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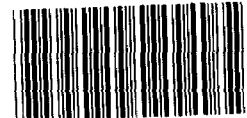
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IMMIGRATION
ENFORCEMENT

Problems in Controlling the
Flow of Illegal Aliens

Statement of
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PROBLEMS IN CONTROLLING THE
FLOW OF ILLEGAL ALIENS

SUMMARY OF STATEMENT OF
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The United States faces complex and difficult immigration issues. INS is confronted with the problem of stopping millions of aliens trying to enter the country illegally. INS believes, and some temporary projects have shown, that detention can be a deterrent to aliens trying to enter the United States illegally. However, the size of the potential detainable population means that from a practical standpoint detention can be only a small part of the solution.

Another approach to preventing illegal entry is INS' preflight inspection program. At a small number of foreign locations, INS prescreens aliens prior to their boarding flights for the United States. Those who do not appear to have sufficient documentation to enter legally are not permitted to board and thus do not enter the United States. Expansion of the preflight inspection seems to merit consideration and evaluation as part of the strategy to prevent illegal aliens from entering the United States.

The administration's plan to combat alien smuggling by organized crime syndicates focuses on interdicting and detaining aliens arriving by boat and on expediting their cases. If the plan is to be effective, our work has shown that problems related to alien detention and removal will have to be addressed. The plan presently does not address these issues.

In addition, INS is confronted with the almost impossible task of trying to locate and remove those aliens it believes should not remain here. INS does not have sufficient resources to locate and detain the millions of aliens who are subject to detention or who have been ordered deported. Consequently, aliens INS apprehends are generally released pending the resolution of their deportation hearing. Our past work indicated that many aliens who were released did not appear for their hearings. Since INS did not have sufficient resources to reaprehend them, they remained here illegally.

Effective resolution of these issues will require Congress and the administration to decide how best to control our borders and remove aliens who are here illegally. Until these issues are more fully resolved, it is unrealistic to expect INS to effectively control the flow of aliens illegally entering or remove those aliens illegally remaining here.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss the enforcement problems confronting the Immigration and Naturalization Service (INS) related to aliens illegally entering or remaining in this country, including the administration's June 1993 plan to combat alien smuggling by organized crime syndicates. We addressed many of these issues in our previous work for this committee--Immigration Control: Deporting and Excluding Aliens From the United States (GAO/GGD-90-18, Oct. 26, 1989) and Immigration Control: Immigration Policies Affect INS Detention Efforts (GAO/GGD-92-85, June 25, 1992).

As long as political unrest and economic hardships persist throughout the world, millions of people will continue to flee to the United States. Hence, the United States will continue to face complex and difficult immigration issues, such as

-- what should be done to prevent aliens from entering illegally,
and

-- what should be done to remove aliens who are here illegally.

These issues are, for the most part, beyond the direct control of INS. INS' task is further compounded by a lack of consensus on the part of both Congress and the American people concerning

immigration policy and its enforcement. Further, INS has limited resources with which to stem the flow of illegal aliens. For example, it cannot detain most of those aliens whom it believes should be denied entry or pursue those aliens who remain here illegally.

BACKGROUND

INS faces three very large jobs in relation to illegal immigration. First, from the millions of travellers who enter this country each year at ports of entry, it must identify those who should be excluded from entry. Second, it must stop the millions of aliens seeking to enter the United States between the ports of entry. Third, it tries to locate the illegal aliens living within our borders and take steps to start the deportation process. All of these aliens are subject to INS detention pending resolution of their cases.

Once here, aliens can request relief from deportation, such as by applying for asylum. Further, aliens can appeal adverse decisions regarding their expulsion or deportation from the country. While their appeals are being considered, they remain in the country. INS can detain the aliens while their cases are being heard, but INS usually releases them because it has limited detention capability.

To provide perspective on the size of the flow of illegal aliens, in fiscal year 1992, INS

- inspected about 495 million people, including their documents, who sought to enter at ports, of whom about 810,000 were denied entry at land ports of entry and about 94,000 at air and sea ports of entry;
- apprehended about 1.2 million aliens who tried to enter illegally between ports of entry, of whom 70,000 were being smuggled into the country; INS estimates that for every alien apprehended about 2 aliens successfully enter;
- deported about 37,400 aliens; and
- detained about 10,800 excludable aliens¹ for an average of 45 days.

Since August 1991, U.S. authorities identified 14 smuggling incidents by boat that involved the direct release of hundreds of aliens into the country. Organized crime syndicates were identified as responsible for these incidents.

¹Excludable aliens are those persons to whom INS denies admission to the country.

To provide perspective on the illegal alien population that INS is responsible for locating,

- the Bureau of Census estimated that about 3.3 million aliens were in the country illegally in 1990;
- INS estimated that about 318,000 aliens overstayed their visas in fiscal year 1991 (the most current data available);
- Justice had about 48,000 excludable or deportable aliens' cases or appeals pending in fiscal year 1992; and
- INS detained about 82,300 deportable aliens for an average of 26 days in fiscal year 1992.

