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Record Type: Record

To: Irene Bueno/OPD/EOP
cc: Gerri.Ratliff@intmail.usdoj.gov
Subject: Re[8]: restructuring

one attachment is the chart on status; the other is the redraft...Gerri will

call you in am to discuss in advance of 2 pm meeting
_____ Forward Header

Subject: Re[8]: restructuring
Author: Fred Gordon at HQ-PWC-001
Date: 05/08/2000 2:34 PM

Attached are the results of our Friday May 7
discussion.



- may5re~1.doc



- may5le~1.doc

Review of stakeholder comments on draft language for INS Restructuring legislation
May 5, 2000

Comments on INS Reorganization Substitute	INS Reaction
1. Pg 2: Section 2: Establishment of Office of Associate Attorney General for Immigration Affairs: (b) FUNCTIONS – language is not strong enough. (1) direct, supervise and coordinate is, but language of (2(and (3) is not: “coordinate,” “allocate” and “coordinate.” Why difference in language?	1. Done 2) add language ", supervise" 3) add language "direct, supervise" in lieu of "allocate"
2. Pg 3: (3) need to insert “all” – directing and supervising “all” budget formulation and execution for the.....	2. Done add after Immigration Services ", and all other organizations reporting to the Associate Attorney General for Immigration Affairs"
3. Pg 5: (e) (1) Office of Chief Policy Advisor – office responsible for establishing and coordinating. Not strong enough language.	3. Ask what language is recommended.
4. Pg 5: (e) (2) Office of Professional responsibility – “may” provide remedies not strong enough. Replace with “shall”	4. Done Replace may with "shall"
5. Pg 7: Section 3: Establishment of Bureau of Immigration Services – (2) why have these qualifications?	5. Emphasizes the need for experience in the management of claims processing organizations
6. Pg 8: (b) Inspections (discussed below)	6. Discussed below
7. pg 9: (2) why have these qualifications?	7. Emphasizes the desire for experience with the management of a law enforcement organization
8. pg 10: (c) Juvenile Programs – should not be in the Bureau of Immigration Enforcement	8. Disagree. Juvenile programs are all related to detention. Note we have included language in Sec. 4(c) establishing an office for juvenile programs within detention specifically to establish and administer policies for the care and shelter of minors.
9. pg 25: appropriations – need stronger language on firewalls and prohibition on fees used for indirect costs (computer systems, infrastructure).	9. -- Ask for a recommendation on language. Note that Sec. 11(b)(3) states "each fee collected for the provision of an adjudication or naturalization service shall be used only to fund adjudication or naturalization services..." -- Disagree. The discussions on fee structures in the Presidents FY2001

Also stronger language that asylum and refugee applicants' fees should be funded through direct Congressional appropriations. Also no establishment of a transition account included here.	budget address the need to include the cost of infrastructure as part of the expense of processing claims --Ask for recommendation on language. Sec. 11 b.3 includes "(4) There are authorized to be appropriated such funds as may be necessary to carry out provisions of sections 207 through 209." --Do not desire another account. Need the flexibility to act without reprogramming. Funding to be in S&E.
10. pg 25: (c) Sense of Congress. Both Bureaus "shall"(not "should") be adequately funded.	10. Done Replace "should" with "shall"
11. pg 26: Section 12 – (c) Explain areas included here like "expedited removal" Also need to look at how to coordinate, as well as providing for "separate administrative support systems" for the Bureaus.	11. Ask for clarification. -- This section requires an implementation plan for the Act. Do not understand intent of comment. -- The purpose of Sec. 12(c) is to require a plan to address these issues.- including adequate shared support
12. pg 27: (d) Detention: report should be on alternatives to detention. We oppose report on feasibility of transferring function to "the Federal Prison system or other Department of Justice entities."	12. -- Discuss. Reporting on alternatives to detention is one of the report subjects; ■ The administration advocates a feasibility study. Can delete the section or leave it in without effect on DOJ decision to complete such a study. ■ Ask the groups whether this report (Sec. 12(d) should be retained as is or dropped entirely
13. pg 27 (f) Reports on Improving Enforcement Function – Need to add something here about addressing civil rights concerns. See below, recommendations for language from HR3981, Law Enforcement Trust and Integrity Act.	13. Disagree. This proposal is duplicative and redundant of existing DOJ Inspector General and Office of Professional Responsibility authority, as well as intruding on Civil Rights Division and FBI criminal investigation/prosecution authority. Diverting resources and authority into a separate bureaucratic structure, rather than increasing staffing of existing organizations and further improving customer service, would be a wasteful step backward.
14. Pg 29: (b) Additional costs – why put	14. Delete paragraph. Page 25, Sec. 11(a)

“such sums” as necessary to establish office of AAG here and not in appropriations section?	addresses funding but needs the addition of the phrase " to establish the Office of the Associate Attorney General for Immigration Affairs and" after "necessary".
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15. pg 31: Section 16 Inspections: This is a step backwards from earlier proposal. Process is not mandatory, in fact in this version people won't even be advised of availability of this process. How do you "certify "ability, expertise and training?" Still under control of enforcement. There is little recognition that this is an adjudication process. No safeguards. Advocate Office has no transparency and there is no review. Will get more on this.	15. Discuss. There is no need to advise on a mandatory process. Sec. 16 language states that it will be mandatory that there be a process to require concurrence in orders and that this be conducted by officials with certification. This would be a third level of review since all expedited removals require a review in secondary.. --Is there a question about the kind of position that would concur in orders. Need clarification --Compliance with regulations and issues of performance a function associated with the Office of Quality Assurance created in Sec 2(g)(3). Need clarification.
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**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R 2528**

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE. - This Act may be cited as the
"Immigration Reorganization and Improvement Act of 1999."

(b) TABLE OF CONTENTS. - The table of contents of this Act is
as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Establishment of Office of Associate Attorney
General for Immigration Affairs.
- Sec. 3. Establishment of Bureau of Immigration
Services.
- Sec. 4. Establishment of Bureau of Immigration
Enforcement.
- Sec. 5. Exercise of authorities.
- Sec. 6. Savings provisions.
- Sec. 7. Transfer and allocation of appropriations and
personnel.
- Sec. 8. Statutory construction.
- Sec. 9. Personnel flexibilities.
- Sec. 10. Miscellaneous provisions.
- Sec. 11. Authorization of appropriations; prohibition on
transfer of fees; sense of Congress.
- Sec. 12. Reports and implementation plans.
- Sec. 13. Definitions
- Sec. 14. Effective date, transition.
- Sec. 15. Conforming Amendments to the Immigration and
Nationality Act.

