

July 21, 1999

Repair Our Immigration System Now

Cosponsor H.R. 2528

Dear Colleague,

The Immigration and Naturalization Service was created to keep illegal aliens out of the U.S., and to process legal immigrants with fairness and respect. It's failing miserably at both.

- The wait to become a citizen is nearly two years.
- Over 6 million illegal aliens are in the U.S. Every year, over 250,000 more enter, and less than half that number are deported.
- INS naturalized over a quarter-million individuals, without conducting full criminal history checks. At least 77,000 of those had criminal histories with the FBI, and 17,000 had one or more felony arrests, yet they received the most precious benefit America can offer - citizenship.
- A multi-million dollar computer system used at the border doesn't always alert INS when a criminal alien has been caught. Because of this, Angel Maturino Resendez slipped through the agency's fingers, a mistake that may have cost four Americans their lives. How many other convicted and accused felons have been released by INS because they could not identify criminals with their computer systems?
- After ignoring an overcrowding problem for years, INS threatened earlier this year to release criminal aliens from its detention facilities, back into American communities.
- The list of INS failures goes on and on.

Our immigration system has problems money won't fix. In just the last four years, Congress has doubled the INS budget to over \$4 billion. But the backlogs and mistakes continue to mount.

We believe the problem stems from the conflicting missions facing the INS. Its mission of law enforcement, a daunting job of deterring and removing illegal aliens, is in total conflict with a job that's just as important: fairly and promptly awarding visas, green cards, and citizenship status to those who follow our rules and contribute to our society.

No one agency can do both jobs well. It's time to accept that and address it. Our bill does.

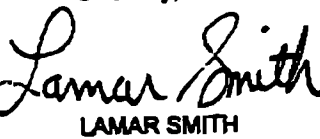
The Immigration Reorganization and Improvement Act will replace the INS with two new agencies - one for enforcement and one for immigration benefits. Each will have experienced managers at the top. Each will have clear missions, clear authority, and none of the conflicts facing today's INS. Our citizens will be safer. Current and future Americans will receive respect and good service.

Your constituents are fed up with the INS and you should be, too. Now you can support a comprehensive, realistic and bipartisan solution that will make a difference. Don't let the status quo continue. Help put our system back on track. Join over 70 of your colleagues who know the time to act is now.

You will find a summary of our bill and a bipartisan list of cosponsors on the back.

For more information or to cosponsor, call Kevin Fromer (Rogers, 5-4801), Laura Baxter (L. Smith, 5-5727) or Isaac Reyes (Reyes, 5-4831). We look forward to hearing from you.

Sincerely,

  
HAL ROGERS LAMAR SMITH SILVESTRE REYES

H.R. 2528 - The Immigration Reorganization Improvement Act of 1

Replaces INS with two new bureaus within the Department of Justice, effective one year from enactment.

Bureau of Immigration Enforcement: New agency is responsible for enforcing immigration laws at the border, ports of entry (airports, along the border, and international harbors), and the interior. New director with at least 10 years of law enforcement experience, 5 of which are in management (or comparable management experience). New Chief Financial Officer position created.

These law enforcement programs will be better coordinated and more effective -

- *Border Patrol:* stop illegal immigration at or near the border
- *Investigations:* find illegal and criminal aliens in the interior of the U.S. (includes alien smuggling and employer sanctions enforcement). (Takes up where Border Patrol leaves off.)
- *Intelligence:* provides intelligence information on national security matters involving immigration (usually terrorists, alien smuggling and document fraud detection).
- *Inspections:* allows legal entry and prevents illegal entry into the U.S. at land, sea and air ports of entry.
- *Detention and deportation:* Detains illegal and criminal aliens pending their deportation, and arranges for transportation out of the U.S.

Bureau of Immigration Services: Responsible for processing applications for immigration benefits. New director to have 10 years of services and/or benefits experience, 5 of which are in management (or comparable management experience). New Chief Financial Officer position created.

Applicants for these benefits will receive timely, thorough and courteous service -

- Temporary visas
- Green cards
- Citizenship
- Asylum and refugee status
- Other immigration benefits

Current Cosponsors

Rogers, Harold (KY)
Smith, Lamar (TX)
Reyes, Silvestre (TX)
Barr, Bob (GA)
Barrett, Bill (NE)
Bacerra, Xavier (CA)
Bentsen, Ken (TX)
Bilbray, Brian (CA)
Boswell, Leonard (IA)
Bonilla, Henry (TX)
Bono, Mary (CA)
Boyd, Allen (FL)
Brady, Kevin (TX)
Callahan, Sonny (AL)
Candady, Charles (FL)
Cannon, Chris (UT)
Capps, Lois (CA)
Chambliss, Saxby (GA)
Clement, Bob (TN)
Collins, Mac (GA)
Condit, Gary (CA)
Costello, Jerry (IL)
Cunningham, Duke (CA)
Davis, Danny (IL)
Deal, Nathan (GA)

Dooley, Cal (CA)
Duncan, Jimmy (TN)
Edwards, Chet (TX)
Farr, Sam (CA)
Flinn, Bob (CA)
Ford, Harold (TX)
Fowler, Tillie (FL)
Gallegly, Elton (CA)
Gonzalez, Charlie (TX)
Goodlatte, Bob (VA)
Granger, Kay (TX)
Green, Gene (TX)
Hinojosa, Ruben (TX)
Hobson, David (OH)
Hunter, Duncan (CA)
Johnson, Eddie Bernice (TX)
Kingston, Jack (GA)
Kolbe, Jim (AZ)
Latham, Tom (IA)
Lewis, Jerry (CA)
Lewis, Ron, (KY)
Martinez, Matthew (CA)
Metcalf, Jack (WA)
Miller, Dan (FL)
Minge, David (MN)

Napolitano, Grace (CA)
Ortiz, Solomon (TX)
Packard, Ron (CA)
Pastor, Ed (AZ)
Rodriguez, Ciro (TX)
Rohrbacher, Dana (CA)
Romero-Barcelo, Carlos (PR)
Rothman, Steve (NJ)
Royce, Ed (CA)
Sensenbrenner, Jim (WI)
Sherman, Brad (CA)
Skeen, Joe (NM)
Snyder, Vic (AR)
Spence, Floyd (SC)
Spratt, John (SC)
Stump, Bob (AZ)
Sununu, John (NH)
Traficant, Jim (OH)
Turner, Jim (TX)
Underwood, Robert (GU)
Wamp, Zach (TN)
Weldon, Curt (PA)
Whitfield, Ed (KY)
Wicker, Roger (MS)

News from

CONGRESSMAN
Hal Rogers



FIFTH DISTRICT ■ KENTUCKY

Offices in
Washington, D.C.
Somerset, Pikeville,
Hazard

FOR IMMEDIATE RELEASE:
Thursday, July 15, 1999

CONTACT: DAN DuBRAY
(202) 225-4601

Bill to Reform and Repair U.S. Immigration System Introduced in Congress

WASHINGTON, D.C.—U.S. Representatives Harold “Hal” Rogers (R-KY), Lamar Smith (R-TX) and Silvestre Reyes (D-TX) today introduced sweeping, bipartisan legislation to reform and repair the nation’s immigration system. The lawmakers say the measure introduced today – the Immigration Reorganization and Reform Act of 1999 – will end the conflicting missions and waste now deeply institutionalized in the Immigration and Naturalization Service (INS).

The measure introduced today would create separate bureaus within the U.S. Department of Justice to bring expertise in the areas of both enforcement and immigration service. The bureaus would operate under separate professional managers and with separate budget authority. Representative Rogers, the chairman of the House Appropriations Subcommittee on Commerce, Justice, State and the Judiciary, has long advocated such a division of INS authority. He says the reform will allow the federal government to succeed in both areas.

“The INS has been faced with a insurmountable task, and it’s cracking up under the strain,” Chairman Rogers said today. “This agency does not work because its two principal missions are in total conflict. On the one hand, the agency must invite, process and treat with the highest respect those who are legal immigrants. But on the other hand, the agency is required to aggressively detect and evict illegal immigrants. With its record of monumental failures, the agency has proven that it cannot carry out both missions. Last month’s release of a suspected serial killer is just the latest outrage that’s a direct result of an agency at war with itself. INS is saddled with confused priorities, poor management and a nightmare of bureaucracy.”

