

DRAFT

The Honorable Harold Rogers
Chairman
Subcommittee on Commerce, Justice, State,
and the Judiciary
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

For the last several years, the Administration and Congress have shared the goal of significantly strengthening the Nation's immigration system. While the Immigration and Naturalization Service (INS) has made important progress, the Administration recognizes that the recent changes in the breadth and scope of the agency's mission require a rethinking of its structure.

In its report accompanying P.L. 105-119, the House Appropriations Committee directed the Attorney General to review the recommendations of the Commission on Immigration Reform (CIR) and develop a plan that would result in greater effectiveness and efficiency in the performance of the core functions of the Federal immigration system. The President, also responding to the CIR report, asked the Domestic Policy Council (DPC) to "evaluate carefully the [CIR] proposal and other reform options designed to improve the executive branch's administration of the Nation's immigration laws." In conducting this review, the DPC, working closely with the Office of Management and Budget, consulted with the Departments of Justice, Labor, and State, the INS, staff of the CIR, immigration experts and advocacy groups, and other White House offices, including the National Security Council.

The Administration review concluded that the CIR report correctly diagnosed many of INS' longstanding problems -- insufficient accountability between field offices and headquarters, competing priorities within field offices, lack of consistency, a need for greater professionalism, overlapping organizational relationships, and significant management weaknesses. These problems have hampered the ability of the INS to more effectively pursue the principal tasks that Congress and the Administration expect the INS to perform: effective enforcement of our immigration laws both at our borders and in the interior and the efficient provision of immigration and citizenship services. Improving the ability of the INS to pursue these critical priorities must be the guiding principle of any reform plan.

After careful consideration and study, we have concluded that the most effective way to adhere to this guiding principle is to implement dramatic and fundamental reforms *within* the INS. The Administration's reform plan will untangle the INS' overlapping and confusing organizational structure and replace it with two clear organizational chains of command -- one to accomplish its enforcement mission and the other to provide immigration-related services. By retaining both of these functions within a single agency, the Administration's reform plan will ensure that both the enforcement and service operations are appropriately coordinated and supported by headquarters. The Administration's reform plan will strengthen accountability and improve efficiency and effectiveness by allowing each of the two chains of command to focus on its unique requirements.

The key features of the Administration's plan are to:

- Effect an operational split between enforcement and services, resulting in two distinct, clear lines of authority from the field to headquarters, with an INS Commissioner continuing to be responsible for overall agency operations.
- Eliminate the current field structure in which district offices serve both enforcement and service functions, and replace it with separate enforcement and service offices that bring the right mix of staff and skills to local service caseloads and enforcement needs.
- Improve the quality of the workforce by creating separate enforcement and service career paths for INS employees, so that the best employees can move up the ladder and be rewarded for high performance.
- Restructure management operations to ensure an effective "shared support" operation (e.g., records and data management, technological support, employee relations, and administrative support) that will serve both the enforcement and the service sides of the agency.
- Establish a Chief Financial Officer to improve financial, accounting, and budget execution systems.

In addition to implementing the restructuring plan noted above, the Administration will continue its efforts to identify and take appropriate remedial action to eliminate any remaining areas of duplication or inadequate coordination between the INS and the Departments of Labor and State.

During its review, the Administration carefully evaluated the CIR recommendations. The CIR concluded that the INS' dual responsibility of welcoming legal immigrants and deterring illegal immigration has resulted in "mission overload." To address this issue, the CIR recommended disbanding the INS and reallocating its primary responsibilities to the Departments of Justice, State and Labor. We believe those recommendations would only compound the current problems with the Nation's immigration system.

First and most important, this reallocation would hinder the coordination and communication necessary to maintain the integrity and efficiency of both immigration enforcement and immigration service operations. To be most effective, all immigration policy and management should remain within one agency at the Justice Department. Second, such a substantial reallocation of authority could require a lengthy transition, exacerbating existing concerns about long delays in immigration activities.

The Administration's plan is a fundamental change in the way the INS conducts business. The restructuring -- from top to bottom -- will address long-standing concerns about lines of authority and responsibility, consistency of policies and procedures, and performance within the INS. It will result in improved enforcement coordination, career paths that support greater professionalism, and measurable changes in the way INS provides services to the immigration community. Most important, it will greatly improve the ability of the INS to effectively and efficiently perform its duties. We look forward to working with you and other members of Congress to implement this restructuring plan and to ensure successful, long-term improvements in the Nation's immigration system.

Sincerely,

Franklin D. Raines
Director
Office of Management and Budget

Bruce N. Reed
Assistant to the President for Domestic Policy

Janet Reno
Attorney General

Enclosures

Identical Letters Sent To:

The Honorable Spencer Abraham
The Honorable Judd Gregg
The Honorable Ernest Hollings
The Honorable Edward Kennedy
The Honorable Alan Mollohan
The Honorable Lamar Smith
The Honorable Melvin Watt

***Restructuring and Reform of the Immigration and Naturalization Service (INS)
Comparison of the Administration and Commission on Immigration Reform (CIR) Proposals***

<i>CIR Recommendation</i>	<i>Administration Restructuring Proposal</i>	<i>Rationale</i>
<i>Immigration Enforcement:</i> Places responsibility for immigration enforcement at the border and in the interior of the U.S. in a new Bureau for Immigration Enforcement at the Department of Justice (DOJ).	Within the INS an Executive Associate Commissioner (EAC) for Enforcement Operations will be established with line responsibilities for all enforcement functions (Border Patrol, inspections, investigations, detention, and intelligence) reporting directly to the INS Deputy Commissioner/Commissioner. This functional split between enforcement and service operations extends from the field right to headquarters.	Consolidates border and interior enforcement into a single enforcement unit, while preserving integration/synergy between enforcement and service functions by keeping them within the INS. Establishes clear lines of authority and divisions of responsibility between these two operations. Maintains a single immigration focal point within the Department of Justice.
Bureau Director appointed for a set term (5-years).	INS Commissioner remains a Presidential appointee with no set term.	Ensures agency-head has the confidence of the Attorney General and President.
Bureau personnel should be upgraded to receive law enforcement pay and benefits commensurate with those of other DOJ law enforcement components.	The INS is reviewing pay options to ensure law enforcement officers, with similar duties, receive comparable pay and benefits.	The study will provide a clear assessment of pay disparities between enforcement agents performing similar tasks and provide guidance to promote increased professionalism and positive morale.
Establish a Uniformed Service Enforcement Branch that merges INS Inspectors, Border Patrol and detention offices into one uniformed service. Investigations/intelligence would constitute a "white-collar" division within this new bureau.	Consolidates all enforcement functions under area enforcement directors, but maintains distinct functions of Border Patrol agents, inspectors, investigators, and detention officers.	Union representatives and affected employees will be involved in the development of any pay reform proposal, which will require legislation and a phased implementation process. The Administration is also studying options for common entry level training and career paths for enforcement officers.
All uniformed officers (Border Patrol, inspections, and detention) within a particular geographic area would be under the authority of a single integrated enforcement manager.	All functional enforcement operations (Border Patrol, inspections, investigations, detention, and intelligence) will be consolidated into enforcement units under a single chain of command and report to an area enforcement director and EAC for Enforcement Operations.	Provides a single point of responsibility and accountability for enforcement operations and allows the agency to focus on integrated enforcement on a national or global scale. This approach is similar to a traditional law enforcement organizational model.
Establish a "Removal Officer" position that integrates the functions of investigations and deportation.	Investigations and deportation officers will be merged into an investigation and removal unit under an enforcement area director. The merits of merging the two occupational series are still under consideration.	Close coordination, oversight, and management will ensure the best use of this staff to expedite the removal of illegal aliens.

<i>CIR Recommendation</i>	<i>Administration Restructuring Proposal</i>	<i>Rationale</i>
Field offices structured to address comprehensively the immigration enforcement challenges within that locality.	In place of the current district office structure, the plan consolidates all enforcement operations under an area enforcement director. The area enforcement director will report directly to the EAC for Enforcement Operations. Border Patrol agents will report to Border Patrol chiefs; inspectors will report to port-of-entry directors. These enforcement officers, along with investigation and removal personnel, will report to an area enforcement director who coordinates enforcement activities within a geographic area.	Creates an unambiguous enforcement chain of command with well-defined reporting relationships and a manageable span of control.
Regional offices would be retained for administrative and management oversight of field office operations.	Regional offices will be restructured to be operational rather than administrative. Instead of three regional offices, the plan creates geographic enforcement areas. Each area enforcement director will report directly to the EAC for Enforcement Operations.	Provides direct operational oversight of enforcement activities to better achieve coordination and execution of enforcement priorities.
<i>Immigration Services:</i> Adjudication of eligibility for immigration-related applications (immigrant, limited duration admissions, asylum, refugee, and naturalization) in the Department of State under the jurisdiction of a new Undersecretary for Citizenship, Immigration, and Refugee Admissions.	Within the INS an Executive Associate Commissioner (EAC) for Immigrant Services will be established consisting of all immigrant benefit and service functions reporting directly to the INS Deputy Commissioner/Commissioner. This functional split between immigrant service and enforcement operations extends from the field to headquarters.	Establishes a single immigration service organization but preserves integration/synergy between enforcement and service functions by keeping them within the INS. Establishes clear lines of authority and divisions of responsibility between these two operations. Maintains a single immigration focal point within the DOJ.
Establish a Bureau of Immigration Affairs at the Department of State to manage the immigration process including domestic adjudication/examination (work authorization/adjustment of status) and employment verification.	Naturalization functions included within a restructured EAC for Immigration Services.	Immigration enforcement responsibilities are integral to the benefit review and adjudication process. Neither mission can be conducted effectively if placed in separate agencies. Both enforcement and service operations enforce the same law (Immigration and Nationality Act) and consistent outcomes, require common processes, data collection, and employee cross-training.

<i>CIR Recommendation</i>	<i>Administration Restructuring Proposal</i>	<i>Rationale</i>
Establish a Bureau of Refugee Admissions and Asylum Affairs at the Department of State responsible for overseas refugee admissions and refugee and asylum functions conducted by the INS.	Functions included within a restructured EAC for Immigration Services.	Same as above. INS and State will initiate an operational review to minimize overlap and duplication within INS and State-run visa, refugee, and asylum programs.
Establish a Bureau of Citizenship and Passport Affairs at the Department of State responsible for naturalization and determinations of citizenship and passport issuance.	Functions included within a restructured EAC for Immigration Services.	The State Department is not equipped to conduct the service and enforcement processes required in the naturalization program. Moreover, this reallocation of functions to State may conflict with its foreign policy mission. The naturalization redesign addressed the concerns raised by the CIR while retaining this responsibility within the INS.
Establish Quality Assurance Officers to oversee records management, procedure monitoring, fraud investigations, and internal review.	INS has expanded its INSpect program to assist in internal review and audits. The EAC for Immigration Services will establish an office to monitor and ensure quality service, benefit processes, products, and operations.	The naturalization redesign has established quality assurance checks throughout the process. The redesign incorporates sweeping changes in processes, records management, data flow and retention, and customer service as measures of integrity.
Establish a field structure that uses existing INS Regional Service Centers and State's National Visa Center and create a local office structure that is separate from immigration enforcement offices.	Local service offices will move from the current district office configuration to a community-based operation modeled on immigrant population density data. Service offices will not necessarily be located in the same location as enforcement operations. The EAC for Immigration Services will also rely heavily on direct mail to existing INS service centers.	The naturalization redesign study has recommended direct-mail to service centers for benefit processing and INS is implementing these recommendations. Beginning April 15 all naturalization processing will be direct-mail and phased implementation of direct mail processing for all other benefit applications is planned for completion over the next two years.
<i>Immigration-related Functions:</i> Consolidate enforcement of immigration-related employment standards in the Department of Labor.	Enforcement of immigration-related labor and employment standards will be shared between the Department of Labor (DOL) and INS. DOL and INS will develop an MOU to improve coordination and promote more effective worksite enforcement and worker protection.	Will provide a mechanism for more effective enforcement of immigration-related labor laws.

<i>CIR Recommendation</i>	<i>Administration Restructuring Proposal</i>	<i>Rationale</i>
All worksite investigations to ascertain employers' compliance with employment eligibility verification requirements should be conducted by the Department of Labor.	The authority to verify compliance for violations of employment eligibility will be shared between INS and DOL. The Administration is studying options for more effective DOL involvement in worksite enforcement of immigration-related labor standards.	Will provide a mechanism for the more effective enforcement of employment verification requirements.
Upon the adoption of an expedited process for the admission of both immigrant and temporary workers, DOL should be given responsibility and resources for enhanced monitoring of employers' fulfillment of the attestation terms they filed to bring in workers.	DOJ and DOL will work together to develop reforms to the current immigration-related employment programs to streamline the certification process and strengthen employer monitoring.	DOL is evaluating its immigration structure in order to streamline the current processes while ensuring labor protections. With sufficient delegation of authority from DOJ, DOL will further streamline the certification process and increase its enforcement of employer obligations.
<i>Administrative Review:</i> Administrative review of all immigration-related decisions should be consolidated and considered by a newly-created independent agency, the Agency for Immigration Review.	Maintains the current review and appeals mechanism.	The Administration is studying options to consolidate some review and appeals functions currently in the INS and DOL into the Executive Office of Immigration Review under the Attorney General.
Organization headed by a Presidentially appointed Director with no say in the substantive decisions reached on cases considered by any division or component of the agency.	Maintains the existing Department-head appeal process/final decision.	Placement of the adjudication process within a Department ensures executive oversight of administrative appeals and uniform and consistent national immigration policy.
<i>Agency-wide Reforms:</i> The Commission urges the Federal Government to make needed reforms to improve management of the immigration system.	Significant management improvements have been accomplished at INS over the past five years. This restructuring plan addresses a number of management and process weaknesses that remain within INS.	INS has accomplished major management, system, and process improvements in the face of a highly visible and growing mandate, large increases in resources and staffing, and unceasing historic demands for immigrant services.

<i>CIR Recommendation</i>	<i>Administration Restructuring Proposal</i>	<i>Rationale</i>
Set more manageable and fully-funded priorities (realistically-achievable short and long-term goals and greater numerical specificity on expected annual outcomes to which agencies should be accountable).	The INS has developed strategic performance plans and measures in both enforcement and service operations. We believe that these plans and measures are manageable and will accurately capture agency performance. As measures are refined, annual outcomes can help judge performance and highlight strengths and weaknesses that require management attention.	INS' FY 1999 Budget justification provides measurable performance goals in enforcement and service operations. The goal is result-oriented performance measures that allow management to judge performance in the aggregate and provide line-managers with the data necessary to do their job effectively.
More fully develop the capacity for policy development, planning, monitoring, and evaluation. Domestic Policy Council (DPC) responsible for overseeing Federal immigration policy development.	The Administration plan will consolidate long-term immigration planning within its strategic planning office reporting to the Commissioner. This group will coordinate agency-wide policy development. The DPC has established a policy-level group that includes immigration-related agencies and Executive Office of the President staff. This group looks at short and long-term immigration policy issues and concerns and coordinates the development of the Administration's position on immigration matters.	Will improve Government-wide immigration policy development and oversight.
Improve systems of accountability and measures of performance.	The key feature of this restructuring plan is to build clear lines of responsibility and accountability within the INS. The restructuring will ensure that line managers have the necessary tools to do the job effectively and performance can be measured. Current confusing and overlapping organizational relationships will be eliminated and replaced with clear lines of command in enforcement, services, and within the administrative support functions -- vital to INS' operational effectiveness.	Much of the work INS performs requires close coordination between enforcement and services. Under this restructuring coordination is maintained while reporting relationships remain clear so that policy can be developed, coordinated, and applied consistently.