In response to increased responsibilities and demands on INS, its budget has grown. Between 1975 and 1992, INS' appropriations more than tripled to over a billion dollars and the number of staff about doubled. In addition to its appropriations, INS is authorized to collect and use fees from inspections at airports and seaports. INS can use these fees to pay for the detention and deportation costs for excludable aliens arriving at seaports and airports. For fiscal year 1992 INS used inspection fees of \$30.4 million to detain and deport excludable aliens.

ADMINISTRATION'S PLAN TO COMBAT ALIEN SMUGGLING

On June 18, 1993, President Clinton announced a plan to combat alien smuggling by organized crime syndicates. The plan involves numerous federal agencies, including INS. The four components include the following actions:

- To strengthen law enforcement efforts, Justice will review prosecution strategies to combat smuggling and will support legislation to increase penalties for alien smuggling.
- To combat smuggling at its source, federal agencies will work with foreign nations to suppress alien smuggling and will collect intelligence information about smuggling activities.
- To interdict and redirect smuggling ships in transit, the Coast Guard will board suspected ships involved in smuggling aliens and, if practical, will escort the aliens to the nation of the ship's registry or the nearest non-U.S. port.
- To expedite the processing of exclusion procedures, INS will detain most smuggled aliens until their cases are resolved, and Justice will propose legislation to expedite adjudication of their cases.

PROBLEMS IN CONTROLLING THE FLOW OF ALIENS

Immigration policy and international relations affect INS' ability to prevent the arrival or entry of illegal aliens. The key to controlling the illegal entry of aliens is to prevent their initial arrival. Once they arrive, their removal is very difficult due to the combination of

- the aliens' use of the relief provisions of the Immigration and Nationality Act, such as applying for asylum, to avoid or delay their deportation;
- INS' limited detention space, which has led it to release most aliens, even though they may not appear for their deportation or exclusion hearings; and
- the limited consequences to the aliens for their failure to appear at their deportation hearings.

What Issues Warrant Attention To Prevent Illegal Entry?

INS is confronted with the problem of trying to stop hundreds of thousands of aliens who attempt to enter the country illegally. Immigration policy is affected by the following issues, which are related to the prevention of illegal entry:

- foreign policy objectives of maintaining friendly relations with neighboring countries;
- the economic disparities between the United States and other nations, which attract illegal immigrants;
- conflicts between trade facilitation objectives calling for efficient flow of goods across the border and immigration control needs calling for better documentation and closer scrutiny of cross-border human traffic;
- the reliance of U.S. employers on inexpensive labor, legal and illegal, from other countries, mainly from south of the United States; and
- the reliance of the other countries' economies on money earned in the United States and returned and spent in those countries.

Other issues include (1) the feasibility and effectiveness of different approaches to improved border control; (2) humanitarian concerns, such as equitable treatment of aliens of different nationalities and divided families; and (3) cost considerations and trade-offs, such as choosing between expenditures for detaining aliens or preventing their illegal entry.

Preflight inspection program--One approach to preventing illegal alien entry is the preflight inspection program. Under the program, INS inspects passengers and their documents at foreign airports and identifies those who are not admissible to this country (excludable). INS does not permit these passengers to board airplanes bound for this country. This measure could reduce the number of potentially excludable aliens entering the country at U.S. airports and thus reduce the number of illegal aliens who are subject to detention. Some INS officials believe that INS should concentrate more on preventing unauthorized aliens from arriving in the United States.

The preflight program is currently in place at airports in Ireland, the Bahamas, Aruba, Canada, and Bermuda. An INS New York district report, dated May 23, 1991, estimated that by expanding the preflight inspection program to Amsterdam, Brussels, Frankfurt, London, Paris, and Rome, INS would eliminate almost one-half of the inspections of foreign arrivals and approximately 25 percent of exclusion cases at John F. Kennedy International Airport.

INS needs to address a number of issues if the program is to reduce the number of aliens who enter the country at our international airports. INS has to determine how many and which foreign airports should have the program and at those airports ensure that all airlines participate. The program would have to be operated in airports in a large geographic area so that aliens could not easily

select a non-preinspection airport. Also, INS has to consider the cost to staff the program at foreign airports and to obtain the cooperation of the foreign governments.

What Should Be Done To Remove Aliens Illegally Here?

In removing illegal aliens from the country, INS is confronted with the almost impossible task of trying to locate and remove those aliens it believes should not remain here. INS does not have sufficient resources to detain the millions of aliens who are subject to detention or who have been ordered deported.

Consequently, aliens INS apprehends are generally released pending the resolution of their deportation hearing.² Our past work indicated that some aliens who were released did not appear for their hearings. INS did not have sufficient resources to reaprehend them.

In our October 1989 report on deporting and excluding aliens from the country,³ we pointed out problems INS had in deporting aliens. For example, 27 percent of the aliens in our sample⁴ had not appeared for their scheduled deportation hearings, which

²Mexican aliens whom INS apprehends can be returned immediately to Mexico if they agree.

³Immigration Control: Deporting and Excluding Aliens From the United States (GAO/GGD-90-18, Oct. 26, 1989).