(more)

News Release: "Bill to Reform and Repair
U.S. Immigration System Introduced in Congress"
July 15, 1999
(Continued)

"Almost six million illegal aliens live permanently in the U.S.," Congressman Lamar Smith, Chairman of the House Immigration Subcommittee, said. "This Administration's response has been to propose no additional Border Patrol agents and to virtually ignore non-criminal deportations from the interior. Congress must fill the enforcement vacuum left by the Administration."

Congressman Reyes stated, "This legislation will repair a broken immigration system. Our nation's immigrants deserve service in a timely and efficient manner. The INS is overwhelmed, as is evident by the naturalization backlog of almost 2 million people who are being asked to wait two years for their applications to be processed. In addition, our border communities are suffering because the INS has mismanaged their budget so badly that they are closing vehicle inspection lanes, forcing border residents to wait up to three hours to cross the border. It has become obvious that throwing money at this agency is not the answer...they are a \$4.2 billion agency that can't hire 1,000 additional agents as mandated by law or reduce a naturalization backlog that has increased since last year. Our legislation will improve the handling of immigration services, like visas and green cards, and strengthen the effectiveness of our nation's first line of defense, the U.S. Border Patrol."

The measure would establish two separate agencies within the Justice Department:

The **Bureau of Immigration Services** would be focused solely on processing legal benefits and would be led by a director with at least 10 years experience in processing benefit applications.

The **Bureau of Enforcement** would enforce U.S. immigration laws. This agency would be led by a director with at least 10 years law enforcement experience. With a clear chain of command, U.S. Border Patrol, interior agents and other federal agencies would have a strengthened and coordinated chain of command in enforcing immigration law and defending U.S. borders.

Rogers, Smith and Reyes introduced the legislation today with the support of 54 additional House cosponsors. To underscore its bipartisan support, 29 Republicans and 28 Democrats signed onto the measure as original cosponsors.

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**Opening Statement Regarding the
"Immigration Reorganization and Improvement Act of 1999"
Congressman Lamar Smith, Chairman, House Immigration Subcommittee
News Conference, 7/15/99**

The current INS resembles a car stranded by the side of the road. Money intended for necessary repairs was spent to make it look shiny and new. But new paint can't hide the fact it is a broken-down wreck.

We are here to tell would-be immigrants and citizens who have been patient and sacrificed: We know you are frustrated. You have complied with the law and filed applications with the Immigration and Naturalization Service (INS), only to wait years for a green card or for citizenship. Service must improve.

We also want to send a message to the INS and to illegal and criminal aliens who are in our country: The law will be enforced. Almost six million illegal aliens live permanently in the U.S. This Administration's response has been to propose no additional Border Patrol agents and to virtually ignore non-criminal deportations from the interior. Congress must fill the enforcement vacuum left by the Administration.

Under Chairman Rogers' leadership, Congress has given the INS the money it needs to do its job – both the service and the enforcement functions. The INS has the legal authority it needs to do its job from the 1996 Act and other legislation. However, as the budget has gone up, INS' performance has gone down. We cannot wait any longer for improvements to our immigration system. We will no longer tolerate the poor performance of the INS.

Immigration Reorganization and Improvement Act of 1999

Establishment of Bureau of Immigration Services.

- The bill would establish a new Bureau of Immigration Services within the Department of Justice, headed by a Presidentially appointed Director with experience in benefits processing and management, and which would perform the following functions:
 - Adjudications of nonimmigrant and immigrant visa petitions.
 - Adjudications of naturalization petitions.
 - Adjudications of asylum and refugee applications.
 - Adjudications performed at Service Centers.
 - All other adjudications under the Immigration and Nationality Act.
- Establishes a Chief Financial Officer to handle all financial activities.

Establishment of Bureau of Immigration Enforcement.

- Establishes a Bureau of Enforcement ("Enforcement Bureau") within the Department of Justice, headed by a Presidentially appointed Director with experience in law enforcement and in management, which would contain the following programs:
 - Border Patrol
 - Detention and Deportation
 - Intelligence
 - Investigations
 - Inspections
- Establishes a Chief Financial Officer to handle all financial activities.

Savings Provisions.

- All legal documents, proceedings, applications, lawsuits, administrative proceedings, shall continue to be in effect through and after the transfer.

Personnel.

- Employees are protected for one year from separation or reduction in compensation and the number of authorized positions will not be reduced.

Shared Services.

- The Department of Justice shall maintain oversight and control over the shared computer databases and systems and records management.

Reports and Implementation Plans.

- Within 120 days of enactment, the Department of Justice Attorney General must report on the proposed division of funds between the new Bureaus, proposed division of personnel between the new Bureaus, implementation plan to carry out this Act, and, within 180 days, submit a plan to transfer the detention operations to the U.S. Bureau of Prisons within 4 years.

Effective Date.

- The transfer of functions pursuant to the Act shall take effect one year from the date of enactment.

IMMIGRATION REORGANIZATION AND IMPROVEMENT ACT OF 1999

Problem: Poor customer service.

Long bureaucratic waits, no updates on status of applications and unnecessary red tape are the hallmarks of INS benefits processing.

Solution: A new Bureau of Immigration Services with a Director who has service processing experience will focus on the processing applications for visas, asylum, green cards and other benefits. A more focused service agency would be better equipped to eliminate application backlogs and provide more informative, effective and courteous service.

Problem: Inadequate enforcement.

No clear mission or priorities translates into inconsistent and ineffective enforcement: it's still easy to enter the country illegally through fraud or stealth. Illegal aliens, once in the country, have little fear of deportation.

Solution: A Director (with a minimum of 10 years law enforcement experience) will run the new Bureau of Immigration Enforcement with the focus of a true law enforcement agency. Enforcement efforts at the border will be linked with those at the interior.

Problem: Lack of accountability.

No one was held accountable for Citizenship USA (an initiative which naturalized criminals and deported aliens), or Kromeagate (where poor conditions at a detention center were concealed from Members of Congress by INS officials).

Solution: The Directors of each of the two new Bureaus must have significant experience in service or enforcement, respectively, and will impose consequences for employees who fail to follow the law, policy or orders.

Problem: Lack of responsiveness.

Citizens, applicants for benefits, aliens, and Congressional offices can't get timely, accurate information from INS on either service or enforcement issues.

Solution: With the mission of each agency clearly defined, Congress and the public can expect timely and courteous service and enforcement response and cooperation with federal and local law enforcement.

Problem: Poor resource management/competition for resources.

INS always attributes its failures to a lack of resources. The INS budget went from around \$1 billion in 1989 to over \$4 billion in 1999, yet it can't balance its books (a \$300 million shortfall in FY99 is undermining its ongoing service and enforcement operations). Service and Enforcement compete for resources.

Solution: The bill establishes a new Chief Financial Officer for each agency, required to abide by the CFO laws. Each CFO will be accountable to Congress and will protect the interests of either service or enforcement, not both.

Problem: Attrition/Low employee morale.

Due to lack of focus, ineffective management and inefficient processes, employee morale is low. Employees leave due to frustration.

Solution: Given a clear mission focus, a professional atmosphere, and a management structure that ensures accountability, employees will have reasons to be proud of their contributions to federal law enforcement and service.

