S. citizens with approved visa petitions and pending adjustment of status applications.)

VERIFICATION OF ALIEN STATUS

*Welfare reform requires the Attorney General to create a system resembling the SAVE system to verify that persons receiving **federal** public benefits are qualified aliens. The Attorney General must issue regulations on this system within 18 months of enactment (by February 1998) and states administering federal benefits must implement it within 24 months of*

adoption of regulations. The law is silent on what federal, state, and local benefit-granting agencies should do concerning verification in the interim. States may explore the possibility of verifying immigration status through the SAVE program, and INS may issue interim guidance on verification.

The '96 Act requires INS to verify status of aliens and naturalized citizens for federal, state, or local government agencies. It also requires INS to include sponsorship information in SAVE.

REPORTING REQUIREMENTS

Welfare reform requires that states, SSA, and HUD report information to INS on persons whom they know to be unlawfully in the United States four times annually and upon the request of INS. INS is in the process of determining which groups of aliens would be included, and how it would be determined that the unlawful status was known.

State and local agencies may not restrict their employees from any exchange of information on the immigration status of any alien with INS under welfare reform.

NATURALIZATION

Immigrants who naturalize will be not be subject to the restrictions placed on alien eligibility for benefits. President Clinton has issued a directive to all cabinet agencies to provide support for naturalization of immigrants who qualify and desire to become citizens.

INS anticipates a process from filing an application to taking the oath of allegiance that takes approximately 6 months. The processing time for any particular district office will vary. If the number of new applications increases significantly, processing time may take longer than 6 months.

INS may waive the requirement to read, write, and speak simple words and phrases in English for certain persons. This requirement can be waived for any person over 50 years of age with at least 20 years as permanent residents and persons over 55 years old with 15 years as permanent residents. INS can also give special consideration concerning the civics knowledge requirement to persons over age 65 with 20 years as permanent residents.

INS has published a proposed rule potentially exempting individuals with certain disabilities from some requirements for naturalization. The final rule is expected in December 1996.

In fiscal year 1996, INS naturalized approximately 1.1 million people.

INS estimates that over the next 3 years, applications for naturalization will increase by approximately 300,000 to 400,000 per year, for a 3-year total increase of over 1 million additional applications. INS expects to receive approximately 1,350,000 applications in fiscal year 1997 and 1,300,000 applications in fiscal year 1998.

Memorandum

Subject	Date
Questions and Answers on Issues Relating to Alien Eligibility for Benefits	October 23, 1996

To: INS Employees

From: Office of Policy and
Planning

Following is a set of questions and answers on a variety of issues relating to alien eligibility for public benefits as recently changed by welfare reform and illegal immigration reform legislation. These questions and answers are provided to assist you in understanding the far-reaching provisions of these acts and responding to questions from your staffs as well as the public.

Many of the new provisions are very complicated, and details on how some provisions will be implemented are still being worked out within INS and with other agencies. Further information will be provided to you on these and other issues in subsequent questions and answers and fact sheets as we have more information. Updates will be provided as soon as they become available through the cc:Mail Welfare Bulletin Board.

In the meantime, please feel free to contact my staff through Lin Liu, Assistant Commissioner for Policy, by cc:Mail to ask for clarification on issues contained in these questions and answers or to ask additional questions. If we are unable to answer your question, we will refer you to another person who can respond or find an answer if one is available.

Robert Bach
Executive Associate Commissioner,
Policy and Planning

Questions and Answers on Welfare Reform -- #1
Alien Eligibility for and Access to Public Benefits
October 23, 1996

Title IV, Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P. L. 104-193)

Title V, Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P. L. 104-208)

The following questions and answers are provided to assist in responding to internal, as well as external, inquiries about the changes to alien eligibility for benefits recently enacted in welfare and illegal immigration reform legislation. Additional information will be provided when it becomes available. Questions about eligibility for specific programs should be referred to the appropriate federal, state, or local public benefit granting agency for their response. For further INS-related information and to submit additional questions, please contact Lin Liu in the INS Headquarters Office of Policy and Planning by cc:mail.

General Eligibility Restrictions

What new restrictions does the legislation place on legal aliens' eligibility for federal public benefits?

The legislation creates a new eligibility category for aliens, called "qualified aliens." Qualified aliens are defined as:

Lawful permanent residents;
Refugees;
Asylees;
Persons who have had their deportation withheld;
Parolees admitted for at least 1 year;
Aliens who have been present since before April 1, 1980, as "conditional entrants" under former section 207(a)(7); and
Certain battered aliens and alien parents of battered children under certain conditions
(added by illegal immigration reform).

The welfare reform bill barred most qualified aliens from food stamps and Supplemental Security Income (SSI), a federal cash assistance program for the elderly, blind and disabled.

The law also bars, qualified aliens who are admitted to the United States on or after the date of the law's enactment (August 22, 1996) from federal means-tested programs for their first 5 years in the United States. The legislation did not define

federal means-tested programs, and they have not yet been defined through regulation. This definition is being developed through an interagency process. States at any time can decide to bar qualified aliens from:

Temporary Assistance for Needy Families (TANF, which replaced the Aid to Families with Dependent Children program);
Medicaid; and
Title XX Social Services (a block grant that states use to fund, for example, child care and services for the elderly).

Naturalized citizens remain eligible for benefits on the same basis as native-born citizens.

Who is exempt from the restrictions?

Certain qualified aliens are exempt from some of the restrictions. Three groups of qualified aliens are exempt from the food stamps and SSI restrictions as well as the optional state restrictions on TANF, Medicaid and Title XX Social Services:

Certain aliens admitted for humanitarian reasons — refugees, asylees and those with their deportation withheld — for their first 5 years after admission to the United States;
Veterans, those on active duty in the Armed Forces, their spouses and unmarried dependent children; and

Lawful permanent residents who have worked 40 qualifying quarters (further guidance to be forthcoming from SSA) and who did not receive any federal means-tested benefits during any of those quarters (this latter requirement only applies to benefits earned after 12/31/96). The work of a parent (for unmarried dependents under 18) or spouse can be credited to a qualified alien. (Additional questions about this issue should be referred to the Social Security Administration.)

Refugees, asylees, aliens who have had their deportation withheld, and veterans, those on active duty in the Armed Forces and their spouses and unmarried dependent children are exempt from the 5-year bar on federal means-tested programs for qualified aliens who enter after enactment of the legislation.

What benefits will legal aliens remain eligible for?

Welfare legislation specifies certain exceptions to the 5-year bar on federal public benefits for future qualified aliens, including:

Emergency Medicaid,
Short-term, non-cash emergency relief,
Services provided under the National School Lunch Act and the Child Nutrition Act,
Immunizations, testing and treatment for communicable diseases,
Foster care and adoption assistance,
Student assistance under the Higher Education Act and the Public Health Service Act,
Means-tested programs under the Elementary and Secondary Education Act,
Head Start, and Job Training Partnership Act.

Qualified aliens also remain eligible for programs, services or assistance specified by the Attorney General that are necessary for the protection of life or safety. The Attorney General has issued a "provisional specification" of programs and services that are exempt from the restrictions that deliver in-kind services at the community level and are not means-tested (check Bulletin Board for list). These include assistance relating to child protection, treatment of mental illness or substance abuse, short-term shelter or housing assistance for the homeless and for victims of domestic abuse, soup kitchens, food banks and medical and public health services.

Current immigrants remain eligible for all benefits but food stamps and SSI, unless the state they live in chooses to bar them from TANF, Medicaid and Title XX Social Services. IIRIRA postponed implementation of the bar for food stamp eligibility until April 1, 1997, for those who are currently receiving food stamp benefits. Refer additional questions to the Department of Agriculture or state food stamp agencies.

Do the changes take effect immediately?

The Department of Agriculture and the Social Security Administration must recertify eligibility of persons currently receiving food stamps and SSI by August 22, 1997. Those aliens who have not naturalized or are not in one of the categories of aliens excepted from the bar will receive notice of losing benefits sometime before that date.

In some states, the state food stamp agencies recertify recipients for food stamp eligibility every 3 or 6 months, which could result in many immigrants losing their benefits in the early part of 1997. To soften the potential impact, the President issued a memorandum on August 22 directing the Secretary of Agriculture to permit state agencies to extend the certification period of immigrants participating in food stamps until August 22, 1997. IIRIRA extended the *beginning* of recertification of current food stamp recipients to April 1, 1997.

The Social Security Administration is planning to send out notices beginning in February or March of 1997 regarding eligibility determination to those who might lose benefits for SSI.

States may not begin barring current recipients from TANF, Medicaid or Title XX Social Services before January 1, 1997. Questions regarding eligibility for these programs should be referred to the appropriate state agencies.

How many legal aliens are likely to lose federal benefits?

The Congressional Budget Office has estimated that approximately 500,000 aliens currently receiving SSI benefits and 1 million aliens currently receiving food stamps could lose eligibility as a result of this legislation. The number of aliens who lose TANF,

Medicaid, or Title XX Social Services depends on whether states choose to bar them from those services.

Can states provide benefits to legal aliens if they want to?

Yes, the legislation gives states the option to provide or bar TANF, Medicaid, and Title XX Social Services to most qualified aliens. States will be required to bar future qualified aliens from federal means-tested programs (including TANF, Medicaid, and Title XX Social Services if they are defined as federal means-tested programs) for their first 5 years in the United States. They also have the option to bar state and local public benefits to most qualified aliens; if states takes no action, qualified aliens remain eligible for those programs.

Under IIRIRA, states are allowed to prohibit or limit eligibility for all or certain categories of aliens for state general cash public assistance. However, in imposing limitations on their own programs, states cannot place greater restrictions on who is eligible than are placed on comparable federal programs.

Do immigrants lose Medicaid under welfare reform?

Both current and future qualified aliens may be barred from Medicaid if the states they live in choose to bar them. Three groups of qualified aliens remain qualified for Medicaid—(1) refugees, asylees, and aliens whose deportation is withheld, (2) veterans, aliens on active duty in the armed forces, and their spouses and dependent children, and (3) lawful permanent residents who can be credited with 40 qualifying quarters of work and did not receive federal means-tested benefits during any of these quarters after December 31, 1996.

Qualified aliens who arrive after the date of enactment *will* be barred from Medicaid for their first 5 years in the United States if it is defined as a federal means-tested benefit. In addition, some aliens who are currently eligible for Medicaid as a result of their eligibility for SSI may lose Medicaid coverage if they are not able to maintain eligibility another way, for example, by meeting the criteria of being "medically needy." Because states make their own determinations on Medicaid eligibility, additional questions on Medicaid coverage should be referred to state public health agencies.

