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U.S. STUDY PANEL RECOMMENDS PLAN TO BREAK UP I.N.S.

AGENCY AWASH IN CRITICS

Immigration Officials Prepare to Fight Plan to Parcel Out Jobs to 3 Departments

NY/ 8/5/97

By ERIC SCHMITT

WASHINGTON, Aug. 4 — In an effort to improve the nation's immigration system, a Federal advisory panel has decided to recommend abolishing the troubled Immigration and Naturalization Service and assigning its duties to other Government agencies.

Declaring that the immigration service suffers from "mission overload," the panel, the United States Commission on Immigration Reform, is proposing that the Justice Department, the immigration service's parent agency, retain responsibility for controlling the border and removing illegal immigrants.

The State Department, which now deals with visas at American embassies overseas, would handle immigration services and benefits, like citizenship requests.

The Labor Department, which already monitors wage and hour regulations, would also enforce rules covering the hiring of foreign workers, according to a draft copy of the report, "Structuring, Organizing and Managing an Effective Immigration System," obtained by The New York Times.

"It's very hard for one agency with so many conflicting missions and so much fragmentation to have priorities set and missions realized," said Bruce A. Morrison, a commission member and a former Democratic Congressman from Connecticut, explaining the panel's reasoning for dismantling the immigration service.

Democrats and Republicans in Congress who have been briefed by the commission in the last few weeks generally embrace the proposal to separate along functional lines the disparate immigration duties.

But the immigration service and the Justice Department are gearing up to fight the proposal.

"We're against splitting up I.N.S.," said Carole Florman, a Justice Department spokeswoman. "We believe the enforcement functions and benefits functions really do work hand in hand."

The proposal comes at a time when Congress and many of the nation's governors are growing increasingly exasperated with the immigration service's inability to cope with soaring requests for citizenship, weed out criminal aliens living in the United States and crack down on the steady stream of illegal immigrants entering the country.

"The message to the Administration is that this is not about rearranging deck chairs on a sinking ship, it's about getting results," said Allen Kay, a spokesman for Representative Lamar Smith, the Texas Republican who heads the House immigration subcommittee and has been briefed on the proposal.

The House Appropriations Committee last month directed Attorney General Janet Reno to review the commission's report and, along with other Federal agencies, "develop a restructuring plan" to perform the

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Panel Recommends Breakup of I.N.S.

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nation's immigration duties more efficiently.

House members, led by Representative Harold Rogers, the Kentucky Republican who heads the appropriations subcommittee that oversees the Justice Department, are urging the Administration to act on the proposal by October 1998. The commission's report is to be released by late September.

The scope of the panel's recommendations has surprised many senior Administration officials. Policymakers who have been briefed on the commission's findings, including Patrick F. Kennedy, the acting Under Secretary of State for Management, declined today to comment on the conclusions.

Privately, though, Administration officials said the report would be a starting point for a spirited debate on how to manage the country's burgeoning immigration system.

Many of the nation's governors also find the commission's proposals intriguing.

"The I.N.S. has done an abominable job in so many areas, including patrolling the border, that we are certainly open to looking at other options," said Sean Walsh, deputy chief of staff to Gov. Pete Wilson of California, a Republican.

Officials at the immigration service, one of the fastest-growing agencies in the Government whose budget has doubled to $3.1 billion this fiscal year from four years ago, said the commission's proposal would reverse this financial investment and ignore improvements the agency had made in recent years in response to Congressional criticism.

"We'd be redoing all the work we've done in the past," said Chris Sale, the immigration service's deputy commissioner.

Independent immigration experts who criticize the immigration service's dual role as border cop and benefit provider, today gave mixed reviews to the commission's proposals.

Many said they needed to see more details.

"There's ample reason to doubt that the I.N.S. can be a service provider and an enforcer for the same group of people," Cecilia Munoz, deputy vice president of the National Council of La Raza, a civil rights group in Washington. "However, it's not clear that separating the functions is going to fix the fact that the service side of the I.N.S. has traditionally gotten short shrift."

Demetrios G. Papademetriou, a senior associate at the Carnegie Endowment for International Peace, was more critical: "The commission's intent is to generate a conversation rather than to actually put out a blueprint. This proposal would send an orphan agency from one department to another. In Washington terms, this should be dead on arrival."

Not just a plan to shift 'deck chairs on a sinking ship.'

Mr. Papademetriou said he favored combining all the nation's immigration duties into one new agency, similar to how the Government consolidated the tasks of 11 agencies to form the Environmental Protection Agency in 1970.

"That would give an agency the authority to be held directly accountable, and to have the opportunity to propose and fight for its own proposals," Mr. Papademetriou.

The commission considered creating an independent immigration agency, Mr. Morrison said, but ultimately rejected that idea as less effective than assigning I.N.S.'s duties to other agencies.

Congress created the bipartisan commission in 1990 to help advise lawmakers on immigration issues.

Eight commissioners — evenly divided among Republicans and Democrats — are appointed by Congress, and the President appoints the chairman.

The panel had its greatest influence when the late Barbara Jordan, the former Congresswoman from Texas, was the chairwoman. During her tenure, the panel issued reports on legal and illegal immigration. Earlier this year, after her death, the panel released a third report, which criticized provisions of an immigration law passed last year that authorizes the immediate expulsion of some would-be refugees who arrive in the United States.

But the commission's fourth and final report is likely to be its most politically explosive.

After interviewing current and former immigration officials from several Government agencies, the panel concluded: "Some of the agencies that implement the immigration laws, the I.N.S. in particular, have so many priorities that they have proved unable to manage all of them effectively."

The report continues, "Such a system is set up for failure and, with such failure, further loss of public confidence in the immigration system."

To solve this problem, the panel recommended thinking of the immigration system as having four main components: border and interior enforcement, benefits and visas, workplace labor standards and an appeals process for enforcement actions.

The enforcement functions, including fighting illegal immigration and breaking up smuggling rings, would be handled by a new division or bureau in the Justice Department. "These functions already receive priority at I.N.S., but identifying them as the sole mission of a single agency would avoid some of the conflicting priorities," the draft report said.

The State Department would assume all responsibilities for immigrants' benefits. "If all the responsibilities were consolidated," the draft report said, "there would be a seamless process beginning with nonimmigrant and immigrant processing through naturalization to passport issuance and overseas citizenship services."

The Labor Department would have new duties "for enforcing sanctions against employers who fail to verify work-authorization" requirements, the draft report said.

The head of the panel is Shirley M. Hufstedler. In addition to Mr. Morrison, the other seven commissioners are Lawrence H. Fuchs, Michael S. Teitelbaum, Richard Estrada, Harold Ezell, Robert Charles Hill, Warren R. Leiden and Nelson Merced.

F 8/6/97

B'partisan Commission to Recommend End of INS, Dispersal of Its Functions

By William Branigin
Washington Post Staff Writer

Citing a need to reorganize an agency beset by "mission overload," a bipartisan commission plans to recommend that Congress abolish the 156-year-old Immigration and Naturalization Service and disperse its functions across other government agencies.

In a report to be published next month, the U.S. Commission on Immigration Reform will advise breaking up the management of an immigration system that it views as ill-designed to handle a huge influx of immigration in recent years and an increasingly complex mission.

The recommendations are motivated by "longstanding structural problems" within the INS, and not by a spate of failings and scandals that have plagued the agency lately, said Lawrence H. Fuchs, one of the commission's nine members. Although the agency's budget has grown more than fivefold and its staff has doubled over the last decade, "a number of problems persist ... and there are some fundamental structural impediments to doing the job right," said Bruce A. Morrison, another commissioner and a former Democratic congressman from Connecticut.

The panel, appointed by Congress and the president in 1990 to advise legislators on immigration issues, is scheduled to publish its fourth and final major report before disbanding at the end of September.

The INS yesterday argued strongly against the recommendations, which were reported yesterday in the New York Times. In a statement, the agency said its basic functions of enforcing U.S. immigration laws and providing services to applicants for immigration benefits "are complementary, not competitive," and that the INS only in the last few years has begun to receive the resources it needs to overcome a history of neglect.

"This recent investment by the American people is now beginning to pay off," the statement said. "Breaking up the agency, which has been proposed frequently over the years, would be needlessly expensive and duplicative, requiring other federal agencies to build separate, new capacities."

While proposals to reorganize management of the U.S. immigration system have surfaced periodically at least since the Truman administration, the increasing complexity of that system and the immigration agency's troubles have combined to raise the prospects for some kind of congressional action on the latest recommendations, analysts said.

Sen. Spencer Abraham (R-Mich.), who called for INS reforms in his first speech as chairman of the Senate Judiciary subcommittee on immigration, said yesterday, "We should consider splitting the INS up into one enforcement agency and one legal immigration agency to increase the efficiency of both."

According to a 20-page briefing paper that the commission has circulated in Congress, some of the multiple government agencies that implement various aspects of immigration laws, particularly the INS, "have so many priorities that they have proved unable to manage all of them effectively." It added, "Such a system is set up for failure and, with it, further loss of public confidence in the U.S. immigration system."

"It really is mission overload," Fuchs said of the immigration service's increased responsibilities in recent years. In addition to tightening border control against illegal immigration, cracking down on alien smuggling, increasing deportations and reducing unauthorized employment, the service has been called upon to speed up naturalizations to cope with record numbers of citizenship applicants and process historically high levels of immigrants.

The briefing paper said the commission would recommend consolidating within the State, Justice and Labor departments the immigration system's four main operations: border and interior enforcement, adjudication of visas and immigration benefits, enforcement of immigration-related labor standards and appeals of administrative decisions.

This approach calls for establishment of a "Bureau of Immigration Enforcement" within the Justice Department to bring together in one agency the Border Patrol, inspections of people arriving at ports of entry, investigations of immigration-related crime, detention of illegal aliens and deportations. At present, the Border Patrol functions as a branch of the INS, which is part of the Justice Department.

In the State Department, an "Undersecretariat for Citizenship, Immigration and Refugee Admissions" would be created to handle processing of all types of visas and other services, including naturalization and passport issuance. The Labor Department would take over responsibility for enforcing sanctions against employers who hire illegal workers or fail to comply with other immigration-related requirements.

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The commission has made no estimate of how much the reorganization would cost, officials said. "This is policy and management thing, rather than a budget thing," one said.

FOR MORE INFORMATION

To access annual immigration statistics, click on the above symbol on the front page of The Post's Web site at www.washingtonpost.com

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DRAFT SUMMARY
July 31, 1997

STRUCTURING, ORGANIZING, AND MANAGING AN EFFECTIVE IMMIGRATION SYSTEM: SUMMARY

The immigration system is one of the most complicated in the federal government bureaucracy. In some cases, one agency has multiple, and sometimes conflicting, operational responsibilities, and in other cases, multiple agencies have responsibility for elements of the same functions. Both situations create problems:

Mission Overload. Some of the agencies that implement the immigration laws have so many responsibilities that they have proved unable to manage all of them effectively. Between Congressional mandates and administrative determinations, these agencies must give equal weight to more priorities than any agency can handle. Such a system is set up for failure and, with such failure, further loss of public confidence in the immigration system.

More specifically, the U.S. legal immigration system must strive to serve the national interest in helping families to reunify and employers to obtain skills not available in the U.S. labor force; our labor standards enforcement system must have the capacity to protect U.S. workers from unfair foreign competition; and our enforcement system must seek to deter unlawful immigration through employer sanctions and tighter border control and have an effective mechanism for removal of those who do enter illegally.

No one agency is likely to have the capacity to accomplish all of these goals equally well. Immigration law enforcement requires staffing, training, resources, and a work culture that differs from what is required for effective adjudication of benefits or labor standards-related regulation of U.S. businesses.

Diffusion of Responsibilities Among Agencies. Responsibility for many immigration functions are spread across numerous agencies within single departments or between departments. For example, responsibility for making decisions on skill-based immigrant and nonimmigrant applications is dispersed among DOL, INS, and DOS. DOL is expected to make a determination as to whether Americans are available for certain work and is also responsible for *post facto* enforcement activities to ensure that employers comply with the requirements of the specific visa category. INS determines whether the individual alien has the qualifications required by the job once DOL certifies that the employer has attempted to recruit and been unable to find a minimally qualified

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U.S. worker. Further, INS makes the determinations without any DOL involvement on an entire range of skill-based immigrant categories, including individuals with extraordinary ability, outstanding professors and researchers, multinational executives and managers, and professionals with advanced degrees who don't require labor certifications. INS also handles adjustments of status to permanent residents for workers who are already in the U.S. DOS issues visas overseas to would-be immigrants who meet the requirements under the DOL and/or INS review.

Reorganizing responsibilities along functional lines. The Commission believes that assigning responsibility for each function of the immigration system to a single agency will improve its management and operations, as well as increase accountability for outcomes. The immigration system has four principal operations: (1) border and interior enforcement; (2) adjudication of benefits and visas [immigrant, nonimmigrant, and naturalization]; (3) immigration-related labor standards enforcement; and (4) appeals of administrative decisions. Defining separate responsibility to cover these functions means consolidating certain responsibilities now found in several agencies and breaking up some agencies into their component parts.

Immigration enforcement. A functional approach consolidates border management (Border Patrol and Inspections), investigations, detention, and deportation into one agency, a Bureau for Immigration Enforcement at DOJ. The principal responsibilities would be preventing entry of unauthorized migrants, apprehending and removing illegal aliens, identifying and removing criminal aliens, breaking up smuggling rings and counterfeiting operations, etc. These functions must be accomplished in a manner that protects rights, permits and facilitates legal movements, and guards against abuse. These functions already receive priority at INS, but identifying them as the sole mission of a single agency would avoid some of the conflicting priorities referenced above.

Immigration benefits/services/visas Consolidation of activities now performed by DOL, INS, and/or DOS means a more efficient, smoother operating service system. Potential advantages of consolidation might include: a higher degree of importance attached to the function by the responsible agency if benefits/services were the principal responsibility; a one-stop determination system; and an opportunity to develop the service nature of the function, together with appropriate quality controls. The Commission believes that consolidation of these responsibilities in the Department of State would ensure a seamless process beginning with nonimmigrant, immigrant and refugee processing through naturalization to passport issuance and overseas citizenship services. The Commission believes these immigration matters are sufficiently complex and important to U.S. foreign policy interests to merit establishment of a new Undersecretariat in the State Department for Citizenship, Immigration, and Refugee Admissions.

Immigration-Related Employment Standards Enforcement. Consolidation of responsibility for immigration-related activities at the worksite means a single agency--Department of Labor--would have responsibility for all enforcement efforts involving employers hiring foreign workers. More specifically, this approach consolidates responsibility for enforcing sanctions against employers who fail to verify work authorization as well as enforcement of compliance with skills-based immigrant and nonimmigrant admission requirements. While the Department of Labor has principal responsibility for the latter actions, responsibility for employer sanctions enforcement is currently shared between DOL and INS, creating duplication of efforts and inefficiencies. DOL would not be responsible for approving applications for skill-based admissions categories.

Appellate process The Commission believes that appeals of the immigrant services/benefits decisions should be heard by an independent review body that combines what is covered by the Executive Office for Immigration Review, the Board of Alien Labor Certification Appeals, the Administrative Appeals Unit at INS, and other review agencies. This independent agency would hear appeals of all immigration-related administrative decisions.

F 8/13/97

DISCUSSION DRAFT

May 7, 1997 [UPDATED]

STRUCTURING, ORGANIZING, AND MANAGING AN EFFECTIVE IMMIGRATION SYSTEM:
Options For Reform

INTRODUCTION

In its first two reports to Congress and through subsequent study, the Commission has identified a number of significant areas in which the federal government is not structured, organized, or managed in a way to most effectively develop and implement immigration policy. Many of the identified problems have existed through various Administrations and cut across department or agency lines. Solutions to some of these problems have been proffered in years past by previous commissions, government agencies, and outside observers.

