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Divider Title: 4

IMPROVING MANAGEMENT

IV. ***Should the Commission make recommendations to improve management of the federal immigration system?***

Although the Commission may recommend that certain structural changes be made to the current U.S. immigration system, management reforms also must be adopted if the agencies responsible for immigration matters are to implement policy effectively. Structural reforms alone will not solve some of the persisitent immigration agency management problems.

> **Advantages.** The Commission would be recommending managerial improvements that could be undertaken relatively soon and within almost any organizational structure. Most of these would have little, if any, costs.
>
> **Disadvantages.** This recommendation might be seen by federal agencies as Commission micromanagement [although it has said repeatedly that it does not want to micromanage]. These recommendations may detract attention from a clear and simple focus on any structural changes the Commission might recommend.

[PLEASE NOTE: The following options are not mutually exclusive and the Commission may wish to recommend all or a combination of them.]

Option A. Set more manageable and fully-funded priorities.

Under this option, the Commission would urge Congress and the Executive to establish and then appropriately fund a "more manageable" set of immigration-related priorities, that is with fewer, more integrated priorities, more realistically-achievable long-term and short-term goals, and greater numerical specificity on expected annual outcomes to which agencies could be held accountable [see Option B.].

The processes used by both Congress and the Executive Branch to plan and allocate resources constrain the development of a more manageable set of priorities. Currently, most immigration priorities result from Legislative-Executive interaction during the multiyear budget process. Government budgeting cycles are lengthy and complex. Agencies must work simultaneously with the budgets and reporting cycles of four fiscal years,[1] while congressional action consists of the doubly bifurcated processes of authorization and then appropriations occurring separately in both the House of Representatives and the Senate and then together in conference.

Executive Branch departments seldom identify adequately how much money they need to accomplish the entirety of a specified goal. Nor do they do a good job of scaling back or increasing their objectives depending on the resources appropriated. Within the legislative branch, there is little coordination between congressional committees to ensure a congruence between any agreed-upon priority expectations and the resources actually allocated to do the job. As a result, transparency and accountability are not built into the system. For example, Congress is not held accountable for adding on new priorities without appropriating resources to accomplish all of the specified tasks, and federal agencies are not directly nor easily held accountable for their performance in achieving or not achieving agreed-upon results.

The general problem of inexact articulation of priorities and resources is compounded by the Executive Branch's identification of implementation priorities. Most Administration immigration priorities are articulated in broad statements of purpose and intent that are difficult to monitor (such as those contained in the February 7, 1995 Presidential Directive on "Deterring Illegal Immigration," [attached]

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1 For example, for the second quarter of FY 1997 [i.e., January - March 1997], federal agencies are performing the following budget-related tasks:

- For FY 1996, completing work on 1996 year-end statistics and reports;
- For FY 1997, continuing work on implementing FY 1997 goals and priorities;
- For FY 1998, putting final touches on the President's February "FY 1998 Budget Submission to the Congress" and then explaining/defending it at hearings before the appropriate Congressional committees;
- For FY 1999, developing within Executive Branch agencies the FY 1999 budget initiatives, priorities and strategies to be submitted to OMB under the "Spring Plan" planning process.

that built on the 1994 CIR report). Other agency priorities are so minutely-defined or objectives so numerous that it is equally impossible to track or assess success (such as the seven priorities, thirty-six objectives, and eighty-seven tasks of the INS Commissioner's FY 1997 Priorities [attached]).

Under this option, the Commission would urge that Congress and the Executive Branch not overpromise. For example, rather than merely defining the removal of deportable and inadmissible aliens as the priority for removal, a long-term goal that is not now achievable, the federal government could define annual removal priorities in terms of specified categories of aliens (e.g., criminal aliens) and specify the strategy to be used to reach the targeted annual outcome, (e.g., "last in, first out," that is, gaining the capacity to remove everyone who newly enters the removal system before moving on to the backlog of persons whose cases have been pending for some period). This priority-setting and strategy-developing process, worked well in reforming the asylum process and could be repeated in other areas.

Setting of priorities and strategies must be accompanied by sufficient resources. In the removal example, it should include giving resources to Investigations, Trial Attorneys, Immigration Judges, Detention and Deportation Officers, Department of State liaisons with host countries, vehicles, equipment, training, support, etc. The priority should identify the problem completely and clearly and map out which part of it will be solved in which of several years of priority action. And then Congress should agree to fund it and the Executive be held accountable.

> **Advantages.** Although this option may appear to be self-evident, immigration priorities and resources do not now reflect this basic concept—that agencies should not promise—nor Congress mandate—more than they can accomplish with reasonable resources and within reasonable timeframes. This option would permit a reiteration of this sound management principle and is consistent with the goals of the Government Performance and Review Act [GPRA].
>
> **Disadvantages.** While seemingly straightforward, this option is very difficult to achieve. Reducing the number of priorities to a more manageable set that can be accomplished means determining that

certain important issues will not be addressed immediately. Doing a small amount on a lot of issues gives the appearance of being more responsive to legitimate concerns about immigration than doing or promising more on a limited set of issues.

Option B. Improve systems of accountability.

Under this option, the Commission would recommend improvements designed to make staff responsible for immigration programs more accountable for the results of their activities. Systems to reward or sanction staff on the basis of their performance would require the development of performance measures that relate to expected outcomes. For example, the Commission earlier recommended rewarding Border Patrol staff for their effectiveness in deterring illegal migration rather than their prowess at apprehending illegal aliens. Similarly, managers responsible for adjudication of benefits should be rewarded if they lessen processing time for the approval of applications and simultaneously improve their detection of fraudulent cases. By contrast, managers who fail to meet recognized operating standards should be held accountable and be sanctioned for their noncompliance. Systems to reward innovation also need to be developed. Too often, staff who try new approaches are not only not rewarded for their initiative, they are sanctioned by their colleagues and supervisors, for example, the reaction the Commission witnessed when Operation Hold the Line was implemented.

Advantages. Improvements will never be made at INS and the other agencies responsible for immigration matters until managers are held accountable for their performance. This option provides an opportunity for the Commission to reiterate the importance of developing performance based standards.

Disadvantages. Staff see no disadvantages to this option except, perhaps, to anticipate adverse reaction from staff unions to numerical or other defined performance indicators.

Option C. Recruit and train managers.

Under this option, the Commission would recommend enhancements in the recruitment and training of managers. As immigration-related agencies grow and mandated responsibilities increase or evolve, closer attention should be paid to improving the skills and managerial capacity of immigration staff at all levels to ensure more efficient and effective use of allocated resources.

Since 1993, the immigration system has been undergoing a tremendous infusion of new resources and, since 1996, significantly augmented statutory mandates. Either would seriously burden even the best-run agencies; both at once may stretch the absorptive capacity of several immigration agencies beyond their current limits.

Since 1993, the funding allocated to the INS alone has more than doubled. Such infusions of new resources to INS and to several other agencies—including funding for large augmentations for additional, mostly-entry level staff—burden agency administrative and management systems. As one of the consultation participants observed, INS has added much needed policy expertise to its top personnel but has not added a sufficient number of good managers to help the agency address the many challenges it faces.

Agencies must be able to rapidly recruit, select, train, deploy, and then support new staff—and they must sustain this expansionist capacity over several fiscal years. Most of the new staff added are entry-level, necessitating on-the-job training, mentoring, and close supervision before they can be considered fully-functional.

As new staff are added, new supervisors are needed—and they too need supervisory and management training to be successful. Supervisors usually are drawn from the ranks of the operational staff—and with increased operational responsibilities, they often are unable to be freed soon enough or long enough to attend supervisory training in a timely fashion.

In addition, major changes in immigration statute passed in 1996 necessitated the redrafting and repromulgation of hundreds of sections of law and regulations, hundreds of new or old forms, and training and retraining of staff just to implement these profound changes.

Serious attention needs to be paid to the capacity of several agencies to successfully absorb both the additional staff authorized by the Congress and the revised and increased mandates passed last year. INS repeatedly has warned that it is skeptical about reaching some of its Congressionally-imposed hiring mandates, and internally increasingly is expressing concern about the effective supervision and management of these new staff. The service warns that having so many new staff members requires augmentation of supervisory ranks from operational officers who are not yet ready for such responsibility.

Such changes in the law and infusion of additional resources and staff may require some immigration agencies to make major changes in the way new staff are trained: training in management by objectives, in accountability, in managerial and supervisory skills, etc. For some agencies, the skill levels and agency cultures are not yet adequate to fulfill present and future expected increased managerial and supervisory responsibilities successfully. Both additional supervisors and new skills are urgently needed.

The infusion of new skills and culture can come from two sources: (1) in-house training and retraining of existing staff; (2) the addition—from outside the agencies—of new middle- and upper-level management staff possessing those skills and capable of quickly applying them to the immigration setting. These two sources need not be mutually exclusive; some of both may be required.