Does the legislation cut illegal immigrants off of public benefits?

Illegal immigrants were ineligible for most major federal public benefit programs before the passage of the welfare legislation; some federal programs were silent on alien eligibility. This legislation makes "not qualified aliens," which includes illegal aliens, explicitly ineligible for a broader set of federal public benefits programs and for state and local public benefit programs.

If states want to provide state and local public benefits to immigrants who are in the country unlawfully, they must pass a law after the enactment of the welfare legislation to do so.

What happens to PRUCOL aliens?

PRUCOL, a term defined by regulation and court decisions and used by some benefit programs to describe categories of aliens who were eligible for certain public benefits even if not, strictly speaking, lawfully present, has been superseded by specific eligibility/ineligibility criteria for aliens in welfare reform.

What will be done to make changes to the welfare bill?

When President Clinton signed the bill he objected to the provisions eligibility for public benefits for legal immigrants. Subsequently, he has issued several directives to soften the impact of these restrictions, including a directive to all cabinet agencies to provide support for naturalization of immigrants qualified and wanting to become citizens. He has also signed a directive to the Secretary of Agriculture to allow the maximum time frame to implement new terms of eligibility for food stamps.

The legislation also stated that technical amendments could be proposed before November 20, 1996. This provides an opportunity for the Administration to propose small fixes to the law. The Administration is still assessing whether and how it will make larger changes to the legislation. Some changes relating to certain benefit issues were made in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and are discussed in these questions and answers.

Verification Issues

How does the legislation change current verification of immigration status procedures?

Welfare reform legislation requires the Attorney General to create a system to verify that persons receiving *federal* public benefits are qualified aliens. To the extent feasible, the legislation calls for the system to resemble the SAVE system, which INS currently uses to verify immigration status for certain public benefits agencies. The Attorney General must issue regulations on the verification system within 18 months of enactment (February 1998). States administering federal benefits must implement the verification system within 24 months after the regulations are adopted.

Will INS be involved in verifying citizenship status?

IIRIRA requires INS to respond to inquiries by federal, state, and local government agencies seeking to verify or determine the citizenship or immigration status of any individual within the jurisdiction of the agency for any lawful purpose.

Additionally, IIRIRA provides that within 18 months of enactment, the Attorney General in consultation with the Secretary of Health and Human Services will establish procedures for persons applying for public benefits to provide proof of citizenship in a fair and nondiscriminatory manner.

Is INS' database capable of providing the information that states and agencies will need?

INS' current SAVE program can electronically verify the status of most lawful permanent residents as well as aliens in many other categories. Copies of documents must be sent to INS for further verification for certain groups of aliens or when status cannot be verified immediately through the automated system. This additional verification ensures that all available INS records systems can be checked and that benefits are not denied to eligible persons. It is anticipated that the SAVE program can accommodate the anticipated workload under the welfare provisions.

For what programs do states have to verify immigration status with the INS?

The legislation requires the Attorney General to create a verification system for use only for *federal* public benefits. State agencies may choose to verify immigration status with INS for applicants for state public benefits programs.

What can states do to verify status before the INS issues regulations on the new verification system?

The law does not address this issue; states can decide whether to rely on self certification, document review, or contacting INS to explore the possibility of signing up with the SAVE program which administers INS' current status verification system. INS is currently examining the best approach to providing verification in the period before regulations are issued.

Affidavit of Support and Deeming Issues

What is an affidavit of support and who is a sponsor? (New forms and regulations are being developed to implement these provisions.)

Each immigrant admitted to the United States must demonstrate that he or she is not likely to become a public charge. One way to do this is to have someone, a sponsor, in the United States sign an affidavit of support promising to provide assistance to the immigrant if needed. Immigrants who have someone sign an affidavit for them are called sponsored immigrants.

Who has to have a sponsor?

In the past there was not a requirement for any particular group of immigrants to be sponsored, although many family-based immigrants did have sponsors. Under IIRIRA, all family-based immigrants are required to have affidavits of support. In addition, employment-based immigrants who are coming to work for relatives or for companies where relatives have significant financial interest also must have affidavits of support filed for them by sponsors.

Do immigrants' sponsors have more responsibility under the new law?

Previously, the courts found that affidavits of support were not legally binding documents and, therefore, sponsors could not be sued if they did not provide support to immigrants they had sponsored. However, both the new welfare and immigration reform laws require that affidavits of support signed by sponsors be legally enforceable. Sponsors can now be sued by any federal or state agency that provides means-tested benefits as well as by the immigrants they sponsored.

Who can sponsor immigrants?

Under previous law, any relative or close friend could sign an affidavit of support, and more than one affidavit could be filed in support of an immigrant. The new legislation, however, requires that the sponsor be the specific family member petitioning for the immigrant. IIRIRA makes provisions, however, for additional persons accepting "joint and several liability" to join the petitioner as sponsors under certain circumstances. The new law also requires that a sponsor be a U.S. citizen, national or lawful permanent resident, aged 18 or over, and living in one of the 50 states, Washington, DC., or a US territory or possession.

Are sponsors required to have incomes above a certain level?

In the past, sponsors had to demonstrate to consular or INS officers that they had the means to support the immigrants they sponsored as well as their own families, but there was not a required income level that they had to meet. Under changes made by IIRIRA, sponsors must have incomes equal to 125 percent of the poverty level for the number of persons that they will support, including themselves, their families/dependents, the sponsored immigrants, and any family members accompanying them. Sponsors who are on active duty in the armed services need only to demonstrate income at 100 percent of the poverty level.

Who determines the poverty level?

The poverty level is recalculated and published annually for the Office of Management and Budget by the Department of Health and Human Services (HHS.) The poverty level is increased by a set dollar amount based on the number of persons in the household. The poverty level guidelines are the same for the continental 48 states; separate levels are established for Hawaii and Alaska.

What is the current poverty level?

The poverty level announced in the March 4, 1996, *Federal Register* for the contiguous United States is \$7,740 for a family unit of one person, with \$2,620 added for each additional person. At the 125 percent level, these amounts would be \$9,675 and \$3,275 respectively. Under the new income requirements, therefore, a sponsor would need to have an annual income of \$19,500 to support four persons.

In 1996, the poverty level for Alaska is \$9,660 for one person with an increment of \$3,280 for each additional person; the figures for Hawaii are \$8,910 and \$3,010. The new legislation would require incomes of at least 125 percent of these levels.

How will the affidavit of support be enforced?

Agencies that provide means-tested benefits to sponsored immigrants will be able to sue sponsors for the amount of benefits that are provided. If sponsors do not provide support to the immigrants they help bring to the United States, the sponsored immigrant can also sue the sponsor. INS will provide information on the names and addresses of sponsors to benefit providing agencies; these agencies, not INS, will be involved in the enforcement of affidavits of support.

Are affidavits of support required for persons other than immigrants?

Currently, some aliens entering the United States temporarily, such as nonimmigrants and parolees, have affidavits of support filed on their behalf. These situations are not affected by the new legally enforceable affidavit of support requirements. General Counsel is currently determining if a statement of support is desirable for certain aliens not covered by the enforceable affidavit. If this is the case, INS will develop a new form for this purpose.

When will the new affidavit of support be created?

Immigration reform legislation requires the Attorney General to develop a new affidavit of support within 90 days of the law's enactment (by 12/29/96) and to put it into use between 30 and 60 days later (by March 1997). INS is working with affected agencies in

designing the form and will provide the public with an opportunity to comment on the proposed new affidavit of support.

What is deeming?

Deeming refers to public benefit agencies considering or "deeming" all or part of a sponsor's income (and the sponsor's spouse's income) to be available to the sponsored immigrant when determining the eligibility of that sponsored alien for benefits. This deeming of the sponsor's income usually makes the sponsored immigrant ineligible for means-tested benefits.

How does the legislation change deeming requirements?

Under previous law, deeming of sponsor's income applied only to AFDC, food stamps, and SSI. This process applied for 3 years for AFDC and food stamps and for 5 years for SSI. The new law applies deeming requirements to most federal means-tested programs until citizenship or until the sponsored immigrant has worked or can be credited with 40 qualifying quarters of work.

Do agencies have to implement deeming right away?

The new deeming requirements apply only to immigrants whose sponsors sign new affidavits of support. Therefore, no new deeming will occur until after the new affidavit of support form is put into use in March 1997. However, since immigrants who enter after the date of enactment are barred from federal means-tested programs for their first 5 years in the United States, there will be no new deeming for federal means-tested programs for approximately 5 years, with one exception. Deeming for federal means-tested programs may take place sooner for aliens who are veterans, active duty servicemen, or their families since they are not barred from receiving public benefits. Immigrants in this group, if sponsored after March 1997, could be subject to deeming requirements if they apply for federal means-tested benefits.

Once the new affidavit of support is in use, states may also choose to apply deeming requirements to their state public benefit programs.

Are there exceptions to deeming all of the sponsor's income?

Yes. Under section 552 of IIRIRA, if an agency determines that a sponsored alien would be unable to obtain food and shelter taking into account the alien's income plus any cash, food, housing, or other assistance supplied by the sponsor or another individual, only the amount of income and resources actually provided by the sponsor and the sponsor's spouse will be attributed to the immigrant for a 12-month period. However, the agency must provide INS with the name of the sponsor and the sponsored immigrant. Further, the agency's decision to grant benefits under this exception does not relieve the sponsor

of the obligation to reimburse the agency. These decisions will be made by public benefit agencies with minimal involvement from INS.

If sponsored aliens demonstrate that they or their children have been battered or subjected to extreme cruelty by certain persons in the same household, and the battery has substantial connection to the need for the public benefits, deeming may not apply in certain circumstances which require recognition of the battery or cruelty by a judge, an administrative law judge, or INS.

Do the new deeming requirements affect immigrants who are already here?

No. The new deeming requirements apply only to immigrants whose sponsors sign new legally enforceable affidavits of support which must be put into use by March 1997.

Do the sponsorship and deeming requirements affect refugees and asylees?

No. Refugees and asylees do not have to prove that they are unlikely to become public charges to be admitted to the United States. Refugees and asylees do not have sponsors and are not subject to the deeming requirements.

Can INS verify sponsorship information?

Yes, INS currently provides state agencies with information that sponsors provided on the original affidavit of support. However, this information is not currently automated. IIRIRA requires that INS make sponsorship information available in the SAVE system.

What is the new pilot bond program?