<i>CIR Recommendation</i>	<i>Administration Restructuring Proposal</i>	<i>Rationale</i>
Improve the recruiting and training of managers. Expand the ranks of skilled and properly trained supervisors and managers.	INS has consolidated its recruitment effort to ensure consistency and quality and has emphasized the importance of basic, advanced, and management training. Training is a core element of the Commissioner's professionalism initiative. Performance in meeting training goals is measured by INS and DOJ. INS has sought to infuse new skills and thinking by hiring from both public and private sectors.	Consolidated and consistent recruiting has been achieved by establishing a central operation in Minneapolis, MN for hiring. Similarly, INS has established a management training facility in Dallas, TX, and equipped the Border Patrol training facility in Charleston, S.C. In concert with the establishment of these facilities is the creation of advanced and management training modules for enforcement, service, and professional staff.
Strengthen the customer service orientation. Establish a separate career track for benefit and service operation employees.	This restructure establishes separate career paths for enforcement and service personnel.	Lack of a clear career paths for enforcement and service personnel means INS often loses its best employees. By creating a separate career path for enforcement and service operations, this restructuring will increase retention and, therefore improve overall morale.
Use fees for immigration services more effectively. Fees should reflect true costs, cover the costs of services provided, result in timely and courteous service, and provide flexibility in their use to meet changing service requirements and demands.	This restructuring, combined with the naturalization redesign, should address this concern. INS completed an activity-based-costing (ABC) review of its benefit fee structure which has resulted in a proposed fee increase that accurately estimates the cost of providing benefits. INS will begin to conduct a "base" funding examination of its fee structure in FY 1998 to ensure benefit and service fee receipts support service-related operations. The establishment of a Chief Financial Officer within INS, combining budget and financial operations, will also strengthen its ability to manage appropriated and fee-receipt funds.	Fees should reflect true costs, cover the costs of services provided, result in timely and courteous service, and provide flexibility in their use to meet changing service requirements and demands. The base funding review of its fee structure and the ABC review should help assure all interested parties that fees reflect true costs and that they support fee services.

A FRAMEWORK FOR CHANGE: The Immigration and Naturalization Service

Background

America has always been a nation of immigrants, and this Administration is proud of the significant progress we have made toward improving this Nation's immigration system. Over the last five years, the INS has worked hard to curtail illegal immigration through tougher border control, reform of a badly abused asylum system, and the removal of record numbers of criminal and other illegal aliens. The agency has also worked to redesign and strengthen the naturalization process. While the INS has made important progress, the Administration recognizes that the recent changes in the breath and scope of the agency's mission require a rethinking of its structure.

In its final report to Congress last fall, the Commission on Immigration Reform (CIR) called for significant reform to our Nation's immigration system. The major thrust of the CIR's proposed reform would move many immigration functions to the Department of State and Labor and would consolidate all immigration enforcement into a new Federal law enforcement agency within the Department of Justice.

In response to the CIR's recommendations, the President asked the Domestic Policy Council (DPC) to "evaluate carefully the [CIR] proposal and other reform options designed to improve the executive branch's administration of the Nation's immigration laws." In conducting this review, the DPC, working closely with the Office of Management and Budget, consulted with the Departments of Justice, Labor, and State, CIR staff, immigration experts and advocacy groups, and other White House offices, including the National Security Council. This review examined organizational and restructuring options including those formulated by the CIR and members of Congress. From this effort, the Administration established a new framework for reform, and the Justice Department contracted with a management consulting firm to provide an independent assessment of structural options and assisted in making the Administration's framework "operational."

The Administration's Framework for Change

The DPC review process concluded that the CIR report correctly diagnosed many of INS' longstanding problems -- insufficient accountability between field offices and headquarters, lack of consistency, need for greater professionalism, overlapping organizational relationships, and significant management weaknesses. These problems have hampered the INS' ability to effectively enforce our immigration laws both at our borders and in the interior, and efficiently provide immigration and citizenship services. Improving the ability of the INS to pursue these critical priorities must be the goal of any reform plan.

After careful consideration and study, the Administration concluded that the most effective way to achieve this goal is to implement dramatic and fundamental reforms *within* the INS. The Administration's reform plan untangles INS' overlapping and frequently confusing organizational structure and replaces it with two clear organizational chains of command -- one for accomplishing its enforcement mission and one for providing services. Each operation would be headed by an Executive Associate Commissioner (EAC) who would report directly to the Commissioner through the Deputy Commissioner.

The plan will eliminate the current field structure in which regional district offices serve both enforcement and service functions and replaces it with separate enforcement and service offices that bring the right mix of staff and skills to local service caseload and enforcement needs. The result will be an INS organization with strengthened accountability and improved efficiency and effectiveness. The plan allows each operation to focus on its unique management, knowledge, skills, and abilities, while also retaining the essential integration functions for coordinating these operations.

Improved Customer-Oriented Services

- **Creates new local service offices.** The new immigration services operation would locate new service offices in immigrant communities around the country. These offices would focus on providing efficient and effective service, while maintaining the integrity of application processing. The offices would provide a range of services including: providing information to applicants, taking fingerprints and photographs, testing, and interviewing. Depending on community needs, some offices would be configured as full-service centers and others could serve as satellite locations to perform specific functions. These new service facilities would have a standard "look and feel" with clear signs, comfortable waiting rooms, evening and weekend hours, and other customer-friendly features.
- **Establishes accountability and clear lines of authority.** The heads of the local service offices would report to an Area Service Director. The Area Service Director would report directly to the Executive Associate Commissioner for Immigration Services. Area Service Directors would have the flexibility to move case processing responsibilities among offices within their area to maximize efficiency.
- **Establishes clear standards for customer service.** They would be held accountable for meeting a nationally-established standard for timely processing and courteous service at all locations throughout the area.

- **Offers high-tech answers.** This new framework provides high-tech ways for people to receive better service through remote service centers. As part of this restructuring effort, INS will re-examine the capabilities of the four service centers that handle the automated, bulk processing workload of the current district offices. These centers currently take applications, create electronic records of them, and conduct the pre-processing necessary before the examination is administered. Under the new structure, more work would be shifted to the service centers, thus allowing local offices to focus on core activities which require interaction with customers. In addition, the capabilities of the centralized phone centers which will provide information to applicants and the public will also be examined.

A Strengthened and Integrated Enforcement Operation

- **Establishing a single, coordinated enforcement function.** The plan creates an operational chain of command dedicated solely to immigration enforcement, focuses comprehensively on illegal immigration problems at the border, and establishes better linkages with interior enforcement through a single point of accountability for performance. This approach would strengthen professionalism and improve results. This structure also would ensure priorities are shared and allow close coordination of day-to-day operations among each enforcement discipline.
- **Integrating enforcement and strengthening accountability.** The new enforcement operations areas would combine all functions related to the enforcement of immigration laws. Each enforcement area would be organized according to four functions, and led by a single director. The Area Enforcement Director would report directly to the Executive Associate Commissioner for Enforcement.
- **Organizing enforcement areas by function.** The enforcement areas would be organized around four functional goals: managing the border; inspections and management at ports of entry; investigations and removals; and detention.
 - 1) Border Patrol. The Border Patrol would perform its current border management functions of deterring illegal immigration, apprehending illegal aliens, and working to dismantle smuggling rings.
 - 2) Inspectors. The plan recognizes the critical role the ports of entry play in INS' border management strategy by putting inspectors in the enforcement chain of command. This would give the ports a stronger role in the enforcement side of the agency and inspectors a direct reporting relationship to the Area Enforcement Director in order to address the increasing number of attempts of illegal entries into the United States.

3) Investigations and Removals. This plan would also bring investigators, intelligence officers, and deportation officers into one multi-disciplinary component to focus on removals and pursuing cases of fraud, smuggling, and illegal employment at the workplace. Offices in the field would be located in areas with the greatest demand for those functions-- similar to the traditional Special or Resident Agent-in-Charge (SAC/RAC) law enforcement model used by the FBI.

4) Detention and Enforcement Support. This framework would improve the logistical coordination of transporting criminal and illegal aliens and detaining them in long-term facilities by centralizing the current district office detention and transportation operations. Under the new framework, this component would be better able to manage open bed space at INS and contract facilities and improve and monitor conditions at these facilities.

Shared Support

- **Providing the right tools.** The “shared support” operation (e.g., records and data management, technological support, employee relations, and administrative support) would serve as the administrative and technological backbone upon which both enforcement and service operations depend under the new framework. Under this new structural framework each side of the agency has the appropriate administrative and technological tools to do its jobs in the most efficient and cost-effective way. These would range from new computer software systems that are “user-friendly” for enforcement agents and service officers, to appropriate training to strengthen professionalism.
- **Improving accountability.** Under this restructuring plan the shared support function will be held accountable for meeting the needs of the enforcement and service operations in a timely and effective manner.
- **Managing essential records.** An important cohesive function of the shared support operation is the management of all of INS’ files and electronic databases. INS’ records are the foundation of its work -- whether in law enforcement or the provision of services to its customers. For example, the information contained in those records tells an INS deportation officer that an individual has overstayed his visa and the last address at which he might be found. It also tells an adjudicator whether a person has ever entered without inspection, therefore jeopardizing the alien's eligibility to become a legal permanent resident.

New “Strategy” Office

- **Setting priorities and assessing results.** The Administration’s proposed structure includes the creation of a small, new "strategy" unit that would focus on setting priorities, long-range strategic planning, and policy development, as well as analyzing the effectiveness of their implementation. The unit would draw heavily on staff from headquarters and the field, as well as create subject area task forces to draw on the expertise of individuals accountable for each program.

New Chief Financial Officer Role

- **Enhancing accountability and efficiency.** The new structure establishes a Chief Financial Officer to ensure effective allocation, control, and monitoring of the agency’s finances. This would enhance accountability for managing the agency’s resources and ensure that immigrant services and enforcement have clearly separated and defined resource streams.

Other Management Improvements

INS recognizes that a fundamental restructuring is only one aspect of improving its ability to build a more effective organization. As part of its reform efforts, the agency also is planning management initiatives such as fundamentally redesigning outdated business processes and the creation of new training opportunities for employees.

Conclusion

Preserving our country’s tradition as a Nation of laws and a Nation of immigrants requires one agency with clearly defined operational lines of authority and accountability. This new structure will allow our Nation to better control its borders and provide improved service and benefits to the immigrant community. The Administration’s plan is a bold initiative to strengthen the INS’ capacity to accomplish this critical mission.

March 31, 1998

DRAFT

Harold Rogers
Chairman
Subcommittee on Commerce, Justice, State,
the Judiciary and Related Agencies
Appropriations Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman,

In the Subcommittee's Report accompanying P.L. 105-119, the Congress directed the Attorney General to review the CIR recommendations and develop a restructuring plan that would result in greater effectiveness and efficiency in the performance of the core functions of the federal immigration system. The President, also responding to the Commission's report, asked the Domestic Policy Council (DPC) to "evaluate carefully the [CIR] proposal and other reform options designed to improve the executive branch's administration of the Nation's immigration laws." In conducting this review, the DPC consulted with the Departments of Justice, Labor, and State, the INS, staff of the CIR, immigration advocacy groups, and other White House offices, including the National Security Council ^{working closely with the Office of Management and Budget,} and the Office of Management and Budget ^{experts and}.

^{1/OMB}
The DPC review concluded that the CIR report correctly diagnosed many of INS's problems -- insufficient accountability between field offices and headquarters, lack of consistency and professionalism, overlapping organizational relationships, and significant management weaknesses. These problems have hampered the INS's ability to effectively pursue the tasks that Congress and the President expect the INS to perform: effective enforcement of our immigration laws both at our borders and in the interior, and the efficient provision of immigration and citizenship benefits and services. Improving the ability of the INS to pursue these critical priorities must be the guiding principle of any reform plan.

After careful consideration and study, we have concluded that the most effective way to adhere to this guiding principle is to implement dramatic and fundamental reforms *within* the INS. The Administration's reform plan will untangle the INS's overlapping and frequently confusing organizational structure and replace it with two clear organizational chains of command -- one for accomplishing its enforcement mission and one for the provision of services. Additionally, the Administration plan retains essential integrating functions for supporting and coordinating the enforcement and service operations. The result will be an INS organization with strengthened accountability and improved efficiency and effectiveness that allows each operation to focus on the unique management, knowledge, skills, and abilities of its function.

The key features of the Administration's plan are:

- Effect an operational split between enforcement and services, resulting in two distinct, clear lines of authority from the field to headquarters, with an INS Commissioner continuing to be responsible for overall agency operations;
- ~~SECRET~~ Eliminate ^{that} the current "district" field structure, and replace it with a functional and geography-based organization ^{which} allows for the creation of service offices in areas convenient to their immigrant "customers" and enforcement sites in the border areas or at significant ports of entry;
- Improve the quality of the workforce by creation of separate enforcement and service career paths for INS employees to ensure that the best employees can move up the ladder and are rewarded for high performance;
- Restructure management operations to ensure an effective "shared support" operation (i.e. records and data management, technological support, employee relations, and administrative support) that will serve both the enforcement and service sides of the agency ^{e.g.,} ^{the}
- Establish a Chief Financial Officer to address deficiencies in financial, accounting and budget execution systems.

Apart from these primary recommendations on restructuring the INS, the Administration will work with the INS and the Departments of Labor and State to address concerns about duplication, overlapping responsibilities, and issues of coordination. In addition, the Department of Justice has contracted with a consulting firm to assist in making this plan "operational." A copy of its final report is attached.

It should be noted that during its review, ^{the} ~~the~~ DPC ^{and OMB} carefully evaluated the recommendations of the CIR. The CIR concluded that the INS's dual responsibility of welcoming legal immigrants and deterring illegal immigration has resulted in "mission overload." To address this issue, ^{they} recommended disbanding the INS and reallocating its primary responsibilities to the Department of Justice (DOJ) and the State Department. We believe those recommendations would ~~not~~ only compound the current problems with the nation's immigration system. ^{the CIR}

~~SECRET~~ First, ~~creating a separate immigration enforcement agency within the Justice Department could ultimately result in hindering the coordination and communication necessary to maintain the integrity and effectiveness of both immigration enforcement and service operations. Second, such a substantial reallocation of authority could require a six or seven-year transition, exacerbating the existing concerns about long delays in processing basic immigration services activities. Moreover, moving immigration service operations to the State Department is inconsistent with~~

^{the CIR's recommendation}

I don't think we can say this unless the State Dept says we can.

Second and even more important, this reallocation would hinder the coordination and communication necessary to maintain the integrity and efficiency of both immigration enforcement and immigration service operations. ^{most} ^{all} ~~that Department's foreign policy mission.~~ To be effective, immigration policy and management should remain within one agency within the Justice Department.

The Administration's plan is a fundamental change in the way the INS conducts business. This restructuring -- from top to bottom -- will address long-standing concerns about the lines of authority and responsibility, consistency of operations, and performance within the INS. It will result in improved enforcement coordination, career paths that support professionalism and measurable changes in the way INS provides services to the immigration community. ~~More~~ ^{Most} importantly, it will greatly improve the ability of the INS to effectively and efficiently perform the duties that Congress and the President expect. We look forward to working with you and other members of Congress to implement this restructuring plan and to ensure successful, long-term improvements in the Nation's immigration system.

Sincerely,

Franklin Raines
Director
Office of Management and Budget

Bruce Reed
Assistant to the President for Domestic Policy

Janet Reno
Attorney General



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INS Offers Reorganization Plan

Proposal Calls for Splitting Agency Into Three Components

By William Branigin
Washington Post Staff Writer
Thursday, March 26, 1998; Page A21

The Immigration and Naturalization Service, confronted with growing pressure for its abolition, is putting forth its own plan for a drastic reorganization that would separate its enforcement and service functions but leave the agency intact.

The INS reorganization plan, drawn up by the Booz-Allen and Hamilton consulting firm and being released today, is aimed in large part at responding to criticism that the agency is overwhelmed by conflicting missions and should be broken up. But the proposed solution is also drawing intense opposition within the INS, senior officials said.

The overhaul of the INS, a 26,000-employee agency under the Justice Department, is scheduled to be discussed at a hearing Tuesday of the House Appropriations subcommittee with jurisdiction over the department. The panel has asked the INS to present a reorganization plan by April 1.

The subcommittee's chairman, Rep. Harold Rogers (R-Ky.), has expressed support for a recommendation to dismantle the agency. That recommendation was advanced last September by the bipartisan Commission on Immigration Reform. The commission said the INS was suffering from "mission overload" and that its major functions should be dispersed to the departments of State, Justice and Labor.

In another proposal that takes the opposite approach, the Carnegie Endowment for International Peace yesterday said the INS should be elevated in status, preferably to Cabinet level as an independent agency, and assigned the immigration-related functions of other government departments.

The think tank also recommended setting up "chains of command" within the INS to separate law enforcement activities -- such as the arrest and deportation of illegal aliens -- from the administration of immigration benefits, including citizenship and legal residence.

