



III. Securing America's Borders

Goal: Provide the maximum possible protection along America's borders.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) represents the culmination of 22 months of work by the Department, the Administration, and Congress. The Department was the lead agency and worked with the White House; the Departments of Labor, Energy, Treasury, Health and Human Services, and State; and members and staff of both Houses of Congress. This bill provides INS with 5,000 new Border Patrol agents, increases penalties for alien smuggling and document fraud, establishes an expedited exclusion system sought by the Administration since 1993, makes legal immigrant sponsorship agreements enforceable, and authorizes the Attorney General to enter into partnerships with State and local law enforcement agencies with regard to immigration. Significantly, the bill does not contain harsh cuts in the overall number of legal immigrants who can enter the United States, nor does it bar public education for children without legal immigration status.

In 1996, INS surpassed its target for docket-based removals, reaching 67,094—a 33-percent increase over the year before. The Civil Division gave “teeth” to the U.S. immigration system by sustaining more than 97 percent of the administrative decisions rendered by the INS, the Immigration Courts, and the Board of Immigration Appeals, in response to claims by aliens who seek to enter or remain in the United States or to obtain immigration benefits.

Border Enforcement

Focusing Resources at the Southwest Border

INS continued the Administration's plan of focusing resources on critical areas of the southern border, where the impact of illegal immigration is felt the most. In 1996, approximately 1,000 new Border Patrol agents were deployed to the southwest border. By the end of the year, INS had a total of 5,878 Border Patrol agents on board, with an accompanying 17-percent increase in dedicated border control hours. Further, an additional 73 Border Patrol agent positions were redirected from the interior to the Southwest border region.

During 1996, INS' automated biometric identification system “IDENT,” which enables agents to capture and store fingerprints



In the southwest border area, new initiatives affected the flow and patterns of illegal border crossing. In 1996, the Administration embraced a new initiative to strengthen and link special operations in San Diego and Arizona. Through the use of checkpoints and airport monitoring, smuggler routes were disrupted and smugglers were forced into targeted areas. Agents stationed at San Diego County checkpoints apprehended 43,000 undocumented aliens and seized an estimated \$26 million in marijuana.

and photos of arrested aliens for rapid identification, was expanded to 78 sites in the Southwest, including all nine major INS Southwest Border Patrol sectors and key Ports-of-Entry (POEs). IDENT helped Border Patrol agents and POE inspectors identify 3,700 criminal aliens along the San Diego border. IDENT permits specific identification and analysis of migrant crossing patterns and provides information on individual migrant attempts at illegal entry. This initiative is being used to identify not only individual smugglers but entire smuggling ring structures.

Apprehending and Prosecuting Illegal Aliens

A depressed Mexican economy, along with an increase in INS staff contributed to a 17-percent jump overall in apprehensions along the southwest border. However, in specific southwestern locations targeted for a concentrated infusion of resources, a definitive shift was effected in undocumented alien border crossings and in smuggling traffick. Special operations implemented in the southwest region resulted in a dramatic decline not only in the number of apprehensions in the targeted areas, but often in local community crime rate statistics as well.

In addition, the aggressive stance taken by the U.S. Attorneys during 1995 to secure U.S. borders continued during 1996. In all, the U.S. Attorneys filed 5,754 immigration cases against 6,357 defendants during the year—a 42-percent increase over last year. Ninety-six (96) percent of the 5,781 defendants whose cases were terminated during 1996 were convicted, with 77 percent sentenced to prison. Over half of all immigration cases during 1996 were filed by the five U.S. Attorneys' offices along the southwest border.

For years criminal aliens formally deported by Immigration Judges after the commission of serious felonies repeatedly found their way back into the country only to commit further serious felonies. Although some, when arrested again, were charged with felony re-entry, most were prosecuted as misdemeanor illegal entries because of the large volume of cases along the southwest border. When convicted of the misdemeanor, the criminal alien received no more than 180 days in jail, and often less.

An outgrowth of the Attorney General's prosecution program and an immigration innovation is the Port Court, a joint effort by several agencies within the Department—U.S. Attorneys' offices, the Executive Office for Immigration Review (EOIR), and the INS—to identify illegal and criminal aliens and prevent their entry into the United States through various POEs in southern California. Aliens who at the time of their attempted entry commit crimes such as alien smuggling or drug trafficking are subject to exclusion from the United States. The deferred prosecution program defers criminal prosecution of these aliens and refers them to the Immigration Court for immediate exclusion proceedings. Generally, criminal



aliens subject to Port Court proceedings are returned to Mexico, pending their court appearance. In 1996, Port Courts in San Diego and Miami produced nearly 11,000 removals.

Another innovation is found in sophisticated “lookout” systems that identify international fugitives and criminals. Individual countries seeking to arrest fugitives or locate missing persons send broadcast descriptions over a communications network for processing by USNCB. In 1996, USNCB processed 1,040 new broadcast descriptions, placing lookouts for these wanted persons and foreign criminals into U.S. border lookout and criminal information systems. USNCB keeps its records current to enable immediate detection of identified foreign fugitives and criminals, and works with the Criminal Division to coordinate provisional arrest and extradition requests.

