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REPORT TO THE CONGRESS

More Needs To Be Done To Reduce The Number And Adverse Impact Of Illegal Aliens In The United States

B-725051

Immigration and Naturalization Service
Department of Justice

*BY THE COMPTROLLER GENERAL
OF THE UNITED STATES*

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JULY 31, 1973



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON DC 20548

B-125051

C To the President of the Senate and the
Speaker of the House of Representatives

We have reviewed efforts of the Immigration and Naturalization Service, Department of Justice, to reduce the number and adverse impact of illegal aliens in the United States

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Our review was made pursuant to requests from Congressman William J Randall, Chairman, Legal and Monetary Affairs 11513
Subcommittee, House Committee on Government Operations, and
Congressman John W Wydler

We are sending copies of this report to (1) the Director, Office of Management and Budget, (2) the Attorney General, and (3) the Secretaries of the Treasury, Health, Education, and Welfare, and Labor

Comptroller General
of the United States

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ABBREVIATIONS

GAO	General Accounting Office
HEW	Department of Health, Education, and Welfare
HRD	California Department of Human Resources and Devel- opment
INS	Immigration and Naturalization Service
IRS	Internal Revenue Service

D I G E S T

WHY THE REVIEW WAS MADE

2 At the request of the Chairman, Special Studies Subcommittee (presently Chairman, Legal and Monetary Affairs Subcommittee), House Committee on Government Operations, and Congressman John W. Wydler, GAO examined the problems of the Immigration and Naturalization Service (INS) in preventing entry of, locating, apprehending, and expelling illegal aliens--those deportable under the Immigration and Nationality Act

This report deals with the illegal alien problem, its impact on INS enforcement operations, and the coordination of INS activities with those of other Government agencies to help relieve some of the burdens caused by illegal aliens

FINDINGS AND CONCLUSIONS

INS does not have the problem under control. The increasing number of illegal aliens entering the country has reached severe proportions and far exceeds INS's ability to cope with the problem

The number of illegal aliens located by INS has increased from about

200,000 in fiscal year 1968 to over 500,000 in fiscal year 1972 (See p 5) This large number and the consequent strain on its resources have caused INS to establish operating practices which have diluted the deterrent effect of its enforcement efforts

These practices include granting most illegal aliens voluntary departure in lieu of deporting or prosecuting them and discontinuing many special searches which had successfully located many of them

Illegal aliens have a strong incentive to enter the United States in search of employment. Although INS apprehends many, a large portion--at least 31 percent of the 369,495 apprehended by the Border Patrol in 1972--are repeaters. Some aliens enter illegally as many as 10 times (See p 10)

Many employers continue to hire illegal aliens even after (1) repeated INS visits, which result in numerous apprehensions, and (2) other INS efforts to dissuade these employers from hiring such aliens (See p 12)

INS has little difficulty apprehending illegal aliens, however, INS could apprehend more illegal

aliens if it had more detention funds and space, investigators, border patrolmen, transportation funds, and time (See p 14)

The New York and Los Angeles INS district offices had a backlog of about 38,000 cases in which INS had not verified the departure of apprehended illegal aliens who had been allowed to depart on their own recognizance GAO's analysis of 200 cases showed INS had not attempted to locate many of these aliens for several months (See p 17)

In fiscal years 1971 and 1972 INS located about 900,000 illegal aliens During that period, 23,347, or less than 3 percent, were prosecuted and 33,905, or about 4 percent, were deported (See p 18)

A large percentage of commercial smugglers of aliens are being prosecuted However, penalties levied on these smugglers are light considering the monetary gains from smuggling aliens into the United States (See p 23)

Inadequate enforcement of immigration laws contributes to the rise in illegal entries An effective enforcement program hinges on (1) eliminating the economic incentives attracting illegal aliens and (2) increasing the resources for apprehending and processing illegal aliens (See p 29)

INS does not have the capacity to locate and expel all illegal aliens in the country and should emphasize those operations that minimize

their adverse impact on the economy Other Government agencies must cooperate to achieve this goal

Cooperation between INS and the Internal Revenue Service, local welfare agencies, and State employment agencies has been unsystematic, or sporadic, and has had little effect Most Government agencies either do not feel obligated to cooperate with INS or question the benefits of such cooperation