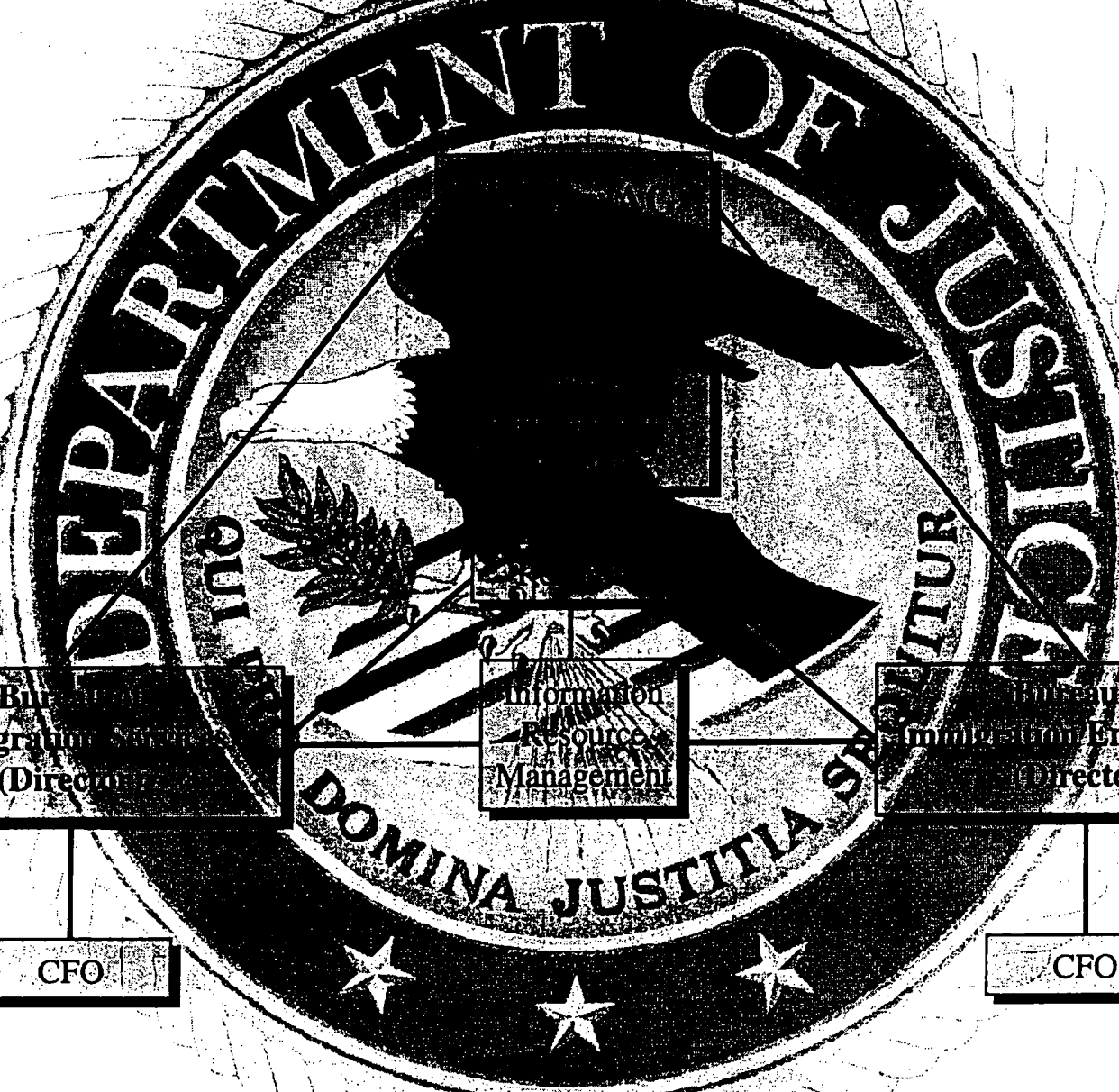
Bureau of
Immigration Services
(Director)

Information
Resource
Management

Bureau of
Immigration Enforcement
(Director)

CFO

CFO



INS: A Record of Failure

INS Can't Protect Our Borders

Over 6 million illegal aliens are in the United States. Each year 250,000 more come in, but less than half that number are deported.

Benefit Applications Hopelessly Backlogged

The average wait for citizenship is nearly *two years*. There are 1.8 million citizenship applications awaiting processing. 2 million applications for other benefits are pending.

'Citizenship USA'

Thousands of individuals with criminal records naturalized because INS skipped criminal background checks.

'General Arrest Authority'

INS refuses to implement the 1990 direction of Congress to allow Border Patrol Agents and Special Agents to make felony arrests for those who commit non-immigration violations.

'Operation Vanguard'

Aimed at interior workplace enforcement, this program has resulted in the identification of thousands of illegal aliens but only a tiny fraction of them have been arrested.

Hopeless Fiscal Mismanagement

Audits in FY 97 and 98 reveal lack of internal controls cannot support balances in INS financial statements. An outside report gives INS a "D" in financial management.

Interior Enforcement Strategy

INS plan issued on March 30th, 1999, makes many promises to curb illegal immigration without a coherent method to remove any from the country.

Local and State Law Enforcement Cooperation

Section 133 of the Illegal Immigration Reform Act of 1996 gave authority for INS to enter into cooperative agreements with state and local agencies in an effort to curb illegal immigration. No agreements have been reached and implemented.

Highest Funding Level Ever = Draconian Field Cutbacks

Field offices report drastic cost-cutting moves despite the largest amount ever appropriated to the agency. Many field offices have apparently been ordered to shut off cellular phones and pagers, to mothball or suspend maintenance on government vehicles and to sharply restrict investigative travel.

Misleading Congress and the Public

Members of Congress were deliberately deceived while inspecting the Krome, Florida Detention Center, where INS employees covered up poor conditions. Incorrect and misleading testimony presented to Congress.

INS Planned to Release Criminals

After failing for four straight years to request the money to keep them behind bars, INS planned to release jailed criminal aliens this year.

'IDENT'

At the same time that INS says its system will prioritize the capture of criminal aliens there is an egregious lack of coordination with other federal law enforcement agencies (e.g. Resendez-Ramirez case).

Irene Bueno

07/17/99 06:18:33 PM

Record Type: Record

To: Broderick Johnson/WHO/EOP@EOP, Janet Murguia/WHO/EOP@EOP, Caroline R. Fredrickson/WHO/EOP@EOP
cc: Erica R. Morris/WHO/EOP@EOP
bcc: Irene Bueno/OPD/EOP
Subject: Re: Meeting w/ Cong. Jackson Lee on INS Restructuring 

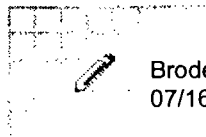
If this meetings occurs on Monday, I think we need to discuss legislative strategy prior to the meeting.

I spoke to Allen Erenbaum on Friday afternoon with some groups on Friday where we meeting on the Parity legislation but INS restrucuting came up. Allen indicated that their legislative is the following:

- The Reno/Rogers meeting went well and they committed to try to work to find common ground on a proposal so they plan to follow up with Rogers.
- INS had hoped the INS proposal would be something that would prevent members from signing on to the Rogers bill but the INS plan is not convincing so members are signing on to the Rogers bill. INS has or would like to encourage other members to introduce INS restructuring legislation to provide an alternative for members who want to cosponsor an INS restructuring bill that is more in line with the INS proposal. Allen understood Rep. Jackson-Lee wants to introduce bill and believes we should encourage her. Also, we hear that Abraham and Kennedy may introduce a bipartisan proposal soon consistent with the Administration's plan. I hear that Feinstein is secretly working on some proposal.

I think it strategy makes sense. Any thoughts? Let me know. Thanks.

Broderick Johnson



Broderick Johnson
07/16/99 05:09:49 PM

Record Type: Record

To: Irene Bueno/OPD/EOP@EOP
cc:
Subject: Meeting w/ Cong. Jackson Lee

Broderick Johnson asked me to e-mail you on his behalf. Cong. Shelia Jackson Lee wants to have a meeting with the White House to discuss immigration services this Monday afternoon. The meeting will be start sometime between 4:30 and 5:30, its still pending. He wanted to e-mail you and see if you could attend. Once a more definite time is set, I will let you know. If you have any questions in the meantime,

call at 6-6620. Thanks-Kristen

Plan Would Split INS Into 2 Units

House Proposal Generates Opposition

By WILLIAM BRANIGIN
Washington Post Staff Writer

Picking up where they left off last year, a bipartisan group of House members is again seeking to abolish the beleaguered immigration service and separate its service and enforcement functions.

A bill that lawmakers plan to introduce today would break up the Immigration and Naturalization Service and create two bureaus in the Justice Department to replace it. A Bureau of Immigration Services would process applications for visas, U.S. citizenship, asylum, refugee status and other benefits. A separate Bureau of Immigration Enforcement would oversee the Border Patrol, inspections at airports and other entry points, investigations, detentions and deportations.

Sponsored by Reps. Harold Rogers (R-Ky.), Lamar S. Smith (R-Tex.) and Silvestre Reyes (D-Tex.), the bill is the latest in a series of proposals to reform the INS, a 31,000-employee agency that they charge is "overwhelmed" by its "conflicting responsibilities." Rogers and Smith respectively chair the House Appropriations and Judiciary subcommittees with jurisdiction over the INS. Reyes is a former Border Patrol sector chief.