SEC. 2. ESTABLISHMENT OF OFFICE OF ASSOCIATE ATTORNEY GENERAL FOR IMMIGRATION AFFAIRS.

(a) ESTABLISHMENT. -

(1) IN GENERAL. - There is established in the Department of Justice an office to be known as the Office of the Associate Attorney General for Immigration Affairs.

(2) ASSOCIATE ATTORNEY GENERAL –The head of the Office shall be the Associate Attorney General for Immigration Affairs, who-

(A) shall be appointed by the President, by and with the consent of the Senate; and

(B) shall report directly to the Attorney General;

(3) COMPENSATION AT RATE OF PAY FOR EXECUTIVE LEVEL III – Section 5314 of title 5, United States Code, is amended by adding at the end the following: (1)

‘Associate Attorney General for Immigration Affairs, Department of Justice.’

(b) FUNCTIONS. - The Associate Attorney General for Immigration Affairs-

(1) Shall direct, supervise and coordinate the activities of the Director of the Bureau of Immigration Services and the Director of the Bureau of Immigration Enforcement;

(2) Shall direct, supervise and coordinate the administration of national immigration policy, including coordinating the operations of the Bureau of Immigration Services and the Bureau of Immigration Enforcement, and reconcile conflicting policies of such offices and bureaus; and

(3) Shall direct, supervise and coordinate shared support

functions for the Bureau of Immigration Services, the Bureau of Immigration Enforcement, and offices within the Department of Justice, through the Office of Shared Services Established by subsection (f).

(c) AUTHORITY OF THE ATTORNEY GENERAL. —Nothing in this Act shall be construed to limit any power and duty of the Attorney General provided by section 103 of the Immigration and Nationality Act or other applicable law.

(d) CHIEF FINANCIAL OFFICER FOR OFFICE OF ASSOCIATE ATTORNEY GENERAL FOR IMMIGRATION AFFAIRS. - There shall be a position of Chief Financial Officer for the Office of the Associate Attorney General for Immigration Affairs and this position shall be a career reserved position within the Senior Executive Service. The Chief Financial Officer shall report to the Associate Attorney General for Immigration Affairs and shall be responsible for --

(1) the financial management of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services and the Bureau of Immigration Enforcement and shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities of the Office;

(2) collection of all fines and other debts for the Bureau of Immigration Services and the Bureau of Immigration Enforcement; and

(3) directing and supervising all budget formulation and execution for the Bureau of Immigration Services, for the Bureau of Immigration Enforcement and any other organizations reporting to the Associate Attorney General for

Immigration Affairs.

(e) CHIEF COUNSEL FOR IMMIGRATION AFFAIRS- There shall be a position of Chief Counsel in the Office of the Associate Attorney General for Immigration Affairs and this position shall be a general position within the Senior Executive Service. The Chief Counsel for Immigration Affairs shall report to the Associate Attorney General for Immigration Affairs and shall--

(1) set legal policy for the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services, and the Bureau of Immigration Enforcement;

(2) review and approve for legal sufficiency all regulations relating to immigration affairs;

(3) direct, supervise and coordinate the hiring and training of attorneys employed by the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services, and the Bureau of Immigration Enforcement;

(4) represent the Bureau of Immigration Services in visa petition appeal proceedings before the Executive Office for Immigration Review;

(5) represent the Bureau of Immigration Enforcement in all exclusion, deportation and removal proceedings before the Executive Office for Immigration Review; and

(6) represent the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services, or the Bureau of Immigration Enforcement, as appropriate, in all other administrative proceedings involving such office before the Executive Office for Immigration Review or other administrative forum, including, but not limited to employer sanctions, civil document fraud, carrier fines, and personnel matters.

(7) There are transferred to the Office of the Associate

Attorney General for Immigration Affairs all personnel, infrastructure, and funding provided to the Commissioner in support of the functions delegated by this section to the Chief Counsel for Immigration Affairs.

(f) OFFICE OF SHARED SERVICES. - There is established in the Office of the Associate Attorney General for Immigration Affairs an office to be known as the Office of Shared Services. The head of the Office of Shared Services shall be the Chief of the Office of Shared Services. This position shall be a career-reserved position within the Senior Executive Service. The Chief of the Office of Shared Services shall be responsible for the appropriate allocation and coordination of resources involved in supporting shared support functions for the Office of the Associate Attorney General, Bureau of Immigration Services and the Bureau of Immigration Enforcement.

(g) OTHER OFFICES IN SUPPORT OF THE OFFICE OF THE ASSOCIATE ATTORNEY GENERAL FOR IMMIGRATION AFFAIRS -- The Associate Attorney General For Immigration Affairs may establish offices to integrate the operations of the Bureau of Immigration Services and the Bureau of Immigration Enforcement into a national immigration system.

(1) OFFICE OF CHIEF POLICY ADVISOR. - There is established an office responsible for establishing and coordinating national immigration policies and priorities with the Bureau of Immigration Services and the Bureau of Immigration Enforcement. The head of the office of chief policy advisor shall be the Chief of the Office Of Chief Policy Advisor. This position shall be a general position within the Senior Executive Service

(2) Office of Professional Responsibility. —There is established an office responsible for conducting investigations of, and shall provide remedies for, allegations of misconduct,

corruption, and fraud involving any employee of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services, or the Bureau of Enforcement that are not subject to investigation by the Department of Justice Office of Inspector General or Office of Professional Responsibility. The head of Office Of Professional Responsibility shall be the Chief of the Office Of Professional Responsibility. This position shall be a career reserved position within the Senior Executive Service

(3) Office of Quality Assurance. —There is established an office responsible for inspecting the operations of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services and the Bureau of Immigration Enforcement, providing assessments of the quality of the operations and management of each such office The head of Office Of Quality Assurance shall be the Chief of the Office Of Quality Assurance. This position shall be a career reserved position with the Senior Executive Service

(4) OFFICE OF CONGRESSIONAL AND INTERGOVERNMENTAL RELATIONS – There is established an office be responsible for providing information relating to immigration affairs to the Congress and serving as a liaison with other Federal agencies, and with State and local governments on immigration affairs. The head of Office Of Congressional And Intergovernmental Relations shall be the Chief of the Office Of Congressional and Intergovernmental Relations. This shall be a general position within the Senior Executive Service.