"There is a growing consensus that service and enforcement should be divided in this way," said T. Alexander Aleinikoff, a former top INS official who joined Carnegie last year. But he added, "I think it is important to keep the two functions within the same agency, so you have accountability."

Jeanne Butterfield, director of the American Immigration Lawyers Association, said the group supports the Carnegie approach but

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doubts that making the INS a Cabinet agency is "politically feasible." She said immigration advocates like the idea of separating the INS enforcement and service functions but strongly oppose dismantling the agency.

The Booz-Allen plan would thoroughly reorganize the INS, according to officials familiar with the proposal, abolishing the current nationwide structure of 33 districts, each headed by a powerful director responsible for both immigration enforcement and benefits. It would divide the agency into three components -- enforcement, benefits and support services -- and create a single "enforcement czar" with authority over investigations, inspections, border control and the detention and deportation of illegal aliens.

The plan would replace the district directors with officials separately responsible for enforcement and benefits. In place of the districts, as many as 24 INS regions would be created, half for enforcement and half for benefits.

The Booz-Allen proposal was presented here Monday and Tuesday to the district directors, some of whom privately expressed resentment and said they doubted the reorganization would solve the agency's problems, officials said.

"We think it's a disaster and that it's not going anywhere," one senior official said.

INS Commissioner Doris M. Meissner "seems to be thinking that if she puts forth this reorganization, it will call off the wolves," he said. But the plan will do nothing to address the agency's main shortcomings, which include growing backlogs of applicants for citizenship, he said.

Another senior INS official said the Booz-Allen proposal is widely seen within the agency as a way to buy time to fend off pressures for the dismantling of the INS.

Over the past couple of years, the INS has been rocked by a succession of breakdowns and scandals, most notably related to an accelerated naturalization program called Citizenship USA. Congressional Republicans, who charged that the White House tried to use it to create more than 1 million new voters beholden to the Democratic Party before the 1996 elections. As a result, the critics said, thousands, including people with criminal records, were improperly naturalized..

INS officials who oppose the Booz-Allen plan attributed this breakdown to what they said has been a growing tendency to politicize the agency, rather than an organizational problem.

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Questions & Answers on INS Reform March 26, 1998

Q: What is the Administration's plan for reforming the INS?

A: The Administration's plan will make federal immigration activities more effective by separating enforcement and service operations *within* INS -- from headquarters to the field -- while preserving the necessary integrating functions for supporting and coordinating both operations. The key features of the Administration's plan are:

- **Effect an operational split between enforcement and services**, resulting in two distinct, clear lines of authority from the field to headquarters, with an INS Commissioner continuing to be responsible for overall agency operations;
- **Eliminate the current "district" field structure, and replace it with a functional and geographic-based organization** that allows for the creation of service offices in areas convenient to their immigrant "customers" and the creation of enforcement offices focus at border areas, ports of entry and significant interior locations;
- **Restructure management operations to ensure an effective "shared support" operation** (e.g., records and data management, technological support, employee relations, and administrative support) that will serve both the enforcement and the service sides of the agency.

The result will be an INS organization with strengthened accountability and improved efficiency and effectiveness that allows each operation to focus on the unique management, knowledge, skills, and abilities of its function.

Q: Everyone agrees that the INS has substantial problems. Why, then, did the Administration reject the CIR recommendation to dismantle the agency?

A: The CIR concluded that the INS's dual responsibility of welcoming legal immigrants and deterring illegal immigration has resulted in "mission overload." To address this issue, the CIR recommended disbanding the INS and reallocating its primary responsibilities to the Department of Justice (DOJ) and the State Department. We believe those recommendations would only compound the current problems with the nation's immigration system.

First, such a substantial reallocation of authority could require a six- or seven-year transition, exacerbating existing concerns about long delays in immigration activities. Second and even more important, this reallocation would hinder the coordination and communication necessary to maintain the integrity and efficiency of both immigration enforcement and immigration service operations. To be most effective, all immigration policy and management should remain within one agency at the Justice Department.

Q: How will this reorganization address the frequent complaints about inefficiency and delay at the INS?

A: The Administration's reform plan will untangle the INS's overlapping and frequently confusing organizational structure and replace it with two clear organizational chains of command -- one to accomplish its enforcement mission and the other to provide immigration-related services.

This separation will result in an INS organization with better accountability and improved efficiency that allows each operation to focus on the unique management, knowledge, skills, and abilities of its function. For example, service area directors would have the flexibility to move case processing responsibilities among offices within their area to maximize efficiency. Service area directors would be held accountable for meeting a nationally-established standard for timely processing and courteous service at all of the locations throughout the area's jurisdiction.

Q: How will your plan affect the Border Patrol?

A: The border patrol will perform its current border management functions, including the facilitation of legal traffic across our nation's borders and the enforcement against illegal entry. However, unlike the current structure, the Administration's plan creates an operational chain of command dedicated to immigration enforcement which will allow the Border Patrol to better coordinate enforcement activities with other enforcement offices, including inspections, detention, and removal officers. With this structure, INS can focus comprehensively on illegal immigration problems at the border and in the interior, and create a single point of accountability for performance.

Q: Did the Administration consider Congressman Reyes's proposal to pull all of enforcement operations out of INS and into Main Justice?

A: We did consider Congressman Reyes's proposal to move the enforcement operation into Main Justice. Consistent with his recommendation, our plan consolidates all enforcement operations to create a single point of responsibility and accountability. However, we concluded that creating a separate immigration enforcement agency within the Justice Department could ultimately result in hindering the coordination and communication necessary to maintain the integrity and effectiveness of both immigration enforcement and service operations.

There are a variety of ways in which service officials depend on data collected by enforcement officers, and vice versa, to ensure the integrity and effectiveness of both functions -- as when, for example, a service officer discovers that a person has overstayed his visa and become an illegal alien.

Q: Is this proposal any more than just another shuffling of the boxes on an organizational chart?

A: The Administration's plan is a fundamental change in the way the INS conducts business: this restructuring involves a total overhaul of both enforcement and service operations. One of the most dramatic features of this plan is the replacement of the district field structure with separate enforcement and service areas. This clear delineation of functions will address long-standing concerns about lines of authority and responsibility, consistency of operations, and performance within the INS. It will result in improved enforcement coordination and measurable changes in the way INS provides services to the immigration community.

Q: When will we learn more about the Administration's plan for reform?

A: Congress directed the Attorney General to review the CIR recommendations and develop a restructuring plan that would result in greater effectiveness and efficiency in the performance of the core functions of the federal immigration system. On March 31st, INS Commissioner Doris Meissner is testifying before the House Appropriations Subcommittee on Commerce, Justice and State, and will, at that time, present the Administration's reform proposal in more detail.

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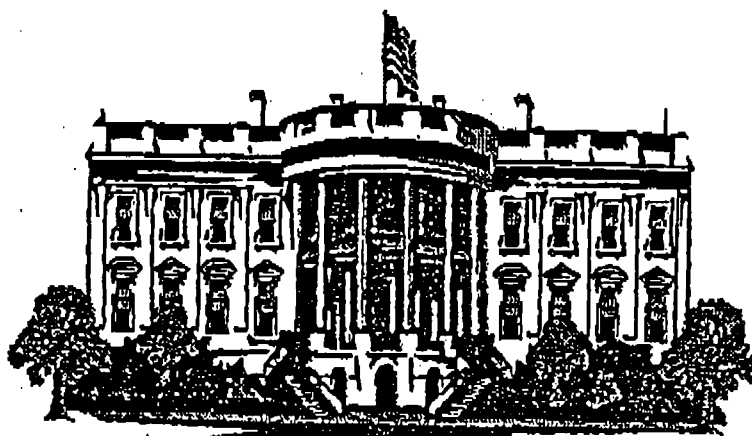
Castello
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THE WHITE HOUSE

Domestic Policy Council

DATE: March 26, 1998FACSIMILE FOR: James Castello / Julie Ambender

PHONE: () -

FAX: () - 514-9077
307-9911FACSIMILE FROM: Julie Fernandes

PHONE: () -

FAX: () -

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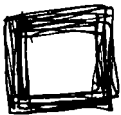
Julie - closer? I'm not yet sure this
will pass muster here, but what do you
think? F 3/24/98

DRAFT

The Department endorses the Administration's reform strategy and believes that this represents the most effective way to achieve long-term and lasting improvements in Federal immigration policy formulation and execution in order to improve its enforcement and service missions. The Administration's proposed restructuring of the INS will foster clearer lines of authority and responsibility in immigration enforcement and service operations which will, in turn, permit and promote better communication and coordination between the INS and the Department.

The CIR recommendation to shift the enforcement of immigration-related employment standards from the INS to the Department of Labor - which already has most such responsibility - appreciates the important differences between the missions of the two agencies. But we believe that improved coordination between the two agencies and more effective and mission-sensitive Departmental involvement in worksite enforcement of immigration-related labor standards are the best way to achieve the results the CIR seeks. ~~Under the leadership of the DPC, INS and my staff are developing plans to achieve more effective worksite enforcement consistent with the two agencies different missions. In addition, the Department is currently evaluating other reforms, such as streamlining its internal immigration structure, that offer promise for significant improvement of Departmental processes. We will continue to explore ideas to improve the Department's administration of our own enforcement and service responsibilities.~~ *In addition,*

The Department will continue ...



Noon
tomorrow

LRM ID: IMS278

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Thursday, March 26, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: James J. Jukes (for) Assistant Director for Legislative Reference

OMB CONTACT: Ingrid M. Schroeder

SUBJECT: **PHONE: (202)395-3883 FAX: (202)395-3109**
**STATE Report on The Commission on Immigration Reform's
Recommendations and the Administration Plan for Restructuring INS**

DEADLINE: **10am Friday, March 27, 1998**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

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**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Ingrid M. Schroeder Phone: 395-3883 Fax: 395-3109
 Office of Management and Budget
 Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur
_____ No Objection
_____ No Comment
_____ See proposed edits on pages _____
_____ Other: _____
_____ FAX RETURN of _____ pages, attached to this response sheet

DraftTHE SECRETARY OF STATE
WASHINGTONDraft

Dear Chairman Rogers:

The Department of State is committed to an immigration system that serves the best interests of the American people, legal immigrants seeking to enter this country, foreign visitors, and those who may seek citizenship. Toward that end, the Department met on November 19, 1997 with the Domestic Policy Council (DPC) 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.

The Department strongly supports the Administration's proposals to reorganize the INS 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. We believe these 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 those who enter legally, effectively deterring those who attempt to enter illegally, and providing services and benefits in a timely and effective manner.

Sincerely,

Madeline Albright

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

Agenda/Decision Items
INS Restructuring Meeting -- March 16, 1998

A. Outstanding Restructuring Issues

1. Booz Report

- Placement of Shared Service Organization
- Creation of Enforcement Officer Corps

— # from INS
re: role of shared services
as integrating entity

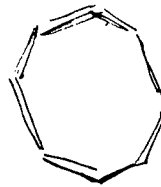
2. CIR Recommendation

- Consolidation of ^{Appeals} ~~Adjudication~~ Functions

B. Rollout Issues

1. Administration Report

- Cover Letter Signed by Reed/Reno/Raines
 - Brief description of the review process
 - Executive summary of Administration restructuring plan
- Side-by-side comparison of CIR/Administration plan as attachment to the letter
- Booz Report



647-9584
back in 20th

2. Letters of Support to Chairman Rogers

- Letters from Secretaries of Labor and State voicing support for the Administration plan
 - Prepared to coincide with the submission of the Administration plan on March 31.

— Secys have thought about and
concluded that...

3. Schedule of Senate/House Authorization Committee Hearings

4. Timing of Reprogramming Notification to Appropriators/Draft Implementing Legislation

- Develop legislative language

Support
conclusion.
Ⓢ want to
continue to
work w/INS
to streamline
process, etc.

Labor
Fraser
State
Donna
Hamilton
663-1184
Dpt. Asst. Secy
Visa Services
Bureau of
Consular
Affairs

① EK/MD/DM mtg. w/
Susan Martin
Bruce Morrison
would they give us a letter?

Hill
Estrada

cover letter
Drafting Exec. Summary

next couple
of days

Call Alan
James Costello

Ask
Scott
about how
to run this
chain.

Bridgette Green - CFO @ State

(Secys thought about
and have concluded
that...)

→ Kitty Higgins - DoL
(EK to speak to)

Rem:

Consular affairs
office had limited
interest
(as a \$-making way
to save consular
offices)

Wm
Draft by COB tomorrow
(of letter & summary)

(Bureau Consular
Affairs)

~~Mary Ryan~~
Donna Hamilton - Dpty Asst Secy Visa Services

663-1184

John Caulfield -

support conclusion
(A)
want to continue to
work w/ INS
to streamline
processes, etc.

TALKING POINTS FOR MICHAEL DEICH

Immigration and Naturalization Service Restructuring

1. What is the Administration's plan?

The Administration's approach is to recognize the need for INS to be organized along programmatic and function lines but to keep the INS intact. Separating enforcement and benefit/services operations -- both in headquarters and in the field -- will result in a more efficient and effective operation and strengthened accountability and lines of authority.

The key features of the OMB strawman which is being further refined by Booz-Allen are:

- INS remains intact with a Commissioner and Deputy Commissioner responsible for overall agency operations;
- Two Executive Associate Commissioners. One responsible for enforcement, the other for services/benefits (Booz Report still has an EAC for Shared Services or administrative support functions);
- Strengthen INS' regional and operational field structure;
- Integration of the Border Patrol (BP) into INS' enforcement line-of authority and the establishment of a field structure that closely corresponds to the BP sector model. This will bring inspections, investigations and detention functions/personnel clearly under enforcement rather than under the current "district" structure where these functions are mixed with services;
- Move from the current outmoded "district" field structure for the provision of immigration benefits to a "community based" approach that brings services to the immigrant client population (this builds off the naturalization redesign effort and the establishment of 80+ community based INS offices for fingerprint and testing services);
- Establish a Chief Financial Officer (CFO) to improve INS deficient financial, accounting and budget execution systems; and
- Clarify headquarter responsibilities and lines of authority.

The Administration has engaged a consultant to "flesh" out the specifics of this plan and begin development of an implementation strategy to achieve this restructuring. This strategy is currently being developed and is expected to be completed by March 9. The restructuring of the INS, however, will likely be accomplished through a phased approach as is being done in the naturalization redesign, that may take up to two years

In addition, the Administration will address the CIR concerns about duplication and overlapping responsibilities and problems with coordination between the Departments of Labor and State and the INS through DPC convened working groups. This effort will focus on how to better coordinate INS and State visa application and adjudication responsibilities and involve the Department of Labor in worksite enforcement efforts where appropriate. We believe that most of the problems identified by the CIR can be accomplished without structural change.

2. Why does the Administration's plan differ from the Commission on Immigration Reform's recommendation?

The CIR recommended splitting INS' enforcement and benefit/service responsibilities and sending benefit/services to the Department of State. We don't believe separating these functions will improve immigration services -- in fact -- we believe such a division will adversely impact the necessary "synergy" between INS' enforcement and benefit sides. To perform effectively, INS' service function must have ready access to immigration "enforcement" data bases. Similarly, enforcement must be equally adept at understanding "benefit" eligibility to ensure standard enforcement of immigration law.

INS has made considerable strides in the past five years. It has nearly doubled the number of Border Patrol agents, inspectors and investigative personnel. At the same time, it has handled an unprecedented wave of migrants seeking benefits. While problems have occurred, INS and the Department can be credited with taking a proactive approach to address them -- not as bandaid fixes -- but through systemic long-term solutions (e.g. naturalization redesign, asylum reform). Further, reshuffling the boxes between Departments will have a devastating impact on INS' employee morale and operational effectiveness at a time of enormous workload and intense scrutiny.

3. What about the Reyes plan to separate the functions but keep them within the Department of Justice?

Again, this approach will result in significant disruption to the INS with little appreciable benefit. Congressman Reyes believes that enforcement operations have been neglected and as a result a stand alone enforcement entity should be established. The Administration believes integration of the Border Patrol into INS' enforcement line-of authority and a programmatic structural division of the INS will achieve the same result.