One promising recent development is the INS new "competency-based" assessment process for Border Patrol officer promotions to supervisor. The Border Patrol is the single immigration agency receiving the greatest number of new staff over the coming next several years. The objective of this system is to test Border Patrol officers to predict more accurately their potential for success as future supervisors. According to INS, the main focus of the system is on assessment of "thinking skills . . . and on the way supervisors and managers must think and react on a daily basis."[2] So far, more than 1,000 Border Patrol officers have been tested, another 1,000 will be tested by the end of summer 1997, and testing of all remaining eligible Border Patrol Officers will be completed by the end of CY 1997.

> **Advantages.** This option emphasizes that the immigration system has become sufficiently complex to require the recruitment and training of a cadre of good managers, a recommendation that should help improve performance.
>
> **Disadvantages.** There are cost implications to this recommendation. For example, INS may require supervisor-staff ratios lower than the 1:13 recommended by the Vice-President's National Performance Review [NPR] because of the challenges presented by its rapid growth and management problems.

Option D. Strengthen customer service orientation.

This option emphasizes that increased attention should be paid to instilling a customer-service ethic in staff, particularly those responsible for adjudication of applications for benefits.

Repeatedly, but most often at INS, people complain of a lack of service from both their dollar and from the people charged with serving them. [See attached example, dated March 7, 1997, from Jette Rasmussen to Acting District Director Ouellette.] The horror stories are too common. Most people coming into contact with INS have paid a fee—whether indirectly (e.g., airport fees or inspections users fees tacked onto ticket prices) or directly (e.g., fees submitted with applications for a benefit)

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2 The system is based on *four* assessments:

Decisionmaking Situational Assessment: that measures thinking skills, such as reasoning, decisionmaking, and problemsolving;

In-basket Job Simulation: that measures administrative skills, such as planning/organizing and managing/organizing information;

Managerial Writing Skills Exercise: that measures written communications skills; and,

Past Achievement Record: that measures personal qualities, such as leadership and flexibility.

—and they expect service that is user-friendly and timely. People should be treated courteously, records should be located with ease, and information should be provided in a professional manner.

According to one recent INS-official, the problem of INS service "is not a problem of an enforcement mind set in the minds of service people." Rather, it is "simply an inadequate service culture among Service people. . . . Most of the people in the service side of the agency didn't come from the enforcement side. They came up through examiners' ranks. . . . The problem of service in the INS offices seems . . . a problem of not training people to perform service adequately."

The absence of a separate career track for benefits adjudicators nevertheless hampers efforts to attract and retain the best federal employees to perform these tasks. Currently, many of those promoted into management positions within INS moved along the *enforcement* career track, whose higher grade designations made them eligible for such promotions before those whose careers were spent in the *benefits adjudication* function. Benefits adjudication personnel should have a career track that promotes the best performers into positions of management and leadership and provides all employees both with appropriate incentives and models worth emulating.

The primary currency of service is information—correct and timely. Information should be readily available to immigration customers without having to stand hours in a line. Immigration processes should be reengineered, when necessary, to ensure that information is easily available at several locations and through several electronic means and, when given, is accurate. INS currently is experimenting in various cities with Information Kiosks that dispense INS forms. The INS Internet website is being augmented with informational resources and forms and soon will also include major immigration reports, including annual statistics.

Customer-service personnel should be both initially well-trained and periodically tested to ensure they remain current with latest changes and interpretations. In addition, there should be a formal quality assurance program in place for each immigration function, including oversight of detention facilities, investigations work, and deportation arrests. For customer service representatives working on the lines at district field offices or answering questions on the telephone, quality assurance should include the possibility for supervisors to monitor the correctness and manner of delivery of the service given.

Advantages. This option addresses a major problem impeding the delivery of services and, hence, fulfillment of a principal mission of the immigration system.

Disadvantages. Staff see no disadvantages to this option.

Option E. Use fees for immigration services more effectively.

Under this option, the Commission would support the imposition of users fees, but emphasize that (1) fees should reflect true costs; (2) agencies collecting the fees should retain them; (3) those paying fees should expect timely and courteous service; and (4) agencies should have maximum flexibility to expand or contract expeditiously as fees increase or decrease.

The current system has a number of weaknesses. First, some programs are now undercharging (or not charging) fees, while others reportedly are overcharging. INS is now engaged in a review of its fees to determine where adjustments should be made. Second, some fees go into the general Treasury while others are held by the agencies collecting them. Third, when the demand for services increases, there is a significant lag time before an agency is able to use the increased fee revenue to expand its service capacity. For example, it took several months to obtain permission for a reprogramming of funds when naturalization and 245i adjustment applications increased significantly, resulting in a growing backlog of persons awaiting the service for which they already had paid. Providing more flexibility would require agreement from the appropriations committees that they need not approve the reprogramming of fees when changes occur in the volume of applications.

Advantages. This option would help ensure that resources are available to perform effectively the various functions needed in adjudicating benefits and that systems are in place to provide the actual services in a timely and efficient manner.

Disadvantages. This option reduces congressional oversight of the use of resources.

Option F. Complete efforts to improve information resource coordination.

Under this option, the Commission would encourage completion of the efforts underway throughout immigration agencies to improve the reliability of agency databases that facilitate both an applicant's immigration processing and an agency's ability to track and assess management efficiencies and results.

Until recently, many of the information resources and databases concerning immigration processes were uncoordinated within agencies and unconnected between agencies. An alien's official and legal immigration processing can begin either with a relative's or prospective employer's petition or with a request for a visa. Once a visa has been obtained, an alien departs his home country, travels to the U.S., is inspected at a U.S. port-of-entry, stays for a while and then leaves, tries to adjust, or requests asylum. For those who entered illegally, overstayed their visas, or otherwise ran afoul of immigration or criminal law, removal proceedings are conducted and concluded, and if found deportable, the alien is removed.

Under the 1996 Act, aliens who remain in an illegal status and are eventually removed, and those who are removed through normal immigration procedures, cannot return to the U.S. for a certain number of years. Such people are put on official government "lookouts" used during overseas visa processing and U.S. ports-of-entry inspections. While information databases exist for each of these immigration-related processes, they are not connected in a way that enables the government to monitor an alien's physical whereabouts and immigration status.

Once removed from the U.S., an alien might try to obtain another visa from the U.S., under his/her own name or another name with false identification papers. It is vital to implementation of U.S. immigration laws and the safety of U.S. communities that government databases be accurate and up-to-date. In July 1993, President Clinton announced a new multiyear program to improve the accuracy and timeliness of government databases and to improve links between existing databases.

Since then, some progress has been made. In particular, the recently completed Department of State and INS DataShare project resulted in the creation of one data system for use from the issuance of a visa through the issuance of a green card by INS and ultimately to issuing a passport once the person has been naturalized. According to INS, this is "one linear function, no separate files, no separate processes." Another recently completed linkage insures that INS deportation information is readily and accurately available to all U.S. consulates overseas so that if a deported alien comes in for a visa, s/he can be sent away without one.

Advantages. This option is consistent with prior Commission recommendations to improve data collection and information systems.

Disadvantages. Large-scale data projects of this type easily can fall prey to mismanagement. Any recommendation supporting data integration should acknowledge the need for careful monitoring.

Appendix I

7885

Federal Register
Vol. 60, No. 28
Friday, February 10, 1995

Presidential Documents

Title 3—

The President

Memorandum of February 7, 1995

Deterring Illegal Immigration

Memorandum for the Heads of Executive Departments and Agencies

It is a fundamental right and duty for a nation to protect the integrity of its borders and its laws. This Administration shall stand firm against illegal immigration and the continued abuse of our immigration laws. By closing the back door to illegal immigration, we will continue to open the front door to legal immigrants.

My Administration has moved swiftly to reverse the course of a decade of failed immigration policies. Our initiatives have included increasing overall Border personnel by over 50 percent since 1993. We also are strengthening worksite enforcement and work authorization verification to deter employment of illegal aliens. Asylum rules have been reformed to end abuse by those falsely claiming asylum, while offering protection to those in genuine fear of persecution. We are cracking down on smugglers of illegal aliens and reforming criminal alien deportation for quicker removal. And we are the first Administration to obtain funding to reimburse States for a share of the costs of incarcerating criminal illegal aliens.

While we already are doing more to stem the flow of illegal immigration than has any previous Administration, more remains to be done. In conjunction with the Administration's unprecedented budget proposal to support immigration initiatives, this directive provides a blueprint of policies and priorities for this Administration's continuing work to curtail illegal immigration. With its focus on strong border deterrence backed up by effective worksite enforcement, removal of criminal and other deportable aliens and assistance to states, this program protects the security of our borders, our jobs and our communities for all Americans—citizens and legal immigrants alike.

COMPREHENSIVE BORDER CONTROL STRATEGY

A. Deterring Illegal Immigration At Our Borders

I have directed the Attorney General to move expeditiously toward full implementation of our comprehensive border control strategy, including efforts at the southwest border. To support sustained long-term strengthening of our deterrence capacity, the Administration shall seek funding to add new Border Patrol agents to reach the goal of at least 7,000 agents protecting our borders by the year 2000.