Three areas where improved cooperation among Government agencies is needed concern illegal aliens who

--do not pay Federal income taxes on income earned in the United States,

--are on welfare, and

--hold jobs that could be filled by citizens or lawful resident aliens

Recent Social Security Act amendments (1) provide that information on welfare applicants or recipients may be disclosed to law enforcement officials and (2) restrict eligibility under welfare programs to citizens or aliens residing lawfully in the United States

On August 3, 1972, a bill was introduced in the House of Representatives which included a provision to restrain employers from hiring illegal aliens by making it unlawful to knowingly employ such an alien

The Congress adjourned before taking final action on this bill. The bill was reintroduced in January 1973 as House bill 982, and the House passed it in May 1973.

This legislation, if enacted and enforced, would remove a major economic incentive which attracts illegal aliens.

RECOMMENDATIONS

GAO recommends that

--The Attorney General and the Secretary of the Treasury agree on the goals and duties of each agency in their efforts to collect taxes from departing aliens and revise their operating instructions to include (1) criteria under which INS will refer aliens to the Internal Revenue Service for tax determinations, (2) a system for making such referrals, and (3) followup procedures to monitor and measure the system's effectiveness. (See p 39)

--The Attorney General and the Secretary of Health, Education, and Welfare develop guidelines for Federal and local welfare agencies to provide information to INS for identifying illegal aliens applying for or receiving welfare assistance. (See p 45)

AGENCY ACTIONS AND UNRESOLVED ISSUES

The Department of Justice said INS had done an effective job operating in the midst of the constraints on its resources. The Department, however, agreed with GAO's conclusions that

--there is little difficulty in locating illegal aliens,

--the number of illegal aliens located is constrained by the available resources,

--inadequate enforcement is contributing to the rise in illegal entries into the United States, and

--an improved and more systematic information exchange between INS and various Government agencies would be beneficial.

The Department also agreed with GAO recommendations and said that an improved more systematic exchange of information between INS and the various agencies would be beneficial. (See app II)

The Internal Revenue Service agreed with GAO's recommendations. Discussions between INS and the Internal Revenue Service have been reopened and a revised program for collecting taxes from departing illegal aliens is being considered.

The Internal Revenue Service is confident that implementation of a revised program incorporating GAO suggestions will increase tax collections and remove some of the incentive for aliens to enter illegally. (See app III)

The Department of Health, Education, and Welfare (see app V) agreed on the need for welfare agencies to provide information to INS on illegal aliens applying for or receiving welfare payments. The Department said policies and procedures are presently contemplated that would accomplish the intent of the GAO recommendation.

The Department of Labor referred to the lack of a Federal law to prohibit employers from hiring illegal aliens. It said that, since

jobs lure aliens and employers hire them because they will accept wages below prevailing rates and perform menial and low status jobs, the Employment Service can do little in a cooperative arrangement. Labor also said curtailment of its resources prohibited it from even contemplating cooperation. (See app IV)

MATTERS FOR CONSIDERATION BY
THE CONGRESS

GAO recommends that the Senate give favorable consideration to aspects of House bill 982 which make it unlawful to hire illegal aliens.

CHAPTER 1

INTRODUCTION

Pursuant to requests from Chairman William J. Randall,¹ Special Studies Subcommittee, House Committee on Government Operations, and Congressman John W. Wydler, we examined problems of the Immigration and Naturalization Service (INS) of the Department of Justice in preventing entry of, locating, apprehending, and expelling illegal aliens.

INS administers and enforces the immigration and nationality laws relating to admitting, excluding, and deporting aliens and to naturalizing lawful resident aliens. INS activities include (1) inspecting aliens entering the country, (2) naturalizing aliens, (3) patrolling borders, (4) investigating aliens' status, and (5) detaining and deporting illegal aliens.

The Immigration and Nationality Act (8 U.S.C. 1101) contains the statutory provisions for entry and stay of aliens. Aliens are categorized by three broad groups--immigrants who seek permanent residence, nonimmigrants who enter for temporary periods for such purposes as business, pleasure, schooling, or work, and aliens who enter illegally, such as those who sneak in, use fraudulent visas or documents, or make false claims to citizenship.