(5) OFFICE OF PUBLIC AFFAIRS – There is established an office responsible for responding to inquiries from, and providing information to the media and general public on immigration affairs. This shall be a general position within the Senior

Executive Service.

(6) OFFICE OF COMMUNITY RELATIONS – There is established an office responsible for liaison with nongovernmental organizations and community groups regarding immigration affairs; and coordinating ombudsman and community relations activities of the Bureau of Immigration Services and the Bureau of Immigration Enforcement. The head of Office Of Community Relations shall be the Chief of the Office Of Community Relations. This shall be a general position within the Senior Executive Service.

SEC. 3. ESTABLISHMENT OF BUREAU OF IMMIGRATION SERVICES.

(a) ESTABLISHMENT OF BUREAU.

(1) IN GENERAL. - There is established in the Department of Justice a bureau to be known as the Bureau of Immigration Services (in this section referred to as the "Services Bureau").

(2) DIRECTOR. - The head of the Services Bureau shall be the Director of the Bureau of Immigration Services, who-

(A) shall be appointed by the Attorney General;

(B) shall report directly to the Associate Attorney General for Immigration Affairs; and

(C) shall have a minimum of 10 years experience in providing services or processing applications for benefits, or both, with at least 5 of those years in management, or shall have comparable management experience.

(3) COMPENSATION. - Such Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule (as listed in section 5315 of title 5, United States Code).

(4) FUNCTION. - Such Director-

(A) shall establish the policies for performing such functions as are transferred to the Director by this section or

this Act or otherwise vested in the Direct or by law;

(B) shall oversee the administration of such policies; including the functions of policy and strategy, community relations, statistics, budget and congressional relations within the Services Bureau; and

(C) shall advise the Associate Attorney General for Immigration Affairs with respect to any policy or operation of the Bureau of Immigration Services that may affect the Bureau of Immigration Enforcement, including potentially conflicting policies or operations.

(b) TRANSFER OF FUNCTIONS. - Except as otherwise provided in this Act, there are transferred from the Commissioner of the Immigration and Naturalization Service to the Director of the Bureau of Immigration Services all functions performed under the following programs, and all personnel, infrastructure, and funding provided to the Commissioner in support of such programs immediately before the effective date of this section:

(1) Adjudications of nonimmigrant and immigrant visa petitions.

(2) Adjudications of naturalization petitions.

(3) Adjudications of asylum and refugee applications.

(4) Adjudications performed at Service centers.

(5) All other adjudications under the Immigration and Nationality Act performed by the Immigration and Naturalization Service as of the date of the enactment of this Act.

(c) REFERENCES. - With respect to any function transferred from the Commissioner of the Immigration and Naturalization Service by this section or Act to, and exercised on or after the effective date of this section by, the Services Bureau, reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or and document of or pertaining to an office from which a function is so

transferred-

(1) to the head of such office is deemed to refer to the Director of the Bureau of Immigration Service; or

(2) to such office is deemed to refer to the Services Bureau

SEC. 4. ESTABLISHMENT OF BUREAU OF IMMIGRATION ENFORCEMENT.

(a) ESTABLISHMENT OF BUREAU. -

(1) IN GENERAL. - There is established in the Department of Justice a bureau to be known as the Bureau of Immigration Enforcement (in this section referred to as the "Enforcement Bureau").

(2) DIRECTOR. - The head of the Enforcement Bureau shall be the Director of the Bureau of Immigration Enforcement, who-

(A) shall be appointed by the Attorney General;

(B) shall report directly to the Associate Attorney General for Immigration Affairs; and

(C) shall have a minimum of 10 years experience in law enforcement, with at least 5 of those years in management, or shall have comparable management experience.

(3) COMPENSATION. - Such Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule (as listed in section 5315 of title 5, United States Code).

(4) FUNCTIONS. - Such Director-

(A) shall establish the policies for performing such functions as are transferred to the Director by this section or this Act or otherwise vested in the Director by law;

(B) shall oversee the administration of such policies, including the functions of policy and strategy, community liaison, statistics, budget, and congressional relations within the Enforcement Bureau; and

(C) shall advise the Associate Attorney General for Immigration Affairs with respect to any policy or operation of the Bureau of Immigration Enforcement that may affect the Bureau of Immigration Services, including potentially conflicting policies or operations.

(b) TRANSFER OF FUNCTIONS. - Except as otherwise provided by this Act, there are transferred from the Commissioner of the Immigration and Naturalization Service to the Director of the Bureau of Immigration Enforcement all functions performed under the following programs, and all personnel, infrastructure, and funding provided to the Commissioner in support of such programs immediately before the effective date of this section:

- (1) The Border Patrol program.
- (2) The detention and removal program
- (3) The intelligence program.
- (4) The investigations program.
- (5) The inspections program.

(c) JUVENILE PROGRAMS - The Director of the Bureau of Immigration Enforcement shall establish an office within the detention and removal program which shall establish and administer policies for the care and shelter of minors.

(d) REFERENCE. - With respect to any function transferred from the Commissioner of the Immigration and Naturalization Service by this section or Act to, and exercised on or after the effective date of this section by, the Director of the Bureau of Immigration Enforcement, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to an office from which a function is so transferred-

- (1) to the head of such office is deemed to refer to the Director of the Bureau of Immigration Enforcement; or

(2) to such office is deemed to refer to the Enforcement Bureau.

SEC. 5. EXERCISE OF AUTHORITIES.

Except as otherwise provided by law, a Federal official to whom a function is transferred by this Act may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act.

SEC. 6. SAVINGS PROVISIONS.

(a) **LEGAL DOCUMENTS.** - All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges-

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law. Nothing in this section shall be construed to extend any expiration or other date provided by such legal document.

(b) **PROCEEDINGS.** - Sections 3 and 4 and this section shall not affect any proceedings or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the

effective date specified in section 14(a) before an office whose functions are transferred by this Act, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(c) SUITS. - This Act shall not affect suits commenced before the effective date specified in section 14(a), and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS. - No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred by this section, shall abate by reason of the enactment of this Act.

(e) CONTINUANCE OF SUITS. - If any government officer in the official capacity of such officer is party to a suit with respect to a function of the officer and under this Act such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW. - Except as otherwise provided by this Act, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred by this Act shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred by such section.