Rogers and Reyes last year advanced separate bills to reorganize the INS, but the proposals fell by the wayside during the debate over impeaching President Clinton.

The INS has crafted its own reorganization program aimed in part at heading off more drastic proposals. It plans to set up separate structures to administer benefits and enforcement, but keep them under the same INS roof within the Justice Department.

Maria Echaveste, White House deputy chief of staff, said the administration "is absolutely committed to fundamental change in the way the INS conducts its business" and supports separating enforcement from services. But a "single immigration official" must remain in overall charge of the two functions to maintain "clear lines of authority and accountability," she said.

The INS plan is strongly opposed by the agency's powerful district directors, who say it would solve none of the INS's most pressing problems. Among these are huge backlogs of applications for immigration benefits, with 1.8 million people waiting for citizenship.

The House bill would require the directors of the two new bureaus to report to the deputy attorney general. The bill also would install "chief financial officers" in each bureau to ensure that funds are properly spent. INS employees would be protected for one year from termination or reduction in pay, and the number of authorized positions would not be cut.

INS detention operations would be transferred to the U.S. Bureau of Prisons within four years, the bill



FILE PHOTO

Rep. Lamar S. Smith seeks to separate INS services, enforcement.

says.

The proposal does not detail how the new bureaus would be structured or funded, but calls on the attorney general to work out such matters in an implementation plan.

While there is no comparable Senate bill yet, immigration advocates said the new proposal appears to have a better chance of getting off the ground than last year's efforts, largely because there is now widespread agreement that some sort of reform is needed.

However, some of the INS's fiercest critics strongly oppose the House plan, fearing it would only make matters worse.

"We want reform more than anyone," said Frank Sharry, director of the National Immigration Forum. "This is an agency that's in the intensive care unit. But this proposal will push it into the graveyard." He said the House plan would likely "cripple services, eviscerate accountability and even weaken enforcement."

A main worry, he said, is that there would be no one in charge to avoid "dueling bureaucracies."

The Washington Post

THURSDAY, JULY 15, 1999

INS Restructuring - 7/15/99

- Rodgers
- Shelley
- INS
- Cooper
- Accountability
- Firm

Rodgers - oppose

No single voice leader
Shelley - carbon copy

even if you fix ① & ② - ~~not~~
need funding

No funding - ~~from~~ financing

Need guaranteed funding -
strong serviceable

Strategic discussion -

Need a plan ^{feasible} that includes financing.

Rodgers - no cost - except \$124m for service

INS - Deficit \$210 ^{at the} ~~use~~ \$124m

~~User~~ User Fees - limit usage ^{for internet purpose} (not for improper internet purpose)
insulate

Ask CMC ~~to~~ members to work w/ us ~~to~~ on bill.

- Financing -
- Approp for service
 - User Fees
 - Prohibit for fees for non-~~to~~ service

~~Need~~ Need firewall -

other user see example

* Develop language

Coalitions

- pitched human

(2)

Dems + CAC

- hold off on more cosponsors. We no leverage. CAC - not
- we are over shown in the bill. week

Briefing - 11 AM MON - Democratic Judiciary
CAC - MON, FRID - Dear Colleagues
Key mty w/ Gephart & Thomas

reality, orders
Deferral - 60 P - APT - criminal proceeding

INS
Plan

• Funding - ^{Some revenue} ~~to be spent~~
• Inspectors = quasi judicial authority - on enforcement side
→ no oversight, no connection of agency corp, etc.
→ disarming document.

will make up bill - w/ chm. Rogers still there ok.

- Kennedy - by then call him
- Abraham - working on stuff

Financing
JMD Rogers

Mark-up. 7/22
Hyde objected.

Next
Steps

① Talk to Janet ^{Dems. House} Kennedy

② Marking Rogers

③ Financing idea ^{unit}

⑧

Fee-

Premium service - every business - INS is contemplated

~~200 m.~~ \$30 million

200 m.

old underwrite

Leadership
Coordinator
Funding

My note on Bill

- ~~Clarify~~ ~~that~~ the delegate is a full-time person
who title is for Immigration who is authorized
to ~~coordinate~~ ~~immig~~ policy matter (ie. coordinator)
for the AG.

- Make this person - Presid. Appointee - State Confirmed.
- ~~Deleg~~ Delegate should be an ~~AG~~ ^{addition} DOS person.
- CFO - only have 1 CFO for both bureaus. Add to the
shared resource section this may be OK
or not list shared support?
- Clarify ~~can~~ can also share GC, Pres, etc.

- ~~Implementation~~ ~~clarify~~ can't just use INS voluntary Plan
- Support function seems like is some flexibility in what support
function could be shared - what's best?

Allen E. 7/16

- Good mtg
- Following up w/ Roger to find comm. grad - will work w/ him
- ~~Propose~~ ~~the~~ ~~purpose~~ ^{will be} introduced to ~~fill~~ fill the
vacuum - we hoped INS plan would do that but has not
- Keep DS off so ~~we~~ we can some leverage

SILVESTRE REYES
16TH DISTRICT, TEXAS

COMMITTEE ON ARMED SERVICES

**SUBCOMMITTEE ON
MILITARY INSTALLATIONS AND FACILITIES**

**SUBCOMMITTEE ON
MILITARY RESEARCH AND DEVELOPMENT**

COMMITTEE ON VETERANS' AFFAIRS

SUBCOMMITTEE ON BENEFITS

CONGRESSIONAL HISPANIC CAUCUS

16TH VICE CHAIRMAN



Congress of the United States
House of Representatives
Washington, DC 20515

July 12, 1999

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As you and I have discussed on numerous occasions, the Immigration and Naturalization Service (INS) has proven to be an ineffective agency. Despite a budget of more than \$4 billion and strong bipartisan support through the years, the INS is unable to effectively manage any of their missions. Chairman Harold Rogers, Chairman Lamar Smith and I have developed legislation to remedy this situation. I am writing to urge you to be an original cosponsor of the INS Reorganization and Reform Act, which will be introduced on Thursday, July 15.

This legislation will improve the handling of immigration benefit applications, like visas and green cards, which are now hopelessly backlogged. It will also strengthen the effectiveness of the Border Patrol and interior enforcement, which suffer from poor coordination and lack of experienced law enforcement leadership. Most importantly, this legislation will end the mismanagement of resources and provide accountability for employee actions that violate immigration law and policy.

I have enclosed for your review a copy of the bill and some background on this issue. Please feel free to call me with any questions. If you would like to become an original cosponsor, please call Isaac Reyes of my staff at 5-4831 no later than close of business Wednesday, July 14. Thank you in advance for your support and cooperation.

Sincerely,

Silvestre Reyes
Member of Congress

SR/ir

Immigration Reorganization and Improvement Act of 1999

Establishment of Bureau of Immigration Services.

- The bill would establish a new Bureau of Immigration Services within the Department of Justice, headed by a Presidentially appointed Director with experience in benefits processing and management, and which would perform the following functions:
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Establishment of Bureau of Immigration Enforcement.

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Effective Date.

- The transfer of functions pursuant to the Act shall take effect one year from the date of enactment.

Section by Section

Section 1. Short title. "Immigration Reorganization and Improvement Act of 1999".

Section 2. Establishment of Bureau of Immigration Services.

- > Establishes a new Bureau of Immigration Services ("Service Bureau") within the Department of Justice, headed by a Presidentially appointed Director with at least 10 years of experience in benefits processing and 5 years in management.
- > Service Bureau would perform the following functions:
 - Adjudications of nonimmigrant and immigrant visa petitions.
 - Adjudications of naturalization petitions.
 - Adjudications of asylum and refugee applications.
 - Adjudications performed at Service Centers.
 - All other adjudications under the Immigration and Nationality Act.
- > Establishes a Chief Financial Officer to handle all financial activities.

Section 3. Establishment of Bureau of Immigration Enforcement.

- > Establishes a Bureau of Enforcement ("Enforcement Bureau") within the Department of Justice, headed by a Presidentially appointed Director with at least 10 years of experience in law enforcement and 5 years in management.
- > Establishes a Chief Financial Officer to handle all financial activities.
- > Enforcement Bureau would contain the following programs:
 - (1) Border Patrol
 - (2) Detention and Deportation
 - (3) Intelligence
 - (4) Investigations
 - (5) Inspections

Section 4. Exercise of Authorities.