Illegal aliens deportable under the act include those who entered illegally and those who subsequently violated the conditions of their entry. Immigrants become deportable by certain actions or convictions as defined in the law. Nonimmigrants become illegal aliens by overstaying their permitted time or taking unauthorized jobs.

INS estimates that a million illegal aliens are in the country. The number of illegal aliens located by INS has increased from about 200,000 in fiscal year 1968 to about 500,000 in fiscal year 1972. Not all located illegal aliens depart immediately. Some have their status changed to legal immigrant. Others are allowed to depart on their own.

¹In the 93d Congress Mr. Randall became Chairman of the Committee's Legal and Monetary Affairs Subcommittee.

recognizance but do not depart when required The chart on page 7 shows INS statistics on illegal aliens located and departures verified for fiscal years 1968-72

LOCATING AND APPREHENDING ILLEGAL ALIENS

INS enforcement objectives are to (1) prevent the illegal entry of aliens, (2) locate illegal aliens, and (3) initiate proceedings for expelling them as rapidly as possible

The Border Patrol, the Investigations Division, and the Detention and Deportation Division are the principal INS units involved with illegal aliens

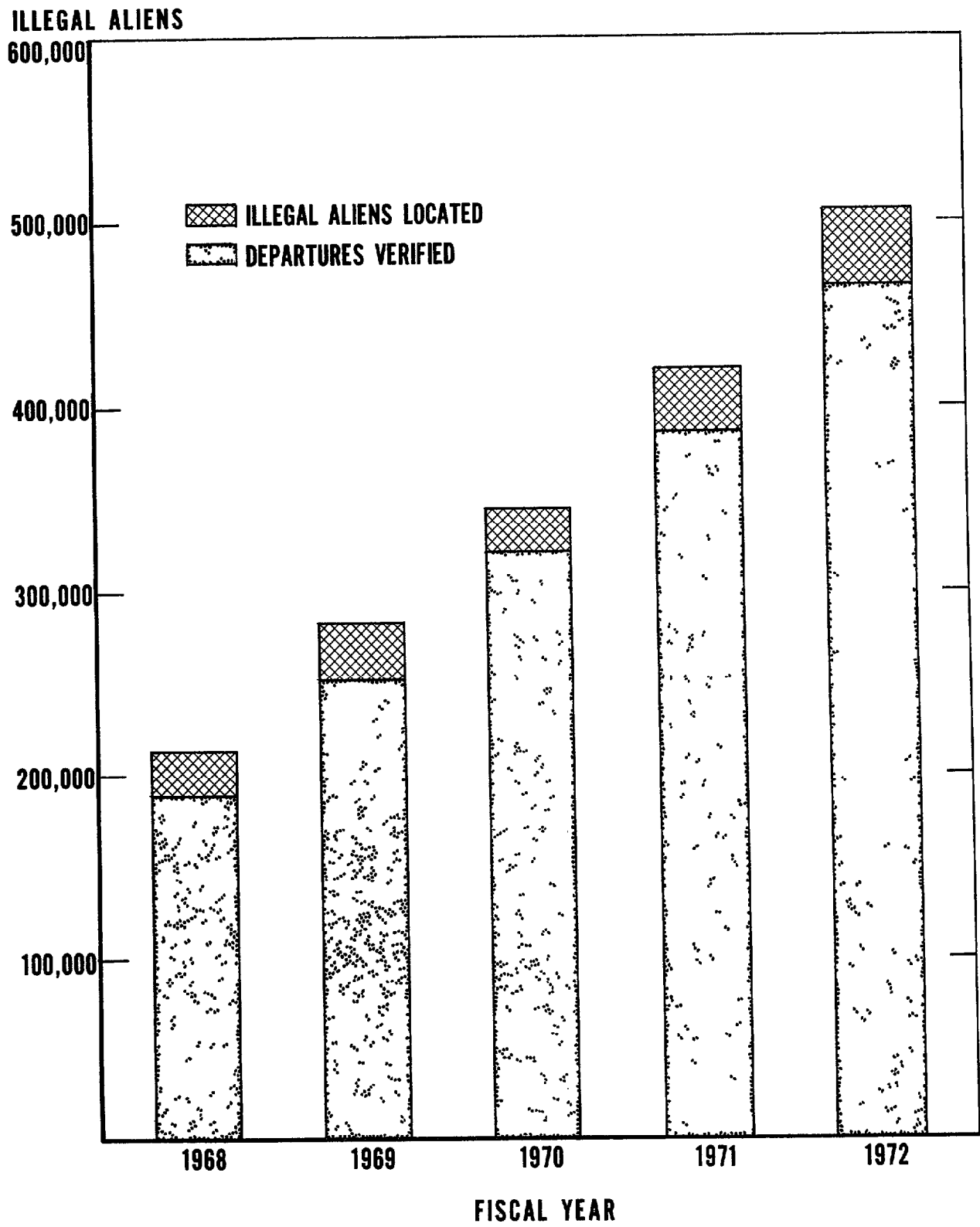
The Border Patrol is to prevent illegal entry of aliens and to apprehend those who succeed in entering illegally The Patrol operates in 22 geographical sectors mainly within 100 miles of the borders According to INS, most illegal entries are made across the Mexican border, therefore more border patrolmen are stationed in that area than in any other During fiscal year 1972, the Patrol apprehended 369,495 illegal aliens