**A NEW FRAMEWORK FOR ACCOUNTABILITY:
REORGANIZING THE IMMIGRATION FUNCTION
[WORKING TITLE]**

Demetrios Papademetriou, T. Alexander Aleinikoff, and Deborah W. Meyers
International Migration Policy Program
Carnegie Endowment for International Peace

[BACKGROUND AND CONTEXT]

I. INTRODUCTION

The immigration function is multifaceted and multilayered. It involves facilitation of lawful entry and residence, deterrence of unlawful entry, and termination of unlawful residence. Effective performance of the function requires a large array of skill sets, from central office policy development to face-to-face enforcement encounters. Immigration personnel adjudicate applications based on family relationships, determine skill levels and wage affects of intending laborers, hear claims of asylum-seekers, apprehend unlawful entrants, investigate employers suspected of hiring unauthorized workers, assess fines against airlines that transport immigrants who lack proper papers, inspect almost half a billion persons crossing the U.S. border, detain serious criminals, transport tens of thousands of deportable aliens a year, grant citizenship to more than a million persons each year, grant or deny visas to millions of applicants around the around, replace lost "green cards," and handle nearly innumerable requests for extensions of stay, work authorization, stays of deportation, and advance permission to reenter the U.S. Immigration authorities are in contact with a wide variety of state and local officials and respond to thousands of communications from members of Congress. Successful performance of these various roles demands a complex and integrated records system that can link overseas and domestic units, combine civil and criminal files, be accessible to

state and local authorities, and (most recently) verify the immigration documents shown to employers.

The topic of restructuring the immigration system is hardly a new one. Since the Congress first attempted to centralize control over immigration in 1864, the immigration functions of the U.S. have frequently been studied, modified, and reshuffled. These changes have resulted in movement of the immigration bureaucracy from Department to Department and constant internal reorganizations as well.

In an important sense, there is no single “right answer” to the question of how to organize the immigration function. The system is simply too big, too complex, and asked to do too many things. An optimal structure for offices that grant benefits and must be accessible and “user-friendly” to customers will not be the same structure that optimally serves the needs of officers who investigate immigration violations; a system of records that best maintains files of lawful immigrants is not the same system that best tracks criminal aliens. Form should follow function, but a desire for logical rigor must also take into account practicality, experience and ways of doing business that may appear haphazard but actually--at the end of the day--work well. A picture with neat boxes may be pretty to look at but devilish to implement.

In this paper, we identify some major areas in which form seems to be impeding function, or for which there currently exists no location dedicated to a function that ought to be considered important. We then ask how the current structure might be modified to enhance performance of these tasks. Thus we do not start from scratch, but neither do we simply suggest changes at the margins. There are some major problems and major gaps that demand major changes.

We begin with a brief history of the development of the existing structure and some recent proposals for structural change. We then identify several significant systemic problems. The review will demonstrate that despite numerous congressionally mandated changes and internal restructurings, the immigration bureaucracy has been plagued by many of the same problems and challenges throughout its history. This finding implies that the issue of organization is larger than simply the politics of the moment, U.S. immigration policies, or the management of the agency. Finally, we

evaluate several possible structural reforms. We conclude that the saliency of migration and citizenship policy today argues in favor the consolidation of immigration functions in a single, Cabinet-level agency. A second best, but still important, change would be to elevate the immigration function within the Department of Justice through the creation of an Associate Attorney General for Immigration. Under either alternative, we recommend the separation of service and enforcement functions; both functions, however, would ultimately report to the same high-level administrator who would be charged with the formulation of immigration policy for the Executive Branch.

II. HISTORY OF THE IMMIGRATION FUNCTION

A. Location of the Immigration Service

For many years after the nation's founding, Congress enacted no general immigration regulations and established no federal bureaucracy to control immigration. Inspections of arriving immigrants and naturalization were carried out by State officers and State courts, respectively. In 1864, the position of Commissioner of Immigration was established within the State Department. The Commissioner was charged with protecting new immigrants from fraud and overseeing their transportation to their final U.S. destination. Congress adopted legislation in 1875 barring the entry of convicts and prostitutes, and in 1882 it enacted the first of the infamous Chinese exclusion laws. At that time, Congress placed general supervision of immigration in the Treasury Department, although enforcement of laws against arriving aliens was delegated to the states. The lack of a single responsible authority led Congress to give the Treasury Department complete control over immigration in 1891.

The Bureau of Immigration was transferred from the Treasury Department to the newly created Department of Commerce and Labor in 1903 because of the latter's focus on enforcing the laws regarding foreign contract labor. With the addition of the naturalization function three years later, the Bureau became the Bureau of Immigration and Naturalization. A Division of Information within the Bureau was charged with helping immigrants settle throughout the country and compiling a list of employment

opportunities for them. In 1913, the Department of Commerce and Labor was separated into two departments; as a result, the Immigration and Naturalization Bureau was moved to the new Department of Labor and separated into two bureaus, each headed by a Commissioner. The two bureaus were reconsolidated by an Executive Order in 1933 and renamed the Immigration and Naturalization Service [INS]. The INS remained in the Labor Department until 1940 when President Roosevelt's Reorganization Plan transferred it to the Department of Justice as a wartime national security measure. It has remained there for the last half of the century.

B. Initial Development of Various Immigration Functions

Tracing the history of some of the immigration functions over time enhances our understanding of where things stand today and why. This section reviews the development of inspections, visa issuance, border control, administrative review, naturalization, adjudication, labor, and asylum.

Inspections. In the 1880's state officials performed inspections of arriving aliens. The Federal Government took over inspections at the port of New York in 1890 and at all ports-of-entry in 1891. By 1899, officers were posted at foreign ports to inspect for likely medical problems, though they could not prevent departures unless an intending immigrant had a communicable disease. The Immigration Act of 1924 effectively transferred the inspections function overseas by authorizing the advance acquisition by aliens of entry visas and allowing the government to examine aliens for admissibility prior to departure. The examinations were done by consuls, thus involving the State Department; also present were advisers from the Immigration Service and the Public Health Service. INS began pre-inspection abroad in 1954 in order to reduce the delays caused by inspections upon entry to the U.S. Inspections today occur at the port-of-entry, through certain pre-inspection locations, and through the consular officer's screening for excludability when issuing a visa.

Visa Issuance. Consular officers initially were charged with issuing visas in 1884. A general requirement that aliens acquire visas was established in 1917. Final decision on visa applications was transferred to the Secretary of State in 1942 because of wartime security concerns. By 1952, INS-approved visa petitions were required by most quota and non-quota immigrants, although the State Department retained the function of granting visas overseas. The State Department continues to issue visas overseas, though nationals of some countries do not require visas under the Visa Waiver Pilot Program and much of the clerical work of visa issuance has been transferred to the National Visa Center.

Border Control. Enforcement of immigration laws on the border began with approximately 75 immigration inspectors patrolling the Southern border by horse in 1904. In response to an increase in illegal entries and smuggling, Congress authorized creation in 1924 of a Border Patrol within the Immigration Bureau with 450 employees (hired from the railway postal clerk register) to patrol both the Mexican and Canadian borders. By 1930, the Border Patrol had almost doubled in size. It received an additional \$ 2 million during WWII as a result of a desire to protect the borders. New techniques were introduced in the 1960's and 70's in response to rising unauthorized entries, and in the 1990's attention again focused undocumented migration. Since FY 1993, the Border Patrol has doubled from approximately 3900 agents to 7800 by the end of FY 1998, the vast majority of whom are located on the Southwest border.

Administrative Review. When the Immigration Bureau was in the Labor Department, it included a Board of Special Inquiry (which determined the status of detained immigrants and cases of exclusion and deportation) and a Board of Review (which reviewed appeals from the Boards of Special Inquiry and made recommendations to the Secretary of Labor regarding deportation cases). These two functions were transferred along with the INS to the Justice Department and evolved into the Immigration court and the Board of Immigration Appeals [BIA]. The BIA and the immigration courts were consolidated into the Executive Office of Immigration Review

[EOIR] in 1983. Also within EOIR is the Office of the Chief Administrative Hearing Officer, which hears appeals in employer sanctions cases.

Naturalization. Naturalization laws date from the early years of the republic. Initially, any common law court of record was empowered to grant naturalization; then federal courts were granted the authority as well, and at one point clerks of court provided records of naturalization to the Secretary of State. The absence of a federal agency with responsibility for enforcing the naturalization laws led to a lack of uniformity, as courts in various states used their own procedures for process, standards, records, and investigations. In response, 1906 legislation gave administrative supervision to the Federal Government by combining oversight of the naturalization function with the immigration bureau to form the Bureau of Immigration and Naturalization. Federal courts retained the authority to grant or deny naturalizations. In 1909, the naturalization field work was transferred from representatives of the U.S. attorneys to a special corps of examiners in the Bureau.

In 1913, naturalization became a separate bureau within the Department of Labor, but in 1933 it was recombined with the immigration bureau. The naturalization function moved to the Department of Justice along with the rest of the INS in 1940. Due to an increasingly perfunctory role for the courts in naturalization, the Immigration Act of 1990 changed the process to an administrative one under the Attorney General's authority, though courts can still administer the citizenship oath and review denied petitions. Special naturalization offices were opened by the INS in 1995 to handle a large and growing backlog of applications.

Adjudications. In the 1950's, adjudications were primarily handled by headquarters, though some work occurred at the district level. Backlogs caused by increased filings during the 1960's led INS to send some cases to inspectors at ports-of-entry as stand-by work. When backlogs began occurring there too, INS initiated Up-Front Processing at local offices to process walk-in applications and petitions. While efficient for some cases, this process also led to more clerical work for adjudicators,

longer waiting lines for applicants, and a perception that cases filed in person received preferential treatment. INS created its first Remote Adjudications Center in 1979 away from the public with staff dedicated only to adjudications. After seeing increased efficiency and higher quality decisions, INS opened additional remote sites. In the 1980's, INS began a Direct Mail Program to further reduce costs and provide better service.

The Adjudications and Nationality Division currently is part of the Examinations Branch, and among its many duties are immigrant and non-immigrant visa petitions, adjustment of status, greencard applications, and waivers of excludability. The work is split between those applications and petitions that require interviews and thus take place in the district offices and those that do not and are handled by the Service Centers (which evolved from the Remote Adjudications Centers described above). The Service Centers have proven able to process large volumes of work and eventually will handle initial processing for all applications and petitions.

Labor. Labor Department involvement in immigration began with the Department's creation in 1913 and has continued to this day. Even prior to its creation, the Immigration and Naturalization Bureau compiled a list of job opportunities in the U.S. for arriving immigrants. DOL helped mobilize and import labor during World War I and also was involved in the Bracero programs of the 1950's. Through the Employment and Training Administration [ETA], the Department of Labor has been involved in the certification of permanent, as well as temporary, foreign workers. Additional responsibilities were imposed on the Labor Department following passage of the Immigration Reform and Control Act of 1986 [IRCA], particularly on the Office of Assistant Secretary for Policy and the Employment Standards Administration [ESA], which was required to check work authorization forms. Additional changes in Labor Department responsibilities have come from legislation enacted in 1989, 1990, and 1991 regarding immigrant nurses and employment-based immigration. A section of the Bureau of International Labor Affairs [ILAB] focuses on immigration policy and

research, and the Office of the Solicitor [SOL] provides legal support for all of the Department's immigration-related functions.

Asylum. Even in the late 1800's, Congress understood that aliens who were otherwise excludable or deportable may deserve exemptions if they were political enemies of the government to which they would be returned. Though such exemptions were present in 1950's legislation and in regulations and guidelines issued by the INS and State Department in the 1970's, asylum status formally came into existence with the Refugee Act of 1980. The Act allows the Attorney General to grant asylum to arriving aliens in the U.S. who prove that they have a well-founded fear of persecution if returned to their countries of origin. Originally handled by INS examiners, asylum cases were transferred to a specially trained corps of asylum officer by 1990 regulations. Asylum officers report directly to INS headquarters and are located separately from district offices. Later regulations streamlined the process to reduce the backlog, become current with incoming cases, and prevent abuse of the program.

III. REORGANIZATION AND RESTRUCTURING

Structural reform proposals date back to the first decades of the 20th century. Studies have focused on INS's multiple missions (particularly the tension between service and enforcement), INS functions that overlap with other agencies, and INS management. More specifically, they frequently have looked at raising the profile for immigration policy development, consolidating border agencies, consolidating the DOS and INS visa responsibilities, and improving efficiency and management. We attach as Appendix 1 a list of many of the government reports on structural reform from the early 1900's to the present.¹ We discuss below the recommendations of migration-related Commissions created by Congress over the past two decades.

¹ One important non-government study on this issue is Milton Morris's 1985 book *Immigration: The Beleaguered Bureaucracy*. Morris argued for comprehensive reform and a redistribution of responsibilities after finding a fragmented administrative structure, a lack of stature within the government, a lack of clear policy objectives, and varied and contradictory work with many competing interests. He noted the failure

A. Summary of Recent Commission Proposals

Select Commission on Immigration and Refugee Policy [SCIRP]. In 1981, the Select Commission recommended maintaining the basic structure of the immigration system, with responsibility for visa issuance in the State Department and for domestic operations with the INS. Within this structure, however, SCIRP recommended a clear budgetary and organizational separation of the service and enforcement functions of INS. SCIRP also recommended upgrading the Commissioner within the Justice Department to the level of director and having the Commissioner report directly to the Attorney General.

SCIRP had considered proposals to transfer visa issuance from the State Department to INS or to an independent agency with both domestic and overseas functions but decided against them because of departmental jurisdictions, existing expertise in foreign and domestic policy, costs of new personnel and resources, and personnel and operational disruptions. (Some Commissioners supported the idea of a single immigration agency because of likely improvements in the efficiency, effectiveness, and status of U.S. immigration policy.) Also considered was the idea of dividing INS into two separate agencies (one for service and one for enforcement) or interior and border agencies, but it was concluded that efficiency and effectiveness would not improve as both functions have elements of the other and are linked by law and administrative support. Moreover, SCIRP concluded that separating service and enforcement into two separate agencies could increase inconsistency, duplication, and delay.

of policymakers to make critical policy choices and the failure of Congress (at that time) to appropriate adequate funds.

Morris proposed consolidation of all immigration functions into an independent agency as well as the idea of elevating INS within the Justice Department to enhance its visibility and voice. Other options had included creating an interagency unit and increasing cooperation between the INS and state and local law enforcement. Many of the more modest changes recommended by Morris have since occurred. They include drastic INS budget increases; quicker installation of automated data processing and storage systems; creation of a strong planning and research unit; a community outreach program; an increased Border Patrol presence along the borders; computer-assisted screening of visa applicants and machine-

Commission for the Study of Migration and Cooperative Economic

Development [Asencio Commission]. This Commission's 1990 report concluded that reorganization of the immigration function was "urgently needed." It recommended an independent Agency for Migration Affairs [AMA] that would centralize immigration and refugee issues and give migration a higher profile on the domestic and foreign policy agendas through such means as coordination with other agencies and provision of immigration impact statements. The new agency also would demonstrate the importance of migration matters and eliminate costly and overlapping activities. AMA would include INS (except for Border Patrol and interior enforcement), the Bureau of Consular Affairs (except assistance to Americans abroad), the Bureau of Population, Refugees, and Migration, and the asylum office at the State Department.

In effect, this proposal would have split the service and enforcement functions. Some of the problems noted in service and enforcement being dual missions of the agency included: competition for resources, lack of coordination and cooperation between programs, conflict between district offices and Border Patrol sectors, personnel practices, and confusion regarding mission and responsibilities. The Commission had considered, but rejected, other proposals such as a "Migration Czar," a Migration Coordinator in the Executive Office of the President, an Undersecretary of State for Migration Affairs, and a separate Cabinet department.

U.S. Commission on Immigration Reform [CIR]. In its 1997 report, CIR recommended a fundamental restructuring of the immigration responsibilities according to function. It identified the primary functions as: border and interior enforcement; enforcement of immigration-related employment standards; adjudication of immigration and naturalization applications; and consolidation of administrative appeals. The Commission's proposal would eliminate the INS and parcel out its functions by creating a Bureau for Immigration Enforcement within the Justice Department for border and interior enforcement; establishing an Undersecretary of State for Citizenship,

readable visas; and a high-level task force to recommend improvements in the structure of the immigration bureaucracy and in distribution of responsibilities.

Immigration, and Refugee Admissions within the State Department with responsibility for benefit adjudication; and moving enforcement of immigration-related employment standards to the Labor Department. The Commission also recommended creation of an Agency for Immigration Review for independent appeals of administrative decisions.