Restoring credibility and setting priorities—themes at the center of the Commission's policy recommendations on illegal and legal immigration, respectively—will not happen unless the government is set up to deliver on these policies. The Commission established a simple yardstick for measuring the effectiveness of the U.S. immigration system: people who should get in, do get in; people who should not get in are kept out; and people who are judged deportable are required to leave. That simple yardstick should be applied to several departments, each having several agencies responsible for various immigration functions. The question is: What structural, organizational or management improvements could enable the overall immigration system to function effectively and efficiently?

This first section of this paper briefly provides an overview of the organizational roles and responsibilities of the principal departments involved in immigration policy development and implementation: Department of Justice [DOJ]; Department of State [DOS]; and Department of Labor [DOL]. The Customs Service, which does not have explicit responsibility for immigration but whose officers are cross-designated to perform immigration functions, is also discussed.

The second section focuses on three specific issues requiring attention in an improved immigration system—policy development, organizational relationships, and program accountability—and presents options for addressing each.

ORGANIZATIONAL ROLES AND RESPONSIBILITIES

Under the current system, immigration responsibilities are located in several Departments, and within each Department, in several agencies or subagencies:

Department of Justice [DOJ]

The Attorney General is responsible for administering and enforcing the Immigration and Nationality Act [INA] of 1952 and all other laws relating to the immigration and naturalization of aliens, including, but not limited to, the Immigration Reform and Control Act of 1986 [IRCA], the Immigration Act of 1990 [IMMACT], the Violent Crime Control and Law Enforcement Act of 1994 [VCCLEA], and the Antiterrorism and Effective Death Penalty Act of 1996 [AEDPA], and most recently the Illegal Immigration and Immigrant Responsibility Act of 1996 [IIRAIRA]. In turn, the Attorney General has delegated various aspects of this authority to a number of offices, divisions, and agencies (independent or otherwise), located throughout the Department of Justice.

The ***Immigration and Naturalization Service*** [INS], an independent agency within DOJ has frontline responsibility for administering and enforcing the immigration laws relating to provision of benefits, to enforcement of border, interior, and worksites, and to exclusion and removal of aliens from the United States. "Between FY. '86 and '97, the INS budget authority grew from approximately $584 *million* to almost $3.1 *billion*. During the same period, its full-time equivalent

[FTE} staffing increased from 11,767 to 23,863." [*See Budgeting for Performance: Strategy, Flexibility, and Accountability to Meet a Demanding Mission*, Report by a panel of the National Academy of Public Administration for the INS, p. 1, January 1997. Other sources indicate that the authorized staffing for INS is more than 26,500.]

The ***Executive Office for Immigration Review*** [EOIR], established by regulation in 1983, oversees the system of immigration courts, the Board of Immigration Appeals [BIA], which is the final administrative voice regarding the interpretation of certain laws (including those relating to the exclusion and deportation of aliens), and the Office of the Chief Administrative Hearing Officer [OCAHO], which is responsible for administering the hearing process issues arising under the employer sanctions, antidiscrimination, and document fraud provisions of the INA. [*See* Organizational Chart for EOIR, May 17, 1995.] EOIR has 503 permanent positions authorized with a budget of approximately $61.5 million. Under the Violent Crime Reduction Program initiative, EOIR was authorized an additional 514 positions and $48 million dollars. Combining these authorizing and budgetary sources, EOIR has a total of 1,017 positions and a budget of approximately $109.5 million.

Under the present DOJ organizational structure, both INS and EOIR report to the Deputy Attorney General, as do a host of other agencies, divisions, and offices including the FBI, DEA, Executive Office for United States Attorneys, Criminal Division, U.S. National Central Bureau Interpol, United States Marshals Service, Bureau of Prisons, Office of the Inspector General, Office of Intelligence Policy and Review, Justice Management Division, United States Parole Commission, Office of the Pardon Attorney, the Office of Professional Responsibility, Office of Policy Development, Office of Legislative Affairs, Office of Public Affairs, and Office of Legal Counsel. [*See* DOJ Organizational Chart, October 9, 1994.] Hence, many components compete for the time, attention, and decisionmaking of the second in command at DOJ.

In addition to INS and EOIR, other components within DOJ are specifically charged with administering and enforcing aspects of the immigration laws. The ***Office of***

Immigration Litigation [OIL], housed in the Civil Division, defends in the federal courts administrative judgments regarding alien admissions and removals as well as challenges to the government's immigration laws and policies. OIL is assigned 54 permanent positions and has a budget of slightly more than $7 million. It appears that as part of the DOJ Violent Crime Reduction Programs initiative, OIL also has been given another 71 positions funded by an additional $7.75 million. Assuming this to be correct, OIL then has a total of 125 positions with a budget of $14.75 million. In terms of lines of authority, OIL reports to a Deputy Assistant Attorney General, who reports to the Assistant Attorney General for the Civil Division, who reports to the Associate Attorney General, who reports to the Deputy Attorney General, who, in turn, reports to the Attorney General. [*See* Organizational Charts for the Civil Division, July 3, 1990 (as included in DOJ's budget for FY '97), and DOJ, October 9, 1994].

United States Attorneys prosecute certain immigration violations that provide for criminal sanctions. Most recently, U.S. Attorneys on the southwest border have begun enforcing an immigration provision of the 1994 Crime Bill, which provides enhanced penalties for the crime of being a deported alien who reenters or attempts to reenter the U.S. illegally, after having been convicted of a felony. U.S. Attorneys are also now prosecuting felony cases against aliens who reenter or attempt to reenter illegally, after having been deported pursuant to a final removal order.

Also, the *Criminal Division* has responsibility for litigating immigration-related matters involving forfeitures or civil penalty actions, for advising the Attorney General regarding the exercise of parole authority concerning aliens who are excludable under certain sections of the Act, for civil litigation seeking exclusively equitable relief against laws, investigations, or administrative actions designed to protect the national security, and for civil litigation involving writs of habeas corpus not challenging exclusion, deportation, or detention. [*See* 28 C.F.R. §§ 0.55 and 0.61 (1997)]. The Criminal Division reports through an Assistant Attorney General to the Deputy Attorney General. [*See* DOJ Organizational Chart, October 9, 1994].

The *Office of Special Counsel for Immigration-Related Unfair Employment Practices* [OSC], formerly operating as a separate component in DOJ but now located in the Civil Rights Division, is charged with enforcing the antidiscrimination provisions of the INA as amended by IRCA. OSC is assigned 29 positions (30 FTEs) and has a budget of approximately $5.4 million. The OSC reports to a Deputy Assistant Attorney General, who reports to the Assistant Attorney General for Civil Rights, who, in turn, reports to the Associate Attorney General, who reports to the Deputy Attorney General. [*See* Organizational Charts for Civil Rights Division (May 17, 1995), and DOJ (October 9, 1994)].

Immigration-related functions, although lesser in scope and frequency, also are performed by other parts of DOJ. For example, the ***Community Relations Service*** [CRS], an agency whose mission is to prevent and resolve disputes, disagreements, and difficulties relating to perceived discriminatory practices based on race, color, or national origin, anticipates that due to community tensions over national changes in immigration enforcement generally, activities at worksites, and recent welfare reform initiatives there will be an increased demand for its mediation and conciliation services in FY '97 and '98 that will require considerable resources. CRS participation and resources also are included in the DOJ mass immigration response planning. For example, in FY '95/'96, CRS participated in *Operation Safehaven* at Guantanamo Bay and at Howard Airforce Base in Panama. In the event that *Distant Shore* or the *Southwest Border Enforcement Plan* are implemented, CRS would be called upon to provide mediation and conflict resolution services to the detained population and the local community.

The *Office of Legal Counsel* [OLC], headed by an Assistant Attorney General, assists the Attorney General in her role as legal adviser to the President and the Executive Branch agencies and as arbiter of legal disputes within the Executive Branch. As such, OLC plays a critical role in writing decisions in the cases in which the Immigration and Naturalization Service seeks reversal of a decision by the Board of Immigration Appeals. A recent example of this effort is the Attorney General's decision in *Matter of Soriano,* rendered February 21, 1997 and holding that AEDPA's restrictions on a lawful permanent resident's eligibility for relief under section 212(c) apply to cases already pending before EOIR.

Department of State [DOS]

The ***Bureau of Consular Affairs*** [CA] is a long-established bureau covering the issuance of visas abroad to foreigners wishing to enter the U.S., the issuance of passports to American citizens, and assistance to American citizens living and traveling abroad. All of these responsibilities have both foreign policy and domestic policy considerations and involve legal, humanitarian, and management concerns. From 1952 to 1978, the Bureau was known as the Bureau of Security and Consular Affairs [SCA]. CA, which employs approximately 1,000 employees, has three major directorates, each headed by a Deputy Assistant Secretary: the Visa Office; the Passport Office; and the Office of Overseas Citizens Services. The Bureau has a staff of approximately 315 in its Washington office and some 474 permanent staff plus an additional 200 seasonal and part-time hires at its 15 passport and processing agencies around the U.S.

The ***Bureau of Democracy, Human Rights and Labor*** [DRL] was formed in 1994 under the policy direction of the Under Secretary for Global Affairs [G] and included the previous Bureau of Human Rights and Humanitarian Affairs [HA]. While there is growing recognition that human rights problems sometimes form the impetus for migration flows, the Bureau's main role in migration affairs continues to be though its Office of Asylum Affairs [DRL/ASY].

The ***Bureau of Population, Refugee and Migration Affairs*** [PRM] develops policy for U.S. positions on international population issues, works with both refugees entering the U.S. and organizations that provide assistance to refugees abroad, and has the coordinating policy role in DOS on 'migration issues' outside the U.S. The addition of a greatly expanded population portfolio to the former Bureau of Refugee Programs, provides for greater emphasis on population matters when migration policy is considered.

The *Office of the Legal Adviser* [L] serves as the DOS lawyer on migration issues, with one office dealing with legislation and policy issues on consular affairs and a second office dealing with human rights and refugees.

The *Bureau of International Narcotics and Law Enforcement Affairs* [INL], contains an Office of International Criminal Justice which deals in part with migration issues affecting some law enforcement issues (particularly alien smuggling).

Department of Labor [DOL]

Several agencies within the DOL share responsibility for immigration programs and issues. The main efforts of the *Employment and Training Administration* [ETA] focus on processing the various applications/attestations that are filed by employers seeking to hire immigrant and nonimmigrant workers. Within ETA, the immigration function is based in the Division of Foreign Labor Certification [DFLC] that works through State Employment Service Agencies [SESAs]. In FY '96, the DFLC National and Regional office staffs involved in immigration totaled 16 FTEs and 82 FTE, respectively. Total funding for ETA staff involved in alien labor certification was $8.9 million, with grants to SESAs totalling $45,713,000. It is estimated that, as a result of FY 1997 budget cuts, the SESAs will receive approximately 50 percent of what they received in FY 1996.

The *Employment Standards Administration* [ESA] is primarily responsible for all enforcement related to immigration, including both directed and complaint-driven investigations. Within ESA, the Wage and Hour Division [Wage/Hour] has primary compliance responsibility in the area of immigration.; it is charged with investigating possible violations of the regulations, contract requirements, or attestations under the H-2A, H-lA, H-lB, D-visa and F-visa programs. It also is involved with enforcing the SAW reporting requirements and, with the Office of Federal Contract Compliance Programs [OFCCP], in reviewing employment eligibility verification requirements (I-9s) as part of its regular investigatory duties. Of the 30,000 investigations conducted by Wage/Hour in 1995, less than 5 percent of all investigative time, excluding I-9 reviews, was attributable to immigration enforcement.

The *International Labor Affairs Bureau* [ILAB] and Office of the *Assistant Secretary for Policy* [ASP] concentrate on policy and research aspects of immigration. ILAB represents the DOL on the President's Task Force on Immigration and Refugee Policy. Within ILAB, the Division on Immigration Policy and Research [DIPR] aids in development of the DOL immigration policy and is responsible for research and reporting responsibilities associated with a number of immigration-related reports mandated by IRCA and the Miscellaneous Technical Immigration and Naturalization Amendments [MTINA]. The Director of DIPR is one of the staff-level cochairs of the DOL Immigration Policy Task Force.

ASP provides the Secretary with analytical support on economic policy issues; assists the Secretary, Deputy Secretary, and DOL agencies in the design and evaluation of programs by providing analytical support and research direction; and performs and/or oversees the performance of research in areas of special interest to the President and the Secretary. Its particular involvement with immigration issues stems from the responsibilities ASP assumed in 1987 for implementing IRCA and assigning research functions among DOL agencies. Since that time the ASP Office of Program Economics [OPE] has remained involved in specific immigration-related activities.

The *Board of Alien Labor Certification Appeals* [BALCA] is empowered to review all denials of applications for labor certification for which review is requested. Previously, appeals were adjudicated by individual administrative law judges within DOL. The BALCA mandate is to provide uniformity and consistency of decision. Under the regulations, BALCA is chaired by the DOL Chief Administrative Law Judge and consists of other DOL Administrative Law Judges designated by the Chief Judge.

The *Office of the Solicitor* [SOL] provides legal support for all DOL immigration programs and functions, including: providing advice and opinions in support of policy and program decisions; reviewing and, in some cases, drafting regulations and policy issuances that govern program operations; reviewing and clearing various correspondence; and litigating cases that arise under the various immigration programs.

Customs Service

The Customs Service of the Department of the Treasury has principal responsibility for inspection and clearance of goods entering the U.S. During the course of primary inspections, Customs officers are cross designated to inspect persons seeking entry (as INS inspectors are cross designated to inspect goods during primary inspection). Each agency's inspectors send suspected violators to the appropriate agency for secondary inspection and a final determination of admissibility. In addition to its inspection functions, the Customs Service also is responsible for "examining imported cargo and related paperwork to ensure compliance with federal laws governing international trade and to ensure that appropriate duties, taxes, and fees are collected. Customs also enforces certain provisions of the export control laws of the United States. Further, beyond the efforts of Customs inspectors to interdict narcotics and other contraband at ports of entry, Customs also employs special agents to investigate allegations of smuggling and commercial fraud" [GAO 1993].

MANAGEMENT ISSUES

National Policy Development

At this Commission's first public hearing, Doris Meissner [not yet nominated to be INS Commissioner] urged the Commission to address itself to gaps she identified in the immigration policy development capacity of the federal government [Testimony, January 5, 1993]:

> I propose that the Commission think about how a more sustained, active and forward-thinking role [in policy development] could come from the executive branch. Its purpose would be to establish an executive branch focal point that is increasingly needed and unlikely, because of history and outlook, to arise from within the agencies that discharge immigration functions.

Mrs. Meissner suggested that a policy development body should be responsible for: overseeing federal immigration policy development across all of the departments responsible for immigration matters; monitoring the execution and impact of new legislation, policies, and programs; generating research and analysis; serving as a forum for discussion of new ideas; and relaying the resulting recommendations to the Congress and the President.

Four years later, some progress has been made, but policy development still remains a weakness in the overall immigration system. INS has moved towards developing an improved internal agency policy development and monitoring capacity, but much more is needed in the way of a focal point for developing, articulating, and coordinating immigration policy within and across the major departments responsible for its implementation.

A number of options may be considered to improve policy development both within and across departments. [Please note that some of these options could be combined with some of the structural reforms discussed in the next section. Depending on some of the following structural reforms, the need for other options may be eliminated.]

Strengthening the Domestic Policy Council [DPC]. One administrative way to address the need for a national policy focal point would be to establish a new policy development and coordination mechanism at the Domestic Policy Council. Just as the National Security Council [NSC] Office of Democracy, Human Rights and Humanitarian Affairs has done regarding refugee and humanitarian matters, a DPC

Office for Immigration Policy could articulate national policies and strengthen interagency cooperation.