- > Clarifies that an official to whom a function is transferred has the same legal authority to perform the function as before the transfer.

Section 5. Savings Provisions.

- > All legal documents, proceedings, applications, lawsuits, administrative proceedings, shall continue to be in effect.

Section 6. Transfer and Allocation of Appropriations and Personnel.

- > Personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations and authorizations shall be transferred along with the functions to each Bureau. The Attorney General may adjust or realign transfers for two years after the date of enactment. The Attorney General may control over funds transferred.
- > The transfer shall not cause an employee to be separated or reduced in grade or compensation for a year after the transfer, nor will it effect the number of authorized positions.
- > The Attorney General may make such determinations as necessary regarding the functions transferred and the disposition of personnel, assets, etc. to effectuate the purposes of the Act.
- > The Attorney General shall maintain oversight and control over the shared computer databases and systems and records management.

Section 7. Statutory Construction.

- > Clarifies that Act is not to be construed to effect the Department of State's authority to investigate illegal passport or visa issuance or use.

Section 8. Reports and Implementation Plans.

- > Within 120 days of enactment, the Attorney General must report on the proposed division of funds between the new Bureaus, proposed division of personnel between the new Bureaus, implementation plan to carry out this Act, and, within 180 days, submit a plan to transfer the detention operations to the U.S. Bureau of Prisons within 4 years.

Section 9. Definitions.

- > Provides definitions for "function" and "office."

Section 10. Effective Date; Transition.

- > The transfer of functions pursuant to the Act shall take effect one year from the date of enactment.
- > If the INS still has the functions to be transferred during the fiscal year 2000, the Attorney General shall provide for an appropriate accounting of funds and an appropriate accounting of funds and an appropriate transfer of funds from INS to the new Bureaus.

American Immigration Lawyers Association
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1400 Eye Street, N.W.
Suite 1200
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AILA Fax Cover Sheet

Steve Merkley - 395-0850

To: Trans Bureau - 456-557 From: Judy Golub
Fax #: _____ Date: _____
Re: _____ # of Pages: 2

Full lab prints on Raja, Raza, Smith

DRAFT TALKING POINTS ON IMMIGRATION REORGANIZATION & IMPROVEMENT ACT OF 1999

Overall Message:

This bill is the wrong solution for addressing the INS' problems, and it makes a bad situation worse. The bill would hurt both enforcement and services. Here's why:

MAJOR PROBLEMS WITH THE BILL:

- 1) There is no strong, centralized leadership for immigration policy-making and implementation:
 - Risk of two bureaus working at cross purposes, with leaders sending conflicting messages on policy matters and interpretations of complex laws.
 - Lack of a single, high-level voice on enforcement and adjudication.
 - Lack of accountability for decision-making and program oversight.
- 2) Inadequate coordination between bureaus:
 - No mechanism for coordination of policy-making and planning between bureaus, creating risk of fragmented, disjointed enforcement and adjudication policies.
 - Bill authorizes sharing of resources for shared support functions, but does not require it.
 - Without sharing of support information and functions, enforcement and adjudication efforts both suffer.
 - Efficiencies as a result of shared infrastructure are lost, which could result in higher fees for adjudications.
- 3) Does not address problems with current funding mechanism for adjudications, and may exacerbate them:
 - Does not change funding mechanism which forces adjudications to rely almost exclusively on user fees for revenues - this mechanism is partially responsible for the current backlogs in naturalization and other adjudications.
 - INS adjudication is now underfunded and will experience shortfall for FY2000.
 - The lack of coordination of policymaking between enforcement and adjudications prevents effective decision-making about the appropriate allocation of resources between the two functions.
 - Creating separate bureaus without addressing the funding of adjudications could result in enforcement receiving disproportionately large appropriations from Congress, and this imbalance would exacerbate long-standing adjudication budget problems.



PRINCIPLES GUIDING RESTRUCTURING OF THE
NATION'S IMMIGRATION FUNCTIONS

Adopted by the Board of Directors of the NALEO Educational Fund and the
National Association of Latino Elected and Appointed Officials

A. The structure of immigration functions must further coherent and coordinated immigration policy development and implementation: All of our nation's immigration functions are charged with implementing the same body of law. A unified agency could best ensure the development of coherent immigration policy and the effective coordination of enforcement and service operations. Any structure which separates the agency's functions without providing for strong, centralized leadership furthers a lack of accountability and creates the risk that agency personnel will give out conflicting messages on policy matters.

B. Separate enforcement and service functions, and ensure that both have equal priority: Immigration service and enforcement functions should be implemented through separate chains of command and career tracks. The separation should extend from the field level up to immediately below the top leadership level, and the top leadership should be responsible for integrating immigration policy making and implementation. The separation of functions will help ensure that personnel clearly understand their mission with the organization, and that they possess the special expertise and qualifications necessary to administer their respective responsibilities effectively. It also will enhance accountability within both chains of command. Within the structure of both functions, there also should be efficient and accessible mechanisms to address customer complaints and resolve customer problems, particularly at the local level.

While the enforcement and service functions should be separated, the structure of the service functions and their location in the federal government should ensure that they have equal priority on our immigration policy agenda. If service functions rank lower than enforcement, they will not have the bureaucratic, political and financial resources required to make the substantial improvements in customer service that immigrant communities and other stakeholders need. Therefore, we do not support any structure that would diminish the priority of the service functions in the immigration agency, or would place them lower than enforcement.

Additionally, service and enforcement functions should share support services (such as some aspects of personnel training, information systems and record-keeping). The sharing of information systems and records is particularly important for the cost-effective coordination of activities between the two functions. If the service functions incur increased costs for support services as a result of inadequate coordination, those costs may result in rising fees for immigrant applications.

C. The immigration agency's leadership must be empowered to elevate immigration policy on the federal agenda: The agency's head should be able to integrate the development and administration of immigration policy by the agency's separate functions. This leader's position in the federal government should be sufficiently powerful (whether by virtue of reporting relationships or status within the federal bureaucracy) to advance the agency's agenda within the Executive Branch.

D. Restructuring is only one step toward fundamental reform of our nation's immigration system: While restructuring in accordance with the principles set forth above would address some of the problems of our immigration system, it must be accompanied by other fundamental policy and organizational changes. These include:

- The service functions must receive adequate resources for an equitable, accessible and effective system of immigration adjudications. The funding for those adjudications should be modified to eliminate the reliance on fee revenue and ensure that appropriated funds are used for expenses which are not related to the routine aspects of adjudications, such as one-time extraordinary expenses, infrastructure improvements, and comprehensive program changes. Similarly, the Examinations Fee Account should no longer solely bear the cost of refugee and asylee adjudications, and appropriated monies should provide some portion of the support for these operations.

Moreover, the system of requiring fee revenue to fully support the cost of adjudicating naturalization applications was established so that immigrants who receive a government "benefit" would bear the costs of application processing. However, this nation should recognize that greater naturalization not only benefits new U.S. citizens, but also enriches our democracy by making it more representative and vital. Consequently, encouraging naturalization is in the best interests of this nation, and high application fees should not place U.S. citizenship beyond the reach of our newcomers. Thus, there should be a partnership between immigrants and our government to pay for U.S. citizenship, and adequate funding for naturalization adjudications should be provided through a combination of appropriated monies and fee revenue.

- There must be a fundamental change in the "bureaucratic culture" of the immigration agency to one which emphasizes professionalism, accountability, and customer service. This culture must be inculcated throughout the agency by its leadership, and incorporated into the agency's training of its personnel and the performance objectives it establishes for them. The agency's personnel must also reflect the diversity of our nation's immigrant community.
- The immigration agency must recognize that organizations which work closely with immigrant communities have a deep understanding of the impact of immigration policies on the lives of the agency's customers, and should become key partners with the agency in the development and implementation of policies and procedures, on both the national and local level.