IIRIRA establishes a pilot program in five INS district offices under which new immigrants would be required to post bonds in addition to the affidavits of support filed by the petitioners/sponsors. The bonds would be in an amount sufficient to cover the cost of certain benefits and would be in force until the immigrants departed, naturalized, or died. INS and DOJ are discussing how and where this pilot program could best be implemented.

"Lawfully Present" Issues

To which programs does the definition of "lawfully present" apply?

Welfare legislation makes aliens who are not qualified aliens or not "lawfully present" in the United States, as defined by the Attorney General, ineligible to receive Title II Social

Security benefits, which is retirement, survivors and disability insurance payments. These restrictions only apply to those aliens who apply for social security benefits after September 1, 1996 (extended to December by IIRIRA).

IIRIRA used the term "lawfully present" in several provisions including a state pilot program for issuing driver's licenses and certain post-secondary education benefits. General Counsel is currently determining whether the same definition used for Title II Social Security benefits can still be used in these circumstances.

Who is "lawfully present"?

The Attorney General has defined "lawfully present" to mean:

Qualified aliens;

Nonimmigrants who have not violated the terms of their status;

Aliens who have been paroled into the US except for those paroled in to be prosecuted or to determine whether they should be excluded;

Persons with a pending application for political asylum or withholding of deportation who have employment authorization, or if under age 14 have an application pending for at least 180 days; and

Other aliens who are permitted to remain in the United States for humanitarian or other public policy reasons. This group only includes:

- Aliens in Temporary Protected Status (TPS),

- Aliens in temporary resident status,

- Cuban-Haitian entrants,

- Family unity beneficiaries,

- Aliens under deferred enforced departure (DED),

- Aliens in deferred action status, and

- Aliens who are the spouses or children of U.S. citizens with approved visa petitions and pending adjustment of status applications.

Reporting Requirements (Many of these issues are currently under discussion. To the extent possible, you should defer answering these questions pending policy decisions.)

Are states or agencies required to report anyone who they believe is an illegal alien to INS?

The new legislation requires that states, SSA, and HUD report information on persons whom they know to be unlawfully in the United States to the INS four times annually and upon the request of the INS.

What does it mean for a state or agency to know that an alien is in the United States unlawfully?

INS is in the process of determining what this provision of law means, which groups of aliens would be included, and how it would be determined that the unlawful status was known.

Can state and local governments establish bars to providing immigration status information to INS?

Welfare reform legislation prohibits state and local agencies from in any way restricting the communication of information on immigration status of any alien in the United States to or from INS.

Naturalization Issues

Can immigrants naturalize and continue to receive benefits?

Yes. Immigrants who either naturalize or derive U.S. citizenship through their parents' naturalization before the recertification period is over, can continue to receive benefits. Once immigrants become U.S. citizens, they will be no longer be subject to the restrictions placed on immigrant eligibility for benefits.

How long does it take to naturalize?

By the end of fiscal year 1996, INS anticipates a process that takes approximately 6 months from filing of an application for naturalization to taking the oath of allegiance. The processing time for any particular district office will vary. If receipt of applications increase significantly, processing time may take longer than 6 months.

Who is eligible to naturalize?

Individuals who are lawful permanent residents, are at least 18 years old, and have lived in the United States for 5 years, or are married to and have resided with a U.S. citizen for 3 years are eligible to apply for naturalization. (Applications may be submitted 3 months before the residency requirement is met.) Applicants must also have lived for more than 3 months in the jurisdiction of the local INS office where they apply; and must be of good moral character.

Some persons, primarily those born in American Samoa, are nationals but not citizens of the United States. Since these noncitizen nationals are not aliens, they are not subject to restrictions that apply to aliens. Nationals may live in the United States, but do not have

all the political rights of citizens. Section 325 of the INA provides for the naturalization of these noncitizen nationals.

Special exceptions are made for members of the active duty military, spouses of citizens working for selected businesses overseas, and orphans.

What does "good moral character" mean"?

An individual is considered to be of good moral character if he or she did not lie to the INS when obtaining his or her permanent residence status; intends to be a good citizen; pays taxes and (if male and over age 18) has registered or intends to register for the military if he becomes a lawful permanent resident before his 26th birthday; is not a practicing polygamist; has not committed certain crimes; and is not involved in illegal activity such as drug use and trafficking, prostitution, or gambling. Also, aliens who participated in the Nazi genocide or who are members in or advocates of any communist, anarchist, or violent revolutionary party, organization, or doctrine are not eligible for naturalization.

Do elderly people have to take the English and civics test?

The law requires that 1) an applicant be able to read and write simple words and phrases in English, and 2) demonstrate a knowledge and understanding of the fundamentals of the history and the principles and form of government of the United States. This does *not* necessarily apply to any person who is unable to meet this requirement because of a physical or developmental disability or mental impairment.

INS may waive the requirement to be able to read and write simple words and phrases in English for any person who is over 50 years of age and has been living in the United States at least 20 years as a lawful permanent resident; or is over 55 years of age and has been living in the United States for at least 15 years as a lawful permanent resident. INS may also give special consideration concerning the civics knowledge requirement to any person who is over 65 years of age and has been in the United States for at least 20 years as a legal permanent resident.

Are any naturalization requirements waived if someone is disabled?

INS has published a proposed rule concerning an exemption from certain naturalization requirements for individuals with certain disabilities. The law currently states that the English language and U.S. government knowledge requirements do not apply to any person who is unable to comply because of a physical or developmental disability or mental impairment. The final rule is expected in December 1996.

What is INS' policy on waiving the naturalization fee?

INS has general regulatory discretion to waive fees, but does not currently have a specific written policy for waiving the application fee for naturalization.

How many people naturalize each year?

In fiscal year 1994, INS naturalized over 407,000 people. In fiscal year 1995, more than 445,000 people became citizens. In fiscal year 1996, the INS expects to naturalize approximately 1.2 million people.

By how much does the INS expect naturalization to increase?

INS estimates that over the next 3 years, applications for naturalization will increase by approximately 300,000 to 400,000 per year, for a total of about 1 million additional applications. INS is planning on receiving approximately 1,350,000 applications in fiscal year 1997 and 1,300,000 applications in fiscal year 1998.

Has INS experienced a surge in naturalization applications since the welfare reform bill was signed into law?

It is still too early to tell if there has been any increase in applications since August 22, 1996, when President Clinton signed the welfare bill into law. There is anecdotal information from some INS offices that receipt of applications has increased since that time.

Is the increased demand for naturalization a recent occurrence?

The demand for naturalization began to increase dramatically in FY 1995, when over a million permanent residents applied for naturalization, more than double the FY 1994 level.

Besides the passage of the welfare reform bill, what other reasons are there for an increase in applications for naturalization?

The current surge in citizenship applications results from recent policy developments affecting legal immigrants, changes in INS procedures, as well as the significant increase in the number of eligible persons.

The INS' green card replacement program required long-term permanent residents with old, less secure green cards to apply for the new, more secure documents. The replacement program ended in March 1995, and the old I-151 cards ceased to be valid in March 1996. Many immigrants chose to apply for citizenship rather than replace their old green cards.

Another reason for the increase in naturalization applications appears to be the 2.6 million beneficiaries of the legalization programs of the Immigration Reform and Control Act of 1986 (IRCA). Most of the persons who legalized through IRCA had the required 5 years of permanent residence by mid-1995 and became eligible to apply for naturalization.

Summary of Welfare and Public Charge-Related Provisions
Title IV of P.L. 104-193 "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" and
Title V of P.L. 104-208 "Illegal Immigration Reform and Immigrant Responsibility Act of 1996"

10/15/96

	Previous Law	New Law - Welfare Reform	New Law - Illegal Immigration Reform
Illegal Immigrant /Non-qualified alien Eligibility	Illegal immigrants ineligible for most federal public benefits, exceptions include emergency Medicaid, WIC, public education, public health services, child nutrition programs, child care, child protection, maternal care programs. Immigrants who are eligible for benefits because they are considered PRUCOL - permanent residing under color of law - varies by program.	"Not qualified" immigrants barred from any federal (401), state or local public benefit* (411), defined as: - Any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any similar benefit for which payment or assistance is provided to an individual, household or family eligibility unit by an agency of the US (or state or local government) or by appropriated funds of the US (or state or local government), and - Any governmental contract, loan, professional or commercial license (nonimmigrants may receive a license or contract related to visa)(401(c)). - Social Security (Title II) barred to those not lawfully present (as defined by the AG) who file applications in month after enactment (401(b)(2)). Exceptions: (401(b)) - Emergency Medicaid - Short-term, non-cash emergency relief - Immunization and testing and treatment for communicable diseases - Programs, services, or assistance specified by the AG, which (i) deliver in-kind services at the community level, including through public or private nonprofits (ii) do not condition assistance on income or resources; and (iii) are necessary for the protection of life or safety - Current recipients of housing or community development funds - Those eligible for free public education under state or local law are not ineligible for school lunch and school breakfast programs on basis of citizenship, alienage, or immigration status (742(a)) - Only those with valid social security numbers can receive EITC (Earned Income Tax Credit) (451) *An alien who is not a qualified alien, nonimmigrant or parolee for less than 1 year is ineligible for any state or local public benefit (411).	Same provision as to those not lawfully present, but changed the effective date to the month beginning at least 60 days after enactment (503); appears to exclude benefits preserved by P.L. 104-193, Section 401(b)(2) for aliens claiming under treaties. Within funds appropriated for this purpose, the Federal government can reimburse state and local governments for certain emergency medical care for aliens not lawfully present if their immigration status is verified (562). Also provides Federal (AG) reimbursement for emergency ambulance services for persons entering illegally (563).