The White House has foreshadowed such an option. On February 7, 1995, President Clinton issued a directive to the heads of Executive Departments and Agencies on deterring illegal immigration. The directive provided "a blueprint of policies and priorities for this Administration's continuing work to curtail illegal immigration." The directive required, for example, a White House Interagency Working Group to make certain recommendations for administrative initiatives and legislative reform on visa overstay deterrence; the INS and Social Security Administration to establish, implement, monitor, and review certain workplace verification pilot projects; DOJ in consultation with the Interagency Working Group to develop a National Detention, Transportation, and Removal Policy; and the Interagency Working Group to coordinate the development of a comprehensive package of deterrence strategies in selected metropolitan areas by multiple federal, state, and local agencies.

Creating Offices at the Departmental Level to Coordinate Immigration Matters. Each of the major departments diffuses responsibility for immigration matters across a number of different agencies, some with only immigration duties and others with a much broader range of activities. Because of the dispersal of functions, the relevant departments tend not to develop coherent policy positions reflecting the totality of their responsibilities regarding immigration. Often, immigration agencies become step-children, and immigration policy receives attention at the department level only when emergencies intervene.

Consolidating responsibility for all immigration matters into a single office at a sufficiently high level within each department could improve policy development. Consider the DOJ example in which responsibility for immigration decisionmaking, policy, and its implementation are located in many parts of the Department; some offices/agencies report to the Attorney General first through their respective Assistant Attorney General, then to the Associate Attorney General, and then to the Deputy Attorney General through his or her staff; others, including INS and EOIR, report to the Deputy Attorney General, again through his or her staff.

To some, this organizational structure is very institutionally fragmented. Further, it fosters a situation where conflicts in, and coordination of, policy and oversight within and between the interested agencies/divisions/offices are not fully fleshed out before reaching the Deputy Attorney General for decision, and, in any event ,are not resolved fully at an appropriately early level. The result is a lack, or perceived lack, of a coordinated and effective DOJ immigration policy.

To further coordination and effectiveness, some observers suggest that the responsibility for all immigration functions (e.g., policy, planning, coordination, benefits, border enforcement, interior enforcement, worksite enforcement, administrative review, court litigation, etc.) be housed under one roof—either at an Assistant Attorney General level or at an Associate Attorney General level. Under such a plan, this office would have full responsibility for developing policy related to all of these functions and would coordinate and oversee their implementation.

A similar option could be implemented at the DOL, with creation of a new Assistant Secretary for Immigration Affairs. The activities now performed by ETA, ESA, and ILAB could be brought together in one agency whose primary focus would be the development and implementation of DOL-related immigration policy. This agency would be responsible for policies regarding admission of skills-based immigrants and nonimmigrants, enforcement actions to determine if employers meet their responsibilities under the various skills-based categories, investigation of compliance with employer sanctions, etc. It also would undertake the research and analytic activities now performed by ILAB and ASP.

Establishing a Standing Body Responsible for Immigration Policy. In her 1993 testimony to the Commission, Mrs. Meissner recommended a standing commission to oversee immigration policy development. She suggested that a standing body, which could be structured along the lines of the Civil Rights Commission or with regulatory powers, such as the Federal Communications Commission, would be responsible for policy development but not for policy implementation.

Structural Problems Related to Operations

The immigration system is one of the most complicated in the federal government bureaucracy. In some cases, one agency has multiple, and sometimes conflicting, operational responsibilities, and in other cases, multiple agencies have responsibility for elements of the same functions. Both situations create problems:

Mission Overload. Some of the agencies that implement the immigration laws, INS in particular, have so many priorities that they have proved unable to manage all of them effectively. Between Congressional mandates and administrative determinations, these agencies have too many responsibilities that are given equal weight. Such a system is set up for failure and, with such failure, further loss of public confidence in the immigration system.

The Commission noted in its 1994 Report that the credibility of immigration policy can be measured by a simple yardstick: people who should get in, do get in; people who should not get in are kept out; and people who are judged deportable are required to leave. Our legal immigration should strive to serve the national interest in helping families to reunify and employers to obtain skills not available in the U.S. labor force; our refugee system should reflect both our humanitarian beliefs and international refugee law; and our enforcement system should seek to deter unlawful immigration through employer sanctions and tighter border control and have an effective mechanism for removal of those who do enter illegally.

No one agency is likely to have the capacity to accomplish all of these goals equally well. Immigration law enforcement requires staffing, training, resources, and a work culture that differs from what is required for effective adjudication of benefits or labor standards-related regulation of U.S. businesses.

Diffusion of Responsibilities Among Agencies. Responsibility for many immigration functions are spread across numerous agencies within single departments or between departments. For example, responsibility for making decisions on skill-based immigrant and nonimmigrant applications is dispersed among DOL, INS, and

DOS. In addition, the United States Information Agency [USIA] has responsibility for the J visa under which some exchange visitors work in this country. DOL is expected to make a determination as to whether Americans are available for certain work and is also responsible for *post facto* enforcement activities to ensure that employers comply with the requirements of the specific visa category. INS determines whether the individual alien has the qualifications required by the job once DOL certifies that the employer has attempted to recruit and been unable to find a minimally qualified U.S. worker. Further, INS makes the determinations without any DOL involvement on an entire range of skill-based immigrant categories, including individuals with extraordinary ability, outstanding professors and researchers, multinational executives and managers, and professionals with advanced degrees who don't require labor certifications. INS also handles adjustments of status to permanent residents for workers who are already in the U.S. DOS issues visas overseas to would-be immigrants who meet the requirements under the DOL and/or INS review.

Border management exemplifies a different type of diffusion of responsibility. INS and Customs inspectors are both stationed at ports of entry for inspection of persons and goods entering the U.S. INS is responsible for ensuring that individuals have the legal right to enter the U.S., and Customs is concerned with the goods they are bringing. Because both agencies must perform an inspection, many previous studies had recommended that inspectors to be "cross designated" to make inspection easier. This "one stop" inspection was finally adopted in the late 1970s. Now either Customs or INS personnel perform both inspections, facilitating entry of persons and eliminating duplication of effort.

While cross-designation helps avoid a duplication of effort during primary inspection, it presents certain challenges. Customs staff must be trained to identify *mala fide* bordercrossers, and INS staff must be trained to identify individuals attempting to smuggle goods. In interviews conducted by Commission staff, line personnel of both agencies questioned the competence of colleagues from the other agency to perform their functions. They pointed to the limited training that the other agency is able to provide on what are, in essence, secondary responsibilities for which the staff member will neither be recognized nor promoted. Both agencies also complained that the dual management structure does not allow one agency to be in charge of and accountable for overall port operations. When the agencies do not coordinate the deployment of their staff, too few or too many staff may be assigned to work the inspection lanes.

A third area in which responsibility is diffused is worksite enforcement. Both INS and DOL investigate employers to determine if they have violated the rules triggering sanctions against employers who knowingly hire unauthorized workers. The Office of Special Counsel has related responsibilities in determining if employers are engaging in immigration-related unfair employment practices. Despite continuing efforts on the part of these agencies to improve cooperation and coordination, it is clear that the agencies have different, if not conflicting, missions. INS officers, while recognizing that effective employer sanctions may deter entry, generally see their principal responsibility as the apprehension and removal of illegal aliens. DOL officers see their principal responsibility as protection of workers from exploitive practices, such as wage and hour violations. Although recognizing that illegal immigration gives employers opportunities to violate labor standards because of the unwillingness of illegal aliens to complain, DOL inspectors fear that too close an identification with INS will hamper their ability to get information needed to prosecute employers. The OSC principal responsibility is to protect authorized workers from discrimination by employers. When OSC and INS disagree, however, on what constitutes vigilance in verifying work authorization (to avoid hiring unauthorized workers) and what constitutes discrimination, employers become confused and feel themselves caught between a rock and a hard place in complying with both parts of the law.

A fourth area in which responsibilities are diffused—and good arguments can be made for keeping or even increasing the organizational separation of responsibilities—involves the mechanisms for review and appeal of decisions. For example, INS apprehends illegal aliens but EOIR determines if they are deportable. Similarly, ETA makes the initial determination on labor certifications, but BALCA hears appeals of these decisions. The separation of responsibility ensures a fairer review.

However, issues of coordination regarding policy, operations, and resources remain. For example, if INS investigations lead to an increase in apprehensions and referrals to the immigration court, will EOIR have sufficient judges for the increased caseload? In turn, if EOIR applies a tougher standard [for example, because of a Board of Immigration Appeals decision] and therefore issues more orders of deportation, will INS have the resources to remove the individuals?

Options for addressing the complex, sometimes confusing distribution of responsibilities for immigration operations include:

Improving coordination between and among existing agencies. The option that would require the least structural reform would improve coordination of the agencies currently involved in immigration functions. Better coordination could be achieved in a number of ways. For example, regular meetings of an Interagency Taskforce composed of the three principal agencies responsible for immigration benefits/services could identify ways to streamline and make more efficient the legal immigration and nonimmigrant systems. Similarly, working groups of Customs and INS at the headquarters and field levels could help address some of the problems encountered in the dual management of the border.

Reorganizing responsibilities along functional lines. A preferable option is to isolate the various functions encompassed in an immigration system and assign responsibility for each to a single agency. For example, the immigration system could be conceived to have four principal operations: (1) border and interior enforcement; (2) adjudication of benefits and visas [immigrant, nonimmigrant, and naturalization]; (3) immigration-related labor standards enforcement; and (4) appeals of administrative decisions. Defining separate responsibility to cover these functions would mean consolidating certain responsibilities now found in several agencies and breaking up some agencies into their component parts.

Immigration enforcement. A functional approach would consolidate border management (Border Patrol and Inspections), investigations, detention, and deportation into one agency. The principal responsibilities would be apprehending and removing illegal aliens, identifying and removing criminal aliens, breaking up smuggling rings and counterfeiting operations, etc. These functions already receive priority at INS, but identifying them as the sole mission of a single agency would avoid some of the conflicting priorities referenced above.

A consolidated enforcement agency could follow a more traditional law enforcement model structure, focusing on police activities, pre- and post-trial probation services, and prosecution. The police function would be carried out by *uniformed services*, such as Inspectors and Border Patrol Agents, and *detectives*, who would conduct investigations and collect intelligence at the border and in the interior to deter smuggling, facilitate removals and accomplish other similar goals. An effective *pre- and post-trial/hearing screening* and/or *supervised release* process would ensure that detention is available for those who are most likely to abscond or present a danger to the community. Another function of the law enforcement model would be *prosecution* by an Immigration Enforcement Agency or U.S. Attorney's office.

Immigration benefits/services/visas. Consolidation of activities now performed by DOL, INS, and/or DOS would mean a more efficient, smoother operating service system. The possibilities range from bringing together functions performed by two or more of these agencies to the establishment of an independent agency. Potential advantages of consolidation might include: an opportunity to create a more efficient and effective labor market test mechanism for skill-based immigrants; a one-stop determination system; and a higher degree of importance attached to the function by the responsible agency if benefits/services were the principal responsibility. For example, if all responsibilities were consolidated in the Department of State, there would be a seamless process beginning with nonimmigrant and immigrant processing through naturalization to passport issuance and overseas citizenship services. DOS already has responsibility for many of these functions and has the domestic infrastructure (through its passport agencies) and international presence to accomplish all aspects. Similarly, DOJ already performs some functions and could add others.

Immigration-Related Employment Standards Enforcement. Consolidation of responsibility for immigration-related activities at the worksite would mean a single agency would have responsibility for all enforcement efforts involving employers hiring foreign workers. More specifically, this option would consolidate responsibility for enforcing sanctions against employers who fail to verify work authorization as well as enforcement of skills-based immigrant and nonimmigrant admission requirements. While the Department of Labor has principal responsibility for the latter actions, responsibility for employer sanctions enforcement is shared between DOL and INS, creating duplication of efforts and inefficiencies.

Appellate process. This could be handled in a number of different ways. EOIR could continue to serve as the agency to hear appeals of enforcement related actions. Appeals of the immigrant services/benefits decisions could be undertaken by a separate agency that combined what is covered by BALCA and the Administrative Appeals Unit at INS. A more effective structural change would establish an independent review agency that would hear appeals of all immigration-related administrative decisions.

Establishing a Cabinet Level Department or Independent Agency. A new Department or independent agency similar to the Environmental Protection Agency [EPA] would potentially provide the basis for leadership on immigration issues. Immigration issues affect many millions of Americans. A Cabinet secretary or independent agency head focused exclusively on migration matters would command attention both on policy and implementation matters. The difficulties of coordinating lower level agencies at various departments would be significantly addressed by this option. The resources now applied to such issues are comparable to those applied to matters handled in certain Cabinet level departments (e.g., Interior and State)

As Milton Morris points out in *Immigration—The Beleaguered Bureaucracy* (1985), combining several agencies into a single new independent agency with complete responsibility for administering a policy area has been used successfully in other areas of government to improve the quality of policy implementation. The EPA was established in December 1970 by consolidating the tasks of eleven agencies that had environmental responsibilities. He observes that with the creation of the EPA came a greatly increased federal commitment to environmental protection.

Dr. Morris notes that the reorganization did not solve all the problems encountered in implementing environmental policy and that some might argue that it merely created new problems. Also, objections would likely be raised that creation of a new agency or department cannot be justified, particularly in a climate that promotes eliminating federal government offices or merging them into already existent departments. Dr. Morris believes that the most compelling reason to oppose a new department is that the distribution of responsibilities accurately reflects the character of immigration and the diverse interests it affects. In particular, he observes that important foreign policy interests justify the extensive involvement of DOS. As a practical matter, he notes the convenience of having consular officials handle visa issuances.

Priorities, Resources and Accountability

The many years of neglect of immigration issues within the federal government, combined with recent major increases in resources and responsibilities, creates challenges in improving accountability throughout the various agencies implementing immigration policy.

INS is the agency that has received the most attention and criticism (as well as the largest infusion of new resources), but many of the problems identified there pertain as well to other federal agencies with immigration responsibilities.

Government budgeting cycles are lengthy and complex, complicated by the doubly bifurcated processes of first authorization and then appropriations occurring separately in both the House of Representatives and the Senate, and then together in conference. Further complicating the situation, INS and DOS Consular Services report to one appropriations subcommittee while DOL and Customs report to others. Repeatedly, this situation has led to problems of imprecise articulation of priority actions within the budget authorizations process, followed by often inadequate appropriation of funding sufficient to accomplish those authorized actions successfully. There presently is no accountability between Congressional committees to ensure a congruence between any agreed-upon priority expectations and the resources actually allocated to do the job. Nor has it been easy for Executive Branch Departments to identify exactly how much money they need to accomplish the entirety of a specified goal—and then to scale back or increase that goal depending on the resources appropriated.

This overall problem is compounded by inadequate identification of the various elements of a priority action—and of the interrelationships necessary to accomplish a specified goal. For example, a priority to vastly increase the number of deportable aliens removed from the U.S. each year is composed of many interrelated and interdependent elements, involving, at a minimum, funding for EOIR Immigration Judges, INS trial attorneys, investigators, deportation officers, detention/deportation drivers, air and ground transportation (vehicles, equipment, and upkeep), government and/or contract detention space, travel documentation and authorizations [often necessitating intercession of DOS], deportation guards, etc. Although these elements are contained in many different line items in several different agency budgets, they are all essential to the accomplishment of this one seemingly simple removal priority. However, if any one of these elements is inadequately funded [e.g., detention space, investigators, or detention staff, etc.], then the ability of the government to produce the results expected often is drastically reduced. Yet, there currently is no way to present and then have approved the resources needed to accomplish such goals and objectives.