AMERICAN IMMIGRATION LAWYERS ASSOCIATION

July 15, 1999

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 Director, Information
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Dear Representative:

The American Immigration Lawyers Association (AILA) strongly urges you to oppose the Immigration Reorganization and Improvement Act (IRIA) of 1999. This measure, introduced by Representatives Hal Rogers, Lamar Smith, and Silvestre Reyes, purports to reorganize and improve the Immigration and Naturalization Service (INS), a goal on which we can all agree. However, by not going far enough and failing to address major problems at the INS, if implemented, this reorganization effort would hinder INS enforcement and adjudication. While the bill separates these two functions, it provides no accountability, no coordination between the two functions, and no adequate financing mechanism.

IRIA's lack of accountability, coordination, and a financing mechanism would hurt services that are in this country's interest, and violate the principles that need to guide reform. The bill does not provide for a single high-level person at the top to ensure a single accountable voice on enforcement and adjudication. As a result, it would lead to conflicting messages on policy matters and interpretations of complex laws. The absence of this single voice can only lead to two bureaus working at cross purposes. In addition, IRIA only gives lip service to needed coordination by calling for, but not requiring, the sharing of resources between the enforcement and adjudication arms. The lack of coordination would lead to increased inefficiencies in both enforcement and adjudication and cause backlogs to increase even more than they are at present. In addition, it would also hinder the work of Congressional staff handling immigration issues, since they would now need to deal with two separate bureaucracies.

Finally, the bill's stunning silence on funding would further exacerbate the current backlogs (of 1.8 million people for naturalization, and a nearly three-year backlog in processing green card applications). It also would increase already high user fees, and do nothing to improve the pattern and practice of unresponsive service that currently plague the adjudication function of the INS. Any true reorganization needs to ensure that adequate congressional appropriations are made available to supplement and support the adjudication function, improve customer service, and offset the costs of those adjudications for which no fees are charged.

Now is the time for real reform. IRIA's false reform promises will get in the way of enforcing immigration laws, enabling people to become citizens, reuniting families, and allowing businesses to obtain needed workers. We strongly urge you to oppose IRIA. Thank you.

Sincerely,

Jeanne A. Butterfield
Jeanne A. Butterfield
 Executive Director

28AD9023

An Affiliated Organization of the American Bar Association

BACKGROUND

July 15, 1999

MEDICATING WITH HEMLOCK: THE SMITH-ROGERS-REYES BILL TO RESTRUCTURE THE IMMIGRATION AND NATURALIZATION SERVICE

Contact: Mark Hetfield, Hebrew Immigrant Aid Society, 202-828-5115

THE PROBLEM

The Immigration and Naturalization Service (INS) is responsible for enforcing US immigration laws as well as welcoming immigrants through the granting of benefits such as asylum, refugee status, green cards, and citizenship. In recent years, sweeping changes to the law and unprecedented growth in the size and responsibilities of the INS have overwhelmed the agency, which has been severely criticized by the press, its customers, and Congress for ineffective management of its dual mission. For example, while the INS budget has grown more than fivefold and the staff has doubled over the past decade, the combined backlog of naturalization and green card applications is nearing three million, and applicants for these benefits must wait approximately three years just for their paperwork to be processed. The INS is also failing to enforce effectively immigration laws through nationally set priorities that are applied consistently, professionally, and humanely.

INS RESTRUCTURING AS A STEP TOWARD EFFECTIVE ADMINISTRATION OF US IMMIGRATION POLICY

While restructuring INS is not a panacea for the agency's problems, a disentanglement of INS' split mission through restructuring may be a necessary prerequisite for the United States to effectively manage its immigration policy. Representatives Lamar Smith, Reyes, and Rogers are introducing an INS restructuring bill which might succeed in elevating and emboldening the Border Patrol, but would cripple this country's ability to manage legal immigration and combat immigration benefit fraud. Benefit fraud investigations and resulting fraud reduction efforts would suffer from constant challenges and competing priorities because they would have to be coordinated across agency boundaries. Consequently, Smith-Rogers-Reyes could result in weakened enforcement and a further deterioration of the agency's ability to serve its customers.

THE PRINCIPLES BEHIND A SOUND RESTRUCTURING OF INS, AND WHY THE SMITH-ROGERS-REYES BILL WOULD ONLY MAKE A BAD SITUATION WORSE

Many of the leading immigration advocacy and policy nonprofit agencies have urged Congress and the Administration to undertake a responsible restructuring of the federal government's immigration function. These agencies have asked legislators and policymakers

to ensure that four essential principles form the foundation for this important endeavor. The Smith-Rogers-Reyes Bill would, if enacted, only make a bad situation worse, in that it ignores most of these essential principles.

AN EFFECTIVE RESTRUCTURING OF THE FEDERAL IMMIGRATION FUNCTION MUST:

- (1) Split the INS' adjudication and enforcement functions in order to create two separate chains of command and career tracks for greater clarity of mission and accountability, leading to more efficient services and more accountable enforcement.***

While the Smith-Rogers-Reyes bill would separate the INS' functions by creating two totally distinct bureaus - one for immigration enforcement and one for adjudications - within the Department of Justice, the Bill fails to define the distinction between "service" and "enforcement." Consequently, it would place the immigration inspections function of INS in the enforcement bureau. Immigration inspectors have quasi-judicial authority. By taking them out of the adjudications side of INS and placing them in an agency which is exclusively focused on enforcement, there would be no checks or balances to ensure that inspectors do not deport and impose severe penalties on bona fide asylum seekers, refugees and immigrants. In this sense, the Bill fails to respect our Constitutional tradition of ensuring that policemen and prosecutors do not exercise judicial authority.

Likewise, the Bill requires that the detention of non-criminals who are being held pending the outcome of administrative immigration proceedings would be relocated outside the INS and become a function of the Bureau of Prisons. The purpose of detaining individuals who are waiting for an administrative determination of whether they may legally remain in the US is to ensure that they do not abscond, not to punish them. The Smith-Rogers-Reyes bill would virtually require that which international instruments of refugee protection forbids; namely, the detention of asylum seekers in prison facilities with common criminals.

The Adjudications and Enforcement functions should be split, but the Smith-Rogers-Reyes bill is dangerous in its failure to define the distinction between these two functions.

- (2) Put Someone in Charge, With Clout. Have a single, full-time, high level individual in charge of both chains of command, who will have access to high-level officials within the executive branch, and who will be able to integrate policy making with policy implementation, as well as to coordinate the separate service and enforcement chains of command***

Smith-Rogers-Reyes would balkanize US immigration policy by creating two immigration agencies, each with its own spokesperson and policy, under the Attorney General. The creation of two rival bureaucracies, setting their own policy priorities, with no full-time coordinator at the top, would make it virtually impossible to articulate a coherent, unified immigration policy. The two bureaus would be working at cross-purposes, with its leaders sending conflicting messages on policy matters of complex laws. Moreover, it would make

coordination at the local level virtually impossible, severely impeding the "Bureau of Immigration Services" from working with enforcement personnel to combat immigration fraud.

- (3) Share the Support Services Among the Split Functions.** *Achieve cost efficiencies and necessary coordination by sharing a set of discrete functions, such as shared information systems, legal counsel, administrative infrastructure, and policy.*

Smith-Rogers-Reyes would authorize the Department of Justice to make provisions for the two immigration bureaus to share support services. However, the Bill's requirement that each bureau answer directly to the Attorney General would only result in warring bureaus that would preclude resources from being efficiently shared. Moreover, the Bill requires that the information management needs of the immigration function be melted into the Department of Justice Management Division, which has experience only in managing the needs of law enforcement - not benefits programs. This merger will only hinder the "Bureau of Immigration Services" in its ability to provide an acceptable level of customer service to legal immigrants.

If enforcement and adjudications are to be split, the restructuring plan must ensure that a high-ranking official, with full-time devotion to immigration matters and direct line authority over the two functions, is able to coordinate shared information systems, legal counsel, policy, and administrative infrastructure, including personnel, training.

- (4) Provide Adequate Resources for the Adjudications Function.** *Ensure that congressional appropriations are available to improve services that have been abysmal and continue to deteriorate as user fees underwrite unfunded congressional mandates and upgrades of INS systems.*

The Smith-Rogers-Reyes bill would virtually ensure that the immigration "service" function would be cut off from the resources it needs to make badly needed improvements to customer service, and to address the nearly three million application three year backlog faced by legal immigrants waiting for green cards or citizenship.