Flexible Border Response Capacity

To further this strategy, the Department of Justice shall implement the capacity to respond to emerging situations anywhere along our national borders to deter buildups of illegal border crossers, smuggling operations, or other developing problems.

Strategic Use of High Technology

Through the strategic use of sensors, night scopes, helicopters, light planes, all-terrain vehicles, fingerprinting and automated recordkeeping, we have freed many Border Patrol agents from long hours of bureaucratic tasks and increased the effectiveness of these highly-trained personnel. Because these tools are essential for the Immigration and Naturalization Service (INS) to do its job, I direct the Attorney General to accelerate to the greatest

Appendix I, continued

extent possible their utilization and enhancement to support implementation of our deterrence strategy.

Strong Enforcement Against Repeat Illegal Crossers

The Department of Justice shall assess the effectiveness of efforts underway to deter repeat illegal crossers, such as fingerprinting and dedicating prosecution resources to enforce the new prosecution authority provided by the Violent Crime Control and Law Enforcement Act of 1994.

The Department of Justice shall determine whether accelerated expansion of these techniques to additional border sectors is warranted.

B. *Deterring Alien Smuggling*

This Administration has had success deterring large ship-based smuggling directly to United States shores. In response, smugglers are testing new routes and tactics. Our goal: similar success in choking off these attempts by adjusting our anti-smuggling initiatives to anticipate shifting smuggling patterns.

To meet new and continuing challenges posed along transport routes and in foreign locations by smuggling organizations, we will augment diplomatic and enforcement resources at overseas locations to work with host governments, and increase related intelligence gathering efforts.

The Departments of State and Justice, in cooperation with other relevant agencies, will report to the National Security Council within 30 days on the structure of interagency coordination to achieve these objectives.

Congressional action will be important to provide U.S. law enforcement agencies with needed authority to deal with international smuggling operations. I will propose that the Congress pass legislation providing wiretap authority for investigation of alien smuggling cases and providing authorization to seize the assets of groups engaged in trafficking in human cargo.

In addition, I will propose legislation to give the Attorney General authority to implement procedures for expedited exclusion to deal with large flows of undocumented migrants, smuggling operations, and other extraordinary migration situations.

C. *Visa Overstay Deterrence*

Nearly half of this country's illegal immigrants come into the country legally and then stay after they are required by law to depart, often using fraudulent documentation. No Administration has ever made a serious effort to identify and deport these individuals. This Administration is committed to curtailing this form of illegal immigration.

Therefore, relevant departments and agencies are directed to review their policies and practices to identify necessary reforms to curtail visa overstayers and to enhance investigations and prosecution of those who fraudulently produce or misuse passports, visas, and other travel related documents. Recommendations for administrative initiatives and legislative reform shall be presented to the White House Interagency Working Group on Immigration by June 30, 1995.

REDUCING THE MAGNET OF WORK OPPORTUNITIES, WORKSITE ENFORCEMENT, AND DETERRENCE

Border deterrence cannot succeed if the lure of jobs in the United States remains. Therefore, a second major component of the Administration's deterrence strategy is to toughen worksite enforcement and employer sanctions. Employers who hire illegal immigrants not only obtain unfair competitive advantage over law-abiding employers, their unlawful use of illegal immigrants suppresses wages and working conditions for our country's legal workers. Our strategy, which targets enforcement efforts at employers and industries that historically have relied upon employment of illegal immigrants, will not only strengthen deterrence of illegal immigration, but better protect American workers and businesses that do not hire illegal immigrants.

Appendix I, continued

Central to this effort is an effective, nondiscriminatory means of verifying the employment authorization of all new employees. The Administration fully supports the recommendation of the Commission on Legal Immigration Reform to create pilot projects to test various techniques for improving workplace verification, including a computer database test to validate a new worker's social security number for work authorization purposes. The Immigration and Naturalization Service (INS) and Social Security Administration are directed to establish, implement, monitor, and review the pilots and provide me with an interim report on the progress of this program by March 1, 1996.

In addition, the INS is directed to finalize the Administration's reduction of the number of authorized documents to support work verification for noncitizens. Concurrently, the Administration will seek further reduction legislatively in the number of documents that are acceptable for proving identity and work authorization. The Administration will improve the security of existing documents to be used for work authorization and seek increased penalties for immigration fraud, including fraudulent production and use of documents.

The Department of Labor shall intensify its investigations in industries with patterns of labor law violations that promote illegal immigration.

I also direct the Department of Labor, INS, and other relevant Federal agencies to expand their collaboration in cracking down on those who subvert fair competition by hiring illegal aliens. This may include increased Federal authority to confiscate assets that are the fruits of that unfair competition.

The White House Interagency Working Group on Immigration shall further examine the link between immigration and employment, including illegal immigration, and recommend to me other appropriate measures.

DETENTION AND REMOVAL OF DEPORTABLE ILLEGAL ALIENS

The Administration's deterrence strategy includes strengthening the country's detention and deportation capability. No longer will criminals and other high risk deportable aliens be released back into communities because of a shortage of detention space and ineffective deportation procedures.

A. *Comprehensive Deportation Process Reform*

The Department of Justice, in consultation with other relevant agencies, shall develop a streamlined, fair, and effective procedure to expedite removal of deportable aliens. As necessary, additional legislative authority will be sought in this area. In addition, the Department of Justice shall increase its capacity to staff deportation and exclusion hearings to support these objectives.

B. *National Detention and Removal Plan*

To address the shortage of local detention space for illegal aliens, the Administration shall devise a National Detention, Transportation, and Removal Policy that will permit use of detention space across the United States and improve the ability to remove individuals with orders of deportation. The Department of Justice, in consultation with other agencies as appropriate and working under the auspices of the White House Interagency Working Group on Immigration, shall finalize this plan by April 30, 1995.

The Administration will seek support and funding from the Congress for this plan and for our efforts to double the removal of illegal aliens with final orders of deportation.

C. *Identification and Removal of Criminal Aliens*

The Institutional Hearing Program is successfully expediting deportation of incarcerated criminal aliens after they serve their sentences.

To further expedite removal of criminal aliens from this country and reduce costs to Federal and State governments, the Department of Justice is directed to develop an expanded program of verification of the immigration status of criminal aliens within our country's prisons. In developing this program, the viability of expanding the work of the Law Enforcement Support Center should be assessed and all necessary steps taken to increase coordination and cooperative efforts with State, and local law enforcement officers in identification of criminal aliens.

TARGETED DETERRENCE AREAS

Many of the Administration's illegal immigration enforcement initiatives are mutually reinforcing. For example, strong interior enforcement supports border control. While there have been efforts over the years at piecemeal cooperation, this Administration will examine, develop, and test a more comprehensive coordinated package of deterrence strategies in selected metropolitan areas by multiple Federal, State, and local agencies.

The White House Interagency Working Group on Immigration shall coordinate the development of this interagency and intergovernmental operation.

VERIFICATION OF ELIGIBILITY FOR BENEFITS

The law denies most government benefits to illegal aliens. The government has a duty to assure that taxpayer-supported public assistance programs are not abused. As with work authorization, enforcement of eligibility requirements relies upon a credible system of verification. The INS, working with the White House Interagency Working Group on Immigration as appropriate, shall review means of improving the existing benefits verification program. In addition, we will seek new mechanisms—including increased penalties for false information used to qualify for benefits—to protect the integrity of public programs.

ANTI-DISCRIMINATION

Our efforts to combat illegal immigration must not violate the privacy and civil rights of legal immigrants and U.S. citizens. Therefore, I direct the Attorney General, the Secretary of Health and Human Services, the Chair of the Equal Employment Opportunity Commission, and other relevant Administration officials to vigorously protect our citizens and legal immigrants from immigration-related instances of discrimination and harassment. All illegal immigration enforcement measures shall be taken with due regard for the basic human rights of individuals and in accordance with our obligations under applicable international agreements.

ASSISTANCE TO STATES

States today face significant costs for services provided to illegal immigrants as a result of failed policies of the past. Deterring illegal immigration is the best long-term solution to protect States from growing costs for illegal immigration. This is the first Administration to address this primary responsibility squarely. We are targeting most of our Federal dollars to those initiatives that address the root causes that lead to increased burdens on States.

The Federal Government provides States with billions of dollars to provide for health care, education, and other services and benefits for immigrants. This Administration is proposing increases for immigration and immigration-related spending of 25 percent in 1996 compared to 1993 levels. In addition, this Administration is the first to obtain funding from the Congress to reimburse States for a share of the costs of incarcerated illegal aliens.

This Administration will continue to work with States to obtain more Federal help for certain State costs and will oppose inappropriate cost-shifting to the States.

INTERNATIONAL COOPERATION

This Administration will continue to emphasize international cooperative efforts to address illegal immigration.

Pursuant to a Presidential Review Directive (PRD), the Deparment of State is now coordinating a study on United States policy toward international

Appendix I, continued

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refugee and migration affairs. I hereby direct that, as part of that PRD process, this report to the National Security Council include the relationship of economic development and migration in the Western Hemisphere and, in particular, provide recommendations for further foreign economic policy measures to address causes of illegal immigration.