Inspections

INS employed a variety of approaches and continued piloting the use of innovative technologies such as INS’ Passenger Accelerated Service System (INSPASS) and Dedicated Commuter Lanes (DCLs) to reduce inspection time. At the pilot airport locations using INSPASS, wait times were reduced to fewer than 15 seconds for U.S. citizens and to fewer than 30 seconds for nonimmigrant alien travelers. To date over 65,000 enrollments or renewals in INSPASS and more than 183,000 admissions have been made. Nearly 6,000 compliance checks of persons admitted through INSPASS kiosks were done without any significant fraud detected. The INSPASS Program was the recipient of the 1996 Federal Leadership Award.

In 1996, INS led a multi-organizational border inspection initiative at Otay Mesa, California, called Project SENTRI—Secure Electronic Network for Travelers’ Rapid Inspection. A Justice Department Reinvention Laboratory involving the FBI, DEA, Executive Office of U.S. Attorneys (EOUSA), and the U.S. Customs Service (USCS), SENTRI facilitates international travel and promotes business on both sides of the border through a rigid registration process for frequent border crossers, augmented by leading-edge technology at the POE.

With SENTRI, prescreened vehicles crossing the international border travel over a traffic lane dedicated to the exclusive use of project participants. As these vehicles approach the border, an automated system electronically inspects the drivers, passengers, and vehicles to ensure that they are enrolled in the project and have met the stringent requirements for entry into the United States. With low-



risk, frequent crossers identified and inspected by state-of-the-art technology, Government inspectors are able to concentrate their efforts on border crossers who pose greater risk. Before SENTRI, the average waiting time to cross the border at the test site was 45 minutes; travelers registered in the program can now cross within 3 minutes. The success of the SENTRI Lab at Otay Mesa will lead to similar technology for other sites along the border. SENTRI was recognized with the Vice President's Hammer Award.

Employer Sanctions and Document Fraud

In 1996, efforts to deter illegal employment used a strategy of targeting the major violators, e.g., smugglers, fraudulent document vendors and organizations, and employers suspected of knowingly hiring illegal employees. INS completed over 4,000 investigations involving employers suspected of illegal employment practices, and initiated 88 criminal cases against such employers and 383 criminal cases against fraud merchants linked to illegal employment. As a result of INS' employer sanctions activities, more than \$12 million in fines were issued and more than 16,000 illegal workers removed, freeing up the same number of job opportunities. INS is taking a strong leadership role in developing cooperative enforcement ventures with other Federal law enforcement agencies and State labor departments on work-site enforcement. INS has further institutionalized its process for establishing relationships with State, local, and private entities that can refer legal workers to employers.

In addition to targeting violators, INS pursued initiatives to help employers comply with the law. An electronic version of the I-9 form was developed, as was a new, more easily recognizable and secure Employment Authorization Document for FY 1997 issuance. Technical information and assistance was made more readily available through modern technologies, and further testing/development, enhancement, and expansion of INS' status verification services (Verification Information System) was completed. The Employment Verification Program increased participation in the pilot from 200 to over 1,000 employers.

Anti-Smuggling Initiatives



Within the United States, anti-smuggling activities focused operations on the interdiction of illegal aliens being transported along major U.S. highways and transit routes. One such operation, along the mountain passes in the Rocky Mountain area, led to the apprehension of over 1,200 smuggled aliens in a 1-month period. Anti-smuggling case activity overall increased 30 percent from 319 total cases in 1995 to 413 total cases in 1996. A list of the “top ten smuggling organizations” was compiled as a basis for targeted, future operations.

Smuggling of illegal aliens from China is a continuing problem in the United States. In 1996, an undercover operation in Boston successfully intercepted a ship on the high seas carrying 109 Chinese aliens. Federal prosecutors created regional (east coast and west coast) task forces to track and prosecute groups responsible for this trafficking. During 1996, INS provided over 1,020 training sessions on fraudulent document and smuggling deterrence techniques to foreign governments and commercial transportation carriers.

The Alien Smuggling Analysis Team, a new component at EPIC, has a mission to collect and analyze multisource information on worldwide alien smuggling, and to identify involved individuals, their methods of operation, and trends—with special emphasis on the southwest border. During 1996, analysts assigned to this team established liaison with various agencies to augment and improve intelligence collection. They have developed information that will enhance several alien smuggling cases controlled by INS.

Part of the U.S. Attorneys’ border enforcement efforts include the prosecution of those who smuggle illegal aliens into the United States. Prosecutions brought under 18 U.S.C. 1324 increased significantly during 1996, with 1,021 cases filed against 1,538 defendants—an 82-percent increase over cases filed in 1995.

Detention and Removal of Criminal Aliens

INS reports 37,063 criminal alien removals in 1996, with 10,000 aliens removed through the Institutional Hearing Program (IHP) process; large numbers of others were processed and are awaiting removal in the outyears.