**SEC. 7. TRANSFER AND ALLOCATION OF
APPROPRIATION AND PERSONNEL.**

(a) IN GENERAL. - The personnel of the Department of Justice employed in connection with the functions transferred by this Act (and functions that the Attorney General determines are properly related to the functions of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services or the Bureau of Immigration Enforcement and would, if transferred, further the purposes of the bureau to which the function is transferred), and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Immigration and Naturalization Service in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services or the Bureau of Immigration Enforcement for appropriate allocation by the Associate Attorney General for Immigration Affairs, the Director of the Bureau of Immigration Services or the Director of the Bureau of Immigration Enforcement, as appropriate. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds

were originally authorized and appropriated. The Attorney General shall have the right to adjust or realign transfers of funds and personnel effected pursuant to this Act for a period of 2 years after the date of the establishment of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services, and the Bureau of Immigration Enforcement.

(b) EFFECT ON PERSONNEL. -

(1) EFFECT ON INDIVIDUAL EMPLOYEES. - The transfer under this Act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer to the Bureau involved.

(2) COMPENSATION LEVELS. - All transfers of personnel under this Act shall be consistent with employee pay and grade retention entitlement under subchapter VI of chapter 53 of title 5, United States Code, and shall not be reduced for any individual in a career position in the civil service, as of the date of the enactment of this Act.

(c) NUMBER OF AUTHORIZED PERSONNEL. - Nothing in this Act shall be interpreted to decrease the number of authorized positions within each program as it exists on the date of the enactment of this Act in the Immigration and Naturalization Service.

(d) DELEGATION AND ASSIGNMENT. - Except as otherwise expressly prohibited by law or otherwise provided in this Act, the Associate Attorney General for Immigration Affairs, the Director of the Bureau of Immigration Services and the Director of the Bureau of Immigration Enforcement to whom functions are transferred under this Act may delegate any of the functions so transferred to such officers and employees of their respective offices, as the applicable

official may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this subsection or under any other provision of this Act shall relieve the official to whom a function is transferred under this Act of responsibility for the administration of the function.

(e) **AUTHORITIES OF ATTORNEY GENERAL.** - The Attorney General (or a delegate of the Attorney General), at such time or times as the Attorney General (or the delegate) shall provide, may make such determinations as may be necessary with regard to the functions transferred by this Act, and may make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this Act. The Attorney General shall provide for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

SEC. 8. STATUTORY CONSTRUCTION.

(a) **SECRETARY OF STATE.** - Nothing in this Act may be construed to preclude or limit in any way the powers, authorities, or duties of the Secretary of State and special agents of the Department of State and the Foreign Service under the State Department Basic Authorities Act of 1956, the Immigration and Nationality Act, or any other Act, to investigate illegal passport or visa issuance or use.

(b) **ATTORNEY GENERAL.** - Nothing in this Act may be construed to -

- (1) authorize or require the transfer or delegation of any function vested in, or exercised by, the Attorney General before the effective date of the transfer of functions under this Act

with respect to the institution of any prosecution, or the institution or defense, of any action or appeal, in any court of the United States established under Article III of the Constitution; or

- (2) Limit any power and duty of the Attorney General provided by section 103 of the Immigration and Nationality Act or other applicable law.

(c) REFERENCES. - Nothing in this Act may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by the Executive Office for Immigration Review, or any officer, employer, or component thereof.

SEC. 9. PERSONNEL FLEXIBILITIES.

(a) GENERAL IMPROVEMENTS IN PERSONNEL FLEXIBILITIES -Subpart I of part III of title 5, United States Code, is amended by adding at the end the following chapter:

CHAPTER 96 --PERSONNEL FLEXIBILITIES RELATING TO THE OFFICE OF THE ASSOCIATE ATTORNEY GENERAL FOR IMMIGRATION AFFAIRS, THE BUREAU OF IMMIGRATION SERVICES, AND THE BUREAU OF IMMIGRATION ENFORCEMENT

"9601. Office of the Associate Attorney General for Immigration Affairs Bureau of Immigration Services, and Bureau of Enforcement personnel flexibilities.

"9602. Pay authority for critical positions.

"9603. Streamline critical pay authority.

"9604. Recruitment, retention, relocation incentives, and relocation expenses.

§9601. Office of the Associate Attorney General for

Immigration Affairs, Bureau of Immigration Service and Bureau of Immigration Enforcement

personnel flexibilities

"(a) Any flexibilities provided by sections 9602 through 9604 shall be exercised in a manner consistent with-

"(1) chapter 23 (relating to merit system principles and prohibited personnel practices);

"(2) provisions relating to preference eligible;

"(3) except as otherwise specifically provided, section 5307 (relating to the aggregate limitation on pay);

"(4) except as otherwise specifically provided, chapter 71 (relating to labor-management relations); and

"(5) subject to subsections (b) and (c) of section 1104, as though such authorities were delegated to the Attorney General under section 1104(a)(2).

"(b) The Attorney General shall provide the Office of Personnel Management with any information that Office requires in carrying out its responsibilities under this section.

"(c) Employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any flexibility provided by sections 9602 through 9604.

§ 9602. Pay authority for critical positions

"(a) When the Attorney General seeks a grant of authority under section 5377 for critical pay for 1 or more positions at the Office of the Associate Attorney General for Immigration Affairs, or the Bureau of Immigration Services or the Bureau of Immigration Enforcement, the Office of Management and Budget may fix the rate of basic pay', notwithstanding sections 5377(d)(2) and 5307, at any rate up to the salary set in accordance with section 104 of title 3.

"(b) No allowance, differential, bonus, award, or similar cash payment may be paid to any employee receiving critical pay at a

rate fixed under subsection (a), in any calendar year if, or to the extent that, the employee's total annual compensation will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3.