	Previous Law	New Law - Welfare Reform	New Law- Immigration Reform
Legal Immigrant/ Qualified Alien Eligibility	No bars on legal immigrant eligibility.	"Qualified aliens" (those not subject to the bar) include: (431(b)) • LPRs • Refugees and asylees • Those with deportation withheld (Sec. 243(h)) • Parolees (Sec. 212(d)(5)) admitted for at least 1 year • Conditional entrants (pre 1980 Sec. 203(a)(7)) Exception from Federal, state, local bar for otherwise qualified, work authorized nonimmigrants or LPRs for whom United States is required to pay benefits under reciprocal treaty, as determined by AG in consultation with Secretary of State. (For state, local benefits, as determined by Secretary of State in consultation with AG) (401(c)(2)(b)), 411(c)(2)(b)) Current and future (those who enter on or after date of enactment) qualified aliens (i.e. legal permanent residents, LPRs, and other lawful immigrants are barred from food stamps and SSI until citizenship. Eligibility for current recipients shall be redetermined between date of enactment and one year after enactment (402). Exceptions: (402(a)(2)) • Refugees and asylees for first 5 years after admission as a refugee or after granted asylum • Alien whose deportation is withheld for first 5 years • Lawfully resident veterans and those on active duty in the Armed Forces; their spouse or unmarried dependent children • LPRs who work 40 quarters that qualify for Title II Social Security and who did not receive any federal means-tested benefit (after 12/31/96) during any of those quarters (work of spouse or parents, if children under 18, can be credited) (435). Future qualified aliens barred from Federal means-tested programs (not defined) for first 5 years.	Adds certain battered aliens and certain alien parents of battered children to qualified alien definition. In opinion of AG (not subject to review) there must be a substantial connection between battery and need for benefits.(501) Ineligibility for Food Stamps not to apply until April 1, 1997. Recertification by state agencies will be done between April 1, 1997 and August 22, 1997. (510)

	Previous Law	New Law - Welfare Reform	New Law - Immigration Reform
State Options re: Bars	According to Supreme Court, states not permitted to restrict legal immigrant eligibility for benefits (<i>Graham v. Richardson</i>); states may restrict illegal immigrant eligibility for state/local benefits.	Exceptions: • Refugees and asylees • Those with deportation withheld • Lawfully resident veterans and those on active duty in the Armed Forces; their spouse or unmarried dependent children Program Exceptions to 5 yr bar on federal means-tested benefits: 403(c) • Emergency Medicaid • Short-term, non-cash emergency relief • National School Lunch Act • Child Nutrition Act • Immunizations and testing and treatment for communicable diseases • Foster care and adoption assistance (if foster or adoptive parent is a qualified alien) • Programs, services, or assistance specified by the AG, which (i) deliver in-kind services at the community level, including through public or private nonprofits (ii) do not do not condition assistance on income or resources; and (iii) are necessary for the protection of life or safety • Student assistance under Higher Education Act or Public Health Service Act • Means-tested programs under Elementary/Secondary Education Act • Head Start • Job Training Partnership Act Additional exception for refugee and entrant assistance for Cuban-Haitian entrants (403(d)). <u>Illegal</u>: Although states are required to bar not qualified aliens from state programs: States may make aliens who are not lawfully present in the US eligible for state and local benefits through enactment of a state law (411(d)). States are not prohibited or required to provide non-qualified aliens (i.e. states have option to provide illegal immigrants with) benefits under National School Lunch Act or Child Nutrition Act (except school lunch and breakfast programs which must be provided to those eligible for free public education), Sec. 4 of Agriculture and Consumer Protection Act, Emergency Food Assistance, food distribution program in Indian reservation under Food Stamp Act.	Aliens not lawfully present may not get preferential treatment for postsecondary education benefits over US citizens or nationals, effective July 1, 1998. (505)

	Previous Law	New Law - Welfare Reform	New Law - Immigration Reform
Public Charge	A prospective immigrant likely to become a public charge is excludable (212(a)(4)).	<u>Legal</u> -States have option to bar current and future qualified immigrants (same immigrant groups excepted in 402(a)(2)) from AFDC (now temporary assistance for needy families block grant), Title XX social services block grant, Medicaid (since future immigrants are barred from means-tested programs for first 5 years, amounts to an option to extend the bar for future immigrants and to apply it to current immigrants). Can bar until citizenship or until work 40 qualifying quarters. Current recipients continue to be eligible until 1/1/97. States are authorized to determine eligibility for any state public benefits (no definition) of current and future qualified aliens (with same exceptions as listed under 402(a)(2)), nonimmigrants or those paroled for less than 1 year; current recipients eligible until 1/1/97 (412).	States may prohibit/limit eligibility for all or certain categories of aliens for general cash public assistance, but cannot be more restrictive than comparable Federal programs. (553)
Affidavit of Support	Affidavit of support not legally enforceable; sponsor can be a relative, friend, or other party.	Affidavits accepted by AG or consular officer must be executed as contracts legally enforceable against sponsors by the sponsored alien, the Federal or any state government that provides means-tested benefits(423) Enforceable until immigrant naturalizes. Action for reimbursement must be filed no later than 10 years after alien last receives a benefit. Sponsor must be citizen, national or legal permanent resident alien; aged 18 or over; living in the 50 states or DC. Sponsor must be petitioner. Sponsor must notify AG and the state in which sponsored alien is resident within 30 days of moving. AG (in consultation with Secretaries of State and HHS) shall formulate affidavit not later than 90 days after enactment. Requirements for affidavit apply to those executed on date specified by AG, which shall be between 60 and 90 days after formulation of affidavit.	Age, health, family status, financial resources, education, skills of immigrant to be taken into account. Affidavits of support required for all family based immigrants except certain battered or widowed spouses and children and for employment based immigrants where petitioner is a relative where relative has a significant ownership interest. (531) Sponsor must agree to support alien at 125% of poverty level (100% for sponsors on active duty in armed services). Enforceable until immigrant naturalizes or has 40 qualifying quarters of work. Adds "territory or possession of the United States" to place of residence Also allows a person meeting other requirements who assumes joint and several liability with the petitioner to be a sponsor. AG will enforce address reporting through regulations. AG must consult with heads of appropriate agencies and formulate form within 90 days of enactment. Form to be used 30 to 60 days after formulation. (551)

	Previous Law	New Law - Welfare Reform	
Deeming of Sponsor's Income	A portion of sponsor's (and the sponsor's spouse's) income is deemed to the immigrant for 3 years for AFDC and food stamps, for 5 years for SSI (until 10/1/96) when determining eligibility for benefits.	For any federal means-tested program, the full income and resources of a sponsor and the sponsor's spouse is deemed to immigrant until citizenship or until immigrant has worked 40 qualifying quarters (421). Deeming does not apply to excepted programs listed in legal immigrant eligibility (403(c)). Programs that currently deem must apply new deeming rules to eligibility determinations made after enactment; programs that do not currently deem must apply new deeming rules beginning 180 days after enactment (421(d)). (The new deeming rules apply only to immigrants who sign new affidavits, who are barred for 5 years from the same programs to which deeming applies. Therefore, deeming effectively does not kick in until after 5 year bar, except for sponsored veterans and deportation withheld.)	Sponsor must demonstrate ability to maintain 125% of poverty line by providing certified Federal tax returns for previous 3 years (or 1 year for certain LPRs possible.) May include aliens' or their sponsors' assets. The poverty line is OMB level published annually by HHS. Determination based on family size including the sponsor, sponsor's dependents, and all sponsored immigrants and their dependents. (551) An exception to the Federal attribution of income rule is made for indigence and certain battered spouses and children. Agencies making indigence determinations must provide names of sponsors and sponsored aliens to AG. (552)
State Options on Deeming	States are not permitted to deem.	States may deem for legal immigrants for state-funded programs; program exceptions include first seven in 402(a)(2) list (422). (This means that states have options to deem, bar, or not restrict at all in their own programs.)	States may prohibit/limit eligibility for all or certain alien categories for general public cash assistance and may deem sponsors' income.
Reimbursement of Government Expenses	Three Federal programs may request reimbursement from sponsor but not enforceable.	Federal, state, or local agencies must request reimbursement from sponsors and may commence action for nonresponse in 45 days and for noncompliance with terms of repayment within 60 days. Can use outside parties to collect money owed. No action may be initiated later than 10 years after alien last received benefits. AG in consultation with Secretary of HHS shall prescribe regulations. (423)	Same, but number of days before action may be brought against sponsor for noncompliance with terms of repayment is not specified. AG prescribes regulations in consultation with heads of appropriate Federal agencies (not only HHS). (551)

	Previous Law	New Law - Welfare Reform	New Law- Immigration Reform
Public Charge Bonds	Aliens likely to become public charges may be admissible upon posting suitable bonds at discretion of AG (213 INA). Such bonds rarely used by INS or Consular officers.		Establishes pilot programs in five INS district offices to require aliens to post bonds to cover the cost of benefits for the alien and his/her dependents for 6 months (in addition to filing affidavits of support and deeming provisions.) Regulations for establishing pilots must be published within 180 days of enactment. (564)
Verification of Status	SAVE required to be used to verify status for AFDC, food stamps, Medicaid, unemployment compensation, education assistance, housing assistance.	No later than 18 months after enactment, AG shall (after consultation with with Secretary of HHS) promulgate regulations requiring verification that a person applying for a federal public benefit (as defined in 401(c)) is a qualified alien and is eligible to receive the benefit. To extent feasible, regulations shall require that information requested and exchanged be similar in form and manner to that under SAVE (432). No later than 24 months after regulations are adopted, states administering federal benefits shall have verification system in effect. “There are authorized such sums as may be necessary to carry out the purpose of this section.”	States and institutions of higher education shall transmit copies of or information from documents specified by INS for official verification. (507) Nonprofit charitable organizations are not required to determine, verify, or require proof of eligibility for any Federal, state, or local benefit (508) Information regarding sponsorship and affidavits is to be provided through SAVE (551) The affidavit of support shall include the sponsor’s SSN which shall be included in an automated system established for this purpose. (551) Provides for INS verification of immigration status and eligibility for financial and housing assistance. (574)
Reporting of Illegal Immigrants to INS	Certain jurisdictions have laws prohibiting, for example, communication between local law enforcement and the INS.	States providing benefits must, at least four times annually and upon request of INS, report to the INS the name, address, other information, on any individual who the state knows is unlawfully in the United States (411A). No state or local government may be prohibited from sending to or receiving from the INS information regarding the immigration status, lawful or unlawful, of an alien in the United States (434).	