The Department of State shall coordinate an interagency effort to consider expanded arrangements with foreign governments for return of criminal and deportable aliens.

The Department of State also shall seek to negotiate readmission agreements for persons who could have sought asylum in the last country from which they arrived. Such agreements will take due regard of U.S. obligations under the Protocol Relating to the Status of Refugees.

The Department of State further shall implement cooperative efforts with other nations receiving smuggled aliens or those used as transhipment points by smugglers. In particular, we will look to countries in our hemisphere to join us by denying their territory as bases for smuggling operations.

The Department of State shall initiate negotiations with foreign countries to secure authority for the United States Coast Guard to board source country vessels suspected of transporting smuggled aliens.

This directive shall be published in the Federal Register.

William J Clinton

THE WHITE HOUSE,
Washington, February 7, 1995.

[FR Doc. 95–3554
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Billing code 3195–01–P

Appendix II

Federal Register / Vol. 60, No. 26 / Wednesday, February 8, 1995 / Rules and Regulations 7443

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 43

[Public Notice 2163]

Visas: Documentation of Immigrants Under Section 132 of Public Law 101–649, as Amended

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Interim rule, with request for comments.

SUMMARY: Pub. L. 103–416, the Act of October 25, 1994, the Immigration and Nationality Technical Corrections Act of 1994, further amends section 132 of Public Law 101–649 to authorize the issuance during Fiscal Year 1995 of those immigrant visas authorized during the three fiscal years of the Transitional Diversity Program but not used during that period. The amendments became effective upon signature and the available visas are to be issued during the Fiscal Year now in progress. Accordingly, the Department is promulgating an interim rule in order to create a basis for initiating the necessary processing and inviting comments.

DATES: This rule is effective February 8, 1995. Interested persons are invited to

IMMIGRATION AND NATURALIZATION SERVICE

FY 1997

PRIORITIES

FY 97 PRIORITIES

OVERVIEW

PRIORITIES, OBJECTIVES AND TASKS

FY 1997 PRIORITIES
Overview of Objectives & Tasks

INS com

Poor Utility

these Priorities do not set goals, specific results.

STRENGTHEN BORDER FACILITATION AND CONTROL

Objective 1: Implement Attorney General Initiatives
- Task 1: Implement El Paso Crime Initiative
- Task 2: Implement McAllen Anti-Crime Initiative
- Task 3: Implement East County Initiative

Objective 2: Control Between the Ports of Entry
- Task 1: Fully Deploy and Use IDENT
- Task 2: Maintain the Table of Organization

Objective 3: Strengthen Facilitation and Enforcement Efforts at Ports-of-Entry
- Task 1: Demonstrate Results Of Business Process Reengineering Efforts
- Task 2: Implement Performance Indicator Management System (PIMS)
- Task 3: Expand the Datashare Program

Objective 4: Intelligence Program Reengineering
- Task 1: Complete a Strategic Plan for the Intelligence Program
- Task 2: Fully Implement the SOPs for Border Patrol Sectors
- Task 3: Develop SOPs for Districts (both domestic and international)
- Task 4: Develop and institutionalize academy intelligence training for district and Sector personnel

Objective 5: Improve Data Consistency, Timeliness, and Applicability
- Task 1: Address Consistency, Verification Methods, and Redundancies within Current Data Collection.
- Task 2: Develop Future Measurements of Success for Border Facilitation and Enforcement (at and Between POEs).

Objective 6: Implement '96 Act
- Task 1: Implement Expedited Exclusion
- Task 2: Develop an Automated Departure Control System
- Task 3: Develop Plan for Incorporation of Biometrics into the Border Crossing Card (BCC)

STRENGTHEN ANTI-SMUGGLING, ANTI-TERRORISM AND OVERSEAS DETERRENCE

Objective 1: Implement Attorney General Initiatives
- Task 1: Implement Puerto Rico Anti-Crime Initiative
- Task 2: Implement South Florida Anti-Smuggling Initiative
- Task 3: Implement Nigerian Anti-Crime Initiative
- Task 4: Implement Anti-Methamphetamine Initiatives in the Midwest
- Task 5: Implement Anti-Russian Organized Crime Initiatives
- Task 6: Implement Anti-Southeast Asian Organized Crime Initiatives

Objective 2: Strengthen Anti-Smuggling Efforts

- Task 1: Increase Investigative Efforts Directed Towards the "TOP TEN" or Other Identified Major Smuggling Organizations
- Task 2: Finalize National Anti-Smuggling Strategy and Operational Guidance

Objective 3:.Strengthen Anti-Terrorism Efforts

- Task 1: Establish Infrastructure and Procedures for Removal Court and "Special Interest" Cases
- Task 2: Enhance INS participation in JTTF's at appropriate field locations.
- Task 3: Finalize National Counter-Terrorism Strategy and Operational Guidance.

Objective 4: Overseas Enforcement/Deterrence Functions

- Task 1: Enhance INS Overseas Activity
- Task 2: Increase Interagency and International Cooperation on Migrant Trafficking and Other Enforcement Issues.
- Task 3: Enhance Training of Foreign Law Enforcement and Immigration Officials.

Objective 5: Data Integrity

- Task 1: Review Anti-Smuggling Reporting and Implement Required Changes
- Task 2: Develop a Reporting and Data Collection System for Terrorist-related Cases.
- Task 3: Review and Redesign, as required, Overseas Enforcement Activity Reporting
- Task 4: Ensure Accuracy, Consistency and Timeliness of Data Reporting for Current Operational Tasks

Objective 6: Implement '96 Act

- Task 1: Develop Plan to Establish New Preinspection Stations

INCREASE THE REMOVALS OF DEPORTABLE AND INADMISSIBLE ALIENS

Objective 1: Ensure Data Integrity

- Task 1: Improve DACS Entry and Reporting
- Task 2: Track Voluntary Returns

Objective 2: Increase Criminal Alien Removals

- Task 1: Strengthen the Institutional Hearing Program
- Task 2: Expand County Jail Programs
- Task 3: Strengthen Administrative Deportation

Objective 3: Increase the Apprehension and Removal of Absconders

Objective 4: Strengthen the Deportation Process

- Task 1: Improve Detention Resource Management
- Task 2: Assure Full Implementation of the National Transportation System and Develop the Detention and Deportation Optimization System
- Task 3: Speed the Availability of Travel Documents and Address the Problem of Unremovable Aliens

Objective 5: Implement the 1996 Act

- Task 1: Implement the Redesign of the Removal Process
- Task 2: Provide Congressionally Required Statistical Reports

REDUCE UNAUTHORIZED EMPLOYMENT AND INCREASE THE EFFECTIVENESS OF WORKSITE ENFORCEMENT

Objective 1: Increase Employer Enforcement Activity and Illegal Worker Removals

Task 1: Target Major Employer Violators
Task 2: Complete Cases Required for Compliance Rate Determinations (GAP)

Objective 2: Assist Employers to Comply

Task 1: Increase Employer Information/Outreach Support
Task 2: Facilitate the Hiring of Legal Replacement Workers

Objective 2: Refine Systems, Procedures, Policies and Documentation

Task 1: Resolve "Evidentiary" and Fines Settlement Standards
Task 2: Revise and Implement "Fines Tracking and Collection" Process
Task 3: Increase "Timeliness" of Case Processing

Objective 3: Data Integrity

Task 1: Ensure Reporting Through LYNX and PAS
Task 2: Remove LYNX-PAS Duplications and Inconsistencies
Task 3: Distribute Automated LYNX Capability to District Offices

Objective 4: Implement '96 Act

Task 1: Complete Required Document Reduction Activities

IMPROVE ADJUDICATIVE SERVICES

Objective 1: Implement Phase 2 of Citizenship USA (CUSA) Initiative

Task 1: Ensure Satisfactory Quality of Naturalization Adjudications
Task 2: Develop and Adopt Strategic Plan for Naturalization Re-engineering
Task 3: Maintain Case Processing Time Standard

Objective 2: Improve Adjudications Processes, Services and Integrity

Task 1: Establish a National Customer Service Center
Task 2: Implement Joint (INV/BEN) Application Fraud Initiative
Task 3: Improve Clearance Procedures (FBI, etc.)