The Commission justified this restructuring and focus on effective performance of the functions by pointing to the large number and potentially conflicting nature of INS's responsibilities as well as mission overlap with other government agencies and the lack of a single accountable authority because of the diffused responsibilities. The Commission argued that its proposal will increase coherence and consistency in enforcement, improve the environment for adjudication of applications, provide fair review of decisions, increase accountability, improve customer service orientation, and use fees more effectively.

Commissioner Warren Leiden submitted a concurring opinion on this issue. While in agreement regarding the problems of INS and the need to separate the enforcement and adjudications functions, he recommended keeping the separated functions in the Department of Justice along with the appeals function. Each function would have its own leadership with a single, focused chain of command, and a senior level office could provide policy and strategic coordination. Commissioner Leiden believed such a change would clarify the mission of each function, allow for clear goals and accountability, and be less disruptive and costly. Further, he noted that the Justice Department has experience and expertise in both the enforcement and adjudications functions and "epitomizes the values of due process and the rule of law."

B. Recent INS Reorganizations

As early as the 1890's, the Commissioner-General of the Bureau of Immigration discussed organizational problems faced by the Bureau such as increasing immigration regulations and restrictions without sufficient means for enforcement. Other issues of concern at that time included separation of the customs and immigration functions, a desire for better emigration statistics, and interest in dispersing immigrants around the country. In addition to the proposals for reform of the immigration function described

above and listed in Attachment 1, there have been a number of internal INS reorganizations, each trying to fix the problems of the last reorganization. This section will focus on the most recent reorganizations.

Until 1954, the INS had District Directors who were under the direct supervision of the Commissioner, in the Central office. In 1954, INS decentralized by creating four regions to supervise the district offices and perform general functions such as accounting and records management. INS hoped to provide faster service and closer supervision, place authority for routine matters in the field, and free up the time of headquarters staff from case review, administrative work, and district supervision.

1991 Reorganization. Based on concern regarding lack of coordination and oversight in the field, this plan aimed to improve the management and operations of the INS through centralization. Among other changes, the Executive Associate Commissioner position was created with responsibility for day to day management to allow the Commissioner to focus on oversight and other larger issues. Further, the responsibilities of the heads of the regional officers (who were political appointees at that time and had their own power bases) were reduced. These changes came after many reports critical of INS, such as a General Accounting Office [GAO] report that focused on a lack of clearly defined goals and priorities, inconsistent leadership and weak management systems, and overlapping and inconsistent programs.

1994 Reorganization. Following continued criticisms in the interim years and the appointment of a new Commissioner, another major reorganization was instituted in 1994. This reorganization restored the regional offices and provided them with authority through responsibilities for day to day management of the District offices, reduced the number of regions from four to three, separated field operations from programs, and developed a capability for policy development and strategic planning.

IV. PROBLEMS WITH THE CURRENT STRUCTURE

A. Policymaking

Within the Executive Branch there is no centralized, high-level location for the formulation and review of migration policy. Various agencies have various pieces: the INS is charged with most day-to-day regulatory tasks; the State Department deals with visa issuance and refugee issues; the Department of Defense gets involved in high-seas interdictions and off-shore safe havens; the Department of Labor weighs in on work visa issues and helps enforce workplace immigration rules; and the Department of Health and Human Services operates refugee resettlement programs. When confronted with a major migration crisis, the National Security Council takes control, seeking information from, and delivering direction to, the relevant departments. Major immigration initiatives usually are vetted through the Domestic Policy Council, which in recent years has served more of a coordinating role than a policy formulation function.

The lack of a formal structure for policy development is curious. Immigration is related to a number of current major policy issues, from social security and welfare to labor market composition and school populations. Currently, about 10% of the U.S. population is foreign-born (twice the percentage of the 1950s) and immigration accounts for almost 40 % of U.S. population growth. If current immigration rates continue, the U.S. population will grow by about 120 million over the next half century; *two-thirds* of that growth will be attributable to immigrants, their children and grandchildren. These data will have obvious impacts on, for example, school-age populations, higher education enrollments, the make-up of the workforce, the ratio of workers to retired persons—not to mention social, cultural, and political impacts occasioned by the regions of origin (Latin America and Asia) of the vast majority of these immigrants.

It might be supposed that the Executive Branch would establish a standing policy group to consider issues of population, migration, the workforce, and social benefits. So too one might expect a coordinated policy effort that examines the impact of migration on foreign policy (and vice versa). But such efforts in the past have been ad hoc affairs, responding to the crises of the day.

B. Poor Service to Immigrants and U.S. Citizens

The budget of the INS has more than doubled in the past five years, and personnel have increased by fifty percent in that same period (see Appendices 2 & 3). The vast majority of the increase has gone for increased border enforcement, detention and deportation, and technology improvements. Services—including adjudication of applications, issuance of documentation, and provision of information—are largely funded out of fees paid by persons filing applications with the INS. Fee-based accounts have grown significantly in recent years due to a dramatic increase in the number of applications. These funds have been used by the INS primarily to hire additional personnel in order to keep up with the flood of applications.

There have been some noteworthy improvements in service, such as centralized filing of forms, “800” numbers for information and forms, and computerization of records, and more are slated for the future—most importantly, a “re-engineered” naturalization process. But the day-to-day service rendered to immigrants (and U.S. citizens) at immigration offices around the country does not appear to have materially improved much despite the enormous increase in agency funding and spending. Lines at district offices remain long, telephones go unanswered, information about particular cases and general policies remains difficult to obtain.

Poor service has consequences beyond the frustrations experienced by those subject to it. It implicitly sends a message to immigrant communities that their needs and interests are not valued—a message that may impede integration efforts and may also find reflection in public attitudes. Inadequate service also erodes support for the INS and accordingly for agency policy initiatives as well. Finally, poor service breeds a self-reinforcing culture among agency personnel who, because they receive daily complaints, come to view their customers as adversaries.

In short, attention to service is not an act of charity. It is crucial to the overall health of the system.

C. Combination of Service and Enforcement Functions

It is widely believed that the “service” problems identified above result from a conflict between the agency’s core functions of deterring illegal immigration and facilitating legal immigration. In its Final Report, the Commission on Immigration Reform stated:

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 regulation of U.S. businesses. While some argue that enforcement and benefits are complementary functions, we agree with the [Asencio Commission] that placing incompatible service and enforcement functions within one agency creates problems: competition for resources; lack of coordination and cooperation; and personnel practices that both encourage transfer between enforcement and service positions create confusion regarding mission and responsibilities. Combining responsibility for enforcement and benefits also blurs the distinction between illegal migration and legal admissions.²

The combination of enforcement and service functions also has been criticized on the ground that, given congressional and Administration priorities, enforcement goals will always take precedence over service goals. Thus, it is said, money will be made available for expediting removals but not for expediting adjudication of immigrant petitions. Separation of functions is therefore recommended to ensure that service goals are not short-changed.

These claims must be closely examined. First, there is no inherent conflict in an agency having both enforcement and service missions. A number of other governmental departments have both enforcement and service components: the State Department issues

² Final Report, pp. 148-49.

visas and prosecutes visa fraud; the Department of Labor grants labor certifications and enforces wage and hour laws; the Department of Veterans Affairs and the Social Security Administration grant and deny applications for benefits; the Department of Justice enforces the drug laws and gives grants for drug treatment programs; and the Department of Defense plans for war and sponsors humanitarian peace-keeping missions. Indeed, any large institution is likely to perform a range of tasks in pursuit of both enforcement and service values.

Is there something about the INS, then, that makes the combination of functions particularly troubling? One concern may be described as “mission overload,” which we discuss immediately below. A second concern might be that the culture of the agency has bred an “enforcement mentality” that “infects” INS personnel undertaking other tasks. So, it has been suggested, some adjudicators begin their tasks with a predisposition to disbelieve applicants and to deny applications.

If in fact such is the case—and we have no sound empirical evidence either way on the question—it may not be a result of the combined functions of the agency. Inadequate service may result from any number of causes. (Americans have for many years complained about poor service from government agencies, from the federal postal service to local snow removal departments; yet many of these complaints are directed at agencies with no core enforcement functions.) Furthermore, the INS has established several programs that have generally satisfied the agency’s usual critics on service initiatives. The legalization programs under IRCA and the revised asylum system are notable examples.

Moreover, what is frequently overlooked is that a combination of functions may actually produce synergies that serve public policy goals. An enforcement perspective may be an important counterweight to a service goal of completing adjudications as quickly as possible; a proper service perspective may helpfully inform enforcement strategies directed at employers. Indeed, it is difficult to see how, without both sides participating, effective policy could be crafted on a range of issues—such as the development of documents that both facilitate entry and employment and protect against

fraud, or the establishment of an asylum program that can recognize bona fide cases and deter abusive claims.

We therefore conclude that the case has not been made for wholly separating enforcement and service functions by dispersing them among agencies. We are persuaded, however, that the current INS structure does not provide clear enough guidance to those charged with implementing immigration law as to their core missions, how to balance priorities, or how to assign personnel.

District Offices bear the brunt of this unclarity. They are microcosms of the immigration world: handing out documents, interviewing applicants, interrogating arrestees, and detaining and transporting deportable aliens. They tend to be located in large cities, but they are frequently not convenient for lawful immigrants and are also far removed from prime areas for enforcement—such as major transit routes for undocumented aliens. District Directors are responsible for oversight of adjudication, investigation, detention and deportation, and records maintenance functions. They are charged with accomplishing the agency's multifarious priorities, as well as responding to day-to-day crises and special cases.

Effective management under these circumstances is not impossible, but it has proven to be very difficult. It would be far sounder, we believe, to separate the enforcement and service functions into two different chains of command, under which related missions could be coordinated. This would mean replacing the current District Office structure with two distinct entities—we will call them Enforcement Sectors and Service Areas. These organizations need not (and probably should not) be geographically coterminous. Rather, they would be defined by their respective missions. Enforcement Sectors would be drawn based on the location of undocumented populations, transit routes, the location of detention facilities and the like. Service Areas would be constructed based on the location of their clientele. Under this conception, immigration officers assigned to one division would not be loaned or detailed to the other; nor would managers be unsure as to how to distribute resources between enforcement and service priorities.

This proposed separation is not a panacea. In a world of limited resources, managers would still face difficult choices: e.g., whether to devote additional resources to employer sanctions enforcement or increased detention, or whether to reduce the backlog of naturalization applications or adjustment of status cases. But at least they will be making these choices among options that can be costed out and evaluated in fairly similar ways (i.e., overall number of removals, or numbers of cases completed) rather than attempting to weigh enforcement apples against service oranges.

D. The Problem of Agency Overload

The tasks assigned to the INS have grown dramatically in recent years. The traditional basic functions—border inspection, deportation of unauthorized aliens, adjudication of a variety of immigrant applications, asylum processing, and naturalization—are remarkably complex, requiring, for example, policies on arrests and interrogation, detailed regulations on complicated substantive rules of immigration law, a records systems including millions of entries, the manufacture of documents, knowledge of political conditions in foreign countries, the maintenance of a 12,000 bed detention program, and appearances at tens of thousands of immigration court proceedings a year. IRCA greatly expanded INS's duties to include a set of amnesty programs that legalized the status of more than 3 million aliens and put in place a regime of employer sanctions. The latter function effectively makes the hiring of any person—citizen or alien—anywhere in the United States of concern to the INS. Under the 1996 legislation, the INS was charged with, among other things, the creation of several “verification” pilot programs (to test the authenticity of documents shown to employers), development of a plan for the inspection of every alien departing the U.S., manufacture of documents with “biometric” features, and establishment of expedited exclusion procedures at the border.

It has been argued that this disparate and complex array of tasks, imposed on an infrastructure long ignored by the Congress and most Administrations, has produced a load that simply cannot be handled by the current structure.

It is difficult to disagree with the suggestion that the current system is being asked to do a huge number of things at once. It is not obvious, however, what follows from that

observation. Clearly, these are functions that the political system demands be done; they must be done somewhere by some entity. If the INS were not given the resources to effectively do these tasks and some other agency had the ability and resources to undertake them, then a shift in function might well be advisable. Or, if the management structure of the INS were so flawed that even with adequate resources, it is unlikely that the tasks could be effectively performed, then it might be sensible to transfer them elsewhere—provided that the recipient organization had a management structure that promised to act more effectively than the INS.

But advocates of the “mission overload” view don’t specify exactly what it is about the INS or its assigned tasks that leads to mission breakdown. The Commission on Immigration Reform noted:

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 one agency can handle. Such a system is set up for failure, and with such failure, further loss of public confidence in the immigration system.³

But then the Commission goes on to discuss the difficulties occasioned by the combination of enforcement and service functions—which is a claim quite distinct from the “mission overload” charge. Surely the INS has no more priorities than the Defense Department, Health and Human Services, or the Treasury Department.

Arguably, the correct response to the “mission overload” claim might be: give the agency the resources, managerial talent, and the time it needs to get the job done. The complicated nature of immigration policy development and implementation suggests the need for consolidation of functions more than it argues for disaggregation of functions.

E. Toward Basic Principles [to be revised]

The preceding discussion suggests several principles that ought to guide the structuring of the immigration function:

1. The immigration function must be structured in a way that fosters policymaking at an appropriately high level—The appropriate level of policymaking will depend on the particular issue under review. An enforcement division, for example, might well be the appropriate location for the formulation of policy on conditions of detention; however, policy on the entry of highly-skilled workers ought to involve consideration of labor market data and immigration control and facilitation elements. Some issues will involve important foreign policy matters (e.g., Cuban migration), and therefore will need attention at the highest level of the foreign policy apparatus. Others will have major domestic implications (e.g., the overall level of immigration), and ought to be dealt with at high levels on the domestic policy side. There is not likely to be a single structural solution here; but some frameworks will prove themselves more able to deal with the range of policy matters than others.

2. The government must improve the services provided to immigrants and U.S. citizens involved in the immigration process—The Clinton Administration has made much of the “re-engineering” of government to make bureaucracies more customer-friendly. While the INS has taken some steps in this direction, most of Congress’ money and the Administration’s efforts have gone towards restoring credibility to immigration enforcement. Improving services to immigrants is more than an act of human decency; it is an important part of the integration process—helping immigrants become Americans and introducing America to its immigrants. In these times, we tend to measure the effectiveness of our immigration policy by examining detention and deportation numbers. It ought also to be measured by the percentage declines in waiting times at INS district offices and increases in timely and accurate information provided to those who seek it.

3. As many have recommended before, the service and enforcement sides of the immigration system ought to be separated. But complete disaggregation of immigration functions would harm effective policymaking and implementation of

³ *Id* at 148.

important public policy goals—The current set of arrangements clearly produces conflicting goals that most mid-level managers find difficult to negotiate. In the end, both enforcement and service suffer. But there are important synergies that ought not to be sacrificed in the drive to “do something” about administration of the immigration system. Immigration policy needs the input of both those who value efficiency and customer-friendly procedures and those who understand the system from the perspective of those who want to abuse it. And these perspectives need to be consulted at the appropriate mid-level. Inevitably there will be disputes among the various governmental actors in the system. Policymaking placed at too low a level will miss the broader, comprehensive view needed for many immigration-related issues; policymaking at too high a level will mean that high level officials will be drawn into resolving disputes that shouldn’t be occupying their time.

4. Change is needed, but it must be manageable change—It has been said that the art of politics is knowing how much of the future to introduce into the present. There are plenty of grand schemes that might well be worth considering if we were starting fresh. But structural change is deeply disruptive on both organizational and personal levels. Proposals must be evaluated not just on the basis of how neat they look in charts, but also on whether the benefits of the proposed change outweigh the costs of getting from here to there. Indeed, because we generally tend to underestimate the intangible costs of reorganization, we believe that the benefits should *substantially* outweigh the costs before any particular proposal be adopted.

V. PROPOSALS FOR CHANGE

In this section we discuss several proposals for restructuring the immigration function. A number of the proposals have been made before. This is both good news and bad news. On the one hand, it may reflect a growing consensus on the direction of change that is needed; on the other hand, it may represent the familiar situation of unrealistic ideas chasing entrenched interests. We need to stress at the outset that in our

view there is no silver bullet here. The immigration function is simply too complex for there to be a simple structural solution.