	Previous Law	New Law - Welfare Reform	New Law- Immigration Reform
Miscellaneous Provisions			Allows states to conduct pilot programs denying issuance of driver's licenses to aliens not lawfully present within guidelines established by the Attorney General within 6 months of enactment. The AG must report to Congress within 3 years of enactment on the results of these pilots. (502) Within 18 months of enactment the AG, in consultation with HHS, will establish procedures for applicants for Federal public benefits to provide proof of citizenship in a fair and nondiscriminatory manner. (504) Federal, state, and local agencies administering programs affected by this title are to provide general public notification concerning changes made to eligibility. However, lack of notice does not affect continued or future eligibility for benefits. (593) Provides criminal penalties for forging or counterfeiting seals of Federal departments or agencies to facilitate benefit fraud by unlawful aliens. (561) Provides new guidelines for use of assisted housing by aliens, including pro rating of benefits when some members are eligible but others are not. (Subtitle E) Restrictions on assistance to aliens do not apply to benefits provided under programs of foreign assistance determined by the Secretary of State in consultation with the AG. (592) <u>Studies and Reports:</u> • The AG shall report annually on the number of sponsors and the number in compliance with their financial obligations. (551) • Within 180 days of the end of each FY, the AG shall report on the number of public charge deportations, the number of indigent sponsors, and the number and amount of actions brought against sponsors for recovering the cost of public benefits provided. (565) • Within 1 year of enactment, GAO will study the extent to which non LPRs are receiving postsecondary Federal student financial assistance, and SSA and the Department of Education will report on their computer matching program (506) • Within 180 days of enactment, GAO shall submit a report on the extent to which means-tested benefits are being provided to aliens who are not qualified aliens. (509)

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Office for Refugees and Immigrants

Nancy Van Pham, State Refugee Coordinator
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Boston, MA 02116

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(617) 727-1822

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Joseph Gallant, Commissioner

Department of Social Services

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Boston, MA 02210

Phone: (617) 348-5970
Fax: (617) 727-0166

Phone: (617) 727-0900 ext. 502
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MICHIGAN

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NEW HAMPSHIRE

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WYOMING

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Verification

BACKGROUND TO CONFERENCE SESSIONS

Day 2

Session Title: Implementing the Challenges: Verification

Session Moderator: Barbara Strack

Other Presenters: John Nahan, Steve Bucher

Background References: IIRAIRA, Summary, Welfare Reform Bulletin Board

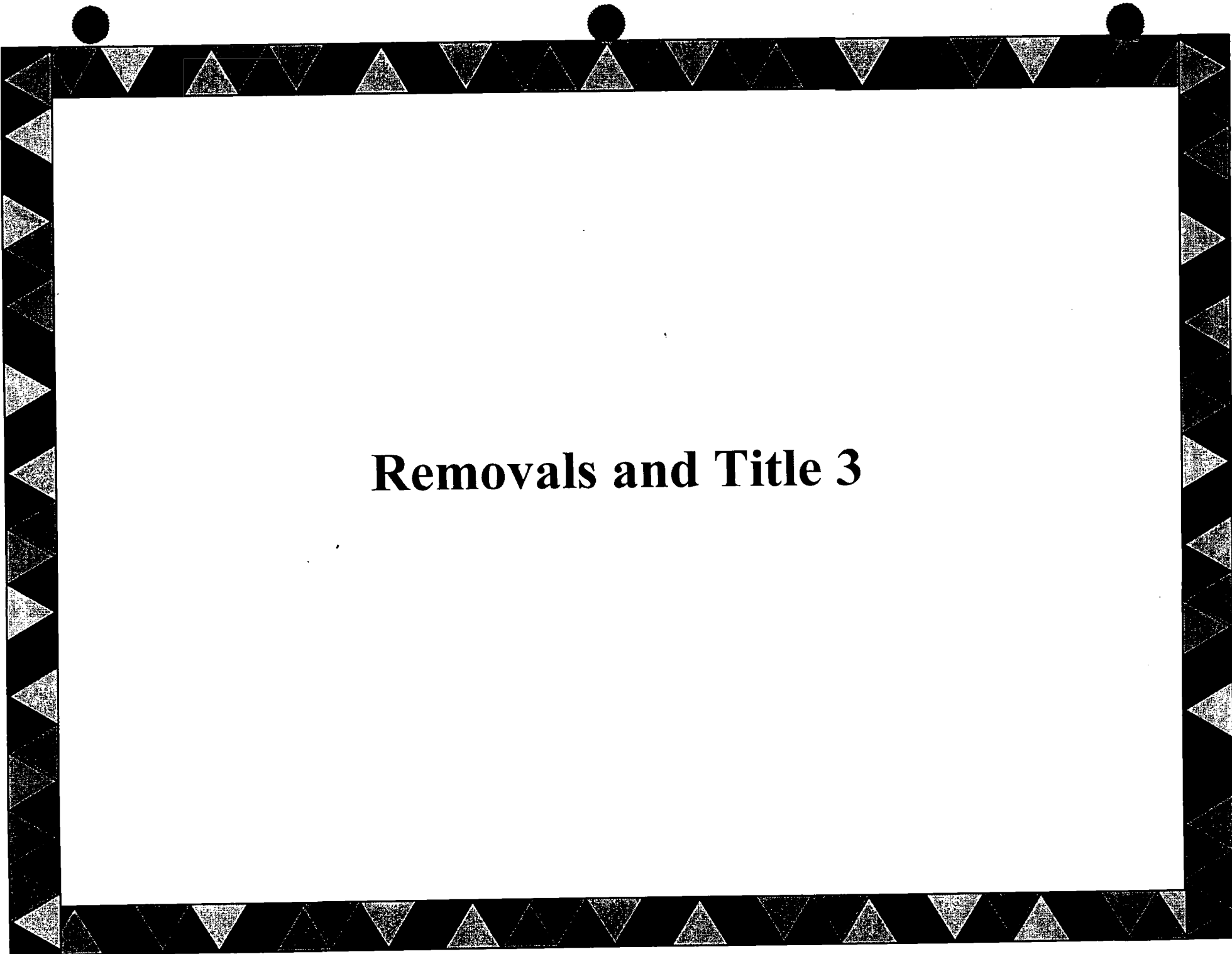
Documents in Conference Notebooks: See IIRAIRA materials and Welfare Act Summary

Handouts at Session: Possible -- TBD

Purpose of the Session: This session will provide participants with an overview of the verification provisions and requirements of IIRAIRA and the Welfare Act. The session will also serve as a discussion on implementation of the provisions, resource issues involved and time frames.

Agenda and/or Topics to be Discussed:

1. SAVE Improvements
2. New Verification System
3. Employment Verification (existing and under IIRAIRA)



Removals and Title 3

BACKGROUND TO CONFERENCE SESSIONS

Day 2 (Wednesday)

Session Title: **Title 3: Removals, Expedited Removal, and "Credible Fear" Screening**

Session Moderator: Lawrence J. Weinig, Director, Field Manual Project Office

Other Presenters: Joan C. Higgins, Assistant Commissioner, Detention and
Deportation
Phyllis Coven, Director, International Affairs
Leonard C. Loveless, Sr. Detention and Deportation Officer
(alternate)

Background References: INS draft proposed rule 1788-95; Illegal Immigration and
Immigrant Responsibility Act of 1996, Public Law 104-208

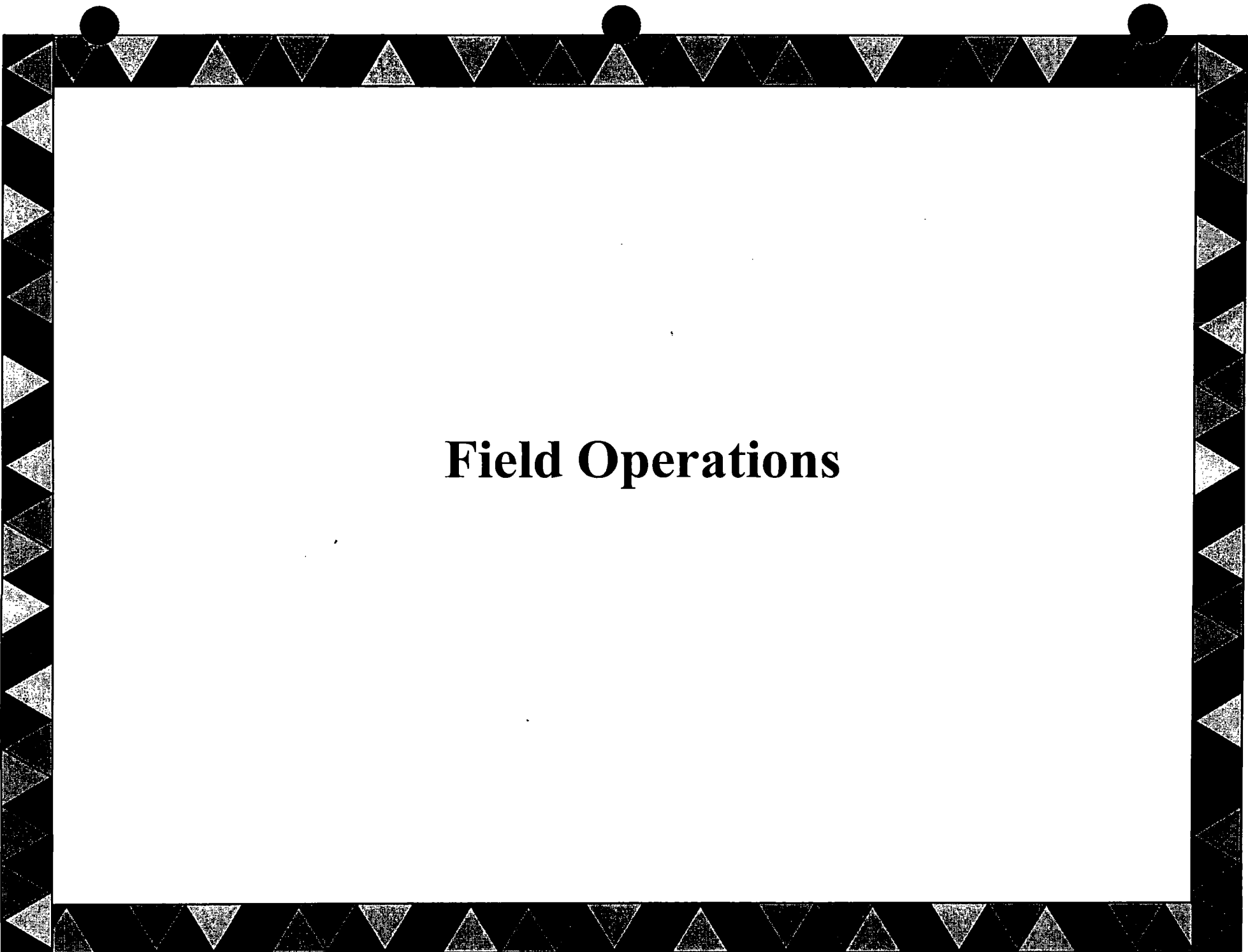
Documents in Conference Notebooks: None

Handouts at Session: Summary of key provisions; flowchart for expedited removal;
Credible Fear Interview and Factfinding Worksheet

Purpose of the Session: This session will familiarize attendees with key elements of title 3 of Pub. L. 104-208. This presentation will also include a brief discussion of the handling of asylum claims by arriving aliens using the new APSO process. Presenters will answer questions concerning implementation of the new law. Time permitting, more focused discussions of specific provisions, designed to elicit input from field managers will be initiated.