This situation is exacerbated by the need for agencies to deal simultaneously with various budget aspects involving four different fiscal years. For example, for the second quarter of FY 1997 (i.e., January-March 1997), federal agencies simultaneously are performing the following budget-related tasks:

For FY 1996 Completing work on 1996 year-end statistics and reports;

For FY 1997 Continuing work on implementing FY 1997 goals and priorities;

For FY 1998 Putting final touches on the President's February "FY 1998 Budget Submission to the Congress" and then explaining/ defending it at hearings before the appropriate Congressional committees;

For FY 1999 Developing within Executive Branch agencies the FY 1999 budget initiatives, priorities and strategies to be submitted to OMB under the "Spring Plan" planning process.

As noted above, though many of these problems pertain to all of the federal agencies responsible for immigration, INS has received the most attention because of its central role and responsibilities. The National Academy for Public Administration [NAPA] in its recent report on the INS financial management and budget systems, states that INS has three major processes in place to set directions and track progress for its programs: strategic planning; the Commissioners's priorities; and the budget. NAPA also reports that the Government Performance and Results Act [GPRA] recently added a fourth element: performance measurement.

NAPA concludes that the DOJ strategic plan lacks concrete performance goals and was completed after, rather than before, the INS strategic plan. The INS strategic plan is compared favorably with those of many other agencies, but, according to the NAPA study, also lacks specific performance criteria.

In discussing the INS priorities management process [PMP], NAPA concludes that among other purposes, the PMP serves as a management oversight mechanism. It reports, however, that the PMP is "not anchored in INS's operating systems," meaning that the process could end with a change of Commissioner. NAPA also points out that, although regional directors have some input through the executive associate commissioners, they are not substantive players in the PMP process.

The NAPA report further states that, although INS has adopted most of the essential elements of an effective strategic management system, the parts of this system do not mesh well. The most prominent disconnects relate to timing. The budget cycle continues to drive the planning process. Priorities and their goals are often not finalized until well into the budget year. NAPA acknowledges that the budget occupies a legitimate central role in program management but concludes that budget should not have the lead role. The lead role should be reserved for the planning function.

The report also points out that INS does not have a multiyear, program planning component for each of its program areas that incorporates strategic long-term plans with the priorities process' annual implementation plan. NAPA recommends including multiyear, as well as annual, program planning related to the strategic plan and to the Commissioner's priorities in the annual planning cycle. The report points out that, without multiyear planning at the program level, it is difficult truly to operationalize priorities. The report states: "An annual plan can have no substantial utility unless it is considered in relation to a multi-year plan. A multi-year plan can have no substantial utility unless it is reviewed annually."

Effective systems of accountability require mechanisms to ensure that promotions and other forms of recognition are tied to performance. Too often, throughout the federal agencies responsible for immigration, too little recognition is given to effectiveness of operations and even less to innovation. Nor do agencies identify the outcomes by which personnel will be measured, instead relying on measures of output. For example, a Border Patrol officer or INS investigator generally will be judged by the number of apprehensions. More difficult to measure is whether an apprehension results in either a deterrence outcome [reducing new illegal entries] or a removal outcome. A further problem is that performance of certain activities appears to be given less credit than other activities. For example, INS examiners are generally on a different career track than INS enforcement personnel. Even when promoted to management positions with responsibility for overseeing both enforcement and service operations, staff members who rise through the service track are paid less total compensation at the same grade than persons who rise through the enforcement track (with its law enforcement pay incentives and earlier retirement benefits).

The federal agencies responsible for immigration policies have considerable discretion to find and implement solutions to the problems discussed above. Some have called in outside experts to help identify such solutions. In addition, Congress has enacted legislation regarding government performance that encourages greater efficiency, effectiveness, and accountability. Two specific approaches hold potential for improving the priority setting, allocation of resources and accountability

Implementing the Government Performance and Results Act. The Government Performance and Results Act [GPRA] was enacted in July 1993, "To provide for the establishment of strategic planning and performance measurement in the Federal Government." In particular, Congress found that "waste and inefficiency in Federal programs undermine[d] [public] confidence . . . in the Government. . . ." and that "Federal managers are seriously disadvantaged in their efforts to improve program efficiency and effectiveness because of insufficient articulation of program goals and inadequate information on program performance," and "Congressional policy-making, spending decisions and program oversight are seriously handicapped by insufficient attention to program performance and results."

GPRA was passed in order to "systematically hold Federal agencies accountable for achieving program goals," to "improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality and customer satisfaction," and to "improve Congressional decisionmaking" and "internal management of the Federal Government."

To accomplish the GPRA purposes, the Act requires each federal agency [currently defined by OMB as Departments and not such subordinate entities as the INS, FBI, etc.] to develop strategic plans for Fiscal Years 1999 onward. [GPRA requires planning for a minimum of five years, OMB says it should be for six years.] The strategic plan is to include "a comprehensive mission statement covering the major functions and operations of the agency . . . . general goals and objectives, including outcome-related goals and objectives" and a "description [strategy] of how the goals and objectives are to be achieved." In developing the strategic plan, the GPRA required agencies to consult with the Congress. Strategic plans are to be "updated and revised at least every three years." Annual performance plans will request the resources and authorities needed to successfully accomplish the goals and objectives of the strategic plan for that fiscal year. Agencies are to develop performance indicators and the information technology and management capabilities needed to measure program efficiency and effectiveness. Agencies are then required to submit to the Congress, annual performance reports six months after the end of each fiscal year.

A September 1995 memorandum to all heads of executive Departments and establishments from the Director of the Office of Management and Budget provided instructions on preparation and submission of agency strategic plans. For DOJ, the Assistant Attorney General for Administration started coordinating work on the DOJ strategic plan in August 1995. The GPRA requires agencies to complete their strategic plans "[n]o later than September 30, 1997."

To assist Department managers, the Justice Management Division issued a "DOJ Manager's Handbook on Developing Useful Performance Indicators" in April 1995. In June 1996, GAO issued an "Executive Guide: Effectively Implementing the Government Performance and Results Act." The Acting Comptroller General of the United States provided testimony to the Congress on "Managing for Results: Using GPRA to Assist Congressional and Executive Branch Decisionmaking" in February 1997.

On February 25, 1997, a joint Senate-House letter was sent to the Director of the Office of Management and Budget summarizing in considerable detail the kind and content of Executive Branch consultations that the Congress envisages under GPRA. The Congressional letter expressed the hope that rather than merely consult with Congress, agencies would "come to a reasonable degree of agreement with the committees as to what performance measures will be used to gauge program success."

Once these strategic plans have been reviewed and approved, full implementation of GPRA also seems to imply closer Executive Branch consultation with the Congress on long-term [three-year] *and annual* goals and objectives and, therefore, also may result in a closer congruence between the goals finally adopted and the resources actually appropriated to accomplish those goals.

Implementing the NAPA Recommendations. As a result of its study "Budgeting for Performance: Strategy, Flexibility, and Accountability to Meet a Demanding Mission," NAPA made a series of forty recommendations in the areas of strategic planning, priorities, performance measures, budget formulation, and budget execution.

With respect to planning, performance, the budget, and financial management, NAPA recommendations included: development of a strategic plan and priorities with detailed assumptions leading to action plans by major program areas that include five-year dollar projections; development of performance measures tied to accomplishing the priorities and to the five-year program plans; development of a program evaluation capability to ensure effective measurement of whether there is movement toward the goals; and development of a strategy for acquiring financial accounting and reporting systems that adequately supports all financial management activities, including the budget process.

In the area of budget account structure, recommendations include adoption of a simpler decision unit structure by consolidating decision units on a programmatic basis. For budget formulation, NAPA recommended that both the base and enhancements in a budget formulation process focus on accomplishing goals within the context of a strategic plan and five-year program plans. With respect to budget execution, NAPA recommended soliciting field input to the base budget execution plan. Field input on both plans should be within guidelines on resource limitations provided by headquarters to prevent wish lists.

On organizational issues affecting budgeting, NAPA recommended delegation of authority for determining all sector and district allocations to regional directors and transfer to the Budget Office of all responsibility for allocating and managing funds designated for field use. NAPA further recommended clarification of the roles, responsibilities, and authorities of headquarters programs and field operations offices and assessment of whether resources are adequately distributed to each office to enable them to fulfill their responsibilities.

INS has begun to implement some of these recommendations. Many of these proposals also would improve operations in the other major agencies with immigration-related responsibilities.

CONCLUSION

The federal government has sole jurisdiction over immigration matters. Responsibilities are spread over numerous federal agencies. This paper sets out concerns regarding inadequate systems for setting national policy and priorities, allocating resources, implementing effective and accountable operations, and measuring and rewarding performance. Many of the identified problems have existed through various Administrations and cut across Department or agency lines. The options presented here are offered to stimulate discussion and debate on proposals to improve the development of federal immigration policy and its implementation.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

LEGISLATIVE REFERENCE DIVISION

ECONOMICS, SCIENCE, AND GENERAL GOVERNMENT BRANCH

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DATE: 3/30/98

NUMBER OF PAGES (including this cover sheet): 2

COMMENTS:

Revised state draft letter on the Admin.'s plan to restructure INS.

Please provide any comments ASAP. If we want this letter included in the package we are going to need clearance ASAP.

Thanks

Please call (202) 395-3454 to report any difficulties with transmission of this fax.

THE SECRETARY OF STATE
WASHINGTON

Draft

Dear Chairman Rogers:

The Department of State is committed to an immigration system that serves the best interests of the American people, as well as legal immigrants, foreign visitors, and those who may seek citizenship. The Department supports the Administration's proposals to reorganize the Immigration and Naturalization Service to better fulfill its dual mandate to provide services to legitimate applicants and enforce U.S. immigration laws. The Department will work with INS to minimize any duplication in our shared responsibility for the admission of aliens to the United States and expand cooperative information sharing initiatives like the State/INS DATASHARE project.

The Department has met with the Domestic Policy Council to review the recommendations of the Commission on Immigration Reform (CIR). The CIR proposal to transfer INS' service and benefit functions to the Department would require taking on substantial new functions currently not performed; moreover, this would occur at a time when Congress is also considering a consolidation of foreign affairs agencies. For these reasons, we do not endorse such a change. We believe the Administration's efforts can achieve the same goals that the CIR sought without the disruption and risk inherent in dismantling an organization like the INS.

We want to continue to work with you and the Subcommittee toward our common goal of an immigration system that serves the needs of the Nation by welcoming legal immigrants, effectively deterring those who attempt to enter illegally and providing services and benefits in a timely and effective manner.

Sincerely,

Madeleine K. Albright

The Honorable
Harold Rogers,
Chairman, Subcommittee on Commerce, Justice,
State, the Judiciary and Related Agencies,
Committee on Appropriations,
House of Representatives.

Final Recommendations

ORGANIZATION RESTRUCTURING

IMMIGRATION AND NATURALIZATION SERVICE

Washington, D.C.
March 9, 1998

BOOZ·ALLEN & HAMILTON

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BOOZ·ALLEN & HAMILTON

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1. INTRODUCTION

Over the past few years, the Immigration and Naturalization Service (INS) has experienced significant growth. Increased volume of naturalization and other benefit applications, heightened activity along the southwest border, and a number of significant legislative changes, such as The Illegal Immigration Reform and Immigrant Responsibility Act of 1996, have complicated the execution of its mission.

The INS has received significant increases in resources to help it handle these additional responsibilities and workload—its budget allocations more than doubling from FY 1993 to 1998. This dramatic growth has strained the current organization and impacted performance. Problems with the naturalization process, backlogs in application processing, and questions about the agency's ability to prevent illegal immigration and effectively remove those who are already in the US continue to elicit comment and attention.

The INS has undertaken a number of efforts both to address these issues and to improve the agency's basic operations and infrastructure. Key efforts that INS has undertaken in the past few years to address its problems include:

- Reengineering the naturalization process
- Automating records and upgrading information technology infrastructure
- Integrating enforcement operations at the border through initiatives such as Gatekeeper and Rio Grande
- Restructuring Asylum Operations
- Removing significant numbers of criminal or deportable aliens

These efforts represent the beginnings of a major transformation of the agency that will take several years to complete. For the INS transformation to be successful, it must now fulfill four key imperatives:

- Develop clear lines of accountability
- Create customer-oriented service capabilities
- Build professional capabilities in law enforcement and services
- Fulfill INS's single mission: to uphold the immigration laws of the United States as intended by Congress.

Restructuring the organization is key to the transformation, but it is only a part of it. In order for the transformation to achieve the level of improvement INS and other stakeholders want, the way the agency does business must also change. These changes include new and different business processes, focused on timely and efficient operations; revised training programs that emphasize the professional standards that INS requires; ways of integrating between and within services and enforcement at all levels of the organization; and development of the infrastructure, especially the information infrastructure, necessary to allow the agency to operate effectively and efficiently.

The proposed organization structure presented in this document maintains the responsibility to execute the immigration and naturalization laws of the country under the singular authority of the INS. The INS has a single mission which is to execute the immigration policy of the United States. This single mission has two critical components that are inseparable: the extension of benefits to those who merit them and the protection of those benefits through enforcement for those who do not merit them. For example, when a person applies for benefits, a thorough screen for fraudulent documents is required to positively determine eligibility. Individuals apprehended at the border could turn out to be asylum applicants.

The following table provides additional examples of the close coordination and integration required between service and enforcement operations:

COORDINATION / INTEGRATION POINT	EXAMPLE
Status of an immigrant or alien can often change from a person receiving benefits to one suspected of illegal activity	A person overstays his/her visa and becomes an illegal alien
Real time interaction between enforcement and service staff is needed	Adjudicator interviewing applicant discovers marriage fraud and turns couple over to detention and investigations
Immigration laws can change requiring a coordinated approach when implementing new legislation	IIRIRA influenced both service and enforcement operations such as expedited removals, service centers issuing notices to appear for deportation proceedings

These integration points necessitate shared records and information management capabilities that produce accurate, accessible and available information for both service and enforcement personnel working together in the field. Coordinating common management and information systems between different government agencies has proven extremely complex and difficult with few success stories. Our recommendation is to execute the immigration laws and policy within a single agency—the INS.

1.1 Approach and Scope

The Department of Justice engaged Booz·Allen & Hamilton (Booz·Allen) to analyze the INS organization and operations and to propose alternative structures that could promote a more effective way to fulfill its mission and address current restructuring proposals. To accomplish this task in approximately nine weeks, Booz·Allen utilized senior consultants with law enforcement and service experience in both commercial and government operations who could quickly assess the current situation and test various structural elements.

Booz·Allen held over 80 interviews with INS staff, met several times with INS senior management including field managers, and visited district offices, a border patrol sector, and a regional office. A number of different data gathering techniques were used including reviewing existing reports and analyses, interviewing other consulting firms assisting INS in the implementation of new initiatives and benchmarking three federal agencies to learn from their experience. Three federal agencies were selected:

- Federal Bureau of Investigations—a law enforcement agency with a unique, highly decentralized field structure
- Social Security Administration—a successful service agency
- U. S. Customs Service—an organization with enforcement and service responsibilities that recently undertook a major restructuring effort that changed its organization

Booz·Allen designed the process to be highly interactive with INS senior management and selected field representatives. Hypotheses were developed and tested with INS, additional data gathered based upon the feedback, and conclusions presented. This cooperative process allowed Booz·Allen to gain necessary information rapidly while maintaining analytical independence.

Based on extensive experience with both commercial and federal government clients, Booz·Allen has developed several frameworks for assessing and designing organizations. The framework selected for INS consisted of seven key elements which together define the design and functionality of an organization. Figure 1 gives the framework used for the INS organizational analysis.