A. A New Cabinet-Rank Immigration Agency

The saliency of the immigration issue (with its important links to labor policy and demographic change in the U.S.) suggests that it might be time to establish an immigration agency that would consolidate a number of functions currently scattered among a variety of federal agencies—e.g., the immigration functions of the Justice Department, the visa process in the State Department, labor certification in the Labor Department, refugee resettlement programs at HHS⁴ (see Appendix 4). A new immigration agency could be established as an independent agency along the lines of the EPA (created in 1970 by the consolidation of 11 programs dealing with the environment) or could be established as a new federal department.⁵ (Some functions would stay where they are currently located. For example, the State Department ought to maintain its function of providing services to citizens overseas, although the job of issuing passports could be transferred to the new agency.)

As shown below, the INS currently is larger than several Cabinet-level agencies in terms of personnel, and its budget is comparable to several others (see Appendices 5 & 6 for graphical presentation). Moreover, the combined budgets of functions that would be consolidated into a new agency would be in the range of \$ 3.4 billion to \$ 4.3 billion, which is approximately the budget of the Commerce Department and about \$1 billion less than that of the State Department.

Personnel FTEs of EPA, INS, and Departments of Justice, Labor, and State 1997-1999

	1997	1998 (estimated)	1999 (proposed)
Commerce	32,600	38,300	44,200

⁴ This option has been recommended by Morris [Beleaguered Bureaucracy at 141-42] and former INS Commissioner Gene McNary [Interp. Releases (1997)].

⁵ The EPA was created through a Presidential reorganization plan under the reorganization authority in chapter 9 of title 5 in the U.S. Code. The DEA was also created through a Presidential reorganization plan under the same authority but in 1973. Creation of the DEA consolidated all anti-drug functions from the numerous agencies within the Departments of Justice and Treasury.

	1997	1998 (estimated)	1999 (proposed)
INS	25,600	27,800	30,200
State	22,400	22,900	23,200
EPA	17,000	18,000	18,400
Energy	17,300	17,100	16,600
Labor	15,900	16,700	17,000
HUD	11,000	10,400	10,000

Budget Authorities (in billions) of Selected Departments and Agencies 1997-1999

	1997	1998 (estimated)	1999 (proposed)
Labor	\$32.2	\$34.6	\$38.1
Justice	\$17.3	\$18.5	\$18.8
HUD	\$16.1	\$23.8	\$21.4
Energy	\$14.1	\$14.5	\$16.1
EPA	\$6.5	\$7.2	\$7.8
State	\$5.2	\$5.5	\$5.6
Commerce	\$3.8	\$4.1	\$5.0
INS	\$3.2	\$3.8	\$4.2

A new cabinet-level agency would give the immigration function its due. The importance of migration issues today and in the future is apparent, and the need for high-level coordinated policymaking is all too obvious. A new agency could attract talented executives at an assistant secretary rank and also mid-level managers and analysts with a range of government experiences.

Keeping in mind the principles we identified above, we recommend that the agency maintain separate Enforcement and Service Offices. As many of our interviewees stressed to us, law enforcement officers should report up a chain of command of law enforcement officers, and service providers should be organized with a chain of command that focuses solely on service. For coherent and effective policy development these two chains should ultimately meet at an appropriate level, such as the deputy agency head.

A new agency also would be able to combine the various databases established for non-citizens by the INS, State Department, Labor Department, HHS and other federal agencies into a single system. It seems clearly preferable that one file exist for an immigrant from the time of the filing of a visa petition, through the granting of a visa and admission, to naturalization and the issuance of a U.S. passport.

It has been suggested that this option is not politically viable today. Committees of Congress charged with oversight of the immigration function have expressed exasperation with current INS operations. Thus, it has been argued, they will be reluctant to “reward” what they view as ineffective management with the elevation of the function to cabinet rank.

We are not persuaded by this argument. Other high immigration countries such as Australia and Canada have established departments that deal with immigration and citizenship. An appropriately funded and staffed agency need not suffer from the “mission overload” currently attributed to the INS. Large federal departments are capable of carrying out a variety of tasks, provided that they have the appropriate leadership, management and resources. We believe that consolidation and elevation of the functions to be a crucial step in effective planning and implementation.

[Add paragraph on Presidential authority under Reorganization Act]

But we must also consider the principle of “manageable change.” May the various functions currently scattered among Executive Branch departments be easily transferred to a new entity? Or, are the various job classifications and career paths (for example, the INS’ civil service and the State Department’s foreign service) so diverse that combination would work to the overall detriment of performance? Would combination result in cost savings or cost increases (due to, perhaps, the need to construct an entirely new data system)? These issues would need to be carefully considered to fully evaluate the merits of the proposal.

B. An Enhanced Immigration Responsibility for the Department of Justice

Under the current structure, the Commissioner of Immigration ranks at about the assistant secretary level, and she reports to the Deputy Attorney General. The Director of the FBI also reports to the Deputy Attorney General though he is at a higher pay scale.⁶ The policy apparatus at the INS is headed by an Executive Associate Commissioner, who reports to the Deputy INS Commissioner. There is no office at the Department of Justice

⁶ Appendices 7 and 8 show that INS’s budget and personnel now exceed that of both the FBI and DEA.

specifically charged with immigration policy development. Such matters are handled by staff members of the Deputy Attorney General.⁷

Immigration policy development needs a higher level home. If a new immigration agency is not in the cards, then policymaking could be elevated within the Department of Justice. This would have two important consequences. First, departmental policymakers would be better situated to get the attention of the White House; second, they would be better able to call upon persons in sister agencies with decision-making authority.

Arguably, the proposal here could be carried out simply by the creation of an Office of Immigration Policy within the Justice Department, perhaps akin to the Office of Tax Policy in the Treasury Department (which has no day-to-day oversight of the IRS.) But we think more is needed. We would propose the creation of an Office of the Associate Attorney General for Immigration. That Office would include an Office of Policy, an Office of Administration, and a General Counsel. Most important, a separation of service and enforcement functions would occur at the departmental level through the establishment a Division of Immigration Enforcement and a Division of Immigrant Services, both of which would report to the Associate Attorney General for Immigration. These Divisions would have distinct offices at the local level, which might well be in different locations to best serve their separate missions (see Appendix 9).

We have noted above the reasons supporting a division of the enforcement and service functions. These functions ought to be directly folded into the Justice Department in order to eliminate needless existing bureaucratic layers. Under the current scheme, the chain of command is: INS District Director to Regional Director to Executive Associate Commissioner for Field Operations to Deputy Commissioner to Commissioner to Deputy Attorney General to Attorney General. Under this proposal, the chain of command would be: Director of Enforcement Sector (or Service Area) to Regional Director to Director of the Division of Enforcement (or Service) to Associate Attorney General for Immigration to Attorney General.

⁷ Immigration functions at other departments are equally buried.[add re DOS and DOL]

Equally important, establishing these Offices within the Department of Justice would permit an upgrading of pay and benefits for immigration officers. As noted by the Commission on Immigration Reform, “[a]t present INS personnel performing the same functions as FBI or Drug Enforcement Agency personnel are often at a lower-pay grade.”⁸ It also would provide an opportunity for an influx of new talent at mid-level management and analyst positions in the new Offices. Finally, placing these functions directly within the Justice Department ought to spark needed “cultural” change in the manner in which immigration laws are implemented and enforced.

An Office of Associate Attorney General for Immigration could also serve as the convenor of a standing inter-agency group on migration issues. Given the Justice Department’s role in law enforcement (domestic and international), national security and intelligence matters, it is a sensible home for such a group. Under this proposal, immigration functions of the Labor and State Departments would remain where they are currently located.

C. Reorganization of the INS

A more modest proposal—but one consistent with some of the principles identified above—would be to separate enforcement and service responsibilities within the existing INS. This change would mean the end of the current District Office structure. In its place would be separate geographically-based “Enforcement Sectors” and “Immigrant Service Areas.” The boundaries of these areas would be drawn based on functional needs: Enforcement Sectors would be located to maximize enforcement activities of investigation, detention and removal; Service Areas would be crafted to provide effective service to major immigrant communities.

There are two major drawbacks to this proposal. First, it does nothing to elevate and coordinate immigration policymaking within the Executive Branch. Second, by simply reshuffling the boxes at the local level, it is unlikely to provide opportunities for an upgrading of the pay and benefits of immigration officers or for bringing in new managers and analysts.

⁸ CIR, *Becoming an American*, at 155.

Another proposal worth considering is the establishment within the INS of a national detention and deportation program. Currently, the detention of an inadmissible or deportable alien is largely a function of the availability of local detention space. Whether or not an alien apprehended in Los Angeles, Chicago or New York is detained should depend on national criteria. A national program could also better monitor and supervise conditions of detention.

4. Disaggregation of INS functions

The Commission on Immigration Reform proposed the dissolution of the INS and the parceling out its functions to the Labor Department, State Department and Justice Department. The Commission's motivation was to overcome the "mission overload" of the INS and to allocate a set of related tasks to agencies that already had experience with such responsibilities. The aim of these recommendations—with which we agree—was to improve the overall performance of immigration functions. But we believe that, if adopted, they would likely result in the opposite.

Congress has recently invested hundreds of millions of new dollars in the INS, and the Service has undertaken massive hiring and training efforts, data systems improvements, and the establishment of measurable performance goals. Breaking up the agency at this point would derail these on-going reform efforts before they have had a chance to succeed. And it would mean assigning functions to Departments whose defined missions are far removed from immigration and whose own immigration-related units have never been seen as core departmental programs. It would also obviously cut against a major recommendation of this report that immigration policymaking be consolidated and elevated within the Executive Branch.⁹

⁹ One recommendation of the Commission that we believe has merit is the transfer of employer sanctions enforcement from the INS to the Department of Labor. Under the current system, both agencies check I-9s, although DOL conducts many more such inspections as part of its general auditing of employers for compliance with labor laws. Enforcement, however, resides with the INS: DOL refers suspected violation to the Service for further action. The INS does not view such work as a core task; its investigators would rather work significant criminal cases than fine employers. And the Labor Department is generally

* * *

We conclude that most serious consideration ought to be given to the first two proposals: creation of a new agency for immigration and establishment within the Department of Justice of an Office of Associate Attorney General for Immigration. While further work remains to be done in fleshing out both proposals, we tentatively favor the first over the second. An enhanced DOJ role, to our minds, is likely to be a second best solution because it leaves the immigration function—and therefore immigration policymaking—fragmented. For example, the development of policy on the admission of temporary skilled workers (such as computer programmers) involves the expertise of the Labor and State Departments and the INS. The distinct and separate missions of these agencies may well make coordination difficult, and resolution of differences must occur at the White House level. Similarly, the admission of an immigrant on an employment-based visa also requires the input of the Labor Department (which must issue a “labor certification”), the INS (which must approve a visa petition), and the State Department (which must grant a visa). In recent years, coordination and cooperation among the agencies appears to have improved, but those attempting to navigate the system still must confront separate forms and records systems and different administrative procedures and avenues of appeal. There is little doubt that environmental policymaking and policy implementation was significantly enhanced by the consolidation of functions occasioned by the creation of the EPA. We believe that immigration policy today has a similar salience and would equally benefit from the establishment of a Cabinet level agency.

V. A POSTSCRIPT ON THE ROLE OF CONGRESS

For years, members of Congress have expressed frustration over the Executive Branch’s performance of the immigration function. That frustration has now reached a point where members are saying that “something drastic” must be done. Our suggestion is—to rework the old adage—if it’s broke, don’t break it worse. We support careful

unsatisfied with the response it receives from the INS in referred cases (indeed, in most cases it gets no response from INS).

restructuring efforts that respond directly to the current problems. We do not support wholesale change simply for change's sake.

Change at the INS cannot effectively be brought about by micromanagement of the agency by congressional committees. Congressional oversight is a vital responsibility, but directions on day to day operations (such as how to deploy border patrol agents or in which county jails to locate INS investigators) take both the Congress' and the agency's eyes off the big picture. So too limiting the number of political appointees at the INS is a shortsighted measure with longterm adverse consequences. The Service needs an influx of talented managers and policymakers, both from inside and outside government. It is not good government to arbitrarily restrict the pool from which talent may be drawn.

Furthermore, the Appropriations Committees ought to rethink current rules on reprogramming. At present, the INS must return to the Committees for authority to spend any additional resources resulting from an increase in the number of persons filing applications and paying fees—even if the money is proposed to be spent simply for processing the higher number of applications. These efforts are time consuming and needlessly delay the ability of the agency to meet customer demand for services.

Finally, Congress must recognize that it is largely responsible for the “conflicting roles” under which immigration authorities labor. A decade ago, Milton Morris noted:

Because the government's objectives with respect to the enforcement of immigration policy are varied and sometimes contradictory, the work of the immigration bureaucracy is considerably more difficult than it might otherwise be. Although this problem was recognized *as long ago as 1903* in the annual report of the Bureau of Immigration, little has been done to change the situation. Instead immigration policy has evolved to reflect a wide array of competing interests, and in consequence enforcement responsibilities have multiplied and central purposes have become blurred.¹⁰

¹⁰Milton Morris, *Immigration--The Beleaguered Bureaucracy* (1985), p. 92 (emphasis supplied).

For example, Congress insists on the removal of illegal aliens but adopts “family unity” programs to permit the continued residence of undocumented family members of lawful residents; Congress seeks to deter the entry of unauthorized workers but adopts legislation granting permanent resident status to any Nicaraguan or Cuban who entered the U.S. before December 1, 1995; Congress enacts severe inadmissibility grounds for persons who have lived unlawfully in the U.S. and subsequently go home but permits undocumented aliens residing in the U.S. who have not departed to adjust their status to permanent resident alien.¹¹

Performance under even the most perfect structure will be rendered less effective when administrators are faced with conflicting legislative mandates. And the separation of functions is not an appropriate response to this problems. It simply makes coordination and policy coherence that much more difficult.

VI. CONCLUSION

¹¹ This anomaly was taken care of by the sunseting of INA sec. 245(i).

Appendix 1

SELECTED GOVERNMENT REPORTS ON STRUCTURAL REFORM

1912 *President's Commission on Economy and Efficiency* proposed abolishing the revenue cutter service and dividing its responsibilities among other services and agencies.

1930 *House Interstate and Foreign Commerce Committee* proposed a border patrol in the Treasury Department that would include the relevant functions of the Bureau of Immigration and the Bureau of Customs.

1931 *Wickersham Commission Report* found that there is an internal conflict when the same agency that adjudicates applications also has to deport aliens and concluded that the functions should be separated.

1932 *President Hoover's Reorganization Plan* proposed merging the border patrol forces of Customs and Immigration and transferring them to the Coast Guard in the Treasury Department.

1937 *Byrd Committee Report* (a reprint of a Brookings Study) proposed a joint study of the Bureau of Customs and the INS to examine possibilities of local consolidation and local interchanges of personnel and work.

1940 *Bureau of the Budget* recommended consolidating the patrolling and inspections functions of Customs and Immigration.

1948 *Customs Management Improvement Survey* recommended the establishment of a Border Enforcement Agency (combining the relevant INS and Customs functions).

1949 *Hoover Commission on the Organization of the Executive Branch of the Government* proposed transferring the State Department's visa function to the Justice Department.

1950 *Senate Judiciary Committee Report* recommended consolidating Customs and Immigration functions in certain instances and noted the duplication of DOS's and INS's visa function but felt that the visa process should be separate from the immigration process.

1953 *President's Commission on Immigration and Naturalization (Perlman Commission)* suggested consolidating the State Department and Justice Department immigration functions into a new independent agency and also recommended having formal administrative review of denials of visas by consular officers.

1957 *Commission on Government Security (Wright Commission)* repeated the recommendation of transferring the visa function from the State Department to the Justice Department (except for diplomatic and official visas) so that the INS would have the responsibility from application to entry and allowing offices and personnel overseas for the visa function.

1962 *Citizens Task Force* recommended that Immigration, Customs, Public Health, and Agriculture be authorized to perform the services of all agencies for the preliminary screening process.

1964 *Stover Report on Customs Mission Organization* endorsed recommendations of Citizens Task Force.

1968 *Bureau of the Budget Study* on inspection at ports of entry recommended improvements in interagency cooperation, including cross-designating inspectors and testing one-stop inspections. It also suggested consideration of a single agency for all passenger and baggage inspections currently engaged in by four agencies and cited a need for improvements in the management of INS activities.

1973 *Nixon Reorganization Plan # 2* consolidated all anti-drug functions into a new agency, the DEA, and also would have transferred INS inspectors to Customs to improve the detection of illegal aliens and processing of persons entering U.S. The plan was passed but with the understanding that the INS part would be repealed by separate legislation because of opposition by INS labor unions. Also, a GAO study recommended that OMB and the four relevant cabinet agencies implement single agency management of port-of-entry inspections.