§ 9603. Streamlined critical pay authority

"(a) Notwithstanding section 9602, and without regard to the provisions of this title governing appointments in the competitive service or the Senior Executive Service and chapters 51 and 53 (relating to classification and pay rates), the Attorney General may, for a period of 10 years after the date of the enactment of this section, establish, fix the compensation of, and appoint individuals to, designated critical administrative, technical, and professional positions needed to carry out the functions of the Office of the Associate Attorney General for Immigration Affairs, or the Bureau of Immigration Services or the Bureau of Immigration Enforcement, if -

"(1) the positions-

"(A) require expertise of an extremely high level in an administrative technical, or professional field; and

"(B) are critical to the Office of the Associate Attorney General for Immigration Affairs', the Bureau of Immigration Services' or the Bureau of Immigration Enforcement's successful accomplishment of an important mission;

"(2) exercise of the authority is necessary to recruit or retain an individual exceptionally well qualified for the position;

"(3) the number of such positions in each Bureau does not exceed 10 at any one time;

"(4) designation of such positions is approved by the

Attorney General;

"(5) the terms of such appointments are limited to no more than 4 years;

"(6) appointees to such positions were not Immigration and Naturalization Service employees prior to the date of the enactment of this Act;

"(7) total annual compensation for any appointee to such positions does not exceed the highest total annual compensation payable at the determined under section 104 of title 3; and

"(8) all such positions are excluded from the collective bargaining unit.

"(b) Individuals appointed under this section shall not be considered to be employees for purposes of sub-chapter II of chapter 75 of title 5, United States Code.

**§ 9604. Recruitment, retention, relocation incentives,
and relocation expenses**

"(a) For a period of 10 years after the date of the enactment of this section and subject to approval by the Office of Personnel Management, the Attorney General may provide for variations from sections 5753 and 5754 governing payment of recruitment, relocation, and retention incentives.

"(b) For a period of 10 years after the date of the enactment of this section, the Attorney General may pay from appropriations made to the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services or to the Bureau of Immigration Enforcement allowable relocation expenses under section 5724a for employees transferred or reemployed and allowable travel and transportation expenses under section 5723 for new appointees, for any new appointee

appointed to a position for which pay is fixed under section 9602 or 9603 after the date of the enactment of this Act."

(b) CLERICAL AMENDMENT. - The table of chapters for part III of title 5, United States Code, is amended by adding at the end the items relating to subpart I following new item:

"96. Personnel flexibilities relation to the Bureau of Immigration Services and Bureau of Immigration Enforcement.....9601".

(c) VOLUNTARY SEPARATION INCENTIVE PAYMENTS. -

(1) DEFINITION. - In this subsection, the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services or by the Bureau of Immigration Enforcement Service under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include-

(A) a reemployed chapter 84 of title 5, United States Code, or another retirement system;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in subparagraph (A);

(C) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(D) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note) would qualify for a voluntary separation incentive payment under section 3 of such Act;

(E) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(F) an employee covered by statutory reemployment rights who is on transfer to another organization;

(G) any employee who, during the 24-month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the 12-month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code; or

(H) any employee within a unit to which a labor organization is accorded exclusive recognition under chapter 71.

(2) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS. -

(A) IN GENERAL. - The Associate Attorney General for Immigration Affairs may pay voluntary separation incentive payments under this section to any employee to the extent necessary to carry out the plan to restructure the Immigration and Naturalization Service into the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services and the Bureau of Immigration Enforcement under this Act.

(B) AMOUNT AND TREATMENT OF PAYMENTS. - A voluntary separation incentive payment-

(i) shall be paid in a lump sum after the employee's separation;

(ii) shall be paid from appropriations or funds available

for the payment of the basic pay of the employee;

(iii) shall be equal to the lesser of-

(I) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(II) an amount determined by the Associate Attorney General for Immigration Affairs not to exceed \$25,000;

(iv) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before January 1, 2003;

(v) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(vi) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(3) ADDITIONAL OFFICE OF THE ASSOCIATE ATTORNEY FOR IMMIGRATION AFFAIRS, THE BUREAU OF IMMIGRATION SERVICES AND THE BUREAU OF IMMIGRATION ENFORCEMENT CONTRIBUTIONS TO THE RETIREMENT FUND. -

(A) IN GENERAL. - In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services and the Bureau of Immigration Enforcement shall remit to the Office of Personnel Management for deposit in the Treasury of the United States

to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this subsection.

(B) DEFINITION. - In subparagraph (A), the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(4) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT. - An individual who has received a voluntary separation incentive payment under this subsection and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based, shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the Office of Associate Attorney General for Immigration Affairs, or the Bureau of Immigration Services and to the Bureau of Immigration Enforcement, as the case may be.

(5) EFFECT ON EMPLOYMENT LEVELS. -

(A) INTENDED EFFECT. - Voluntary separations under this subsection are not intended to necessarily reduce the total number of full-time equivalent positions in the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services and the Bureau of

Immigration Enforcement.

(B) USE OF VOLUNTARY SEPARATIONS. - The Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services and the Bureau of Immigration Enforcement may redeploy or use the full-time equivalent positions vacated by voluntary separations under this sub-section to make other positions available to more critical locations or more critical occupations.

SEC. 10. MISCELLANEOUS PROVISIONS.

(a) PROCEDURES FOR PROPERTY ACQUISITION OR LEASING. - Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Attorney General is authorized to expend from the appropriation provided for the administration and enforcement of the Immigration and Nationality Act, such amounts as may be necessary for the leasing or acquisition of property in the fulfillment of establishing the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services and the Bureau of Immigration Enforcement under this Act.

(b) TRANSFER OF STATISTICS BRANCH OF IMMIGRATION AND NATURALIZATION SERVICE TO THE BUREAU OF JUSTICE STATISTICS-

(1) TRANSFER.- Not later than 1 year after date of the enactment of this Act, the Statistics Branch of the Office of Policy and Planning of the Immigration and Naturalization Service (as in existence prior to the date of the enactment of this Act) shall be transferred to the Bureau of Justice Statistics in the Office of Justice Programs- in the Department of Justice.

(2) RESPONSIBILITIES OF DIRECTOR. - The Director of the Bureau of Justice Statistics shall be responsible for

maintaining all immigration statistical information for both the Bureau of Immigration Services and the Bureau of Immigration Enforcement. Such statistical information shall include the information and statistics provided in the Immigration and Naturalization Service's publication entitled "Statistical Yearbook of the Immigration and Naturalization Service" (as in effect on the date of the enactment of this Act).

(3) CONFORMING AMENDMENT - Section 302(c) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C.3732(c)) is amended-

(A) by striking "and" at the end of paragraph (22):

(B) by striking the period at the end of paragraph (23) and inserting"; and"; and

(C) by adding at the end the following: "(24) collect, maintain, compile, analyze, publish, and disseminate information and statistics about immigration in the United States, including information and statistics involving the functions of the Bureau of Immigration Services and the Bureau of Immigration Enforcement."