Objective 3: Data Integrity

Task 1: Appropriate Use of NACS, PAS, and CLAIMS
Task 2: Revise PAS, G-22 reporting
Task 3: Ensure Support of Interim Systems in Districts

Objective 4: Implement '96 Act

Task 1: Implement Exclusion, Parole and Waiver Provision Changes
Task 2: Complete Foreign Student Control Pilots

CONTINUE BUILDING INS' INFRASTRUCTURE AND STRENGTHENING PROFESSIONALISM

Objective 1: Sustainment

Task 1: Develop and Implement an INS Retention Plan
Task 2: Provide Advanced Training for Officer Corps
Task 3: Develop and Implement a Revised Multi-Year Vehicle Replacement Plan
Task 4: Implement a Revised Helicopter Replacement and Maintenance Plan
Task 5: Implement a Revised Plan for Buildings Management to Enhance Facilities Standards
Task 6: Enhance the Environmental, Occupational Safety and Health Program (EOSH)
Task 7: Enhance ADP Staff Support and Servicewide Training

Objective 2: Modernization

Task 1: Implement Competency-Based Assessments for Promotion to Managerial Positions in the Border Patrol
Task 2: Develop and Enhanced Financial Management Information System (FMIS)

Objective 3: Improve Data Integrity

Task 1: Establish a Competency-Based Assessment Database

Objective 4: Implement '96 Act

Task 1: Coordinate Development and Delivery of Immigration Act 1996 Training

ENHANCE INS COOPERATION AND PARTICIPATION WITH LOCAL ENFORCEMENT AUTHORITIES, STATE AND LOCAL GOVERNMENTS, AND COMMUNITIES

Objective 1: Expand INS Cooperation with Local Law Enforcement Agencies (LEAs) and Communities

Task 1: Examine and Test Applicability of Community Policing to INS Operations
Task 2: Expand Capacity of Field Offices to Plan Activities that Benefit LEAs and Other Agencies
Task 3: Identify Unintended Impacts of INS Activities (e.g., at day labor sites, within public housing complexes, and other community settings) and Explore Community Oriented Approaches/Resolutions

Objective 2: Expand INS Cooperation and Interaction with Other Law Enforcement, State and Local Governments, and the Media

Task 1: Expand Two-Way Communication with Associations Representing State and Local Officials
Task 2: Increase the Knowledge Base of the Media re: Immigration and Immigrants

Objective 3: Ensure Data integrity

Task 1: Identify and Develop Appropriate Indicators for Long-term Measurement and Reporting of the Impacts of Immigration-related Policies and Practices on Local Communities

Objective 4: Implement '96 Act

Task 1: Implement Verification Requirements (including Pilot tests and Welfare Reform)
Task 2: Develop a National Educational Initiative

Jette and Robert Rasmussen
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Acting District Director Jean Ouellette
U.S. Department of Justice
Immigration and Naturalization Service
J.F. Kennedy Federal Building
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COPY

March 7, 1997

GOD BLESS AMERICA - AND ESPECIALLY THE I.N.S. (you really need it !)

This is a letter of "**Complaint**" - *or* a letter "**Of good advice**". The decision is all yours.

I hope you will take your time to read it - like a few other people will have the oppertunity.

My name is: Jette D. Rasmussen. I am from Denmark in Europe and moved to the United States per August 1st, 1995.

The reason for the move was NOT that I was unhappy in my home country - but simply due to the fact that my husband : Robert K. Rasmussen - was asked by his company : LEGO (which by the way *is* a Danish company) to move to the States to be closer to the market : Robert does product developement for the American school market.

The reason for this letter is that a few hours ago my family and I got back from yet another "exiting" trip to the I.N.S. - WITHOUT having obtained our Green Card - even though WE (read: we !!) did ALL what it takes - and brought every bit of documentation etc. - in originals - as well in copies.

Someone in the JFK-building made "a few mistakes" - my husbands file was only a copy - the original was either in Vermont at the ServiceCenter - or in Minnesota (because of his one year at an american high school in 1964. - My form - I guess the I-181 - was NOT sent yet - instead they had send 2 for our son Peter - *"so you will have to wait another 60 days !!!"* Just like that !

Isn't that wonderful - being scheduled for an interview for **3 1/2 months** - making all the necessary work - getting up at 5.am. drive to Boston - but - "someone was sleeping up there" - and WE have to wait another (at least) 60 days - and we also had to write another check for **USD 210,00** to get new Travel Documents.

Robert's work demands some travelling to the headquarters in Denmark - and my parents are right now both being hospitalized !

2)

USD 210,- is quite a lot of money to pay - for someone else's mistake. Not to talk about all the *time* you spend on this thing. - **Isn't SERVICE a "big thing" in America ?** Well ......certainly NOT at the I.N.S.

When we came to the United States in August 1995 one of the first things we did was to go to New York to "visit" the Statue of Liberty. Even though we are "the lucky ones" - living in the 1990'es - and moving to America because of LEGO - we felt we *had* to go and see this very interesting and for many people so exciting place. A LOT of different thoughts go through one's head - standing here - at Ellis Island - looking at all the photos of many many different people - coming here - to make a new start. You see the dispair - the fear - the joy - the expectations - you see a lot - in all these eyes. - A little scared - but America WELCOMES people - or ????

Well - this is not 1895 - but 1995 - so things are probably different - and better and easier - or ? ? ? ?

Within the first 6-7 months of our stay we realize that we can not file for a Green Card - because of a certain rule. It says that the company you work for has to be at least one year old - and "Robert's" LEGO-company in the States is not - so we have to wait. So - in the fall of 1996 we start the procedure: *"Applying for a Green Card"* - among other reasons because we want our son - Peter - to be able to get himself a job

Through LEGO we have a great lawyer - helping us to fill out all the forms - it surely takes "a lot of paper" - and telling us where to go for: doctors examinations, photos and fingerprints. We go to *Immigrations in Hartford, Connecticut to have the photos and fingerprints !!!!*

Finally we are ready to file - and on November 18, 1996 all 3 of us go to Boston.

Well - sometimes in life it's *good* that you do not know "what's expecting you" ! The I.N.S. is NO nice place. Common KINDNESS is a very unknown thing - and we cannot help thinking of the fact that most of the employees in this crowded room would be **absolutely without their jobs** - if they had been working in Europe - in *official* offices ! - In Europe you learn from childhood: *"If you want to be treated in a nice way - be nice yourself !"* - Well .... new country - new rules ! Obviously !

The man at the Information desk - and later a person at one of the booths - reminds us of the movie: *"Crumpier old men"*. - Is it really THAT bad - working at the I.N.S. ? - If it wasn't that SAD - it would almost be funny ! - You have a LOT of time - to think - look around - wait - and wait - look around - and wait .... "

It is very interesting to see the posters at the wall : "The gate to America" - I think it says ...Well - at least at photos they can smile !

I get kind of *SAD* sitting here. I am thinking of Ellis Island - seeing all these people - of different colors - with different languages. It certainly does not seem to be easy for them - even though it is 1996 ! - Why is nobody SMILING to each other - *would it not help* - just a little ! Why is it that you can not call this place - per phone - *and get a little information.* A lot of these people have 6-7 maybe more questions - and it seems as though they only get the chance of 1 maybe 2. - Why are these employees (most of them look like they came to "The gate of America" at one time themselves from somewhere around the world) - of all places - working *here* if they do not *enjoy* it at least a *little bit* - to "do something for their fellow people" ??

Well - we file our application - and 4 hours after our arrival we are walking the streets of Boston before our 3 hours drive. My husband also got a Travel Document - because of his job related travelling. AND : we all got the date for our interviews: FRIDAY, MACH 7TH 1997. - We look forward to this. Very much !

3)

Mid January 1997 I go back to the JFK-building. My old parents in Denmark are both sick and are going to the hospital. I need a Travel Document for my son and myself. I have prepared everything - with the lawyers help: application - letter from the doctors in Denmark etc. I can get a ride with my husband and a colleague who are going to Boston for a meeting. At 12.10 p.m. I arrive - reach the Information Desk: SMILE (it must be a crime up here?) and say: hello - I would like to apply for a Travel Document - and the man says - of course without even looking at me: *"you cannot !"* - and OF COURSE - NO further explanation *!*

I get tears in my eyes - say: :Excuse me - could you tell me : why not ? Answer: *you have to be here in the morning !* By the way - <u>HOW</u> was I supposed to know ! Well - after asking - almost begging - he gives me a number. I want - very much - to talk to somebody - who can tell me WHAT to bring - and WHAT to ex- ; when I get back - next time - BEFORE 12.00 !! - I wait - 2 1/2 hours - and talk to a woman. She is nice - no smile of course (maybe it is a "Government thing" ... "no smiling"??) - and she tells me WHEN to come k - that the office might be closed on the 2/13 - maybe - and I ask if I *have* to bring my son Peter (I am applying for him as well) - and she says I do not need to take him out of school - as long as I have the proof that I am his mother !! - Well ... I go back - my 3 hours drive !

A week later I make a new "attempt". Reach the Information Desk: "Hello - I am here to apply for a Travel Document for my son and me !" - Guess - the answer: *"You cannot !"*
BUT - this time I am NOT ready to give up - EXCUSE *ME* ????? *"Well - you need to bring your son - and I don't see him !"*
ow I almost get mad - BUT - I have seen quite a lot of people up here getting "mad" - and seeing them "get ck" - so I say : PLEASE listen to me - please - please - I was here 10 days ago - a woman told me that I ould apply for Peter without bringing him". - *"Which woman ?"*
OH BOY - thanks for the poster on the wall : she is right there ! - Well .... finally the man gives me a number - I wait - I wait - and THEN - tra-laaa .... but : NO !!
"Where is the number ??" - Excuse me ???? *"The other number??"* - Excuse me - could you explain to me WHICH number - PLEASE ? - And - yes - she wants TWO numbers - and I only got ONE from the man at the Information Desk.
"How do you want me to do this without another number" - she asks ME - and I really do not mean to be rude - but **HOW am I to know what she means ???**

Well - sometimes you have to "get a little angry" - I got the Travel Documents for my son Peter and myself.