⁴We analyzed random samples of deportation cases for 1987 in INS' New York and Los Angeles District offices.

effectively stopped resolution of their deportation cases. While their nonappearance may have been attributable to not being notified by INS of the time and place of their hearings, it may also have been due to the general lack of repercussions for failing to appear. In fact, our work has shown the deportation component of the immigration policy had not resulted in the removal of significant numbers of aliens. If it is to be an effective component, it must be improved. But deciding how far to go in terms of strengthening the deportation process is inextricably related to the issue of how Congress wants the immigration laws to be enforced.

As a result of our report, the Immigration Act of 1990 provides that aliens who have been notified of the deportation hearing and still fail to appear are to be ordered deported in absentia. While this does provide a consequence to the alien for nonappearance, INS still has to locate the alien. Further, should INS locate the alien, it has to use its limited detention space until the alien can be deported. INS, also, has to obtain airline tickets and authority from the alien's country to return the alien.

In our June 1992 report on INS detention efforts,⁵ we pointed out that INS is faced with a complex problem of coping with the hundreds of thousands of aliens it apprehends. INS believes that

⁵Immigration Control: Immigration Policies Affect INS Detention Efforts (GAO/GGD-92-85, June 25, 1992).

detention is a deterrent to the flow of aliens illegally entering the country. It reported some success in temporarily reducing the flow of illegal entry in three specific situations. For example, to meet a dramatic increase in Central Americans illegally entering the United States in 1989, INS detailed staff to South Texas, opened temporary detention camps, and instituted a 1-day expedited review of asylum applications. According to the former INS Commissioner, these actions reduced the average daily apprehensions of non-Mexicans along the Texas border from 147 to 72. However, INS does not have the resources (e.g., staff and detention capability) to maintain such efforts for extended periods or to detain all of the aliens whom it believes that it should.

According to INS estimates, between 1988 and 1990 about 489,000 aliens were subject to detention for such reasons as awaiting deportation or being criminals. INS' planned expansion from 6,259 to 8,600 beds by 1996 will not significantly alleviate the shortage of detention space. Detaining all such aliens in current available facilities is impractical and cost-prohibitive.

Given the average 23 days of detention per alien in 1990, INS can detain about 99,000 aliens a year at its current facilities. INS has released criminal aliens and not pursued illegal aliens because it did not have the detention space to hold them. The recent surge of aliens trying to enter the country exacerbates an already

difficult situation--what to do with the increasing number of aliens INS apprehends.

CONGRESS AND THE ADMINISTRATION NEED TO ADDRESS IMMIGRATION POLICY ISSUES

INS believes that detention is a deterrent to the flow of illegal aliens entering the country. It reported some success in temporarily reducing the flow of illegal entry in three specific situations, as the Texas example shows. However, the resources needed for such detention projects cannot be sustained nationwide or for extended periods of time because of budget constraints. Further, INS' planned expansion of its detention capacity is small in relation to the number of illegal aliens who are subject to detention.

The administration's plan to combat alien smuggling by organized crime syndicates focuses on interdicting and detaining aliens arriving by boat and on expediting their cases. If the plan is to be effective, our work has shown that problems related to alien detention and removal will have to be addressed. The plan presently does not address these issues.

We support the administration's efforts to interdict illegal aliens before they can arrive here. Our work has shown, however, that after their arrival INS has limited space to detain them and has difficulty in removing them. Further, unlike the situation with Mexicans, INS would not be able to simply return these aliens to

their country of citizenship. INS needs tickets and authorization from the receiving country.

While focusing on stopping alien smuggling on board ship, the plan does not address other areas of alien smuggling, such as along the southwest border. Therefore, the plan does not provide a comprehensive strategy for dealing with alien smuggling. The administration's plan calls for detaining most of the aliens who enter in conjunction with criminal smuggling activities and expediting their cases. In order for INS to detain these aliens, even for a relatively short time period, it will have to release other aliens or obtain additional detention resources.

Another approach to preventing illegal alien entry, including those being smuggled, is the preflight inspection program. An expanded preflight inspection program may hold promise to reduce illegal entry at our airports. The preflight inspection program is presently in place at relatively few international airports; consequently, there are numerous routes open to aliens to come to this country without preinspection. In our opinion, expansion of this program deserves serious consideration and evaluation. However, while the program could reduce the number of illegal aliens trying to enter the country at U.S. airports, INS still would be faced with an overwhelming number of aliens trying to enter the country elsewhere.

We cannot forget that efforts to tighten the nation's borders and to expedite the expulsion of illegal aliens must take into account the plight of refugees escaping intolerable conditions and their rights to constitutionally based protections. The efforts also must deal with such complex and sensitive issues as potential strains in our relationships with other nations, humanitarian concerns relating to equitable treatment of aliens, and difficult budgetary trade-offs.

Effective resolution of these issues will require Congress and the administration to decide how best to control our borders and remove aliens who are here illegally here. Until these issues are more fully resolved, it is unrealistic to expect INS to effectively control the flow of aliens illegally entering and remove those aliens illegally remaining here.

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This concludes my prepared statement. I would be pleased to answer any questions the Subcommittee may have.

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