SEC. 11. AUTHORIZATION OF APPROPRIATIONS;

PROHIBITION ON TRANSFER OF FEES; SENSE OF CONGRESS.

(a) AUTHORIZATION OF APPROPRIATIONS. -

(1) IN GENERAL. - There are authorized to be appropriated such sums as may be necessary to establish the Office of the Associate Attorney General for Immigration Affairs and otherwise to implement this Act.

(2) AVAILABILITY OF FUNDS. - Amounts appropriated under paragraph (1) shall remain available until expended.

(b) FUNDING. -

(1) IN GENERAL. - There shall be established separate accounts in the Treasury of the United States for appropriated funds and other Deposits available for the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services or the Bureau of Immigration Enforcement.

(2) FEES. - Notwithstanding section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) or any other provision of law, fees imposed for a particular service, application, or benefit shall be deposited into the account established under paragraph (1) that is for the bureau with jurisdiction over the function to which the fee relates.

(3) - FEES NOT TRANSFERABLE. - Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended to read as follows:

“(m) Notwithstanding any other provisions of law, all adjudication fees as are designated by the Attorney General in regulations shall be deposited as offsetting receipts into a separate account entitled “Immigration Examinations Fee Account” in the Treasury of the United States (in this subsection referred to as the “Account”), whether collected directly by the Attorney General or through clerks of courts.

“(1)(A) All fees received by the Attorney General from applicants residing in the Virgin Islands of the United States and in Guam, under this subsection shall be paid over to the treasury of the Virgin Islands and to the treasury of Guam.

“(B) Fees for providing adjudication and naturalization services may be set at a level that—

(i) will ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum

applicants or other immigrants; and

(ii) will recover any additional costs associated with the administration of the fees collected.

“(2) Each fee collected for the provision of an adjudication or naturalization services shall be used only to fund adjudication or naturalization services, or subject to the availability of funds provided pursuant to paragraph (4), costs of similar services provided without charge to asylum and refugee applicants.

“(3) No such fee may be transferred to the Bureau of Immigration Enforcement or to any other agency or department of government, except under the Economy Act (31 U.S.C. § 1535).

“(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 207 through 209.

(c) SENSE OF CONGRESS. - It is the sense of the Congress that-

(1) the missions of both the Bureau of Immigration Services and the Bureau of Immigration Enforcement are equally important and, accordingly, both Bureaus shall be adequately funded; and

(2) neither the immigration adjudication and service functions referred to in section 3 nor the immigration enforcement functions referred to in section 4 should operate at levels below that in existence prior to enactment of this Act.

SEC. 12. REPORTS AND IMPLEMENTATION PLANS.

(a) DIVISION OF FUNDS. - The Attorney General, not later than 180 days after the date of the enactment of this Act, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report on the proposed division and transfer of funds, including unexpended funds, appropriations, and fees, between the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Immigration Services and the

Bureau of Immigration Enforcement. Not later than 60 days after the date of submittal of such report, each Bureau shall submit to such Committees an operating plan of resources allocated, by object class and decision unit structure.

(b) DIVISION OF PERSONNEL. - The Attorney General, not later than 180 days after the date of the enactment of this Act, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report on the proposed division of personnel pursuant to this Act.

(c) IMPLEMENTATION PLAN. - The Attorney General not later than 180 days after the date of the enactment of this Act, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a plan to carry out this Act. The report should include details concerning the separation of the Bureaus and address the issues of chain of command, shared services, file and data management and oversight, financial management systems, procedures for interaction between the two Bureaus, fraud detection and investigation, expedited removal, organizational structure, and establishment of a transition team. The plan should also include ways to phase in the costs of separating the administrative support systems of the Immigration and Naturalization Service in order to provide for separate administrative support systems for such Bureaus where such systems are best provided for separately.

(d) DETENTION. - The Attorney General, not later than 180 days after the date of the enactment of this Act, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report assessing the feasibility of transferring the detention operations of the Bureau of Immigration Enforcement (established under section 4) to the Federal Prison System or other Department of Justice entities. The report should

develop a classification system to determine the appropriate type of detention (including alternatives to detention) for criminal aliens, non criminal aliens, and asylum seekers.

(e) REPORTS ON IMPROVING IMMIGRATION SERVICES.--

The Attorney General not later than 1 year after the date of the enactment of this Act, shall submit to the Committees on the Judiciary and Appropriations of the House of Representatives and of the Senate a report containing a plan for how the Director of the Bureau of Immigration Services will complete efficiently, fairly, and within a reasonable time, the adjudications described in paragraphs(1) through (5) of section 3(b).

(f) REPORTS ON IMPROVING ENFORCEMENT FUNCTION. -

The Attorney General, not later than 1 year after the date of the enactment of this Act, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report with a plan detailing how the Bureau of Immigration Enforcement, after the transfer of functions performed under the programs described in paragraphs (1) through (5) of section 4(b), will enforce comprehensively, effectively, and fairly all the enforcement provisions of the Immigration and Nationality Act relating to such programs.

(g) COMPTROLLER GENERAL STUDIES AND REPORTS.-

(1) STATUS REPORTS ON TRANSITION. - Not later than 18 months after the effective date of the transfer of functions under this Act, and every 6 months thereafter, until full implementation of this Act has been completed, the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the House of Representatives and the Senate a report containing the following:

A) A determination of whether the transfer of functions

made by sections 3 and 4 of this Act has been completed, and if the transfer of functions has not taken place, identifying the reasons why the transfer has not taken place.

(B) If the transfer of functions made by sections 3 and 4 of this Act has been completed, an identification of any issues that have arisen due to the completed transfer of functions.

(C) An identification of any issues that may arise due to the future transfer of functions.

(2) REPORT ON MANAGEMENT. - Not later than 4 years after the effective date of the transfer of the function under this Act, the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the House of Representatives and the Senate a report, following a study, containing the following:

(A) Determinations of whether the transfer of functions from the Immigration and Naturalization Service to the Bureau of Immigration Services, to the Bureau of Immigration Enforcement, and the Office of the Associate Attorney General for Immigration under this Act has improved, with respect to each function transferred, the following:

(i) Operations.

(ii) Management, including accountability and communication.

(iii) Financial administration.

(iv) Recordkeeping, including information management and technology.