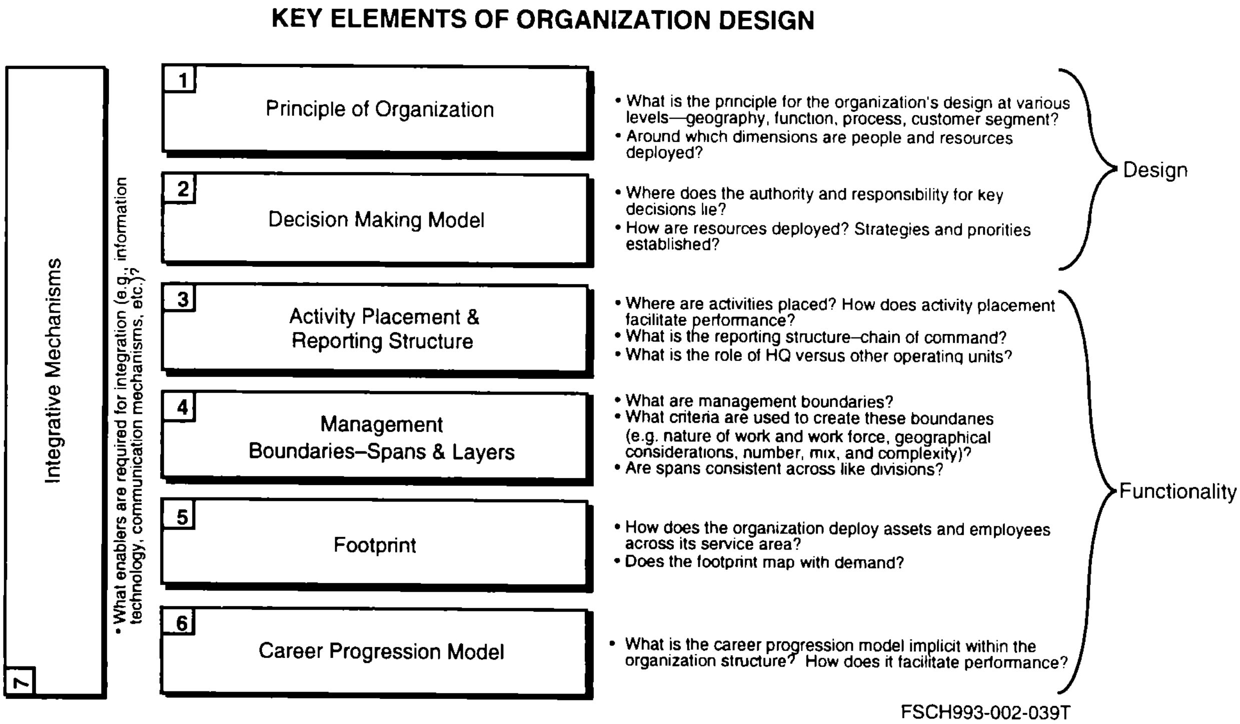

Figure 1: Key Elements of Organization Design

Booz·Allen used a methodology that forces top-down decision making. In designing a new organizational structure, several alternatives were considered around each of the design elements. For example, when determining the principle of organization, the team considered a number of options, organizing by customer segments, by geography, or by key functions. The best option was selected based upon how well that alternative satisfied the organizational imperatives. For example, "How well does this option create clear lines of accountability?"

2. PROPOSED ORGANIZATION STRUCTURE

Figure 2 shows the proposed high-level organizational structure. It represents the structure that best addressed the four organizational imperatives previously mentioned:

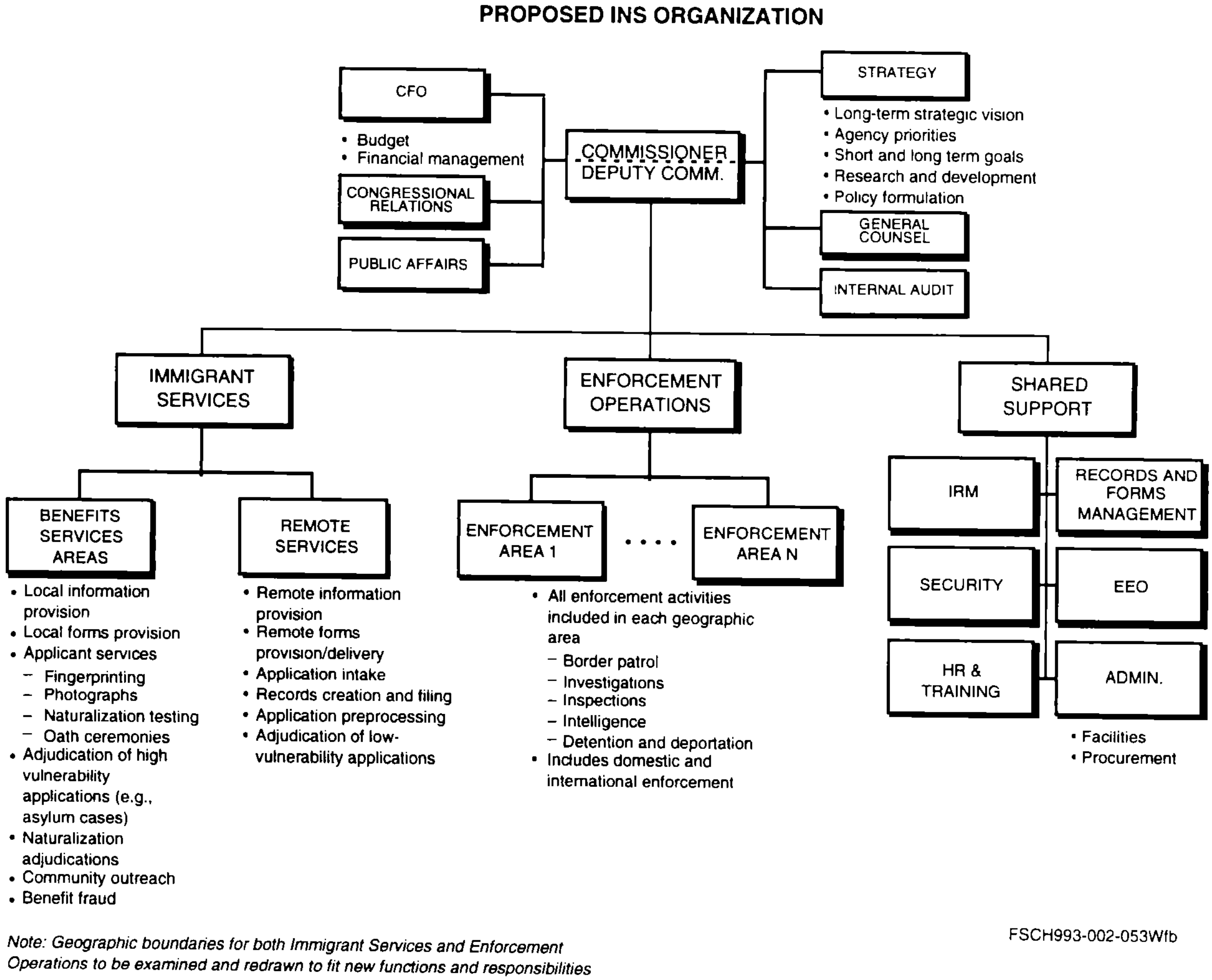

Figure 2: Proposed INS Organization

The majority of this report describes the proposed organization in detail which will be dramatically different from INS's current organization. It is worth summarizing these fundamental differences up front:

- HQ will focus on strategy, policy, goals and objectives, performance measurement, and provision of shared services in a support role to field operations—no involvement in day-to-day operations
- Accountability and responsibility for operations will be pushed down to the field
- Separate chains of command for service and enforcement operations will report to the Commissioner to establish clear lines of authority, responsibility, budget alignment, and execution of national priorities
- The geographic boundaries and footprints of service and enforcement operations will be different. Regional and district offices, as known today, will cease to exist. The field structure will be replaced by more targeted footprints that can focus on community needs
- Clear definition of law enforcement—pay reform legislation will be enacted to permit creation of an integrated enforcement division which includes inspectors
- More flexible career paths will be provided for staff within services and enforcement operations that are aligned to the staff's career needs. Separation and clarification of service operations from enforcement will allow leveraging the unique management knowledge, skills, and abilities required for each function
- Integration will take place with policy, process, information technology, training, and performance measures, not just organization—critical points of integration between service and enforcement have been identified

The recommended structure does not change every aspect of the INS. Rather, it tries to build on existing success stories such as the strength of the border patrol model and the restructured asylum organization and processes.

2.1 Summary of Proposed Organization

The high level recommended structure separates the agency into two core organization units—Immigrant Services and Enforcement Operations. Although services and enforcement must work together to fulfill the mission of the INS, execution of their functions is fundamentally different. Knowledge, skills and abilities across these functions are not easily transferable. For example, it is unlikely that one would want the head of service operations at American Express to be the chief of the Metropolitan Police Department.

Figure 3 presents a high-level summary of the recommended organization structure.

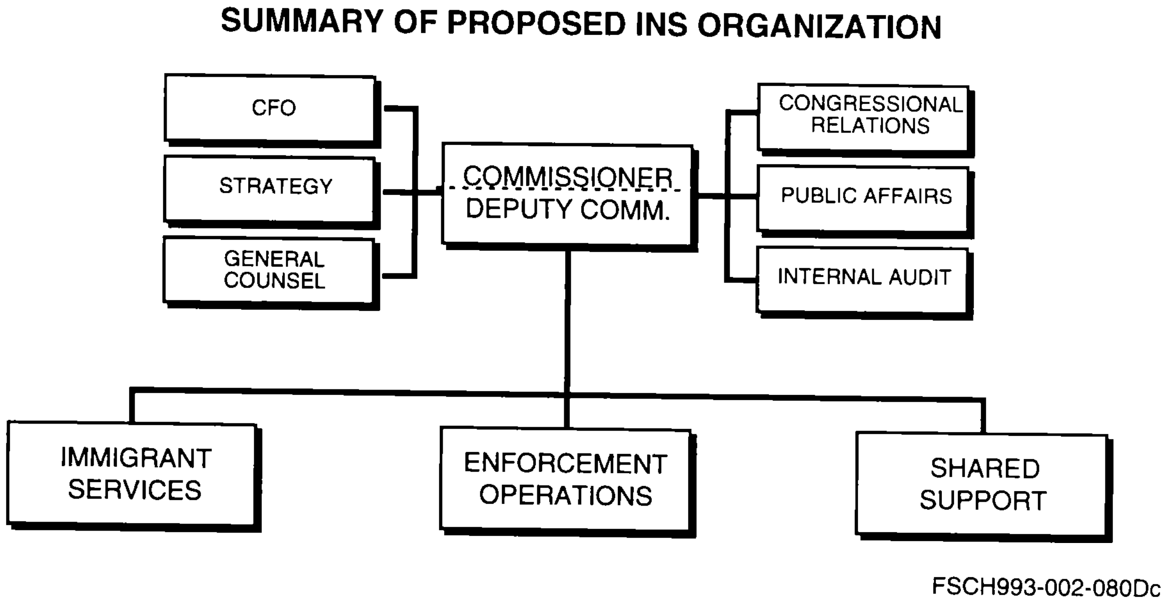

Figure 3: Summary of Proposed INS Organization

Immigrant Services and Enforcement Operations would each report directly to the Deputy Commissioner. A senior executive manager, equivalent to a currently defined Executive Associate Commissioner (EAC), would head each of these units and would have full responsibility and accountability for executing operations at the field level. This structure clarifies accountability at the highest level which will be replicated throughout the lower levels of the organization. Individuals in the field would receive directions from one chain of command. They would be able to see a career path that extends from either adjudications officer or border patrol officer to HQ. This structure permits each operations unit to focus on those actions and initiatives necessary to develop "best in class" capabilities.

Implicit in the redesign is a redefinition of the role of headquarters. HQ becomes responsible for developing strategies, goals and objectives, policy, performance targets, and frameworks to set direction to implement national priorities. It provides support where economies of scale suggest increased efficiencies and effectiveness or where consistency and standardization are critical. In line with the current direction of successful commercial corporate offices, it also implies small and focused corporate staffs that see their roles supporting, not directing, operations.

In addition to the two key mission-delivery operational units, the recommendation defines a shared support structure responsible for the provision of administrative activities. The Shared Support division is modeled after a "shared services" structure that is a well established practice in a number of leading Fortune 500 companies. It is important to recognize that shared services units are not staff functions. They are executional in nature and should be led by an executive at the same level as operating units.

A shared services organization balances the need for local provision of support with the ability to capture economies of scale across the agency. It differs from traditional provision of services on a centralized basis. Service level agreements are developed between a shared service unit and its operational customers which spell out the level of quality, timeliness, and service expected. In this sense, the relationship between a shared services unit and the field is similar to a vendor-client agreement or contract. If services could be more effectively performed by a vendor outside the agency, the shared services division encourages the organization to consider outsourcing the activity.

The next building block of the proposed high level structure is the Strategy unit. This unit would focus on developing the long term-strategy of the INS and facilitating the process of designing programs to execute that strategy. Program execution, however, should fall squarely into Immigrant Services and Enforcement Operations. The function of the Strategy unit is to plan, with active participation from the field, but not to be responsible for day to day operations. The current Office of Programs and Office of Policy and Planning would cease to exist—its policy, program, and design responsibilities moved to the new Strategy unit and other operational/executional functions moved into Immigrant Services and Enforcement Operations.

In addition to these units, other staff and advisory units will exist and report directly to the Commissioner. These units include General Counsel, Internal Audit, Public Affairs and Congressional Relations. The recommendation also creates a formal Chief Financial Officer reporting directly to the Commissioner. It is suggested that General Counsel maintain the current reporting relationship to the Commissioner, but further analysis is desirable to detail the impact of the service/enforcement split on today's District Counsel operations. Internal Audit continues its role as an independent office reporting to the Commissioner.

A detailed description of the organization structure is presented in the following sections.

2.2 Immigrant Services

This structure creates one division responsible and accountable for all aspects of INS service operations. Given the increasing demands on the agency and complexity of the work, a focused approach to service provision with dedicated, well-trained, service operations professionals is required to improve agency performance. Immigrant Services includes activities associated with the provision of benefits: information provision, application adjudication, oath administration and associated support activities (e.g., fingerprinting, test administration). This division also includes capabilities to combat benefits fraud.

This proposed structure differs from the current organization. Today, a District Director is responsible for managing both service operations and enforcement activities. The new model separates responsibility for management of service operations (Immigrant Services) from enforcement. Integration across Immigrant Services and Enforcement Operations will take place through policy, process, information technology, training, and performance measures.

Immigrant Services is organized along functional lines and has two broad components:

- Benefits Service Areas (Local/Community Services)—includes those functions that are community-based and require face-to-face contact with an applicant, petitioner or other individual in order to perform them (e.g. a naturalization interview, fingerprinting)

- Remote Services—includes those activities which benefit from economies of scale, can be performed from a remote location and require consistency in execution (e.g. file creation, phone center operations)

Figure 4 below presents the proposed organization structure for Immigrant Services.