Agenda and/or Topics to be Discussed:

1. New Terminology: Applicants for admission, arriving aliens, removal.
2. Treatment of EWI aliens.
3. Withdrawal and voluntary departure.
4. Removal proceedings.
5. Detention.
6. Reinstatement of previous removal orders.
7. Administrative removals.
8. Expedited removal of certain arriving aliens.
9. Asylum claims asserted during removal proceedings.
10. The APSO program.



Field Operations

BACKGROUND TO CONFERENCE SESSIONS

Day 2

Session Title: Part 1 - Implementing New Challenges - Field Operations
Part 11- New Laws and Enforcement Authorities - Investigations/Programs

Session Moderators: Gary Witt and Joseph J. Zarkauskas

Other Presenters: Scott Weber, Special Agent, Phoenix District
Gina DiGuseppe, Counsel, DOJ Office of Enforcement Operations
Paul King, Asset Forfeiture Specialist, DOJ Contractor
John Hughes, Senior Special Agent, San Diego District

Background References: IIRAIRA, Antiterrorism and Effective Death Penalty Act, Electronic Surveillance and Stored Communications (DOJ document)

Documents in Conference Notebooks: Part 1 - None; Part 2 - Discussion Outline and Presenters Credentials

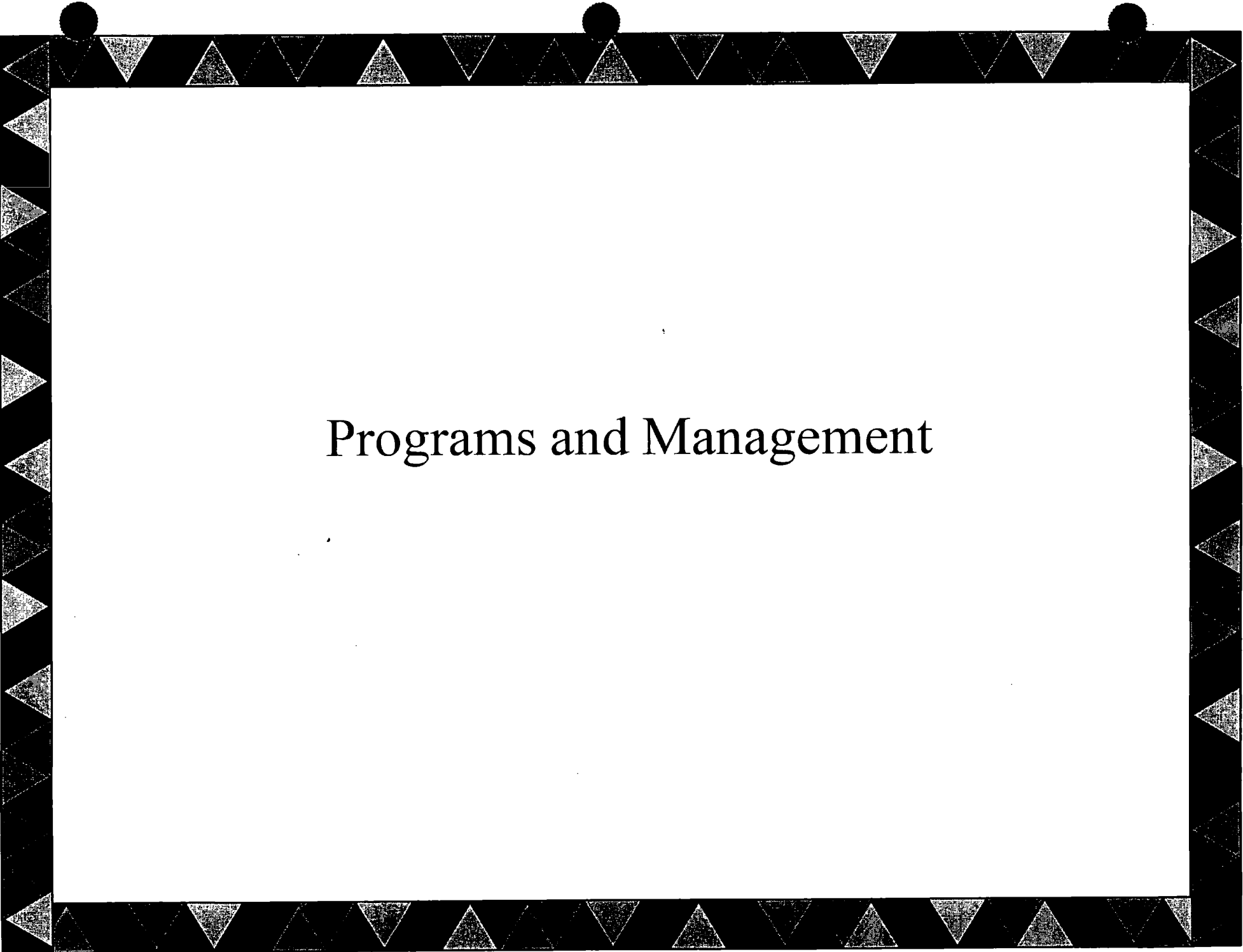
Handouts at Session: Issue Paper, DOJ Electronic and Stored Communications document and overview of RICO to be provided by DOJ Criminal Division

Purpose of the Session: Part 1 - To provide a framework for the participants wherein a presentation of the Attorney General's authority to delegate INS enforcement to other state and local law enforcement agencies can take place. Options and concerns will be elicited.

Part 2 - To provide senior managers the opportunity to discuss with experts the new laws and enforcement authorities available to Service officers.

Agenda and/or Topics to be Discussed:

1. Delegation of Enforcement Authority
2. Level of sensitivity involved in a Title III operation
3. Benefits to these types of operations (Put the organization *out* of business)
4. Potential return on organized expanded seizure operations



Programs and Management

BACKGROUND TO CONFERENCE SESSION

Day: 2

Session Title: Working Group V, IIRAIRA Implementation

Session Moderator: Jackie Bednarz, Programs

Other Presenter: Marion Metcalf

Background reference: IIRAIRA

Documents in conference notebooks: Background on waivers, document reduction provisions

Handouts at session: Document reduction background information, new grounds of inadmissibility and waivers

Purpose of the Session: Describe issues, obtain feedback for use by implementation team

Agenda and/or Topics to be Discussed: Grounds of inadmissibility, waivers, and parole; document reduction; “good faith” paperwork provision, meaning of technical compliance.

Documents Showing Identity and Work Eligibility

			93/95 Proposed Rules					
List A	Current List B	List C	List A	List B	List C	List A	IIRAIRA List B	List C
U.S Passport	Driver's license or ID card issued by a state or outlying possession	US Social Security card (other than a card stating it is not valid for employment)	U.S Passport	Driver's license or ID card issued by the Federal Govt, a state, or an outlying possession	US Social Security card with no employment restrictions	United States Passport	Driver's license or ID card issued by a state or an outlying possession	social security account number card
Certificate of US Citizenship (N-560 or N-561)	ID card issued by federal, state, or local government or entities	Certification of birth abroad issued by the Dept of State (FS-54 or DS-1350)	Certificate of US Citizenship (N-560 or N-561)	Native American tribal document	Original or certified copy of a birth certificate	resident alien card, alien registration card, or other document designated by the AG that-		other document evidencing authorization of employment in the US, by reg
Certificate of Naturalization (N-550 or N-570)	School ID card with a photograph	Original or certified copy of a birth certificate	Certificate of Naturalization (N-550 or N-570)	Driver's license issued by a Canadian government authority or a Canadian federal or provincial ID card	Native American tribal document	(I) contains a photograph; (II) is evidence of US work authorization; and (III) contains security features		
Unexpired foreign passport, with I-551 stamp or attached I-94 indicating unexpired employment authorization	Voter's registration card	Native American tribal document	Unexpired foreign passport, with unexp. stamp which reads "proc. for I-551...." "Temp. Form I-551..." Stamp may be placed on I-94 if alien not in possession of passport.		Unexpired I-94 indicating admission as a refugee or containing an unemployment authorization stamp			
Alien Registration Receipt Card (I-551)	US Military card or draft record	US Citizen ID card (I-197)	Alien Registration Receipt Card (I-551)					
other alien registration cards:	Military dependent's ID card	ID Card for use of resident citizen in the US (I-179)	Unexpired employment authorization document issued by INS (I-766, I-688)(I-688A or I-688B until 12/31/96)					
Unexpired Temporary Resident Card (I-688)	US Coast Guard Merchant Mariner card	Unexpired employment authorization document issued by the INS						
Unexpired Employment Authorization Card (I-688A)	Native American tribal document							
Unexpired Reentry Permit (I-327)	Driver's license issued by a Canadian government authority							
Unexpired Refugee Travel Document (I-571)	for persons under age 18 (16 in statute) who are unable to present a document listed above:							
Unexpired Employment Authorization Document (I-688B or I-756)	School record or report card							
	clinic, doctor, or hospital record							
	Day-care or nursery school record							

New Document Provisions

274A(1)(b)(1) Attestation after examination of documentation...

(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT AUTHORIZATION AND IDENTITY. - A document described in this subparagraph is an individual's

(i) United States Passport

(ii) resident alien card, alien registration card, or other document designated by the Attorney General if the Document -

(I) contains a photograph of the individual and such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this subsection,

(II) is evidence of authorization of employment in the United States, and

(III) contains security features to make it resistant to tampering, counterfeiting, fraudulent use

(C) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION

A document described in this subparagraph is an individual's

(i) social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States), or

(ii) other documentation evidencing authorization of employment in the United States which the attorney general finds, by regulation, to be acceptable for purposes of this section

(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUALS

[unchanged - driver's license, state id, documents by regulation]

(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS

If the Attorney General finds, by regulation, that any document described in paragraph (B), (C), or (D) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Attorney General may prohibit or place conditions on its use for purposes of this subsection.

GROUND S OF INELIGIBILITY & WAIVERS

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA) amends significantly §212 of the Immigration and Nationality Act.

New grounds of inadmissibility, waivers, and limitations on parole authority are found in Titles I through VI of IIRAIRA.

The following summarizes the revised grounds of inadmissibility under §212(a) and the corresponding waivers available.