(B) A statement of the reasons for the determinations under subparagraph (A).

(C) Any recommendations for further improvements to the Bureau of Immigration Services and the Bureau of

Immigration Enforcement.

SEC. 13. DEFINITIONS.

For purposes of this Act:

(1) The term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(2) The term "office" includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

SEC. 14. EFFECTIVE DATE; TRANSITION.

(a) IN GENERAL. - The transfer of functions under this Act shall take effect on the date that is 1 year after the date of the enactment of this Act. The Office of the Associate Attorney General for Immigration Affairs, and the Bureau of Immigration Services and the Bureau of Immigration Enforcement shall be established, and the Directors of such offices shall be appointed, not later than such effective date. To the extent that functions to be transferred to such offices under this Act continue to be performed by the Immigration and Naturalization Service during fiscal year 2001, the Attorney General shall provide for an appropriate accounting of funds and an appropriate transfer of funds appropriated to the Immigration and Naturalization Service to such respective offices.

SEC. 15 CONFORMING AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) Section 101(a)(8) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1101, is further amended to read as follows—

“(8) The terms ‘Commissioner’ and ‘Deputy Commissioner’ means the Associate Attorney General for Immigration Affairs or other official of the Department of Justice as provided by the Immigration Reorganization and Improvement Act of 2000.

(b) Section 101(a)(35) of the Immigration and Nationality Act, as

amended, 8 U.S.C. 1101(a)(35), is further amended to read as follows—

“(35) The terms ‘Immigration and Naturalization Service’ and ‘Service’ mean the appropriate office or other component of the Department of Justice as provided by the Immigration Reorganization and Improvement Act of 2000.”

Sec 16. INSPECTIONS

(a) **EXPEDITED REMOVALS** – The Associate Attorney General for Immigration Affairs shall establish a process to require concurrence in orders issued under 235(b) of the Immigration and Nationality Act and to complete certain adjudications at ports of entry as shall be designated by the Associate Attorney General for Immigration Affairs. Such a process shall be conducted by officials designated by the Associate Attorney General for Immigration Affairs who have certified ability, expertise and training regarding expedited removal procedures, asylum law and due process. Such officials shall expeditiously concur in or rescind an order.

(b) **QUALITY ASSURANCE.** - The Office of the Associate Attorney General for Immigration Affairs shall establish a quality assurance process for the enforcement of section 235(b) of the Immigration and Nationality Act, a training program for immigration officers on such enforcement and on customer service, and a systematic monitoring of removal orders issued pursuant to section 235(b) of the Immigration and Nationality Act. The Office of the Associate Attorney General for Immigration Affairs shall establish an Advocate Office to monitor inspections, hear complaints, provide training, conduct outreach, and provide feedback on inspections issues.

Team Leads - 11/1

Chris - Armed suicide

Jeffrey -
Genome

Cynthia - Approps negotiations - tobacco

- Foreign Ops

- Labor HHS - Senate Tues - veto

- Kevin Bran

Kevin - POTUS - Norway -

Wed dinner

- New market hour NJ, Ark.

- Radio Address - ?

- DLC Excite - school met

Little Rock 9 met

Vets Day

Forum Trip at 1 1/2 week

Tom

- Hate Crimes

- POTUS in LA on Fri - at Museum

- GMD - NCC

- FARA OpPhone

- Internet Gambling Bill

- Postal Fraud

Andy - Senate Labor HHS

Voucher Letter

Leanne - Miranda

- AG 100 reminder

CJS - Leanne with 100 last - includes UN accounts.

... maybe R

Congress wants to be out by 11/11

- DV/guns - went - YP (1003)

- Crime bill - this week.

Nicole - Foster Care bill - concern Sen. Kohl, Sen. Grassley - outcome may pass this year

- Parental Disarm bill - Dodd will introduce at the end.

THE WHITE HOUSE

WASHINGTON

November 5, 1999

11-9-99

Copied

Read

Liu

Podesta

99 NOV 6 AM 12:00

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Eric Liu

SUBJECT: DPC Weekly Report

1. Health Care – Unreported Deaths Associated with GeneTherapy Trials. You asked for an update on recent reports that gene therapy researchers failed to report six deaths and two serious illnesses of clinical trial participants to the NIH. The researchers were reportedly reluctant to report any adverse results out of fear that NIH's policy of publicly releasing this information (after removing identifiable patient characteristics to protect privacy) would hurt their company's financial standing. The researchers' failure to report these deaths is a clear violation of the current guidelines regulating research funded by NIH or conducted at institutions receiving NIH funding and can lead to suspension, limitation, or termination of NIH funding for the researchers and their facility. Recognizing these penalties, the investigators are now claiming that they withheld the names of the participants because the population studied is so small that it is impossible to maintain patient confidentiality. NIH does not believe that there is a viable confidentiality issue here (since no individually identifiable information is released). HHS is contemplating additional reporting requirements and enforcement action.

2. Health Care – Medical Records Privacy. Late this week, we met with the AMA and the American Psychiatric Association to review their concerns that the proposed privacy regulation would actually undermine current patient protections, rather than augment them. After reviewing the regulation in detail, representatives of the AMA acknowledged that our regulation provides a level of patient protection that is beyond what exists today. While they still would like to have a signed patient consent form before the release of information for any purpose, they pledged to emphasize their positive response to the privacy regulation as a whole and to work out any lingering concerns through an ongoing process with HHS, not through the media. Comments on the regulation are due in early January and we anticipate that the doctors, and hopefully the specialists, will give us constructive suggestions to strengthen the proposed regulation, which is due to be released next February.

3. Health Care – Jeffords-Kennedy. It appears very likely that the Republican conferees on the Work Incentives Improvement Act will complete work on this legislation in short order. Although we have not been invited to participate in these most recent discussions, we expect that the bill will be strong enough to gain your support. The primary outstanding issue continues to be the offsets for this solid bill, however, we expect that resolution on this legislation could be achieved by the end of next week.

11-9-99

4. Crime – Guns. On Thursday, the Vice President and congressional Democrats held an event with the domestic violence community calling on the Republican leadership to bring the gun bill to the floor with the Senate-passed provisions. The Vice President released a new Department of Justice report showing that more than 32,000 people with domestic violence convictions or restraining orders have been prevented from purchasing firearms by Brady background checks. Later that day, Rep. Carolyn McCarthy and Senators Schumer and Durbin held a separate news conference calling for a Presidential veto threat on any final budget agreement that does not contain legislation closing the gun show loophole.