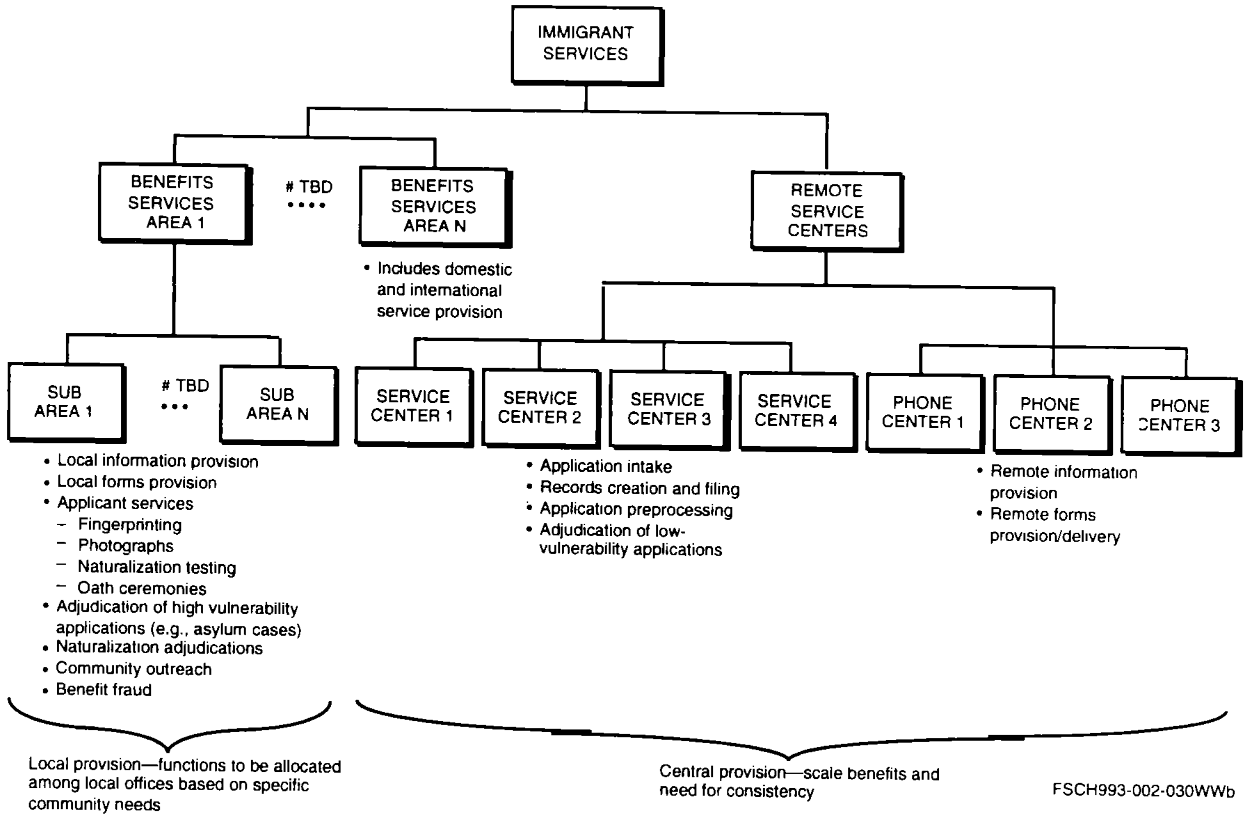

Figure 4: Immigrant Services Structure

Benefits Service Areas (local service provision)

Benefits Service Areas (BSAs) are geographic management units responsible for local service provision—in other words, those activities that require face-to-face contact with the community. The Benefits Service Areas would provide the following types of functions, all of which require local interface with an applicant for benefits:

- Local information and forms provision (Note: Could also be provided remotely via telephone or through other channels to improve accessibility and convenience)
- Applicant services
  - Fingerprinting
  - Photographs
  - Naturalization testing
  - Oath administration
- Adjudication of high vulnerability applications, those that require an interview or where there is a significant potential for fraud

Figure 5 provides an overview of the Benefits Service Area structure.

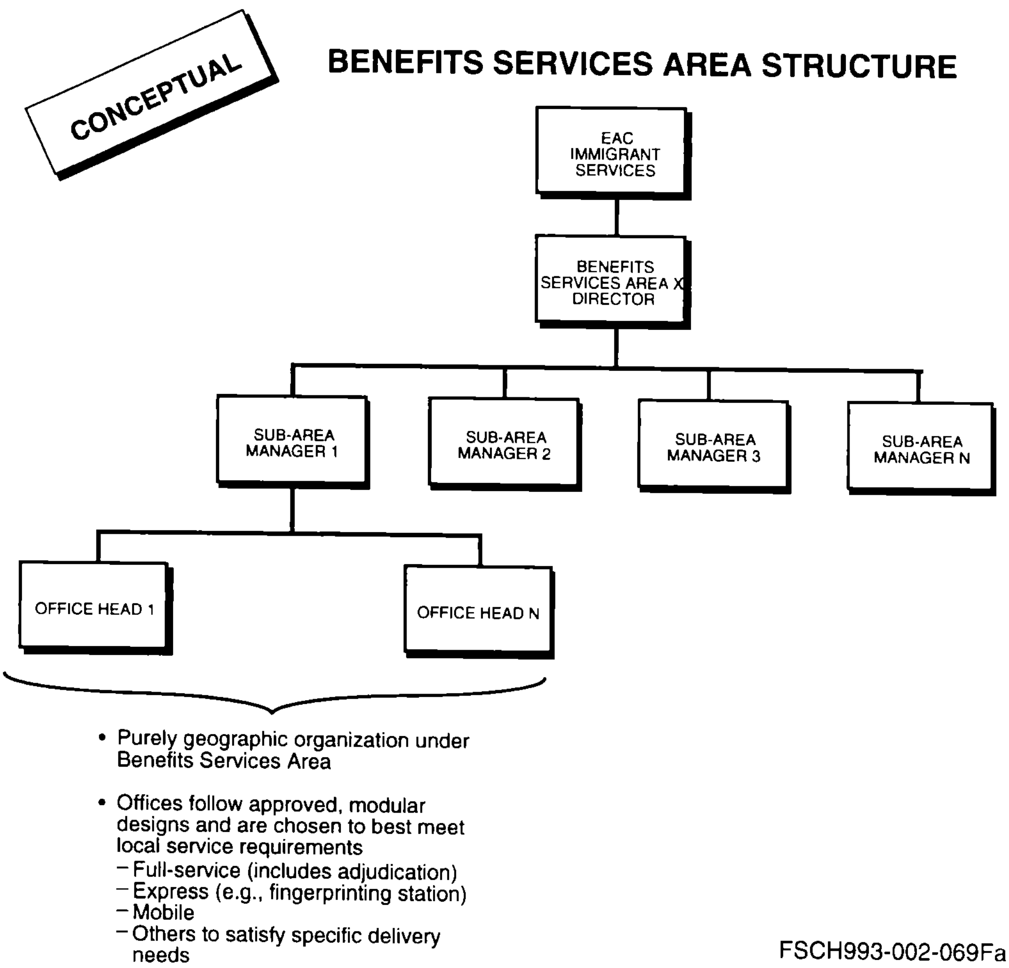

Figure 5: Benefits Service Area Structure

While additional work, with significant input from the field, needs to be done to determine the exact number of BSAs and boundary lines, a preliminary analysis was performed to test the proof of concept and to highlight differences from the current structure:

- Benefits Service Areas replace both the current Regions and Districts. Each BSA would have a director responsible for all local service provision within a given geography. This director would report directly to the EAC of Immigrant Services
- Based upon distribution of demand (i.e., application volumes by geography) and a preliminary understanding of differing community needs, it appears that between 6 and 12 BSAs should be created. This structure produces a reasonable span of control for the EAC of Immigrant Services and yet a "manageable" area in which a BSA director can effectively monitor performance and manage operations
- Each Benefits Service Area director would oversee a number of Sub-Area Managers who are responsible for a smaller geography within a given BSA. These Sub-Areas will include a number of local offices. The Sub-Area management layer is needed to provide appropriate management oversight in a decentralized service provision model
- There will be templates for different types of local offices, ranging from full-service offices (i.e., includes adjudications) to specialized fingerprinting centers. The templates will ensure consistent "look and feel" and operating procedures across the country. The BSA director will deploy different office types throughout the BSA to meet local service requirements

Figure 6 demonstrates what a potential Benefits Service Area could look like with a variety of office types and decentralized service provision.

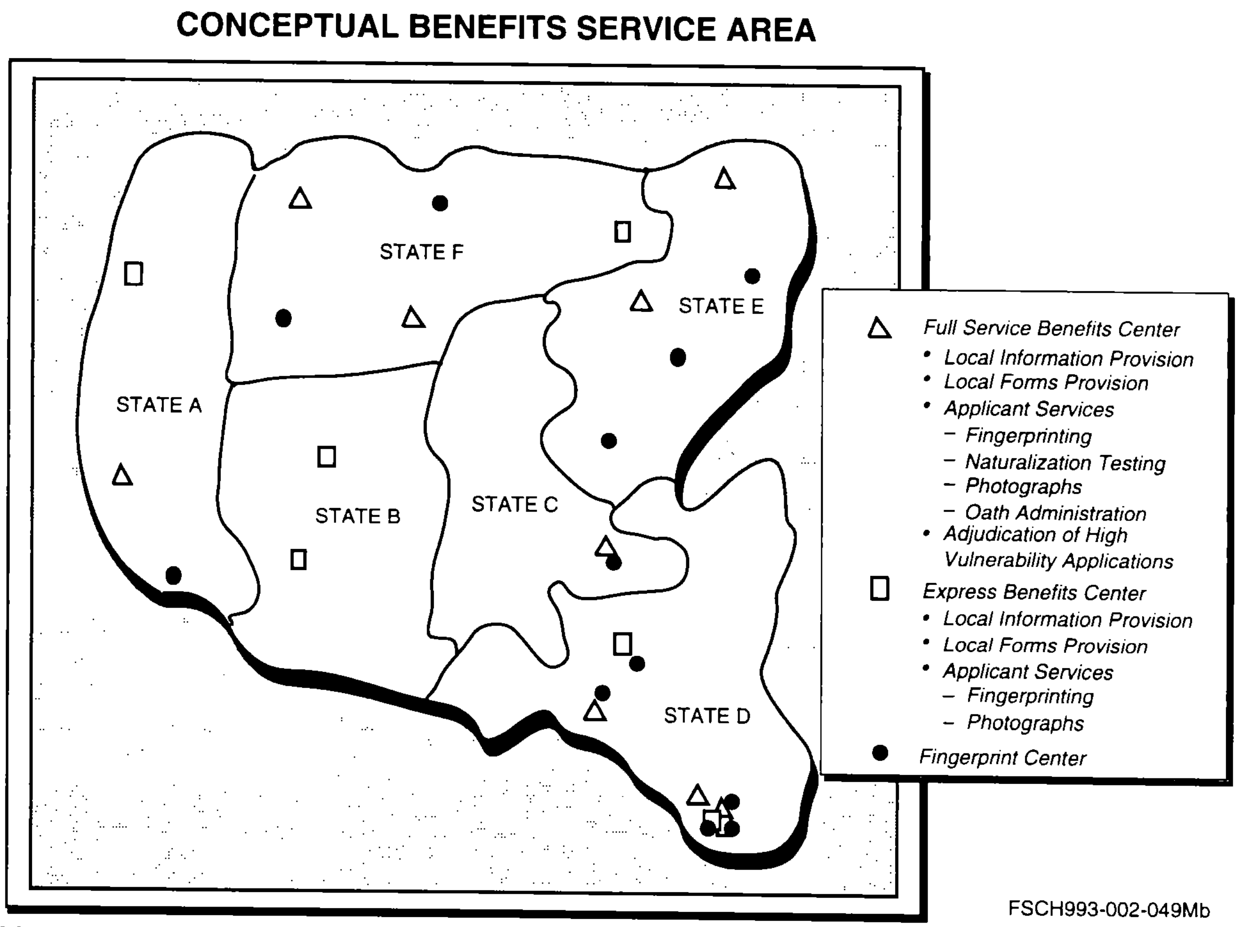

Figure 6: Conceptual Benefits Service Area

Remote Services

Remote Services is the second major component of Immigrant Services. This unit provides services that can be provided remotely and assists in application processing. Remote Services can include activities currently performed in 4 Service Centers and 3 Phone Centers, such as:

- Remote information provision (via 1-800 phone numbers, Internet, etc.)
- Remote forms provision
- Applications intake
- Records creation
- Application pre-processing
- Adjudication of low-vulnerability applications (e.g. extension of stay, employment authorizations)

These functions are combined into a single management unit to facilitate the standardization of operating procedures and to permit more effective workload management across the country. Today, for example, there is minimal re-allocation of work from one service center to another, even if processing delays at one location are far greater than at others. In this new structure, the Director of Remote Services has the authority to monitor workload volumes in remote sites across the country and move work as required to maintain service levels. This management approach for scale sensitive activities is utilized by leading commercial service operations to optimize resource allocation and ensure that service levels are maintained across geographies.

Career Paths and Progression

The Immigrant Services structure produces a more robust career path with clear progression potential. Clear career paths are a critical requirement in INS's effort to develop best-in-class customer service capabilities. Today there is a limited ability for service professionals to reach the upper management ranks without enforcement experience. For example, of the 33 incumbent District Directors, only 2 came from a strictly services background. As most of these District Directors lack extensive benefits experience and training, they may not possess the knowledge, skills and abilities needed to effectively manage complicated service operations.

Figure 7 presents a preliminary career path for service professionals in the new organization structure.

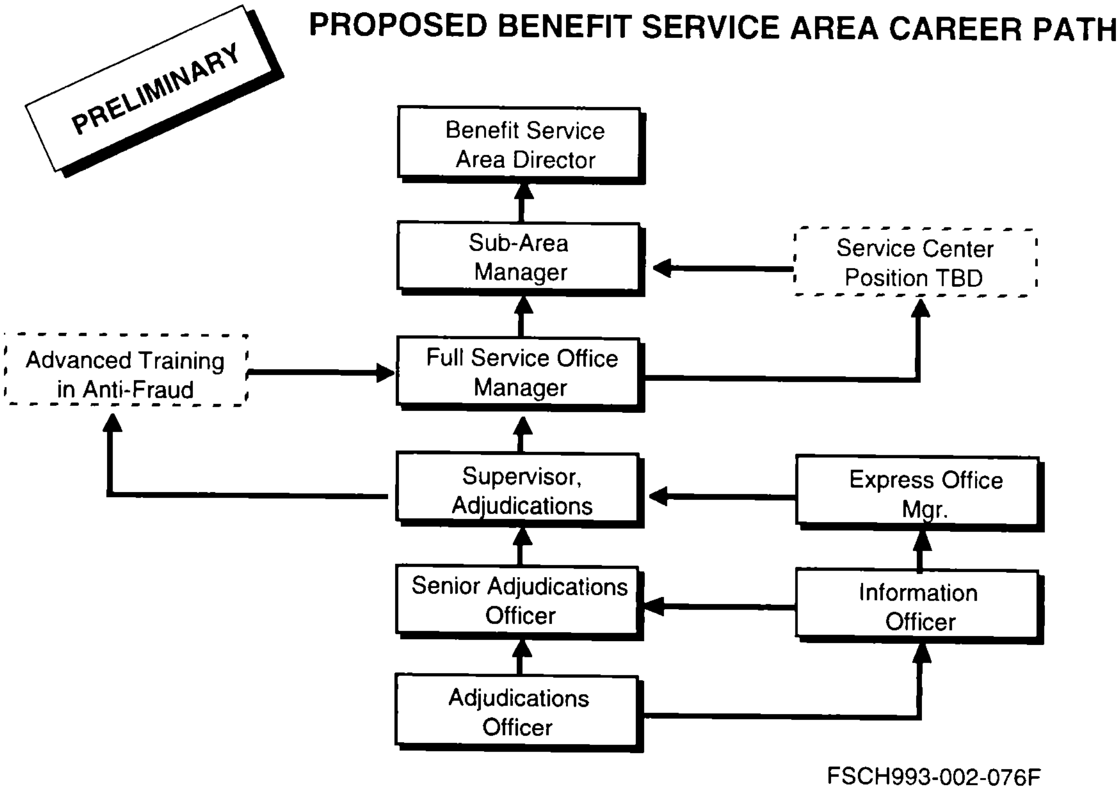

Figure 7: Conceptual Benefits Career Path

The proposed career path depicted in Figure 7 allows for succession and appropriate progression. It also provides a more effective entry strategy for new staff. Under this model, the entry-level position is that of a junior Adjudications Officer. This new entry level position ensures that staff develop a thorough understanding of INS's operations before moving on to handling public requests and questions as an Information Officer. Information Officers are the first face to the customer and leave a lasting impression of the INS, hence the need for more experienced staff. This change could require a reclassification of grade level for the Information Officer (i.e. may need to upgrade the position).