1. PURPOSE. THE PURPOSE OF THIS SUMMARY IS TO PROVIDE INFORMATION ON THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996 (IIRAIRA), PUB. L. 104-208, WHICH WAS SIGNED ON SEPTEMBER 30, 1996, AS PART OF THE OMNIBUS APPROPRIATIONS BILL. IIRAIRA AMENDS THE GROUNDS OF INADMISSIBILITY UNDER SECTION 212 OF THE IMMIGRATION AND NATIONALITY ACT (ACT), AND MANY OF THE WAIVER PROVISIONS. THERE ARE A BROAD RANGE OF IMPLEMENTATION ISSUES CURRENTLY UNDER REVIEW. THIS CABLE IS INTENDED PRIMARILY TO PROVIDE AN OVERVIEW OF THE CHANGES MADE BY IIRAIRA WITH RESPECT TO EXCLUSION AND WAIVERS. FURTHER GUIDANCE WILL FOLLOW AS THE VARIOUS IMPLEMENTATION

ISSUES ARE RESOLVED.

2. REFERENCES TO EXCLUDABILITY REPLACED WITH REFERENCES TO INADMISSIBILITY. IIRAIRA CHANGED ALL REFERENCES TO EXCLUDABLE, EXCLUSION, AND EXCLUDABILITY UNDER SECTION 212 OF THE ACT, BY REPLACING THEM WITH REFERENCES TO INADMISSIBLE, INADMISSIBILITY AND ALIENS DENIED ADMISSION. IIRAIRA ALSO REDESIGNATED THE GROUNDS OF DEPORTATION UNDER SECTION 237 (SMALL A) OF THE ACT (FORMERLY UNDER SECTION 241 (SMALL A) OF THE ACT), AND CREATED AN EXCLUSIVE REMOVAL PROCEEDING FOR EXCLUSION AND DEPORTATION UNDER SECTION 240 OF THE ACT.

3. NEW REMOVAL PROCEEDING. THE NEW REMOVAL PROCEEDING CREATED UNDER SECTION 240 OF THE ACT BY IIRAIRA WILL BE USED TO DETERMINE WHETHER AN ALIEN IS ELIGIBLE TO BE ADMITTED INTO THE UNITED STATES, AND, FOR ALIENS ALREADY ADMITTED, WHETHER OR NOT THEY SHOULD BE REMOVED. ALIENS PLACED IN PROCEEDINGS UNDER SECTION 240 OF THE ACT MAY BE CHARGED WITH THE APPLICABLE GROUNDS OF INADMISSIBILITY UNDER SECTION 212 OF THE ACT, OR WITH THE APPLICABLE GROUND OF DEPORTABILITY UNDER SECTION 237 (SMALL A) OF THE ACT.

EFFECTIVE DATE: PURSUANT TO SECTION 309 (SMALL C) (1) OF IIRAIRA, EXCLUSION AND DEPORTATION PROCEEDINGS (INCLUDING JUDICIAL REVIEW) SHALL CONTINUE WITH RESPECT TO ALIENS IN SUCH PROCEEDINGS AS OF THE TITLE III-A EFFECTIVE DATE, WHICH IS 180 DAYS AFTER THE DATE OF ENACTMENT, OR APRIL 1, 1997.

4. **TRANSITION FOR ALIENS ALREADY IN EXCLUSION OR DEPORTATION PROCEEDINGS:** PURSUANT TO SECTION 309 (SMALL C) (2) OF IIRAIRA, THE ATTORNEY GENERAL MAY ELECT TO INITIATE PROCEEDINGS UNDER CHAPTER 4 OF TITLE II OF IIRAIRA IN CASES WHERE AN EVIDENTIARY HEARING UNDER SECTION 236, 242 OR 242 (B) OF THE ACT HAS NOT COMMENCED AS OF THE IIRAIRA TITLE III-A EFFECTIVE DATE, APRIL 1, 1997.

5. **WAIVER AVAILABILITY IN GENERAL.** UNLESS OTHERWISE STATED IN THIS CABLE, NONIMMIGRANTS WHO ARE INADMISSIBLE BECAUSE OF CHANGES MADE BY IIRAIRA MAY APPLY FOR WAIVERS UNDER SECTION 212 (SMALL D) (3) (A) OR (B) OF THE ACT, AS APPROPRIATE. WAIVER AVAILABILITY FOR IMMIGRANTS AFFECTED BY IIRAIRA WILL BE ADDRESSED INDIVIDUALLY.

5. **NEW VACCINATION REQUIREMENT.** SECTION 341 OF IIRAIRA AMENDED THE MEDICAL-RELATED GROUNDS OF INADMISSIBILITY AS DESIGNATED UNDER SECTION 212(SMALL A)(1)(A) OF THE ACT, BY CREATING A FOURTH SUB-GROUP, LACK OF VACCINATION DOCUMENTS. IIRAIRA CREATED A NEW SECTION 212(A)(1)(A)(SMALL II) OF THE ACT TO DENY ADMISSION TO ALIENS APPLYING FOR AN IMMIGRANT VISA OR ADJUSTMENT OF STATUS WHO FAIL TO SUBMIT PROOF OF VACCINATION AGAINST SEVERAL VACCINE-PREVENTABLE DISEASES. THESE VACCINES HAVE BEEN SPECIFICALLY NAMED IN THE ACT AND INCLUDE MUMPS, MEASLES, RUBELLA, POLIO, TETANUS AND DIPHTHERIA TOXOIDS, PERTUSSIS, INFLUENZA TYPE B AND HEPATITIS B, AS WELL AS ANY OTHER VACCINATIONS RECOMMENDED BY THE ADVISORY COMMITTEE FOR IMMUNIZATION PRACTICES. THIS NEW GROUND OF INADMISSIBILITY DOES NOT APPLY TO NONIMMIGRANTS.

EFFECTIVE DATE: PURSUANT TO SECTION 341(SMALL C) OF IIRAIRA, THE NEW VACCINATION REQUIREMENT SHALL APPLY WITH RESPECT TO APPLICATIONS FOR IMMIGRANT VISAS OR FOR ADJUSTMENT OF STATUS FILED AFTER THE EFFECTIVE DATE, SEPTEMBER 30, 1996.

6. REDESIGNATION OF REMAINING MEDICAL-RELATED GROUNDS OF INADMISSIBILITY. IIRAIRA REDESIGNATED SECTION 212 (SMALL A)(1)(A)(SMALL II) OF THE ACT RELATING TO PHYSICAL AND MENTAL DISORDERS WITH BEHAVIOR THAT IS HARMFUL TO THE ALIEN AND/OR OTHERS (OR A HISTORY OF SUCH A DISORDER WITH HARMFUL BEHAVIOR THAT IS LIKELY TO RECUR), AS SECTION 212(SMALL A)(1)(A)(SMALL III) OF THE ACT.

IIRAIRA REDESIGNATED SECTION 212 (SMALL A)(1)(A)(SMALL III) OF THE ACT RELATING TO DRUG ABUSE AND DRUG ADDICTION AS SECTION 212(SMALL A)(1)(A)(SMALL IV) OF THE ACT.

7. NEW WAIVER PROVISIONS RELATING TO THE VACCINATION REQUIREMENT. IIRAIRA CREATED A NEW SECTION 212(SMALL G)(2) OF THE ACT TO AUTHORIZE WAIVERS FOR ALIENS WHO ARE INADMISSIBLE BECAUSE THEY DID NOT PRESENT DOCUMENTATION OF HAVING RECEIVED THE REQUIRED VACCINES AT THE TIME OF APPLICATION FOR AN IMMIGRANT VISA OR ADJUSTMENT OF STATUS. THE WAIVER PROVISIONS ARE AS FOLLOWS.

SECTION 212 (SMALL G)(2)(SMALL I) OF THE ACT ALLOWS THE ATTORNEY GENERAL TO GRANT A WAIVER IF THE ALIEN IS VACCINATED AGAINST THOSE DISEASES FOR WHICH HE OR SHE WAS UNABLE TO PRESENT DOCUMENTATION AT THE TIME OF APPLICATION FOR AN IMMIGRANT VISA OR FOR ADJUSTMENT OF STATUS.

SECTION 212 (SMALL G)(2)(SMALL II) OF THE ACT ALLOWS THE ATTORNEY GENERAL TO GRANT A WAIVER, IF A CIVIL SURGEON, MEDICAL OFFICER, OR PANEL PHYSICIAN CERTIFIES ACCORDING TO REGULATIONS PRESCRIBED BY THE SECRETARY OF HEALTH AND HUMAN SERVICES (HHS), THAT THE VACCINATION(S) WOULD NOT BE MEDICALLY APPROPRIATE.

SECTION 212(SMALL G)(SMALL III) OF THE ACT DIRECTS THE ATTORNEY GENERAL TO PRESCRIBE REGULATIONS TO PROVIDE WAIVERS IN CASES WHERE COMPLIANCE WITH THE VACCINATION REQUIREMENT WOULD BE CONTRARY TO THE ALIEN'S RELIGIOUS BELIEFS OR MORAL CONVICTIONS.

ALL THE PROVISIONS UNDER SECTION 212(SMALL G)(2) OF

OF THE ACT RELATING TO WAIVERS OF THE VACCINATION REQUIREMENTS BECAME EFFECTIVE ON THE IIRAIRA ENACTMENT DATE, SEPTEMBER 30, 1996.

8. REDESIGNATION OF REMAINING MEDICAL-RELATED WAIVER PROVISIONS. FORMER SECTION 212 (SMALL G)(2) OF THE ACT, CREATED BY IMMACT90, WHICH PROVIDES WAIVERS FOR ALIENS FOUND INADMISSIBLE UNDER SECTION 212(SMALL A)(1)(A)(SMALL III) OF THE ACT DUE TO A PHYSICAL OR MENTAL DISORDER WITH ASSOCIATED HARMFUL BEHAVIOR (OR A HISTORY OF SUCH A DISORDER WITH HARMFUL BEHAVIOR THAT IS LIKELY TO RECUR), HAS BEEN REDESIGNATED AS SECTION 212(SMALL G)(3) OF THE ACT.

WAIVERS REMAIN UNAVAILABLE TO IMMIGRANTS FOUND INADMISSIBLE UNDER SECTION 212(SMALL A)(1)(A)(SMALL IV) OF THE ACT DUE TO DRUG ABUSE OR DRUG ADDICTION. SUCH ALIENS, HOWEVER, ARE NOT INADMISSIBLE IF THEY ARE FOUND, IN ACCORDANCE WITH HHS GUIDELINES, TO BE IN REMISSION FOR PRIOR DRUG ABUSE OR DRUG ADDICTION.