We went to Denmark and saw my parents - and we came back as planned on February the 28th - because we have an INTERVIEW scheduled - that we look very much forward to - on Friday, March 7th at 8.30 a.m. !!

AND - today's the day.

At 8.15 a.m. we arrive at Room 170. A VERY NICE AND SMILING YOUNG MAN at the desk says: "hello - how are you this morning - and shows us to the next desk". Our son says: wauh - he is nice - this is a good sign. At 8.35 a.m. we are called to the office of Jeanine N. Clapp-Simon, District Adjudications Officer. She is - obviously - very correct and "official". Says: *I will interview you Robert - and then your son - and you Mrs. Rasmussen in a while - because your papers were not filled out !*
We do not understand - but "it will be O.K. in a little while". - Well .... Robert is interviewed - Peter is interviewed - and .... finally I am interviewed.
anine Clapp-Simon even commends us : "you are very organized".
verything is fine - we think. Suddenly she gives Robert our passports back - Robert looks at me - and both of us say: "Excuse us - but are we not supposed to have a stamp in our passport ?????"

4)

And - now it's getting very interesting:
1) Looking at PETER she says: your fingerprints have not been cleared ! - We all wonder - a great deal.
2) Looking at ROBERT: your file is a "copy-file" - you see: it is YELLOW - the others are brown.

Again - WE are not the guys working at this office. WE do NOT know WHY Peter's fingerprints have not been cleared - we do NOT know WHAT it means that a file is YELLOW instead of brown !! - BUT - Unfortunately all 3 of us SENSE that "*something is wrong*" - VERY wrong. - We ask: "does this mean that we do NOT get the approval ??? - and could you please tell WHY ???"

This is NOT easy for Jeanine - she has to tell us that "someone in this office made a few mistakes" - and after Robert getting a little upset thinking of NEW applications for Travel Documents etc. - we do WANT to KNOW - WHAT exactly has happened. She rushes to her "supervisor" - Robert calls our lawyer from our mobil phone. Everything is VERY confusing. It is also SAD - and much much too bad ! - And WE are very very CONFUSED. - We "worked so hard for this" - we don't have a lot of time to spend on the high ways - we are in the States because of Robert's WORK !!! - How come ??

Jeanine N. Clapp-Simon is a "good soldier". We had to "push her - real hard" to hear WHAT really has happened - as far as she can see: - New version :

1) "Peter's paper came out of the computer (????) twice - so they sent it *twice* - but they did NOT send mine
RESULT: we will have to wait (at least) another 60 days ! - "*60 days is what it takes !!*

2) "*Someone forgot to ask for Robert's file*". So - the file - that a little before was at "the Servicecenter in Vermont" is probably in Minnesota (because Robert was a high school student here for 1 year in 1964 ??) and : "Someone forgot to ask for it - now it will take time to get it" ! - Oh yeah ... of course !

3) By the way: the photos - the ones we had made at the Immigrations in Connecticut - are not good enough : too big !!! - Yes of course .... of course they are !

Closure:

How come that when we do *our* part of "the deal" - that the I.N.S. "treat you this way". - One thing is that you are being treated as a criminal every time you show up - that people are so unkind - and the "air" so uncomfortable that you are very happy back on the street - but WHY do you not <u>inform</u> people ????

Would it not have been much much easier - for all of us - if YOU had made a phone call a month ago - and said: "hello guys - we are sorry - we made a mistake and have to postpone the interview already scheduled" - or something like that. - Or - AT LEAST - to have *admitted the mistake first thing in the morning* - so that we had been prepared that "this would not work - after all" ! - And I cannot help thinking: WE are here - because Robert's company wants us to - and they are helping us. HOW on earth is it - for all the others - "out there" ?

Certainly I will have a lot more sad thoughts on my mind the next time I am standing at my beloved photos at Ellis Island - knowing how "The Gates to America" REALLY are - and how they work - here in 1997.

Regards,

Jette Duus Rasmussen

Clinton Presidential Records
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Divider Title: 5

STRUCTURING, ORGANIZING, AND MANAGING AN EFFECTIVE IMMIGRATION SYSTEM CONSULTATION: WHAT REFORMS ARE NEEDED?

Staff Summary

April 3, 1997, Washington, DC

Commissioners Present: Lawrence Fuchs, Chair, Harold Ezell, Robert C. Hill, Warren R. Leiden, Bruce Morrison

Staff Present: Susan Martin, Andrew Schoenholtz, David Levy, Patricia Dunn, Gregg Beyer, Brett Endres

Participants:

Alex Aleinikoff, Former Executive Associate Commissioner, INS
Diego Asencio, Former Chair, Commission for the Study of International Migration & Cooperative Economic Development
James Blume, Assistant Director, Audit Operations Group/Justice, GAO
Roger "Buck" Brandemuehl, Former Chief, U.S. Border Patrol
Barry Kefauver, Former Executive Director, Bureau of Consular Affairs
Albert J. Kliman, Senior Research Associate, National Academy of Public Administration Panel on INS
Michael Lempres, Former Executive Associate Commissioner, INS
Milton Morris, Senior Vice President, Joint Center for Political and Economic Studies
Ruth Anne Myers, Former INS District Director, Phoenix, Arizona
Peter K. Nune, Former U.S. Attorney and Assistant Secretary of the Treasury for Law Enforcement
Joaquin F. Otero, Former Deputy Under Secretary of Labor for International Labor Affairs
Daniel W. Sutherland, Legal Scholar, Center for Equal Opportunity

The Chair opened the meeting by explaining that the Commission is looking at the issue of immigration management, organization, and structure in the federal government. The Commission looks to the participants to provide guidance on optimum structure and/or improvements to the current system. Most participants are former Executive Branch officials with numerous years of government service; others have done reports examining the Executive Branch agencies and have made recommendations of their own.

Former INS General Counsel, Alex Aleinikoff warned the Commission not to recommend changes in the structure of the immigration system just for the sake of making changes and/or to make the agencies seem neater and better organized. The current system looks like an odd structure for a reason; it is actually quite workable. In terms of the service versus enforcement functions of INS, INS Officers perform both functions simultaneously and splitting them is hard to conceptualize. The perception of enforcement dominating service at INS results from the large amount of resources and attention enforcement receives. Poor service is due to a lack of culture, training, and resources.

With the recent additional resources allocated to INS and the mounting demands on the service for accountability and management, he said a mix of management analysts need to be brought in as part of the INS culture. Although many of the systems problems relate to management rather than structure, major organization reform is justified. As there is no high place in the Administration to address immigration policy development, policies that are formulated tend to be reactive and crisis driven. Aleinikoff recommended establishment of a Cabinet-Level Department of Migration to provide needed skills and, most importantly, high level policy rank.

Policy Leadership

INS is not the proper place to make immigration policy; rather, a high-level central locus where major issues of immigration policy can be debated, discussed, and decided is needed. Wherever the final location of immigration policymaking, it should consider demographic effects as a whole and the effect of certain immigration situations on the rest of the country. Immigration policy has not received the attention it needs; for most of the involved agencies outside of INS, policies have been only reactive, not proactive. While many participants agreed that a higher level locus for policymaking is needed, they differ on where that should be.

Department. One recommendation was for a Cabinet-level Department with a Secretary rank to direct all the functions of the INS, the Visa Office and the Department of State [DOS], and labor certification from the Department of Labor [DOL]. This Department would have both a Secretary and Deputy Secretary thinking about immigration issues. An Assistant Attorney General for Immigration or an Associate Attorney General are not high enough ranking to do what needs to be done on immigration. The present rank of the INS Commissioner is comparable to that of an Assistant Secretary.

Presidential Advisor. A special advisor or advisory group to the President was also suggested. An Immigration Czar, much like the Drug Czar, was briefly considered. The purpose would be to raise immigration as a highly visible issue requiring presidential attention and to have a seat at the table during important meetings with the other Cabinet Secretaries. A high level advisor would elevate the issue and convey leadership (or at least give the appearance of executive concern) within the White House and to the Congress.

Enhancement of the Domestic Policy Council [DPC] role. The DPC already has responsibility for interagency coordination on immigration policy. Some participants expressed concern that placing immigration policy development responsibility in the White House would make it overly subject to political pressure. Others responded that the President must make the final decision on immigration policy issues and that building a capacity within the Executive Office of the President for analysis of immigration would ensure the receipt of better information on which to base those decisions.

Service/Enforcement Split

Participants held two differing views on splitting the service and enforcement functions: (1) they should remain in the same agency, but with a clear split within that agency; (2) they should be totally split into two different agencies. Though these issues were discussed briefly, no one seemed to have a clear idea or recommendation on how this should be accomplished.