2.3 Enforcement Operations

Enforcement Operations encompasses all activities related to the enforcement of immigration laws, both at the border and within the interior. This structure provides a single point of responsibility and accountability for all enforcement, and allows the agency to more focus on integrated enforcement on a national or global scale.

This proposed structure is noticeably different from the current organization. As previously discussed, under the current organization the Districts are responsible for service and enforcement operations. This new structure separates all enforcement-related activities from service operations.

Enforcement Operations is organized geographically into Enforcement Areas, integrating all enforcement resources under a single chain of command. Field interviews revealed the need for close coordination of day-to-day operations among the enforcement disciplines. The design of an enforcement area gives the Area Director the ability to integrate Border Patrol, Ports of Entry, Detention, and Investigations and Removals, to prioritize and coordinate operations.

Initial analyses suggest that between 6 and 12 Enforcement Areas should be created to replace the current Regions and Districts with a completely different structure designed specifically for enforcement. Each Enforcement Area will include four major elements:

- Border Patrol—patrol between ports of entry (POEs) as currently performed by the Border Patrol
- Ports of Entry—inspections at POEs (air, land and sea ports) in cooperation with Customs, the Department of Agriculture and other inspection agencies
- Investigations and Removals—proactive management of cases in key program areas, such as fraud, work site, anti-smuggling, and criminal aliens, as well as processing of removals for deportable aliens
- Detention and Enforcement Support—long-term detention and other activities that support Border Patrol, Ports of Entry and Investigations and Removals

Figure 8 shows the proposed structure for Enforcement Operations.

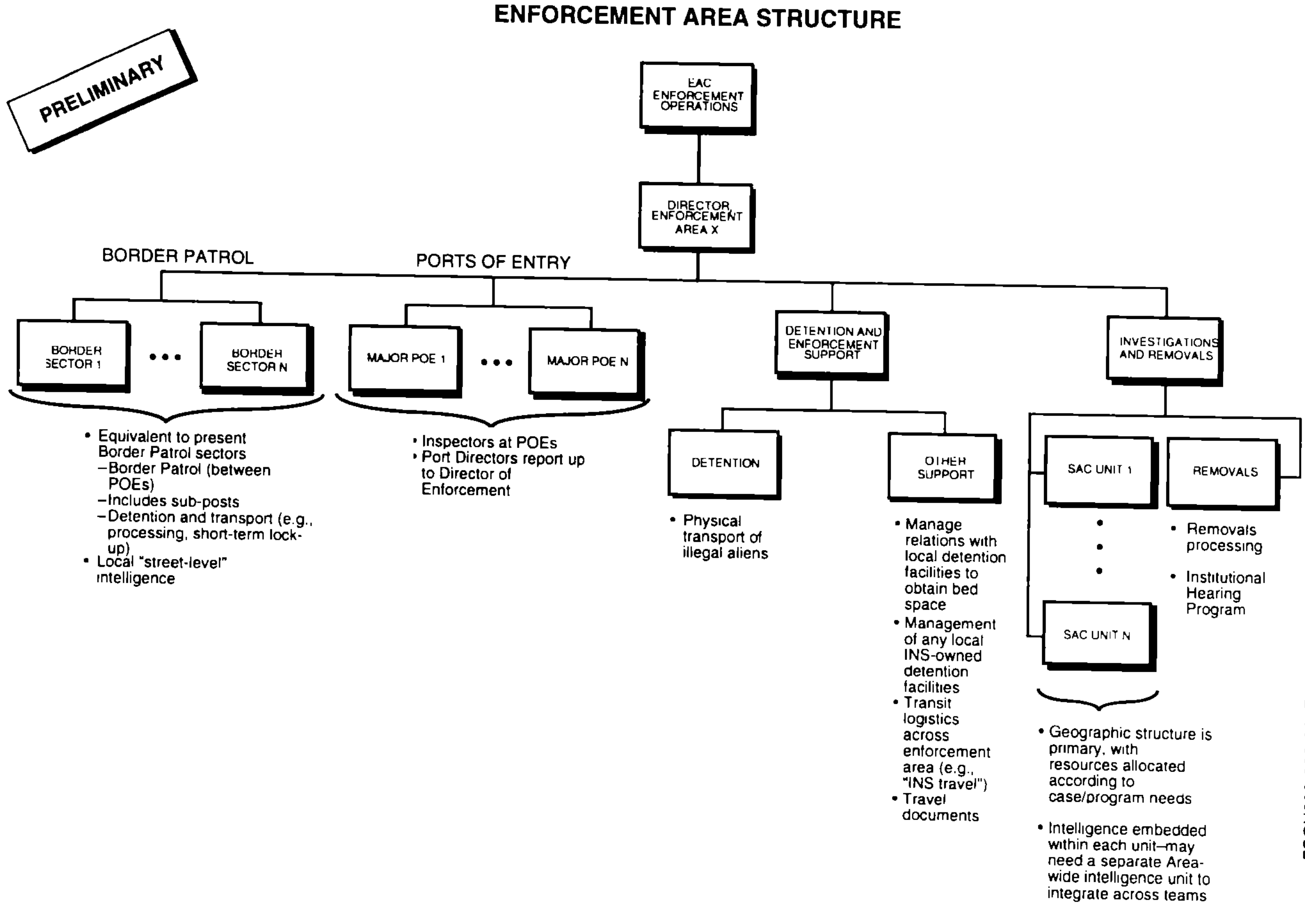

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Figure 8: Enforcement Area Structure

<u>Border Patrol</u>

Border Patrol will continue to have responsibility for patrol of the border in between ports of entry. Border Sector Chiefs would report to the Director of the Enforcement Area (see Figure 8 above).

Ports of Entry

This unit includes inspections at air, land and sea ports of entry. Port Directors would report to the Director of the Enforcement Area. This structure facilitates an integrated approach to border management and promotes cooperation with other inspections agencies (e.g. customs).

The recommended structure would require legislative action to permit reclassification of the inspector as an enforcement position. Today only senior inspectors are classified as enforcement. Reclassification is needed to integrate inspectors into the enforcement division and permit career progression. Best practice law enforcement organizations have common core training programs and clear career paths that permit movement throughout the organization across disciplines.

Investigations and Removals

Investigations and Removals (I&R) focuses on illegal immigration: fraud, anti-smuggling, criminal aliens, and worksite enforcement, as well as participation in joint task forces with other enforcement agencies. The I&R unit is responsible for intelligence gathering, investigation and identification of criminal activity, and the apprehension and removal of illegal immigrants. I&R is a separate unit to reflect fundamental differences in the nature of the work (case-based), the skills required, and best practices in law enforcement organizations.

The recommendation suggests that I&R operates geographically, as do both the FBI and Customs—with a SAC/RAC model. A Special Agent in Charge (SAC) commands a field office with associated satellite offices led by Resident Agents in Charge (RACs). This model provides local focus and manageable spans of control, as well as an integrated team across an Enforcement Area, all of which are necessary to ensure effective investigative operations.

Detention and Enforcement Support

Detention and Enforcement Support encompasses those activities that cross-cut and support Border Patrol, Ports of Entry and Investigations and Removals. Some of the activities in this division could be provided by "civilians" rather than law enforcement personnel (e.g. detention logistics) or could possibly be outsourced (e.g., detention facilities). Other best practice law enforcement agencies have "civilianized" many support positions, e.g., in some police departments the dispatch function is now performed by civilians.

Detention and Enforcement Support ensures that the entire Enforcement Area has the level of assistance needed for a best-in-class enforcement operation. It is important to note that detention as described in this unit refers to long-term detention as opposed to temporary lock-up during processing. Temporary detention capabilities and staff will be embedded in Border Patrol and report through that chain of command (as is the case today).

Career Paths and Progression

The Enforcement Operations structure makes it possible to have an integrated career path and upward mobility for all enforcement professionals. Today, movement from certain law enforcement occupations into others rarely occurs, thus limiting upward mobility. The proposed career path will help eliminate these problems. Figure 9 gives an example of the new enforcement career path.

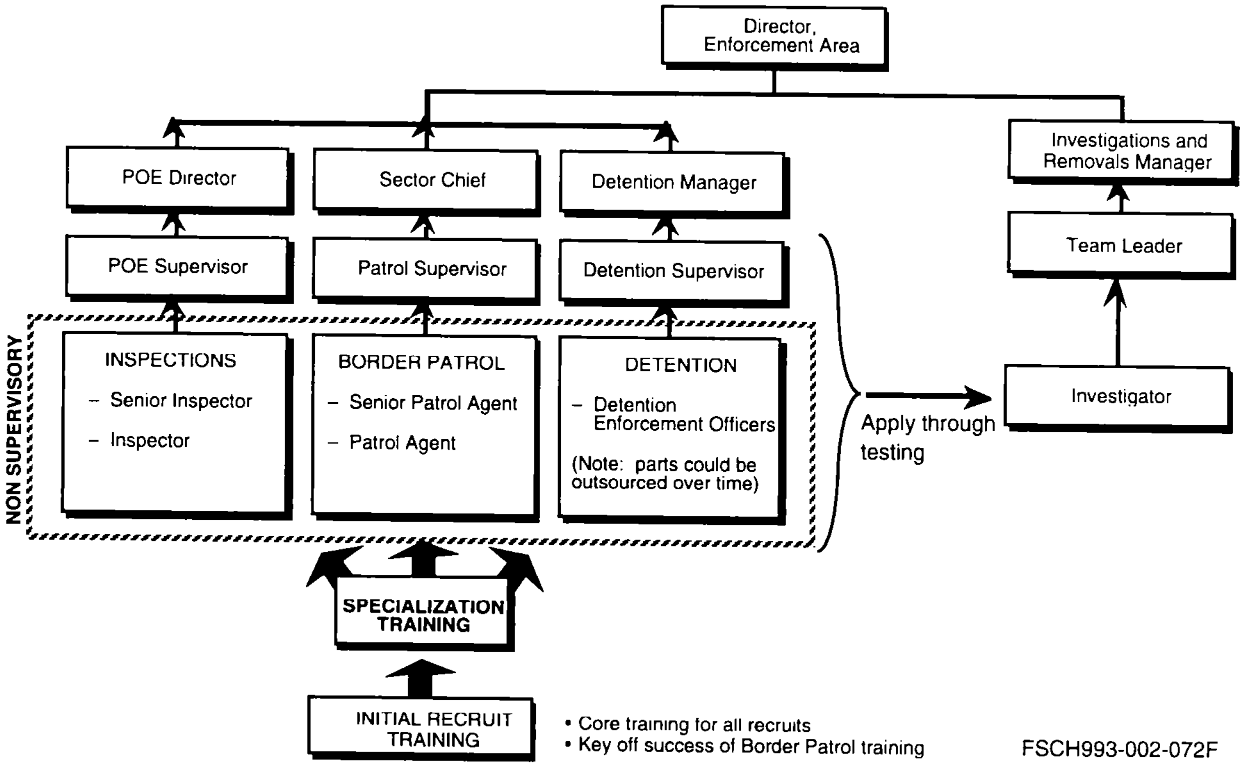


Figure 9: Enforcement Career Path

2.4 Shared Support

Shared Support performs critical integration activities and develops agency infrastructure. This division provides the "glue" that links together operations across divisions and geographies. It includes Records Management and Information Resources Management as well as administrative support for the field: Human Resources and Training, Security, EEO and other Administration (procurement and facilities). In a shared support structure, activities could be provided in a number of locations:

- At the local level—I/T infrastructure is critical to enable provision of support at this level
- Shared across geographies—to capture economies of scale and ensure consistency of operations
- At headquarters—policy and procedure setting activities

Figure 10 gives an overview of Shared Support, detailing how HR activities could be organized.

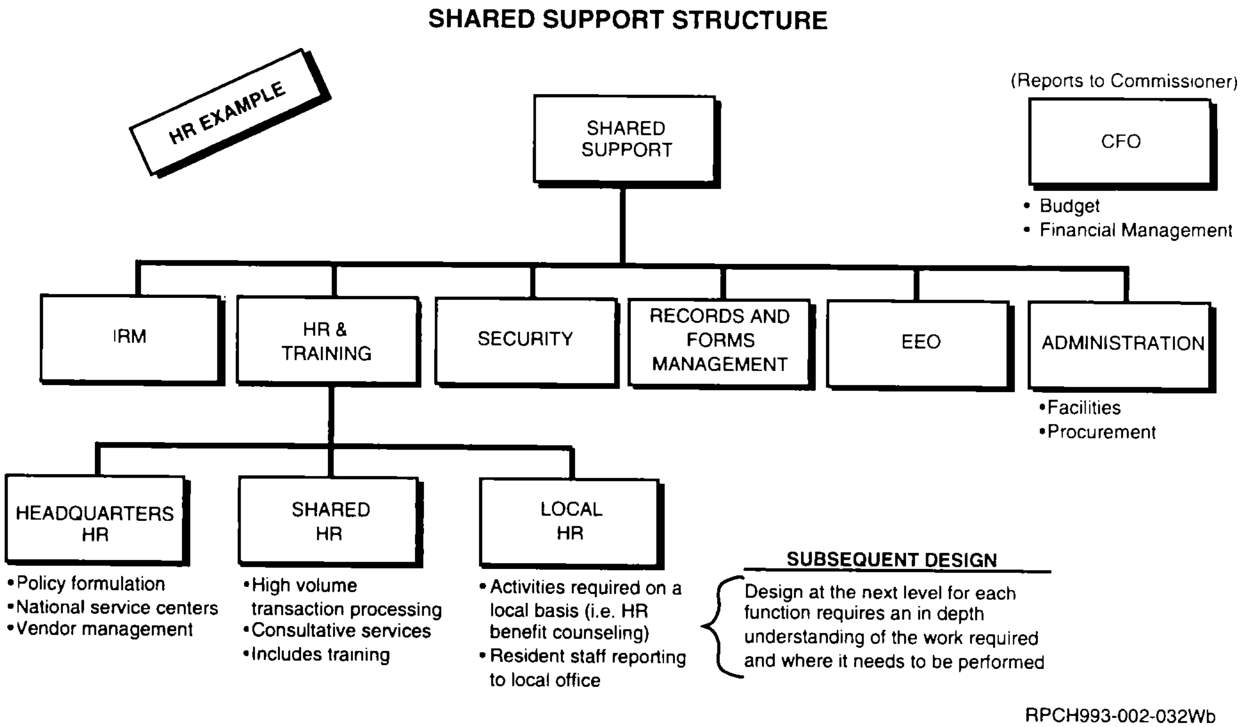


Figure 10: Shared Support Structure

Rationale for Local Support Functions

Certain administrative activities, such as EEO counseling and HR benefit counseling, need to be provided on a local basis. Not every physical location will need a local presence. For example, service can be provided from a field office or a full service office to a small satellite location. Local support staff will report up through the field office chain of command. For example, an HR professional resident in a Benefits Service Area, would report up through the Immigrant Services chain of command. Further analysis is required to determine how local service and enforcement field offices could "share" local support to prevent unnecessary duplication while maintaining needed levels of support to get the job done.

Rationale for Shared Functions

Two types of administrative support are prime candidates for provision on a shared basis. The first type of support includes high volume transaction processing such as payroll and expense reimbursement processing. These activities are scale sensitive and can be performed remotely. Many of these activities are currently performed in one of four Administrative Centers. This type of arrangement should continue, but with management boundaries re-drawn to support the new field structure. For example, the Administrative Center in Dallas today serves primarily those districts and sectors in the Central Region. In the future, this Administrative Center may serve different Service and Enforcement Areas.

A second type of support provided on a shared basis includes those activities that are consultative in nature and in general require a good deal of specialized knowledge or expertise. A typical field office may not have a need for this service on a full-time basis, but needs the expertise available "on demand." A good example of this type of support is labor union arbitration.