9. ADDITIONAL TERRORIST-RELATED GROUNDS OF INADMISSIBILITY. THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT (AEDPA), PUB. L. 104-132, WAS SIGNED INTO LAW ON APRIL 24, 1996. AEDPA REVISED THE TERRORIST-RELATED GROUNDS OF INADMISSIBILITY UNDER SECTION 212(SMALL A)(3)(B) OF THE ACT BY PROVIDING A PROCESS UNDER SECTION 219 OF THE ACT BY WHICH THE U.S. GOVERNMENT WILL DESIGNATE AN ORGANIZATION AS A FOREIGN TERRORIST ORGANIZATION; RENDERING REPRESENTATIVES AND MEMBERS OF DESIGNATED TERRORIST ORGANIZATIONS INADMISSIBLE UNDER SECTIONS 212 (SMALL A) (3) (B) (SMALL I) (III) AND (IV), RESPECTIVELY; AND BY DENYING VARIOUS FORMS OF RELIEF TO ALIEN TERRORISTS, SUCH AS ASYLUM, WITHHOLDING OF DEPORTATION, ADJUSTMENT OF STATUS, AND REGISTRY. REFER TO AEDPA IMPLEMENTATION INSTRUCTION #3 DATED AUGUST 6, 1996, HQ 50/5.11.1(P), FOR FURTHER INFORMATION.

SECTION 342 OF IIRAIRA FURTHER AMENDED THE TERRORIST-RELATED GROUNDS OF INADMISSIBILITY UNDER SECTION 212 (SMALL A) (3) (B) OF THE ACT TO DENY ADMISSION TO ALIENS WHO HAVE INCITED TERRORIST ACTIVITIES OR WHO HAVE PROVIDED FALSE DOCUMENTS TO

TERRORISTS. THIS GROUND OF INADMISSIBILITY IS AT SECTION 212 (SMALL A) (3) (B) (SMALL I) (III) OF THE ACT.

EFFECTIVE DATE: PURSUANT TO SECTION 342 OF IIRAIRA, THIS NEW GROUND OF INADMISSIBILITY RELATING TO INCITEMENT OF TERRORIST ACTIVITIES SHALL TAKE EFFECT ON THE ENACTMENT DATE OF IIRAIRA, SEPTEMBER 30, 1996, AND SHALL APPLY TO INCITEMENT, REGARDLESS OF WHEN IT OCCURS.

SECTIONS 212 (SMALL A) (3) (B) (SMALL I) (III) AND 212 (SMALL A) (3) (B) (SMALL I) (IV) CREATED BY AEDPA, RELATING TO THE INADMISSIBILITY OF MEMBERS AND REPRESENTATIVES OF DESIGNATED TERRORIST ORGANIZATIONS, HAVE BEEN REDESIGNATED AS SECTIONS 212 (SMALL A) (3) (B) (SMALL I) (IV) AND (V), RESPECTIVELY.

WAIVERS ARE NOT AVAILABLE TO IMMIGRANTS FOUND INADMISSIBLE ON ANY GROUND UNDER SECTION 212 (SMALL A) (3) (B) OF THE ACT RELATING TO TERRORISM AND TERRORIST-RELATED ACTIVITIES.

10. PUBLIC CHARGE. SECTION 531 OF IIRAIRA AMENDS SECTION 212 (A) (4) OF THE ACT RELATING TO PUBLIC

CHARGE. SECTION 212 (SMALL A) (4) (A) OF THE ACT, AS CREATED BY IIRAIRA, PROVIDES FOR THE INADMISSIBILITY OF ALIENS WHO, IN THE OPINION OF THE CONSULAR OFFICER AT THE TIME OF APPLICATION FOR A VISA, OR IN THE OPINION OF THE ATTORNEY GENERAL AT THE TIME OF APPLICATION FOR ADMISSION OR ADJUSTMENT OF STATUS ARE LIKELY AT ANY TIME TO BECOME A PUBLIC CHARGE.

11. **FACTORS TO BE CONSIDERED.** SECTION 212 (SMALL A) (4) (B) (SMALL I) OF THE ACT, AS CREATED BY IIRAIRA, PROVIDES A LIST OF THE FACTORS TO BE TAKEN ACCOUNT IN DETERMINING WHETHER AN ALIEN IS LIKELY TO BECOME A PUBLIC CHARGE. THE CONSULAR OFFICER OR THE ATTORNEY GENERAL SHALL, AT A MINIMUM, CONSIDER THE ALIEN'S AGE, HEALTH, FAMILY STATUS, ASSETS, RESOURCES, AND FINANCIAL STATUS.

12. **NEW REQUIREMENTS FOR FAMILY SPONSORED IMMIGRANTS.** SECTION 212 (SMALL A) (4) (C) OF THE ACT AS CREATED BY IIRAIRA, PROVIDES THAT ALIENS ISSUED VISA NUMBERS UNDER SECTIONS 201 (SMALL B) (2) (CHILDREN, SPOUSES AND PARENTS OF U.S. CITIZENS) OR SECTION 203 (SMALL A) OF THE ACT (OTHER FAMILY-SPONSORED IMMIGRANTS SUBJECT TO NUMERICAL LIMITATIONS), ARE INADMISSIBLE UNLESS: THEY OBTAIN

STATUS AS A SPOUSE OR CHILD OF A U.S. CITIZEN UNDER SECTION 204 (SMALL A) (1) (a) (SMALL II), (SMALL (III)), OR (SMALL IV) OF THE ACT; OR CLASSIFICATION UNDER SECTION 204 (SMALL A) (1) (B) OF THE ACT AS _____; OR THE PERSON PETITIONING FOR THE ALIEN'S ADMISSION HAS EXECUTED AN AFFIDAVIT OF SUPPORT ON BEHALF OF THE ALIEN IN ACCORDANCE WITH SECTION 213A OF THE ACT.

13. NEW REQUIREMENTS FOR CERTAIN EMPLOYMENT-BASED IMMIGRANTS. SECTION 531 (SMALL A) OF IIRAIRA CREATED A NEW SECTION 212 (SMALL A) (4) (D) OF THE ACT TO REQUIRE AFFIDAVITS OF SUPPORT FOR CERTAIN EMPLOYMENT-BASED IMMIGRANTS. SPECIFICALLY, ANY ALIEN WHO SEEKS ADMISSION INTO THE UNITED STATES OR ADJUSTMENT OF STATUS UNDER ANY OF THE EMPLOYMENT-BASED CATEGORIES IN SECTION 203 (SMALL B) OF THE ACT THROUGH A PETITION FILED BY THE ALIEN'S RELATIVE (OR BY AN ENTITY IN WHICH THE RELATIVE HAS A SIGNIFICANT OWNERSHIP INTEREST) IS INADMISSIBLE, UNLESS THAT RELATIVE EXECUTES AN AFFIDAVIT OF SUPPORT PURSUANT TO SECTION 213A OF THE ACT.

EFFECTIVE DATE: PURSUANT TO SECTION 531 (SMALL B) OF IIRAIRA, SECTIONS 212 (SMALL A) (4) (A) AND (B)

OF THE ACT SHALL APPLY TO APPLICATIONS SUBMITTED NO LATER THAN 60 DAYS AFTER THE DATE THE ATTORNEY GENERAL PROMULGATES A STANDARD AFFIDAVIT OF SUPPORT. SECTION 551 (SMALL C) (2) OF IIRAIRA DIRECTS THE ATTORNEY GENERAL TO PROMULGATE A NEW AFFIDAVIT OF SUPPORT WITHIN 90 DAYS OF THE IIRAIRA ENACTMENT DATE, OR BY JANUARY 1, 1997. THEREFORE, THE NEW PUBLIC CHARGE GROUNDS OF INADMISSIBILITY UNDER SECTIONS 212 (SMALL A) (4) (A) AND (B) OF THE ACT WILL BECOME EFFECTIVE BY NO LATER THAN MARCH 1, 1997. PURSUANT TO SECTION 531 (SMALL B) OF IIRAIRA, SECTIONS 212 (SMALL A) (4) (C) AND (D) OF THE ACT SHALL NOT APPLY TO APPLICATIONS WITH RESPECT TO WHICH AN OFFICIAL INTERVIEW WITH AN IMMIGRATION OFFICER WAS CONDUCTED BEFORE THE EFFECTIVE IIRAIRA DATE, SEPTEMBER 30, 1996.

14. AFFIDAVITS OF SUPPORT. SECTION 423 OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 (PERSONAL RESPONSIBILITY ACT), PUB. L. 104-193, SIGNED INTO LAW ON AUGUST 22, 1996, CREATED A NEW SECTION 213A OF THE ACT TO PROVIDE THAT NO AFFIDAVIT OF SUPPORT MAY BE ACCEPTED BY THE ATTORNEY GENERAL OR BY ANY CONSULAR OFFICER TO ESTABLISH THAT AN ALIEN IS NOT

INADMISSIBLE UNDER SECTION 212 (SMALL A) (4) OF THE ACT AS AN ALIEN LIKELY TO BECOME A PUBLIC CHARGE, UNLESS THE AFFIDAVIT IS EXECUTED AS A BINDING CONTRACT. SECTION 551 OF IIRAIRA MODIFIES AND EXPANDS THE AFFIDAVIT OF SUPPORT REQUIREMENTS INITIALLY CREATED UNDER THE PERSONAL RESPONSIBILITY ACT.

15. SPONSORS REQUIREMENTS. SECTION 213A (SMALL A) (1) OF THE ACT, AS AMENDED BY IIRAIRA, PROVIDES THAT THE AFFIDAVIT OF SUPPORT MUST BE EXECUTED BY A SPONSOR OF THE ALIEN AS A CONTRACT IN WHICH THE SPONSOR AGREES TO PROVIDE SUPPORT TO MAINTAIN THE SPONSORED ALIEN AT AN ANNUAL INCOME THAT IS NOT LESS THAN 125 PERCENT OF THE FEDERAL POVERTY LINE DURING THE PERIOD IN WHICH THE AFFIDAVIT IS ENFORCEABLE. THE AFFIDAVIT OF SUPPORT MUST BE LEGALLY ENFORCEABLE AGAINST THE SPONSOR BY THE SPONSORED ALIEN, THE FEDERAL GOVERNMENT, ANY STATE (OR POLITICAL SUBDIVISION OF SUCH STATE), OR BY ANY OTHER ENTITY THAT PROVIDES ANY MEANS TESTED PUBLIC BENEFIT. THE SPONSOR MUST ALSO AGREE TO SUBMIT TO THE JURISDICTION OF ANY FEDERAL OR STATE COURT FOR ANY ACTION BROUGHT TO SEEK REIMBURSEMENT OF GOVERNMENT EXPENSES.

TRAINING.

EFFECTIVE DATE: THIS PROVISION BECAME EFFECTIVE OF
ON THE IIRAIRA ENACTMENT DATE, SEPTEMBER 30, 1996.