Border Management Agency

The topic of a border management agency that would combine the enforcement functions of INS Inspections, the Border Patrol, and U.S. Customs into a single agency also arose. Although this proposal has been consistently recommended since the 1930s, it still has not been implemented, perhaps because of the jurisdictional division of the Congressional Appropriations Committee and Subcommittees overseeing DOJ and the Department of the Treasury.

Bureau of Immigration and Border Control

A Bureau of Immigration and Border Control also was suggested. Its single mission would be immigration control and would have three sectors: administration, services, and enforcement. The Bureau's Director would report directly to the Attorney General. The directors of administration, services, and enforcement also would have direct line authority. This differs from the present system in that service and enforcement would be split within the Bureau and reporting would be to a higher level in the Department of Justice [DOJ]. As in the FBI, the Director of the Bureau would be appointed for a fixed term that exceeded four years.

Congressional and Political Will

It was mentioned that many very good recommendations have come from previous Commissions on immigration, but that Congress "did not have the stomach to do what was necessary." Participants felt the Commission could go either of two ways: (1) submit a report that had recommendations for a "perfect world" scenario that Congress would have no plans to implement and would sit on a shelf with many other reports; or (2) submit recommendations that would make incremental changes, not "big picture" reforms.

Other Issues

A few other problems or issues were identified and discussed at the meeting.

Mission Overload. Some participants mentioned that INS currently has too many high priority items on their list and not enough time and resources to accomplish them all. The participants would prefer to see only three things listed as top priorities, not the current much-longer list.

Detention. Detention constitutes a large portion of the INS budget and many of the participants suggested that INS is not set up for long-term detention of aliens. The Bureau of Prisons [BOP] and the U.S. Marshals have their own systems to deal with detention within the DOJ. INS has neither the ability nor the knowledge to implement long-term detention. The BOP and U.S. Marshals detain criminals, whereas, those that violate the immigration laws, which are fundamentally civil in nature, are not criminals. There are, however, an increasing number of detained aliens who have been convicted of a crime. If the INS did not have to concern itself with running detention facilities, but instead could detain aliens run by another entity, it could do a better job.

Conclusions

The Chair asked participants to list three management and structural issues they would like to see changed or implemented. The recommendations fell into three areas.

Management

- Flood INS with managers from the outside who are not immigration experts but who have the management skills necessary to run an agency effectively.

- Give Regional Directors a greater role in developing priorities, goals, and expectations, and develop a program evaluation capability to ensure that programs are moving towards and meeting these goals.

- Perform quality assurance checks and provide for a system of feedback into to ensure that what has been done not only has been finished but that it also has been done properly.

- Have managers and policymakers identify and be held accountable for management goals.

- Pilot test privatization at INS, including detention models and more fee collection for services.

- Improve communication between headquarters and the field in terms of management meetings, training for field officers, budget accountability, and ensure that the requested and authorized resources get to the field in a more timely manner.

- Correct overlaps and eliminate redundancies in which two agencies are performing essentially the same function.

Policy

- Separate service and enforcement functions within INS, keeping the two within the same agency but consolidating the functions of each.

- Consolidate enforcement functions of the Border Patrol, Inspections, and Customs to control illegal migration.

- Have detention handled by some other agency and only monitored by INS rather than having INS detain aliens for the long-term.

- Streamline and reform the agencies involved in immigration so that each would have an internal office or person responsible for policymaking.

Structure

- Have policy development made at a higher level to address DOS, DOL, and DOJ issues.

- Continue the priority process (which INS has done successfully in the last few years) in setting objectives and goals and fulfilling them.

- Develop an employee identification system so that the employment magnet is not pulling people here that our system is trying to keep out.

MANAGEMENT TEAM CONSULTATION: Staff Summary
April 4, 1997, Washington, DC

Commission Members Present: Lawrence Fuchs (presiding), Harold Ezell, Robert Hill, Warren Leiden, Bruce Morrison

Staff Present: Susan Martin, Andy Schoenholtz, Gregg Beyer, Pat Dunn, Brett Endres, David Levy

Participants:
Stephen R. Colgate, Assistant Attorney General for Administration
Donna Hamilton, Deputy Assistant Secretary of State for Visa Services
Seth Harris, Deputy Assistant Secretary of Labor for Policy
John B. McGowan, Passenger Process Owner, Office of Field Operations, Customs Service
Doris Meissner, Commissioner of INS
Steve Mertens, Senior Program Examiner, OMB
Anthony C. Moscato, Director, Executive Office for Immigration Review
Phyllis Oakley, Assistant Secretary of State for Population, Refugees, and Migration
Gerri Ratliff, Counsel to the Deputy Attorney General
Mary Ryan, Assistant Secretary of State for Consular Affairs
Steve Warnath, Senior Policy Analyst, Domestic Policy Council
Seth Waxman, Acting Deputy Attorney General

Vice Chair Fuchs convened the consultation, welcomed participants, and outlined the discussion ground rules.

INS Commissioner Meissner

Policy development has worked quite well in the last several years. Three crucial arenas demonstrate success within existing structures: the more than doubling of the INS budget in the last three/four years, with continuing growth; the handling of emergency migrations, such as Cuba and Haiti; and, the overall commitment and effort that has gone into managing the immigration system.

Separating border enforcement activities from the rest of immigration enforcement would be difficult because:

- INS is now linking its border enforcement efforts internally and beginning to share intelligence and understanding both of what the major entry routes are and how they connect to employment and employers;

- Separation would constitute a return to a more fragmented system when INS and the Customs Service are now at a point where there is essential parity in resources, resulting in the development of true port management in the busiest port of entry, San Ysidro;

- These functions are mutually reinforcing, for example: an effective asylum system requires eliminating the abuses in the system, which means focusing on enforcement; in naturalization, the greatest weakness is the ability to fingerprint and get criminal records in an effective and timely manner.

While, at the present time there is no basis for fundamental restructuring, one area in which improvements are called for is the way in which the international dimensions of migration management and the domestic dimensions intersect. Smuggling and law enforcement pressures require global activity to achieve truly effective border control. There is a need for a substantial overseas law enforcement presence. Much additional work remains to be done in joint planning and outcomes and performance effectiveness.

Integration of databases between INS and other agencies shows great promise: it is becoming acutely important in employer verification and in cooperative efforts with the Social Security Administration.

Assistant Secretary Mary Ryan

The budget and planning process is very complex and there are numerous disconnects. Planning is difficult when one doesn't know how much money will be available from year to year. Immigration needs additional funding (also mentioned by Commissioner Meissner).

After the World Trade Center bombing, Congress recognized the need for additional consular services resources and authorized a machine-readable visa fee. Every visa issuing post now is automated. There is a direct tie-in to the classified lookout system at each such post.

The Bureau of Consular Affairs is working to develop better strategic plans. Interagency efforts to deter illegal immigration, identify criminals and terrorists, and combat fraud figure very prominently in these draft strategic plans. The Government Performance and Results Act [GPRA] is driving these efforts and it will also lead to further integration of the budget and planning processes.

Organizational changes are not necessary; more can be gained by actively supporting the growing integration of INS and the Department of State [DOS] operations through increased coordination. DOS is strongly against any transfer from DOS of the visa function, which involves a lot more than just denying entrance to ineligible aliens; the manner in which the visa function is performed has a decided effect on our relations with other nations. The proposed travel of individual aliens to the U.S. relates to foreign as well as domestic policy, including situations involving terrorist organizations and drug traffickers. As international movement of peoples increases in importance in our bilateral and multilateral relations, the impact of visa operations on our foreign policy will be even greater. DOS has officers trained and experienced in the operation and policy aspects of immigration as it relates to foreign policy. Further, transfer of the visa function would eliminate a source of talent because the officers now doing consular work would not transfer to an agency that only does immigration.

Deputy Assistant Secretary of Labor Seth Harris

The problems with the employment-based immigration systems are problems of conflicting policy goals, different policy objectives, and different levels of political influence among interest groups in our political economy. The goals are not matched by systems intended to meet those goals. In the nonimmigrant system, which purports to satisfy short-term skill-based shortages, there is no labor market test to determine whether such shortages exist. Problems in the permanent employment-based system that were pointed out in the recent Department of Labor [DOL] Inspector General's report cannot be addressed by moving boxes around within the government. Creation of an Assistant Secretary of Labor for Immigration would not cause these problems to go away.

Consolidating worksite enforcement in a single agency would not solve the problems. While there is a tension between the DOL roles of enforcing worker protections and of cooperating with INS, there are conflicts between the DOL enforcement and service functions and whether DOL is serving them to get the desired outcome. Does DOL serve the customer's goal, depending how the customer is defined? Does DOL serve its policy goals? The question that should be asked, both from the perspective of the employer and the immigrant, is: Is this the most efficient way of having a foreign worker admitted to the U.S.?

Discussion

At the conclusion of the three presentations, one Commissioner observed that there was an overwhelming disconnect between current and former executive branch officials' perception of structural problems in the immigration system. The current incumbents stated that there are essentially no problems; in contrast the previous day's consultants pointed out numerous problems. Participants replied that there are problems, but they questioned the extent to which these problems are structural.