1974 *OMB Report* proposed a single-agency management strategy along the border (House Government Operations Committee Report on Border Law Enforcement and Problems of Customs-INS Coordination). This proposal came about as a result of resumption of Customs redeployment of patrol officers along the border and reports of friction between them and other law enforcement agencies.

1977 *Office of Drug Abuse Policy* report recommended merging all of Customs and INS into a new multi-purpose border management agency that would do inspections at ports-of-entry and also patrol in between them.

1978 *President's Reorganization Project*, based on findings that INS's service and enforcement missions were incompatible, recommended creation of a border management agency consolidating the INS inspection and patrol functions into Customs (Treasury Department) and also transferring the visa function from the State Department to the INS (Justice Department). The Carter Administration held off on submitting its plan because of criticism from Hispanic groups and INS labor unions. In particular, the Hispanic groups were concerned that the changes would undercut the authority of the first Mexican American head of INS and that the Department of Treasury would lack INS's sensitivity

to dealing with Mexicans and immigration problems. Further, the union feared losing members to an independent union in Treasury and diluting the already limited effort at stopping illegals. The State Department reportedly opposed the plan too because it “would allow a police agency to make decisions that...should more properly be handled as foreign policy and concerns.”

1980 Report of the U.S. Commission on Civil Rights recommended a separation of INS’s service and enforcement functions, as well as transfer of the enforcement function to a new border management agency in the Treasury Department. Further, they recommended that the immigration laws specify that the Secretary of State has visa-issuing authority and suggested creation of an independent board for visa appeals.

1981 Report of the Select Commission on Immigration and Refugee Policy recommended maintaining the current system of divided responsibility, though separating the service and enforcement functions within the INS, upgrading the level of the Commissioner to Director, and creating an Article I immigration court. A 1980 staff report noted that if a new immigration system were to be set up, they would recommend a new independent agency, but that there were too many jurisdictional and practical problems such as personnel that would preclude serious consideration of such an option.

1981 Report of the Attorney General’s Task Force on Violent Crime recommended consideration of transferring the Border Patrol to the Department of Treasury.

1982 Proposal for FY 1984 budget included an OMB attempt, based on a Customs proposal, to transfer INS’s primary inspections function to Customs. INS and DOJ appealed and tried to argue for consolidation within Justice. The Administration dropped the plan and restored INS resources in the budget.

1983 Grace Commission Task Forces on the Departments of Treasury and Justice proposed consolidation of Customs-INS border inspection. The same recommendation was made by the Cabinet Council on Management and Administration.

1986 President’s Commission on Organized Crime recommended improvements in border interdiction and intelligence.

1988 Omnibus Antidrug Abuse Act and Coast Guard and National Border Coordination Revitalization Act proposed merging Customs, Coast Guard, and/or INS into a new Treasury Office of Enforcement and Border Affairs and setting up a Southwest Border InterAgency Task Force. The President’s Council on Management Improvement Project 2000 Report on Border Management also called for consolidating border inspection operations.

1990 Report of the Commission for the Study of International Migration and Cooperative Economic Development recommended an Agency for Migration Affairs that would centralize immigration and refugee issues and give migration a higher profile on the

domestic and foreign policy agendas. AMA would include INS (except for Border Patrol and interior enforcement), the Bureau of Consular Affairs (except assistance to Americans abroad), the Bureau of Population, Refugees, and Migration, and the asylum office at the State Department.

1991 *General Accounting Office* [GAO] report on immigration management concluded that strong leadership and management reforms were needed to address service problems. It found INS lacked clearly defined priorities, control over regional commissioners, and reliable financial information. They also found poor internal communications, budget management, and resource allocation.

1993 *National Performance Review* recommendations included improving the coordination and structure of Federal law enforcement agencies, improving border management, and reinventing the INS's organization and management.

1993 *Report of the General Accounting Office* on Customs and INS stated that the dual management structure for border inspections should be ended. GAO considered three options: improving coordination within existing framework of joint staffing of primary lanes at port-of-entry; establishing one agency as the lead for primary inspections; and creating a border management agency by merging Border Patrol and Inspections with Customs. Rejecting all three, they proposed an independent immigration and customs agency which would have a focused mission and accountability.

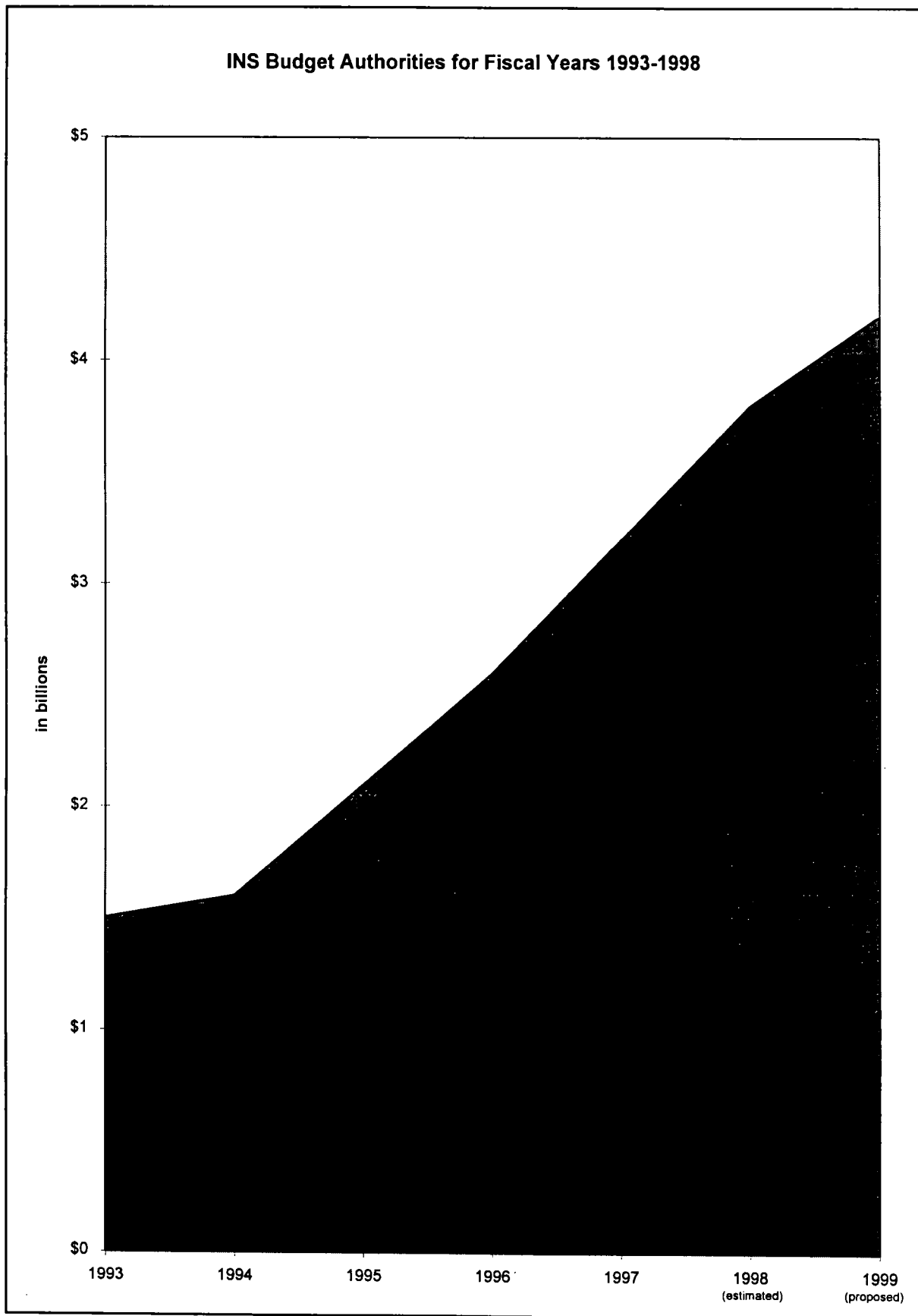
1997 *Report of the U.S. Commission on Immigration Reform* recommended a Bureau for Immigration Enforcement within the Justice Department for border and interior enforcement; an Undersecretary of State for Citizenship, Immigration, and Refugee Admissions within the State Department with responsibility for benefit adjudication; an Agency for Immigration Review for independent appeals of administrative decisions; and a transfer of the immigration-related employment standards enforcement to the Labor Department. This fundamental restructuring of the immigration responsibilities according to function, which would eliminate the INS in its present form, was meant to address INS's mission overload, conflicting responsibilities, and poor performance of its responsibilities.

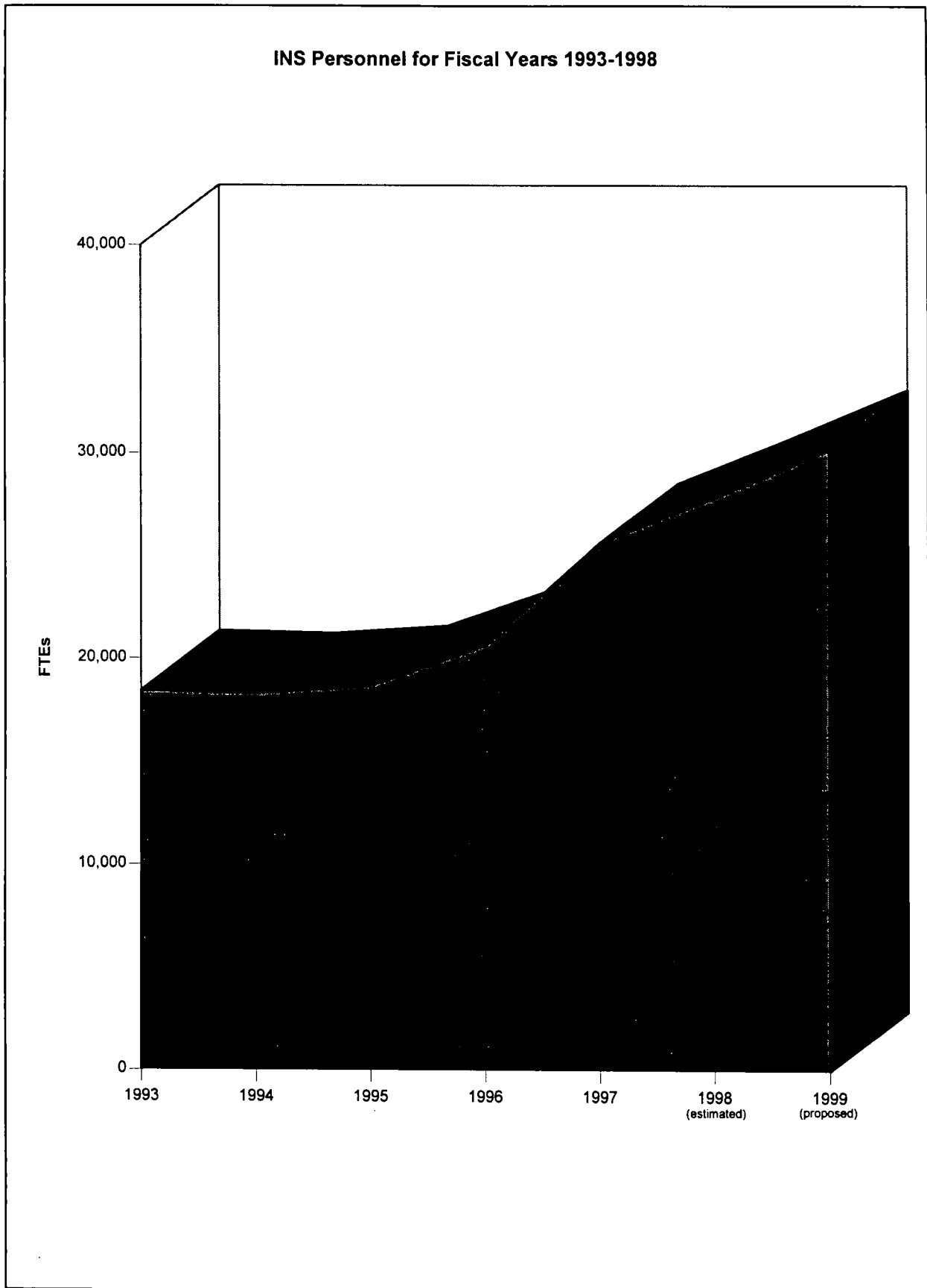
National Academy of Public Administration report studied INS's strategic planning, priorities, performance measures, budget formulation, and budget execution. It found that with increasing demands to control the flow of illegal aliens and serve those seeking citizenship, the Immigration and Naturalization Service must rethink and redesign its budgeting process.

General Accounting Office [GAO] report following up on INS's management problems found that INS had made a good deal of progress but that much work remained. GAO recognized development of a strategic plan, improved resource allocation and priorities management, and an improved organizational structure. However, they noted that clear guidance for policy implementation and clear channels of communication continue to be

needed. In particular, GAO recommended further clarification of the role of EACs, milestones for issuance of manuals, a strategy to periodically evaluate the planning process, and lessening the risks of a new financial management system.

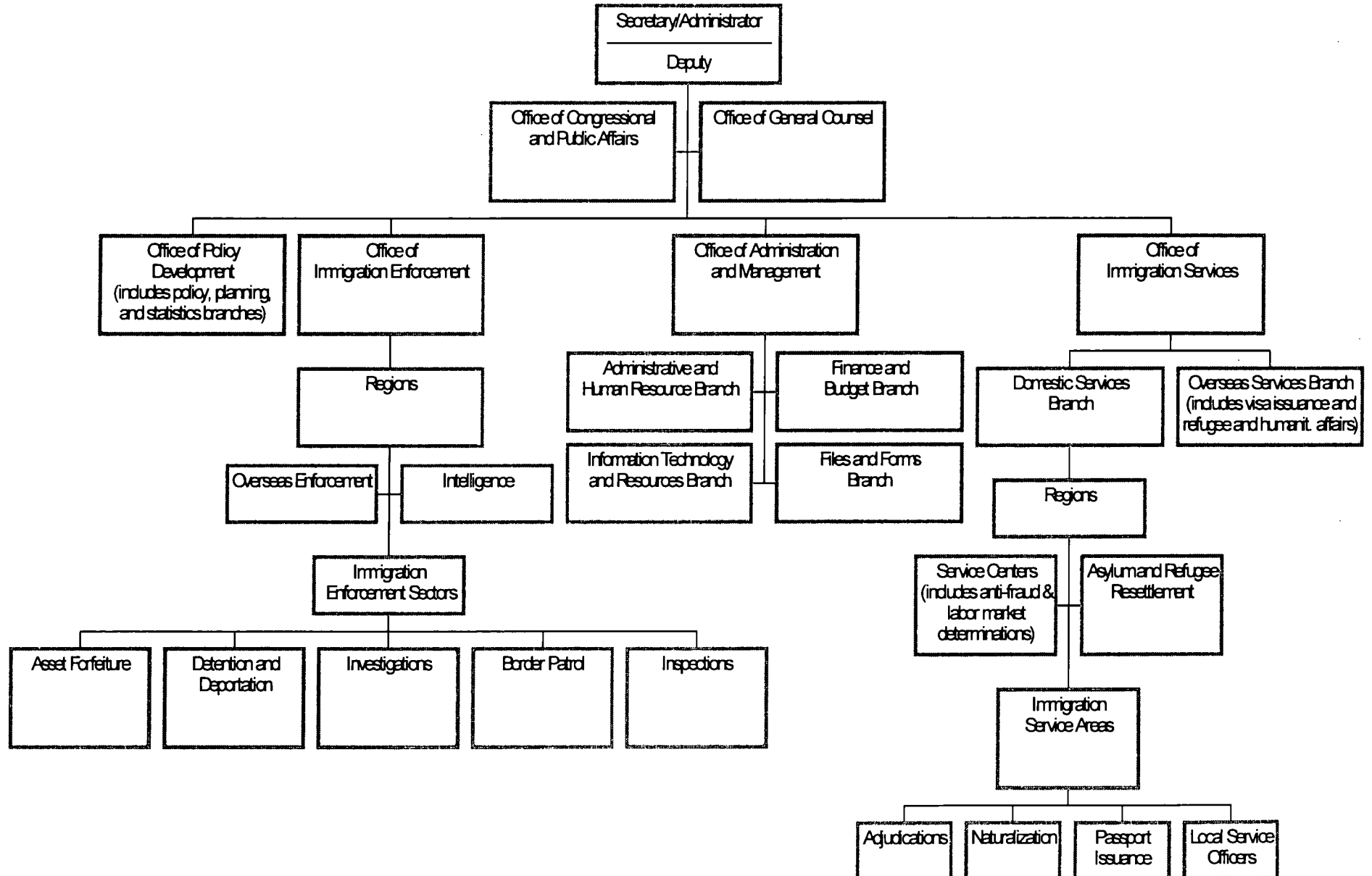
Border Security and Enforcement Act of 1997 (HR 2588), proposed by Congressman Reyes, would establish the Office of Enforcement and Border Affairs within the Department of Justice and include Border Patrol, detention and deportation, intelligence, investigations, and inspections.