In theory, fees paid by applicants for immigration benefits that they receive from the adjudication of their applications. Generally speaking, the adjudications side of INS does not receive taxpayer dollars through an annual congressional appropriations to sustain its operations.

In practice, however, while immigration "services" receives few taxpayer dollars, a large share of fee money paid by immigrants goes to support other functions which are wholly unrelated to the fees paid. On the other hand, enforcement in recent years has enjoyed an unprecedented infusion of resources from both taxpayer money and fees paid by legal immigrants.

In FY 1998 , for example, more than \$300 million dollars of immigrants' application fee money was diverted to pay for detention, asylum processing, refugee processing, Department of Justice Oversight, Inspector General investigations, etc. With massive backlogs, this money would have been better spent on adjudicating the applications for which the fees were paid.

The Smith-Rogers-Reyes bill does nothing to stem the hemorrhaging of this fee money for unrelated purposes. Rather, the Bill would maintain this diversion and further exacerbate the backlogs by implicitly tacking on the additional requirement that fee money also cover massive additional infrastructure costs associated with creating and maintaining a new administrative bureaucracy for the "Bureau of Immigration Services."

Any restructuring of INS must be accompanied by finance reform of immigration services. Smith-Rogers-Reyes would only exacerbate the chronic under-resourcing of the immigration "service" function, which relies on fees paid by immigrants, and would prevent the adjudications side from sharing any of the taxpayer resources provided to the immigration "enforcement bureau."

CONCLUSION

The INS is in need of a restructuring that adheres to the four principles enumerated above. The Smith-Rogers-Reyes bill, however, would make it even more impossible to manage the enforcement and administration of the immigration laws of the United States. If enacted, the legacy of the Bill would be the enrichment of the Border Patrol at the expense of asylum seekers and legal immigrants. In addition, if those who are eligible to legally emigrate to the U.S. can no longer do so due simply to an under-resourced "service" bureaucracy which takes years to process paperwork, the enforcement of the nation's immigration laws will inevitably suffer as increasing numbers of would-be immigrants seek extra-legal means to join their families, seek asylum, and find work in the United States.

DRAFT

CHAIRMAN ROGERS' PLAN FOR INS RESTRUCTURING

Question: What is the Administration's position on legislation to restructure the Immigration and Naturalization Service (INS) that has been proposed by Representatives Rogers and Lamar Smith?

Answer: The Administration is committed to a fundamental change in the way the INS conducts its business and serves its clients. The Administration's commitment was reflected in the restructuring proposal submitted to Congress last year.

The Administration's INS restructuring proposal is based on the principle that immigration enforcement and service functions must be separated, while being led by a single executive responsible for immigration within the Department of Justice (DOJ). Separation of enforcement and services will ensure clear lines of authority and leadership for each of these important missions, and improve management and accountability. A single immigration official within the Executive Branch is essential to provide consistent and coordinated leadership on immigration policy, and in the provision of efficient immigration services and effective border enforcement.

While the Administration has not reviewed Representative Rogers' current proposal, we understand that it would split INS into two separate bureaus. The Administration believes splitting the INS will harm essential coordination between its enforcement and immigration service responsibilities and diminish the ability of the Executive Branch to speak with one voice on immigration matters. Clear lines of authority and strengthened accountability are essential to ensure successful, long-term improvement in the Nation's immigration system. We agree that fundamental change is necessary for INS to meet its responsibilities and look forward to working with Congress to enact a restructuring plan that incorporates the Administration's principles.

TALKING POINTS ON IMMIGRATION REORGANIZATION & IMPROVEMENT ACT OF 1999

Overall Message:

This bill is the wrong solution for addressing the INS' problems, and it makes a bad situation worse. The bill would hurt both enforcement and services. Here's why:

MAJOR PROBLEMS WITH THE BILL:

- 1) There is no strong, centralized leadership for immigration policy-making and implementation:
 - Risk of two bureaus working at cross purposes, with leaders sending conflicting messages on policy matters and interpretations of complex laws.
 - Lack of a single, high-level voice on enforcement and adjudication.
 - Lack of accountability for decision-making and program oversight.
- 2) Inadequate coordination between bureaus:
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 - Creating separate bureaus without addressing the funding of adjudications could result in enforcement receiving disproportionately large appropriations from Congress, and this imbalance would exacerbate long-standing adjudication budget problems.

Final

INS RESTRUCTURING
Question and Answer
July 14, 1999

Q: What is the Administration's position on the legislation to restructure the Immigration and Naturalization Service (INS) that has been proposed by Representative Rogers and Lamar Smith?

A: The Administration is committed to a fundamental change in the way the INS conducts its business and serves its clients. The Administration's commitment was reflected in the restructuring proposal submitted to Congress last year.

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The Administration has not reviewed Representative Rogers' current proposal. After we have had an opportunity to analyze the proposal, we look forward to working with Congress to enact an INS Restructuring plan that incorporates the Administration's principles and that will ensure clear lines of authority, strengthen accountability, and improve efficiency.

DRAFT

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Steven M. Mertens

07/13/99 12:18:18 PM

Record Type: Record

To: Irene Bueno/OPD/EOP@EOP

cc:

Subject: FYI -- Rogers/Smith/Reyes "Immigration Reorganization and Improvement Act of 1999

Meant to include you.

----- Forwarded by Steven M. Mertens/OMB/EOP on 07/13/99 12:22 PM -----

Steven M. Mertens

07/13/99 12:17:28 PM

Record Type: Record

To: Michael Deich/OMB/EOP@EOP, Kenneth L. Schwartz/OMB/EOP@EOP, David J. Haun/OMB/EOP@EOP, Margery Y. Brown/OMB/EOP@EOP

cc: Douglas Pitkin/OMB/EOP@EOP, Sherron Duncan/OMB/EOP@EOP

Subject: FYI -- Rogers/Smith/Reyes "Immigration Reorganization and Improvement Act of 1999

Congressman Reyes sent a Dear Colleague Letter yesterday (7/12) seeking cosponsors for a INS restructuring bill he, Appropriations Chairman Rogers and Immigration Subcommittee Chairman Lamar Smith plan to introduce next week. It seeks cosponsors no later than tomorrow, July 14.

Highlights of the bill include:

- Splits INS into two -- a Bureau of Immigration Services and a Bureau of Immigration Enforcement -- reporting directly to the Attorney General.
- Each bureau would be headed by a Director appointed by the President.
- Shared support functions -- such as computer systems and databases and records management -- would be transferred to the Department with oversight and control maintained by the Justice Management Division.
- Requires the AG to report on the transfer of funds and personnel between these two new bureaus within 120 days
- Requires the AG to submit within 180 days a plan to transfer INS' detention operations to BOP within four years.
- The transfer of functions will take place one year after date of enactment.

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AILA Fax Cover Sheet

To: Irene Brown From: Judy Golub
Fax #: 456-5581 Date: _____
Re: _____ # of Pages: 3

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dm

**DRAFT TALKING POINTS ON
IMMIGRATION REORGANIZATION & IMPROVEMENT ACT OF 1999**

OVERALL MESSAGE:

- The bill doesn't go far enough in reforming the INS. It serves to make a bad situation worse
Would hurt both enforcement and services.

MAJOR PROBLEMS WITH THE BILL:

1) No accountability

- Lack of a single voice on enforcement & adjudication
- Send conflicting messages on policy matters & interpretations of complex laws
- Two bureaus working at cross purposes

2) No coordination

- Enforcement will be less efficient
- Adjudication will suffer
- Cause further backlogs

3) No adequate financing

- INS adjudication now starved for cash
- Current situation creates adjudication backlog
- Could exacerbate long-standing budget problems

FOR IMMEDIATE RELEASE
Wednesday, July 14, 1999

CONTACT:
Matt Tallmer
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ADVOCATES SAY REORGANIZATION DOESN'T GO FAR ENOUGH
Reorganization & Improvement Act Will Hurt Enforcement

WASHINGTON, D.C. — The American Immigration Lawyers Association (AILA), along with a broad coalition of immigration advocates, announced their opposition to a bill aimed at reorganizing the Immigration and Naturalization Service. AILA said the so-called Immigration Reorganization and Improvement Act (IRIA) fails to address major problems at the INS. AILA also said the bill would hinder INS enforcement and adjudication.