Selection of Immigrants and Nonimmigrants

The Commission asked if apparent redundancies in the adjudication of immigration benefits could be reduced. One Commissioner pointed out that DOL, INS, and DOS are involved in the selection of temporary and foreign workers and that USIA has responsibility for temporary exchange visitors who work in the U.S.

A participant noted that the double-check system (DOS and INS) used in issuing visas is very useful and important; going to a single agency issuance would lose this safeguard. Another said that the principal employment-based immigration problems are not management or structural, but are statutory, policy, and political problems that involve competing policy objectives. Moving boxes or consolidating functions does not necessarily solve problems. The goal should be how to save the customer and the government money and still get the same or better policy results.

A Commissioner asked if reform in this area was hampered by DOL declaration that the nonimmigrant, H-1B, and labor certification process policy level is illegitimate. He said that DOL should have a role, but that role is difficult to define when the agency itself doesn't think the program is legitimate. A participant argued that for four years DOL has been pushing a legislative agenda to reform the permanent program, but the nonimmigrant program, which is a feeder system into the permanent program, must also be reformed.

In the meantime, DOL is doing the best job it can with shrinking resources. DOL relies on the State Employment Security Agencies [SESAs] that took a deep funding cut. Eliminating the SESA role may not make sense as the SESAs may be better positioned to do a local labor market test and determine if recruitment has been done.

Data Sharing

Participants pointed to the greatly improved sharing of data during the past few years as a way of making the diffused immigration system work efficiently. The DataShare program in which INS and DOS share information on visa applications and approvals, adjustments of status, entry to the U.S., and other immigration data involves consular posts, the National Visa Center, INS Regions, and ports of entry. DataShare provides current immigration information on individuals to those who need it. As required by the National Performance Review, DataShare helps reduce redundancies and makes for more effective use of resources. At present, 80 percent of the immigrant visas issued by DOS are in the DataShare system under which the information is directly transferred to INS.

Three direct and immediate benefits of data sharing are more accurate data, more timely data, and lower costs. While it is more expensive initially, it pays off in the long run.

A system to go directly from the granting of citizenship to the production of a passport without going through a separate passport application, was described as another way to bridge agency responsibilities. There is similar potential at the beginning of the process to link immigrant visas and the issuance of green cards, which can be connected with the issuance of social security cards.

Policy Development

The Commission asked how to get sustained policy development, particularly on legal immigration policies, in the absence of a compelling crisis. A participant reported that in the last few years, policy development on legal immigration did not occur in the way some people wished because it was determined that the focus would be on illegal immigration. Another reported that in 1994 and 1995 there were interagency working groups that addressed issues such as border management, legal immigration, and benefits. He said that the Administration did not ignore legal immigration issues but made fighting illegal immigration its priority.

Commissioners asked about the appearance that DOL was advocating fundamental statutory changes in the employment-based system on its own without the support of the Administration. Participants stated that DOL was advocating the Administration's position and outlined all of the steps that occurred in developing a consensus Administration position, including meetings with the Domestic Policy Council

[DPC] and appropriate Cabinet officials. The steps included the development of recommendations through channels within DOL. There was a meeting involving Secretary of Labor Reich, Carol Rasco, and Doris Meissner that included a discussion of the CIR recommendations. There was a principals-level meeting, and those views were incorporated into letters sent by the Administration to the Congress. DOL views were arrived at in conjunction with the DPC and INS. The Chief of Staff was consulted and he met with cabinet secretaries, the head of National Economic Council [NEC] and the head of DPC. The conclusion was that the DOL never took any action that did not constitute an Administration consensus.

Internal Reorganization of INS

One participant recommended an internal reorganization of INS to clarify organizational lines of communications and responsibilities. He said there was a problem with communications between the field and headquarters. INS has a proposal in the works to address some changes needed as the result of the reorganization done two years ago. Additional management and policy analyst staff at INS headquarters was also recommended.

Domestic Policy Council

Recommendations were made to strengthen the Domestic Policy Council, using the National Security Council [NSC] as a model. NSC has interagency working groups with staff to develop the issues being considered. Initial discussions and comments are then provided to Deputies Committee for its consideration which, in turn frames the issues and structures options for the Principals Committee consisting of Cabinet members and the National Security Advisor. This group then recommends appropriate action to the President. The NSC model has worked well for decision-making on issues that cut across agency lines.

One participant noted that immigration presents a mixture of domestic and foreign policy issues, requiring the cooperation between DPC and NSC on cross-cutting issues. Another said that it would be helpful to increase staff at DPC to enable it to perform the consultative functions performed by the NSC, but that there is a question of whether additional funds could be available and, if available, whether they would be assigned to DPC.

Department of Justice

Participants were asked about a proposal for some type of superstructure at DOJ to serve as coordinator between INS, EOIR, Office of Immigration Litigation, and to intersect with the FBI and other agencies. A DOJ representative said the Office of the Deputy Attorney General serves this function. The importance of immigration requires it to have a place in DOJ very close to the Attorney General. Another participant said that the current structure at DOJ has improved coordination significantly. At the Attorney General's biweekly meeting on immigration there is high level representation from the appropriate parts of DOJ to bring all pertinent views to the table.

The larger problem is coordination with other agencies. A participant suggested that core law enforcement criminal justice functions be consolidated within DOJ. This would include ATF, Customs Service, and others. Another participant pointed out that the Customs Service also has responsibilities to collect custom duties. This taxation responsibility is different from law enforcement functions.

Worksite Enforcement

Questions were raised about involvement of both DOJ and DOL in enforcement of employer sanctions. A Commissioner asked if there wasn't a better way to handle employer sanctions enforcement than the current system of four agencies, INS, Office of the Special Counsel, Wage and Hour, and the Office of Federal Contract Compliance Programs [OFCCP]. DOL has been wary of too great a participation in immigration-related activities. Most employment law enforcement is complaint-driven, and if complainants expect to be deported as a result of their complaint, there is a great disincentive to complain about exploitation.

To the extent workers view DOL as immigration enforcers, it will have a detrimental effect on low wage enforcement. A Commissioner pointed out that without an effective worksite enforcement system, there is no effective illegal alien prevention program. Moreover, as employers who hire illegal aliens are more likely to violate other labor standards, the DOL has a vested interest in reducing illegal migration. Hence, while employer sanctions can be seen as a U.S. worker protection and a labor standard, DOL has never accepted employer sanctions as such.

In the absence of consolidation of responsibility, better data sharing would help reduce duplication of effort. One participant recommended greater information sharing between INS and DOL on specific employers who violate immigration and/or wage laws. He said that it is difficult, however, as INS and DOL do not use the same database.

Border Management

Commissioners asked for comments on two suggestions with respect to the border patrol: creation of a separate border management agency including Customs; and consolidation of border enforcement (the border patrol and deputies) within INS. One participant argued strongly for integration within INS, such as an office of border management or border enforcement including both the border patrol and inspections. A Commissioner asked if the division of Border Patrol as a separate office or agency within INS is still logical or whether INS is moving away from that. It isn't logical for purposes of an effective border control strategy, but is logical for historical and other reasons occupationally and personnel-based reasons and because it is a uniformed activity requiring the carrying of firearms.

The Commission asked if the Border Patrol differed from Investigations in its responsibilities. The respondent equated the border patrol to police on the beat and investigators to detectives. A Commissioner observed that the Commission was trying to get at the integration of the enforcement mission by clarifying distinctive responsibilities and roles, with everyone striving to reach the same goal, whether it was border management or removals. Another Commissioner noted that in the past ports of entry have not had a high priority—except for the last few years when they've gotten a lot more resources. He said they need to be a part of enforcement, not examinations.

Removals

One of the gaping needs of interior enforcement is the removal of the hundreds of thousands of aliens under final deportation orders. Removal needs to be made a priority, an observation that garnered considerable support. One participant said that it does no good to do enhanced worksite enforcement and apprehensions without carrying the cases through to the removal stage. She said that it is important to get the systems and resources aligned so that those who are picked up in the first place have a very high probability of ultimately being removed. She said that the process is getting better, but the removal capacity is not yet where it should be.

Detention

A Commissioner pointed out that the FBI and other law enforcement agencies do not detain those whom they apprehend. The U.S. Marshals Service has responsibility for pretrial detention and the Bureau of Prisons for postconviction detention. According to one respondent, INS is very uncomfortable with long-term detention that grows out of asylum and the appellate process. INS does not want to be in the long-term detention business because it involves factors that are not within its area of expertise. However, with reform of the asylum system and expedited exclusion, there should be a reduction in long-term detention. Asked why detention couldn't be performed by the Marshals Service or another agency that deals with detention of nonconvicted individuals, a DOJ representative stated that in response to a Congressional request in the DOJ 1997 appropriations bill, a detention planning committee, which includes INS, the U.S. Marshals Service, Bureau of Prisons, U.S. Attorneys, and EOIR, is undertaking a study. Approximately 20 percent of INS resources now are devoted to detention.