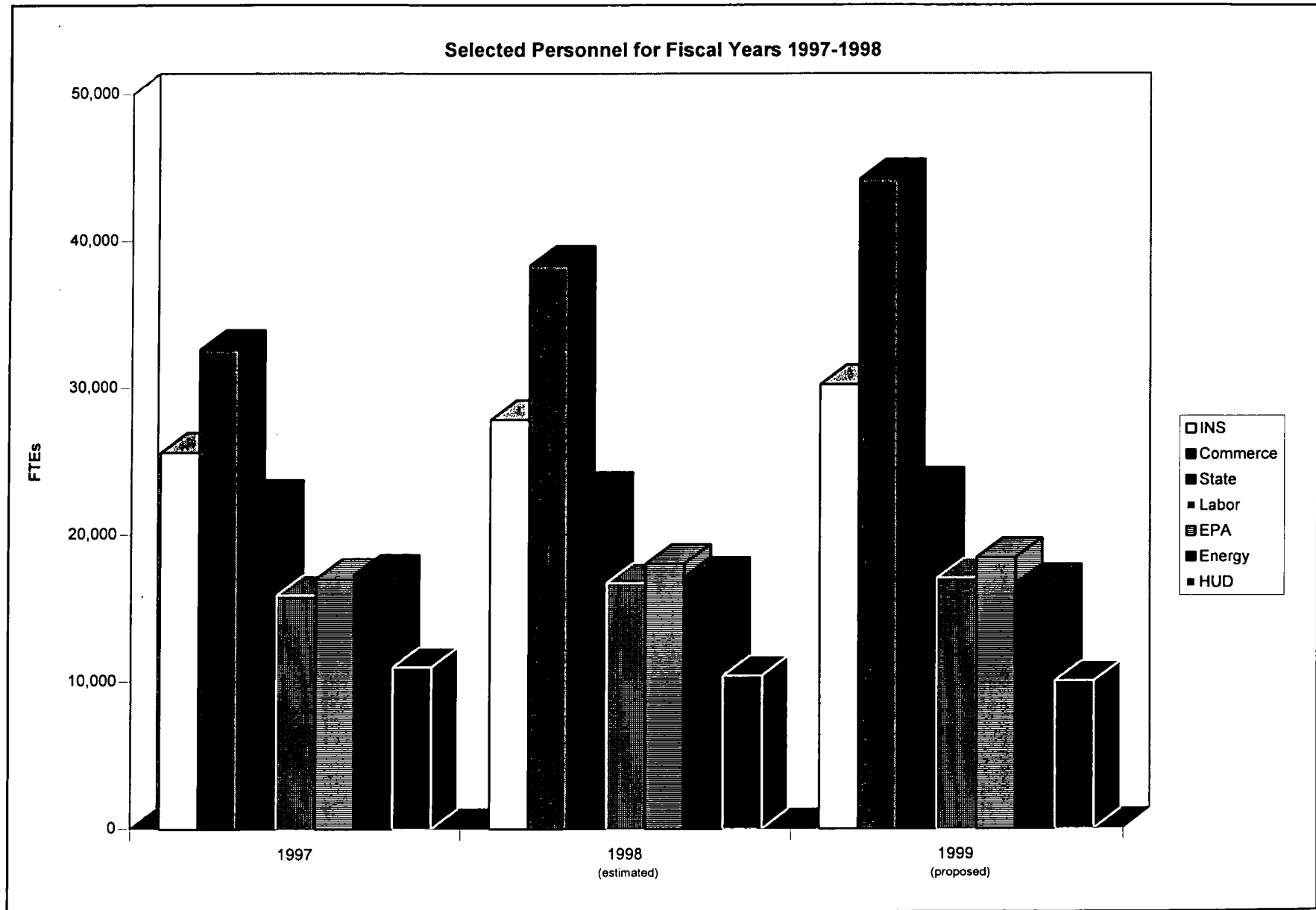


Appendix 4

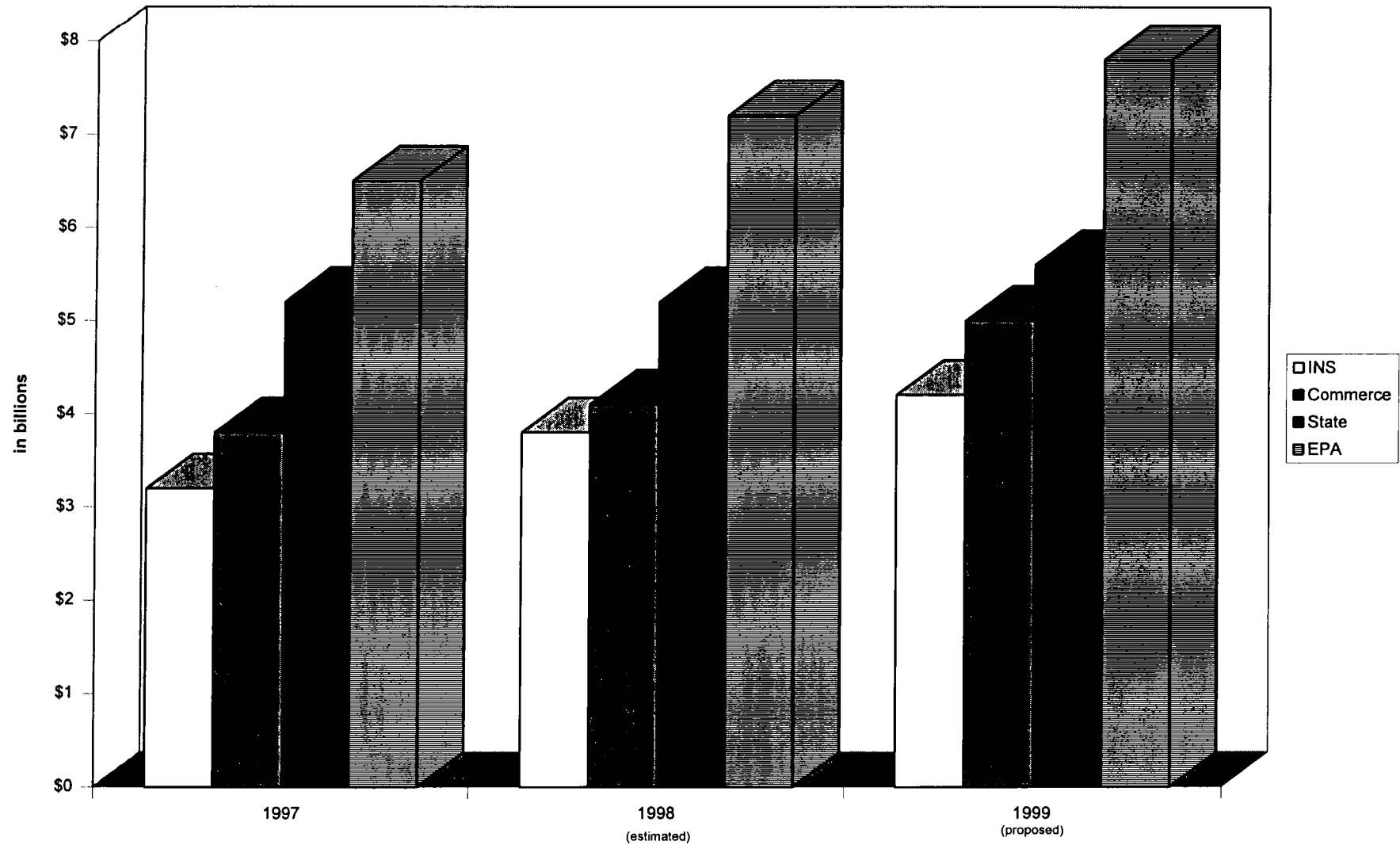
Option 1 - Department/Administration of Migration and Citizenship

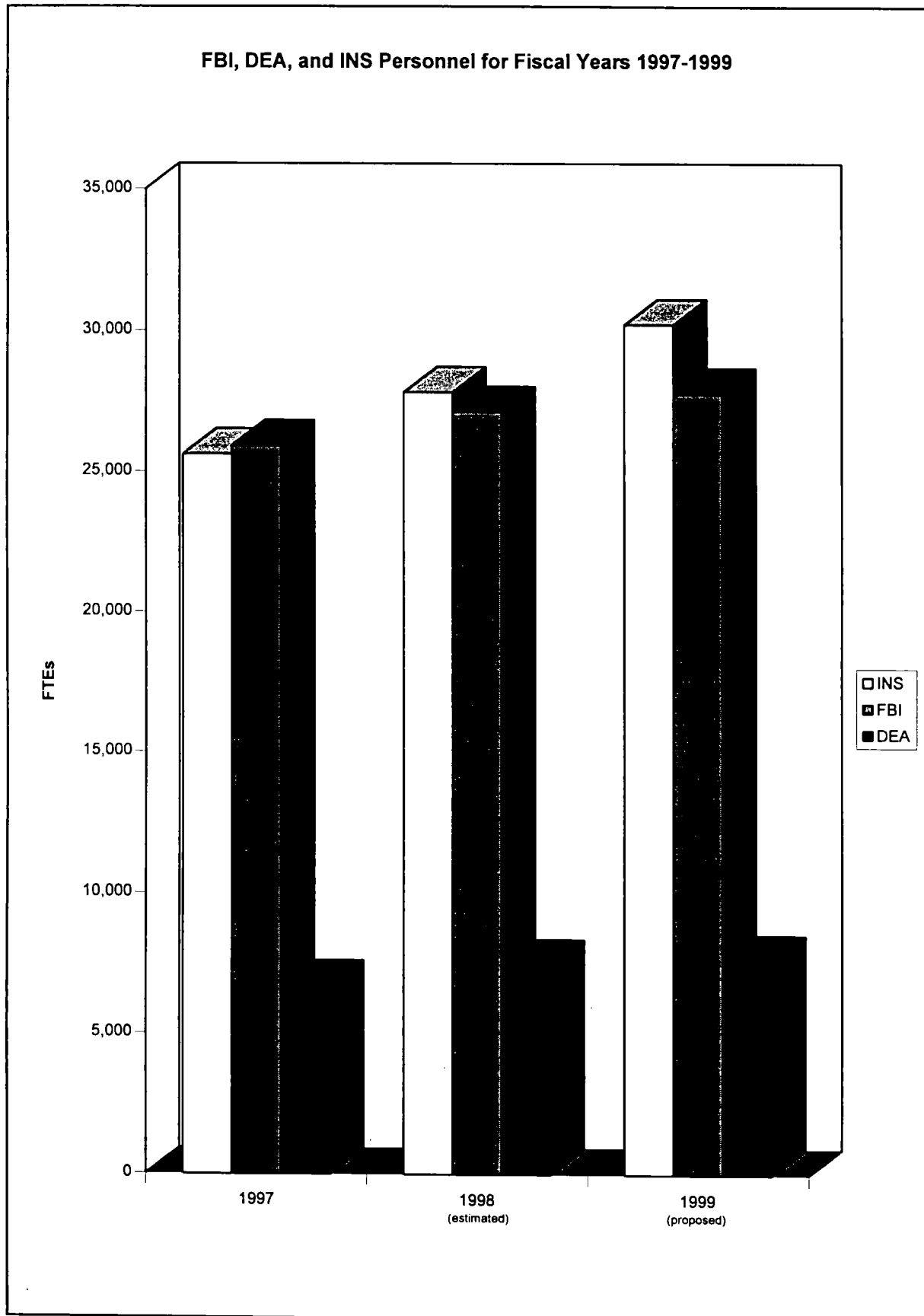


Appendix 5

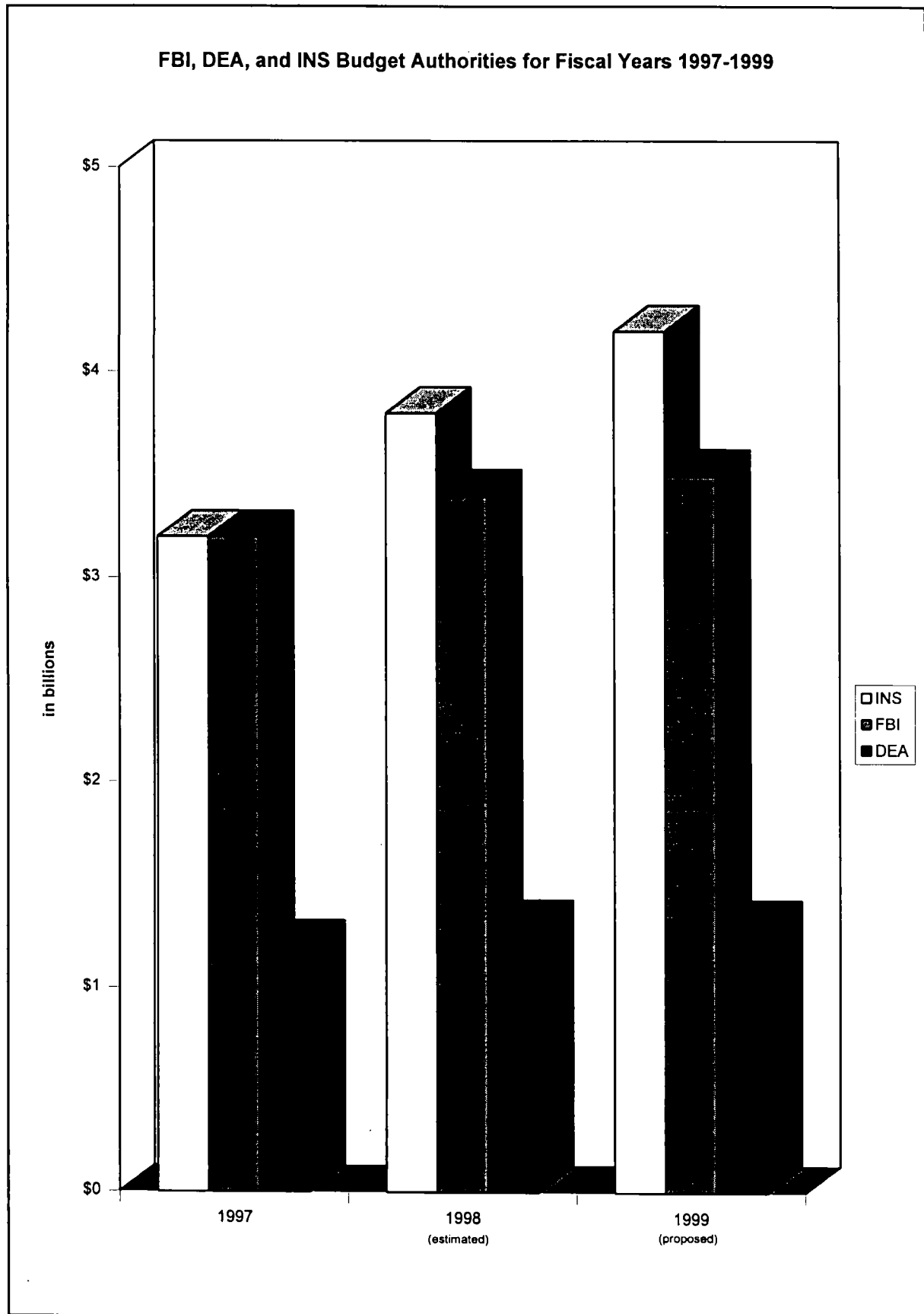


Selected Budget Authorities for Fiscal Years 1997-1998





Appendix 8



Appendix 9

Option 2 - Elevation of Immigration within the Department of Justice