"The bill doesn't go far enough in reforming the INS. It would make a bad situation worse. It would hurt both enforcement and adjudication," said Jeanne Butterfield, Executive Director of AILA. "While the bill separates the enforcement and adjudication functions, it provides no accountability, no coordination between the enforcement and adjudication arms of the agency, and provides no adequate financing mechanism. The lack of funding and coordination will hurt services that are in this country's interests."

The IRIA would break the INS into two separate agencies, one dealing with enforcement and the other with adjudication. Under the bill, the Attorney General would appoint the heads of each bureau, and the Department of Justice would oversee shared computers and databases. Functional allocations would be transferred to the new bureaus. However, the bill states that the Attorney General can transfer funds between the divisions for up to two years.

"We are concerned that, under this scheme, enforcement would receive funds allocated by Congress, but adjudication would be forced to rely solely on user fees. That is how the INS wound up with its current naturalization backlog of 1.8 million people, and its nearly three-year backlog in processing green card applications. Already people are not getting the services they are paying steep fees for. This bill will only exacerbate those problems," Butterfield said.

In addition to the funding problems, Butterfield noted that the bill gives lip service to coordination. The measure calls for shared resources between the enforcement and adjudication arms, but does not require it. "If the two wings do not share information and resources, then coordination is an empty promise that will result in more delays, and hurt INS efforts to improve the agency's enforcement activities," Butterfield said. "And efficiencies as the result of shared infrastructure will be lost."

Butterfield concluded by saying, "Now is the time for real reform. False promises and false reform will get in the way of enforcing the immigration laws, enabling people to become citizens, reuniting families, and allowing businesses to obtain needed workers."

Background and Talking Points On INS Restructuring

Background:

- INS has developed a draft design proposal that illustrates its plan to separate and restructure its enforcement and service functions.
- This plan has been under development for the past year and was aided by PriceWaterhouseCooper and extensive consultation both within the INS and with external shareholders.
- The Attorney General is scheduled to meet with Chairman Rogers today to spell out the Administration's principles for a restructured INS. They are:
 - 1) Immigration enforcement and service functions must be separated into distinct branches, both within a "new" DOJ immigration bureau.
 - 2) The immigration bureau must be headed by a DOJ official who reports to the Deputy Attorney General and is Senate confirmed. The restructuring legislation must statutorily authorize this official to have the staff necessary to coordinate immigration programs, policies and procedures.
 - 3) In order to ensure that the chief of each branch (immigration enforcement, immigration service) is appropriately responsive to the policies of the senior Bureau official, the chiefs must be non-career SES, and not Senate-confirmed. The branch chiefs must have authority that is delegated, not direct, and must report only to the head of the immigration bureau.
- Chairman Rogers, Chairman Lamar Smith and Congressman Reyes are scheduled to introduce their INS restructuring bill tomorrow. It creates two bureaus headed by directors appointed by the President and confirmed by the Senate reporting to the Attorney General. This is Chairman Rogers' third INS restructuring proposal and it moves closer to the Administration's position but remains fundamentally different than our plan and stated principles. The immigration groups also strongly oppose the Rogers' bill.

Issues:

- DPC/OMB have held a series of meeting with INS to ensure that their draft proposal is consistent with these principles and the Administration's plan laid out last spring, and will result in a fundamental change in INS' structure.
- The most critical issue is for the INS to develop a clear rationale for why it should not be split. INS provided a briefing for WH staff and such a rationale didn't come through clearly last night. The Commissioner's discussion of “

coordination” was not particularly compelling and to a non-INS groupie would be virtually incomprehensible. The Commissioner touched on the need for a single Executive Branch leader for immigration policy but not as strongly as it could be.

We recommend that you tell INS that they must develop a clear, easy to understand justification for why INS should remain one agency. We believe the most compelling reason given is the need for the Executive Branch to be able to speak with one voice on immigration matters (below the Attorney General).

The proposed restructuring of the service-side eliminates a layer of middle-management and should help ensure clear lines of authority from the field to service “areas” and to headquarters and represents a fundamental change in INS’ current service structure.

We have pushed INS hard to make the same fundamental changes on the enforcement-side. The original proposal was little more than changing titles on existing boxes. After our discussions, INS has agreed to eliminate a layer of middle management on the enforcement-side (similar to the service-side) and expand the number of enforcement “areas” to ensure that the field structure is operational – not administrative. However, the number of areas is still unresolved. We have recommended 12-15 areas to ensure that they are operational. INS has proposed six.

We need your support to push INS to expand the number of enforcement areas and ensure that the areas are accountable for running field operations.

We are also concerned that placement of the Border Patrol Chief as one of two-deputies for the Associate Commissioner for Enforcement will continue to perpetuate a Border Patrol and all other enforcement dichotomy within the agency. We have suggested that the Border Patrol Chief be the single enforcement deputy reflecting the role the Border Patrol plays in INS’ enforcement operations and to ensure a seamless border enforcement strategy. However, we have conceded to allow two deputies.

We need your support to reiterate the importance of an integrated enforcement operation. The enforcement-side must have clear lines of authority and accountability and the Border Patrol must not have “special” reporting relationships outside the enforcement chain of command.

FAIR**The Federation for American Immigration Reform****NEWS RELEASE**

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**FAIR: INS Reorganization Proposal is a Solid Step
in Reforming U.S. Immigration Policy**

The Federation for American Immigration Reform announced its support for the bipartisan proposal to reorganize the Immigration and Naturalization Service. The bill, introduced by Representatives Harold Rogers (R-KY), Lamar Smith (R-TX) and Silvestre Reyes (D-TX), would divide the current functions of the agency into two distinct entities — one responsible for enforcement of immigration laws, and another to provide service to legal immigrants.

"The INS, under its current operational structure and under Commissioner Doris Meissner, has proven itself to be an extraordinarily dysfunctional agency," said Dan Stein, executive director of FAIR. "It has demonstrated little aptitude and even less interest in the area of enforcing immigration laws. And despite Commissioner Meissner's focus on improving service to legal immigrants who must deal with the agency, the results have been dismal. Immigrants legitimately entitled to immigration benefits are frequently lost in a bureaucratic tangle of red tape, while those perpetrating fraud are rarely caught."

The Immigration Reorganization and Reform Act of 1999 is not only a bipartisan proposal, but the work of three members of Congress with enormous expertise in immigration policy and the operations of the INS. Rogers, who chairs the Appropriations subcommittee that funds INS, has long been a sharp critic of the agency's management. Smith has chaired the Judiciary subcommittee which oversees immigration policy since 1995. And Reyes, prior to his service in Congress, was a career INS officer who was largely responsible for regaining control of the U.S.-Mexico border near the El Paso district he now represents.

"Under the proposed reorganization, the agency will no longer suffer from hostile politicization of enforcement and the raid on enforcement resources by machine politicians," commented Stein. "The enforcement division will have a clear set of objectives, will be responsible for devising an equally clear strategy for achieving those goals, and will be given a budget specifically earmarked to carry out those tasks. The enforcement division will deal exclusively with law enforcement and law breakers. Immigrants who play by the rules will never have to come into contact with this arm of the immigration bureaucracy," Stein added.

"Similarly, the new service division would be charged with providing law-abiding immigrants with the services they are entitled to in a timely, efficient and dignified way. It will be their

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responsibility to modernize the agency's notoriously sloppy record keeping so that a visit to an INS office becomes a business-like procedure rather than an odyssey reminiscent of Dante's *Inferno*," said Stein.

While generally supportive of the proposed reorganization of INS, FAIR will recommend several important amendments, and cautioned that this will not be a panacea for the problems of U.S. immigration policy. "Two separate entities, each with clear mandates, is a definite step in the right direction. But until they have a rational, manageable immigration policy to work with, problems will persist," observed Stein.

"In 1996, Congress tried to fix the immigration problem by tinkering with welfare policy and that failed," he added. "Until real deterrents to illegal immigration, such as a computerized work eligibility verification system is implemented, enforcement of immigration laws will continue to be hamstrung. And as long as our legal immigration policy continues to admit nearly a million people a year, even a new agency solely dedicated to providing services will have a hard time keeping up," said Stein. "If carefully and transparently implemented, this reorganization plan will bring increased accountability and rationality to the reform process, although it is not the solution to a system that everyone agrees is broken."