✓ **5. Crime – COPS.** On Friday, we met with all 12 major national law enforcement groups, including the Fraternal Order of Police and the National Association of Police Officers. The entire law enforcement coalition joined us in a press conference demanding that Congress go along with your budget request for 50,000 more police officers. John Podesta and Attorney General Janet Reno chaired the meeting and swore in our new COPS Director, Tom Frazier, the former police commissioner in Baltimore.

6. Crime – Recent shootings. (1) Honolulu. Because Hawaii has some of the toughest gun laws in the nation, the NRA has used the shooting in Hawaii to argue that gun laws don't work. Hawaii has licensing and registration laws that require local police to approve every handgun purchase by issuing a purchase permit and a 14-day waiting period. The alleged shooter, Byran Uyesugi, owned 17 legally registered firearms. While gun laws may not have prevented Uyesugi's tragic shooting spree, they have helped keep Honolulu's violent crime rate the lowest of any city its size in the nation. (2) Seattle. Washington State has weaker gun laws that do not include licensing or registration, although the state does have a five-day waiting period for handgun sales. As of this writing, the shooter is still at large and no murder weapon has been found. The ATF is utilizing ballistics technology to trace bullet casings left at the scene of the crime that may help them to determine the suspect's identity.

7. Education – Bush Education Speech. Governor Bush gave his third education speech, focusing on school safety, discipline and character. Once again, he borrowed heavily from our agenda, endorsing increased funding for character education, freedom of religious expression in the schools, and reforms in the Safe and Drug-Free Schools program to hold states and districts accountable for results. He also called for a lifetime gun ban for violent juveniles, which would already be law if House Republicans hadn't blocked the gun bill with his blessing. (Bush called for increased federal prosecution of juveniles who bring guns to school, but legislative provisions to do just that are hostage to the gun bill as well.) To increase discipline, Bush called for a "zero tolerance" policy for disruption and legal protection for teachers, principals and school board members enforcing that policy. Finally, he proposed vouchers for students in schools that are "persistently dangerous."

8. Immigration – INS Restructuring. For the past few months, Administration officials have been negotiating with Representatives Rogers (R-KY) and Lamar Smith (R-TX) on INS restructuring legislation and have made some progress toward reaching an agreement. On Thursday, the House Judiciary Subcommittee on Immigration reported legislation that includes some of the agreed-upon provisions, but does not ensure that a single, high-level immigration

official has the appropriate staff support to manage and direct our immigration system full-time. The Attorney General will continue to work with Congress to achieve an agreement.

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Comparison of the Immigration and Naturalization Service Restructuring Plan and the Rogers' Restructuring Plan

Administration's Plan	Rogers' Plan	Contrasts
Similarities Between Plans		
Keeps immigration matters within the Department of Justice.	Keeps immigration matters within the Department of Justice.	Both plans understand the importance of maintaining immigration enforcement and adjudication within DOJ and to not move these interrelated functions to other Cabinet agencies. This ensures due process and the rule of law will remain the mainstay of the immigration system.
Establishes two organizational chains of command for border enforcement and immigration services.	Separates border enforcement and immigration services into two bureaus within the Department of Justice.	Both plans recognize the need to separate INS' program operations. Both plans focused on establishing clear lines of authority, accountability and responsibility.
Separates enforcement and service operations at the field level.	Separates enforcement and service operations at the field level.	Both plans address the need to restructure INS' current district director organization by separating enforcement and service operations in the field and to clarify authority and reporting relationships.
Differences Between Plans		
Maintains one senior immigration policy official as Commissioner of the INS	Establishes two immigration policy officials - Director, Bureau of Enforcement and Border Affairs and Commissioner, Immigration and Naturalization Service	The Administration's plan ensures a single voice on immigration matters. It provides for the integration of enforcement and services in the development, coordinated and consistent application of immigration policy below the AG level. Under the Rogers' plan immigration policy will be developed separately depending on the issue and integrated -- if at all -- at the AG or White House level. All immigration matters in dispute between enforcement and service bureaus must be resolved by the Attorney General or DAG. Given the vast scope of responsibilities and competing priorities residing with the AG and DAG, it is likely that sufficient attention will be given to providing vital coordination between immigration enforcement and services and thereby weaken accountability. Separate agencies will also create delays in the development of immigration policies and procedures by forcing concurrence with a separate chain of command that has different priorities and perspectives and thereby weaken effectiveness.

Builds centralized shared support operation	Establishes two separate bureau leading to two administrative support operations	The Administration's plan aims to restructure management functions into a "shared support" operation (e.g., records and data management, technological support, employee relations and administrative support) -- through a revolving or working capital fund operation -- that supports both enforcement and service programs. Under Rogers' plan each bureau would establish its own management and administrative support structure. It would be possible to establish a "shared support" operation as envisioned under the Administration's plan but to whom would this operation report? One of the two new bureaus? The AG? The ability to meet the data, communication and support needs of enforcement and service operations requires "shared support" attuned to both program operational needs while reporting to neither. Such an operation must be customer oriented but be able to bring conflict to an "unbiased" agency decision-maker. Such a point of decision is lacking in the Rogers' plan except at the AG level.
Maintains one centralized management and oversight function funded by appropriations and fee revenue.	Establishes two management and oversight operations one for enforcement which is currently appropriated -- one for service operations which is currently fee funded.	Currently, immigration and naturalization services are fully fee funded. INS administrative support, policy and overhead are charged on a pro rated basis to the Examination Fee Account. Under the Rogers' plan duplicate management and overhead functions would be established, one for enforcement and one for services. The service-side may be unduly burden since the Examination Fee would be sole funding source for the reconstituted INS. Under the Rogers' plan this fee would fund the entire agency, overhead, administrative support and program operations. Recent history shows that the Exams Fee fluctuates dramatically depending on demand.

Team Leaders - 11/8

Cynthia

- Tabano
- High Performance Bonus
- Father's bill
- ~~Roberto~~ - to Mexican & salary.

Karen

- 11/24 - 2 AM - PORUS returned
(party 11/9 - 11/21)

Leanne

- CJS - have not met
- Anna bill
- Hake Annies - decide in or out - checking w/ DCS. - ^{as early as today} this week.
- JJ - no news