The INS-initiated County Jail Program is an offshoot of the IHP program that operates at the State and local levels. At the county level, INS officers instituted specialized operations in selected large county jails (e.g., Los Angeles County) to identify deportable aliens and process them through IHP-type procedures that allow for expedient removal. In the Los



Angeles County Jail alone, INS interviewed more than 8,700 foreign-born inmates, served orders to institute proceedings on approximately 2,000 of them, and accepted release/custody of approximately 3,500 for further action.

Also under the auspices of the Department's Prisoner Exchange Program, BOP worked in 1996 with the Criminal Division and USMS to return 472 foreign inmates to 17 different countries, and 103 American citizens to the United States to finish serving their sentences.

Asylum Policy and Procedure Reform

The Civil Division played an integral role in drafting the IIRIRA provisions that deal with asylum, exclusion, and deportation of aliens. Under the Act, aliens entering the country with falsified or borrowed documents are detained, with asylum granted only if the applicant shows a "credible fear" of persecution. The Act also requires persons seeking political asylum to file an application within 1 year of entering the country, and bars dangerous criminal aliens from receiving asylum. The Act removes the work authorization incentive for filing frivolous asylum applications by prohibiting the grant of a work authorization until 180 days after filing.

In 1996, EOIR received a total of 82,615 asylum cases—50 percent more than in 1995, the 1st year of asylum reform, and a four-fold increase over 1994. Despite the vast increase in workload, Immigration Judges were able to handle expedited cases in a timely manner, meeting the 180-day time frame goal in over 95 percent of cases. Prompt decisionmaking helps to deter the filing of meritless appeals taken solely for purposes of delay.

Improved Hearings Process

During the past fiscal year, coordination between EOIR, INS, and BOP has shown measurable progress in the development of the Enhanced Federal Institutional Hearing Program plan. Designed to greatly reduce the number of cases involving criminal aliens released to INS prior to the completion of Immigration Court proceedings, this plan—to be implemented over a 2–3 year time frame—will not only focus hearings at the "front end" of the process while the criminal aliens are still incarcerated, but will also increase the number of hearings each year. This program will ensure that the 12,000 criminal aliens committed each year to serve Federal sentences will complete the deportation hearing process while still serving their time. Deportation can then occur upon completion of the sentence, which avoids costly post-sentence detention.



During 1996, progress in the IHP continued with the addition of three sites: Eden and Reeves, Texas; and Allenwood, Pennsylvania. Preparations were made for two more sites in Lompoc and Terminal Island, California. At the State level, both Arizona and New Jersey joined the “big five” of California, Texas, Florida, New York, and Illinois in enhancing their State IHPs to more effectively deal with incarcerated aliens. Additionally, video teleconferencing equipment was installed in four EOIR locations and linked to detention/prison facilities to make more efficient use of Immigration Judge time. This equipment allows for the conduct of Immigration Court proceedings over long distances, without judge and support staff traveling to the penal or detention facilities. Initial hearings with video teleconferencing equipment have gone extremely well.

The passage in 1996 of two major pieces of legislation relating to immigration highlighted the important role of EOIR’s Board of Immigration Appeals (Board) in interpreting complex laws and ensuring their uniform application by the nearly 200 Immigration Judges. In 1996, the Board decided a number of important precedents involving criminal aliens, including issues relating to their deportability as well as to their eligibility for relief from deportation. The Board also continued to provide guidance regarding the meaning of U.S. asylum laws. Among many other issues, the Board decided cases involving female genital mutilation and the meaning of the term “social group” for purposes of asylum.

Agency Coordination at the Borders

The USNCB works closely with U.S. border agencies to ensure the identification of international criminals and fugitives presenting themselves for inspection and admission into the United States. USNCB assists INS and U.S. Customs agents responding to INTERPOL lookouts placed by USNCB in their lookout databases. Where identification is confirmed, the subject is arrested, if possible, and/or entry into the United States denied.

To implement investigative agency efforts under the Department’s Southwest Border Initiative (SWBI), which targets the major Mexican trafficking organizations importing tons of cocaine and marijuana into the United States, DEA, in concert with FBI and the U.S. Attorneys’ offices, has developed and implemented an integrated, coordinated plan for law enforcement counterdrug activities along the U.S. southwest border. The plan provides a regional concept for intelligence sharing, cooperative investigations, and coordinated enforcement activities of Federal investigative agencies, southwest border High Intensity Drug Trafficking Area (HIDTA) partnerships, and other State and local task forces.

Further SWBI coordination is supplied by the Southwest Border Council, composed of six U.S. Attorneys and representatives from the Criminal Division, FBI, DEA, USCS, and INS. The council



ensures that all of the agencies are working apace and that each has made the commitment of necessary resources. The SWBI has led to increased interagency cooperation among the FBI, DEA, INS, USCS, U.S. Attorneys, Criminal Division, and other Federal, State, and local law enforcement investigative and prosecutorial agencies. This cooperation has become particularly evident in the sharing and analysis of evidence, the collecting of investigative intelligence and information, and the pooling of investigative expertise.