Rationale for HQ Functions

The types of activities considered for placement at headquarters include those that potentially expose the INS to significant legal, financial or management/personnel risks. Examples include:

RISK	EXAMPLE
• Legal	• Compliance monitoring (e.g., Americans With Disabilities Act)
• Financial	• Outsourcing of payroll capabilities • Decision to purchase HR system (e.g., PeopleSoft)
• Management/Personnel	• Union relations • OPM negotiations

2.5 Strategy

The Strategy organization is an analytical unit responsible for the development of the INS's long-term strategy, including planning and R&D, but excluding all operational functions. This unit is also responsible for agency policy formulation, GPRA planning and evaluation, and definition of agency performance measures. Strategy will be held primarily accountable for a number of key processes that integrate the service and enforcement arms of the INS, including:

- INS-wide policy setting and monitoring
- Strategic planning (most similar to developing the Commissioner's Priorities and long-term plans)
- Research and development—facilitating a process to develop programs that operationalize the strategic plan
- INS-wide performance management—defining performance measures and reporting progress against strategic goals (including Statistics)

To clarify Strategy's role as a process facilitator the recommendation also outlines a high-level process for research and development. The Strategy unit would serve as the focal point for creating and facilitating Task Forces that are responsible for the actual program design. These Task Forces would contain representatives from the units accountable for the program, from the field and headquarters, to provide the necessary expertise for effective R&D. Examples of tasks managed by R&D might include:

- Design of templates for model Immigrant Services offices
- Design of a closed-loop process for managing hand-offs between service and enforcement (e.g., in fraud cases)

This process ensures that Strategy serves as a facilitator while preserving the operational chains of command, and that research and development is closely linked to the INS's strategy. Benchmarking revealed that this task force approach works well for the Social Security Administration as a means to integrate various operational units and perform agency-wide planning. While many activities included in this new Strategy unit are currently performed by the Office of Programs, Programs also has a number of operational responsibilities that need to be moved into operations areas as part of this restructuring.

2.6 Other Functional Units

There are several other units, most of which are staff functions (i.e., Congressional Relations, General Counsel, Internal Audit, and Public Affairs) that play an advisory role providing guidance to the Commissioner and INS Senior Management team. The recommended structure includes all of these activities as distinct units with a reporting relationship direct to the Commissioner (as exists today).

This direct reporting relationship is especially important for the Office of Internal Audit. Organizationally, this office must remain independent from other INS offices in order to properly accomplish its mission to review and evaluate the efficiency and effectiveness of INS operations and resolve alleged misconduct by agency employees.

General Counsel (GC) has a dual role in the INS, both the conventional advisory role and a key operational responsibility in local offices with respect to prosecuting removal cases in the Immigration Courts. Until further analysis can be performed to detail the implications of the service/enforcement split on General Counsel operations, Booz·Allen recommends maintaining the current reporting structure. This reporting relationship, with GC staff reporting directly to the Commissioner, creates an independent legal division that promotes appropriate checks and balances. GC operational priorities (e.g. which types of cases are prosecuted first), however, must be aligned with Immigrant Services and Enforcement Operations priorities in the field.

Although Booz·Allen did not extensively study the budget and financial management functions, it sees no reason why a separate CFO should not report directly to the Commissioner in accordance with the recommendation of the NAPA Report. Associated with this recommendation is the need to redesign and simplify the budget account structure to provide more flexibility in day-to-day operations. This issue is discussed in greater detail in the last section of the report.

In the current organization, International Affairs is a distinct Region that includes international service and enforcement operations, as well as a separate group to handle Asylum/Refugee petitions. Under the new organization structure, International Affairs would be split into Immigrant Services and Enforcement Operations, potentially as separate geographic units reporting to these EACs. A detailed analysis of international activities is required to further detail the design of international field operations and its interagency and liaison responsibilities.

Booz·Allen recommends including asylum petitions in the Immigrant Services organization, taking care not to reverse recent performance improvements in asylum processing. In all likelihood adjudication of asylum petitions will remain an area of required special expertise and hence may only be performed in a handful of local offices. It is anticipated that the new Immigrant Services structure will be able to incorporate the effectiveness of the asylum process into local service operations (e.g., integrating with immigration courts).

3. BENEFITS OF THE NEW ORGANIZATION

As was stated at the beginning of this report, the proposed reorganization of INS addresses several critical issues the agency faces and serves as a major step in its transformation. The discussion has highlighted how the new organization will address key issues and concerns. This summary of these benefits is summarized in Figure 11:

ORGANIZATIONAL IMPERATIVE	CURRENT PERFORMANCE ISSUES	HOW NEW ORGANIZATION ADDRESSES IMPERATIVES
1. Develop clear lines of accountability	• Lines of accountability and responsibility are blurred in the current organization because: – INS lacks a clear principle of organization (clear focal point around which people and activities are aligned) – The decision making model—where and by whom decisions are made—varies, confusing accountability and producing inconsistent execution in the field – Activity placement exacerbates the accountability issue, with operational activities resident in program areas and vice versa	• Primary alignment of the new organization is clear with a split between service and enforcement operations • Clear chains of command and all operational decisions pushed down to the field • Activities rationalized at the local level—HQ focus is on policy and strategy, execution performed in the field
2. Create customer-oriented service capabilities	• Regions and Districts have been allowed to develop their own operating models, creating a different look and feel to INS Immigrant Services across geographies • Allocation of resources does not appear to map to demand, but rather to be driven by the existing district/sector structure	• Promote consistent service levels and "look and feel" across geographies – Remote service structure permits level loading across worksites – Creation of standard field office templates facilitates a consistent "look and feel" • The current region and district structure is replaced by service areas and enforcement areas that can focus on local community needs
3. Build professional capabilities in law enforcement and services	• The current structure has created operations silos to effectively manage difficult populations or activities • Management boundaries are simultaneously too big and too small – regions are too big to be effective, and some districts are too small to permit coordinated efforts • No clear career progression models exist, producing inconsistent knowledge, skills, and abilities throughout the organization	• Immigrant Services includes all benefits provision activities, including asylum • Structure promotes an integrated approach to border management and overall INS enforcement • Value added management levels—unnecessary layers eliminated • Clear career model and progression for INS employees • Separation of Immigrant Services from enforcement will allow each to focus on the unique management knowledge, skills, and abilities required to carry out these distinct functions
4. Fulfill the singular INS mission: to uphold the immigration laws of United States as intended by Congress	• Integrative mechanisms (i.e., means of integration between service and enforcement) are informal and not institutionalized, producing ineffective and inconsistent execution of the mission	• Consistent interpretation of immigration laws as required by INS's singular mission • Integration will be accomplished at all levels of the organization through policy, process and technology, e.g., – Shared records – Fraud detection and prevention – Training

Figure 11: Benefits of the New Organization

4. IMPLEMENTATION AND NEXT STEPS

While this document has focused on proposing a new organization structure for the INS, structure is only one of six key components of any successful transformation program. For example, the current INS budget account structure is complex with thousands of sub-accounts. This complexity may result in less than optimal allocation of resources. The budget account structure should be simplified to visibly reflect budget priorities defined by Congress, reinforce accountability in the organization and permit flexibility to meet changing demands in the field. Figure 12 shows the key components of a successful transformation program.

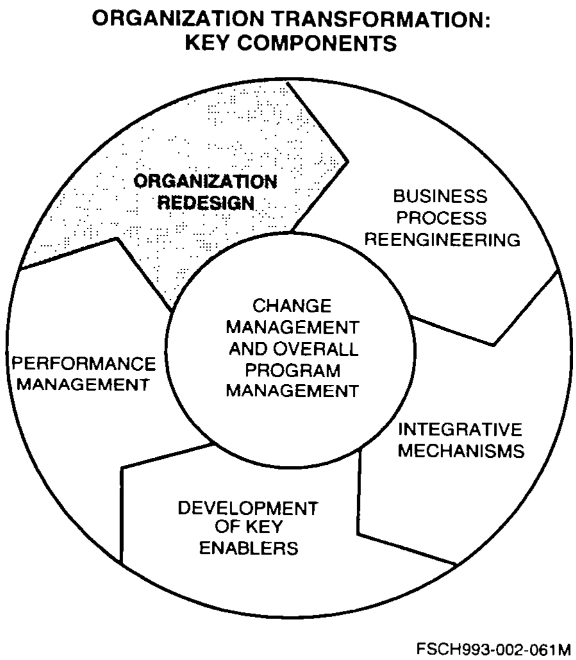


Figure 12: Key Components of Organization Transformation

The INS is committed to move forward with its organization transformation. Typically these massive change programs take several years to successfully complete. This document outlines the vision for how the agency will operate within its new structure. Creating the vision is the first phase in the change process. The next phase, blueprinting, will require additional analysis to detail to how the organization will look and operate. Figure 13 shows the three phases of organization re-design and implementation:

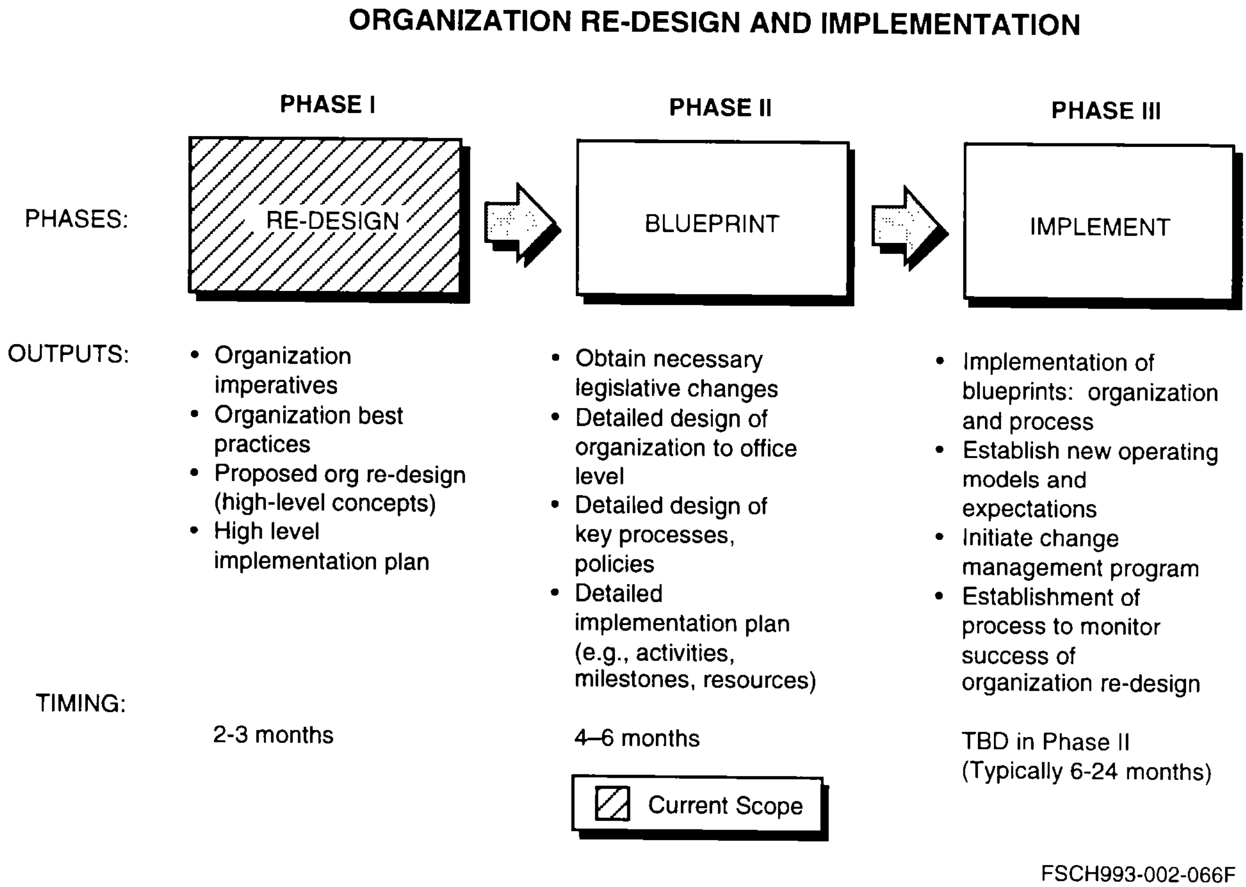


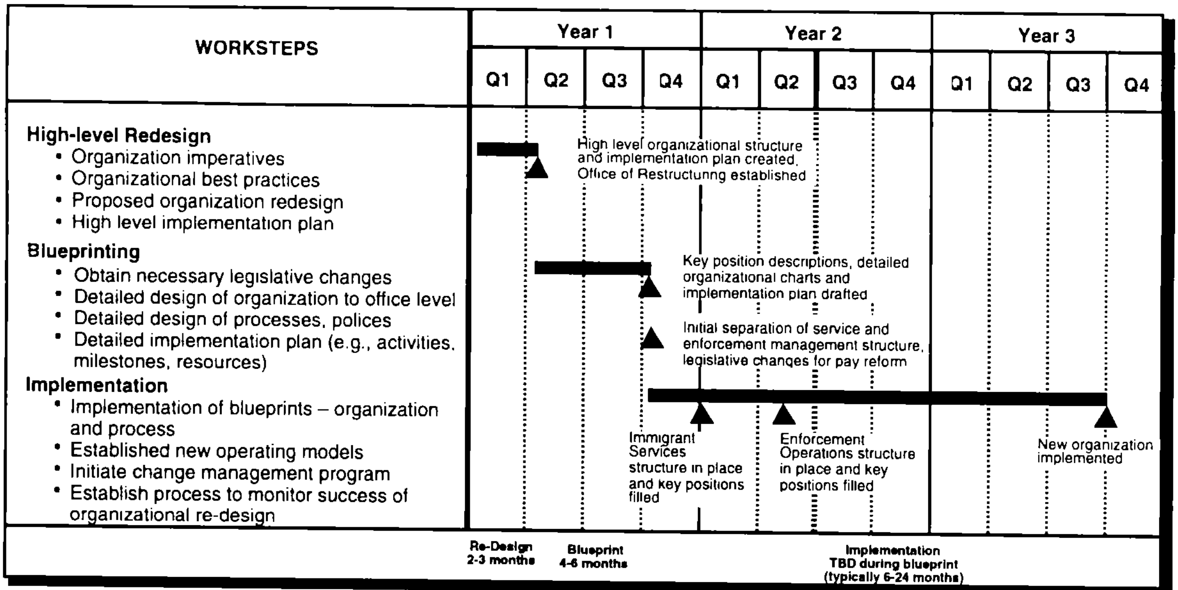
Figure 13: Phased Approach to Implementation

Immigrant Services changes should be implemented first. In the near term, however, detailed transformation plans ("blueprints") should be developed for both Immigrant Services and Enforcement Operations at the same time. Once Immigrant Services is running effectively, INS can then turn to transforming its enforcement capabilities. This will ensure that immigration enforcement continues with minimal disruption while Immigrant Services is put in place.

Figure 14 presents a preliminary high level implementation plan:

DRAFT

HIGH-LEVEL ORGANIZATION RE-DESIGN IMPLEMENTATION PLAN



▲ *Key Deliverables*

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Note: Additional detail will be added to this implementation plan during March and April

Figure 14: High Level Implementation Plan

The organization structure outlined in this document represents a radical departure from how the agency is structured today. While the INS must move forward rapidly to implement change and demonstrate progress to its critics, it must maintain some degree of stability to permit work to get done on a daily basis. Key to the success of this transformation is the buy-in and support of dedicated professionals in the field. Every effort must be made to retain employees who share the vision for a new INS while working to fundamentally change the way the agency does business. The INS will attempt to minimize disruption to staff and provide challenging opportunities in the new organization.