The Investigation Division is to locate and apprehend illegal aliens in the interior of the United States and secure evidence to enforce their departure This Division apprehended 112,880 illegal aliens in fiscal year 1972

The Detention and Deportation Division is to detain, deport, and parole aliens During fiscal year 1972, 467,193 illegal aliens were expelled from the United States

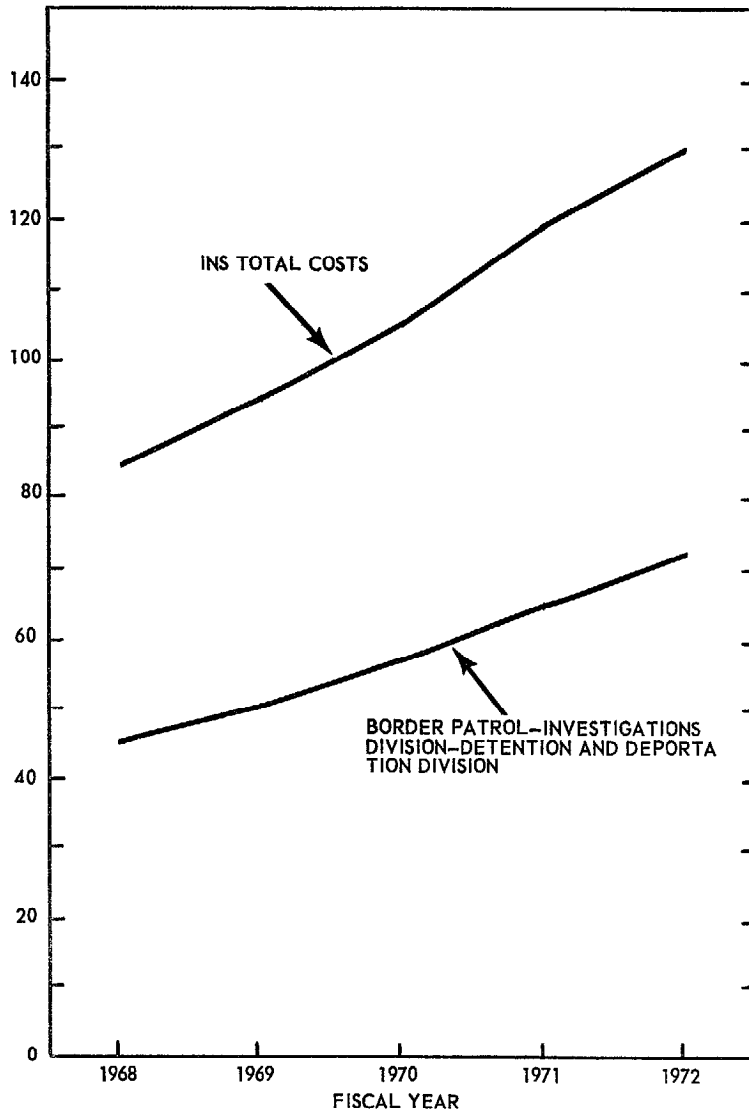
The cost and staffing of the Patrol and the Investigations and Detention and Deportation Divisions have increased steadily, as shown in the chart on page 8, and represent a major portion of total INS resources

ILLEGAL ALIENS LOCATED AND DEPARTED

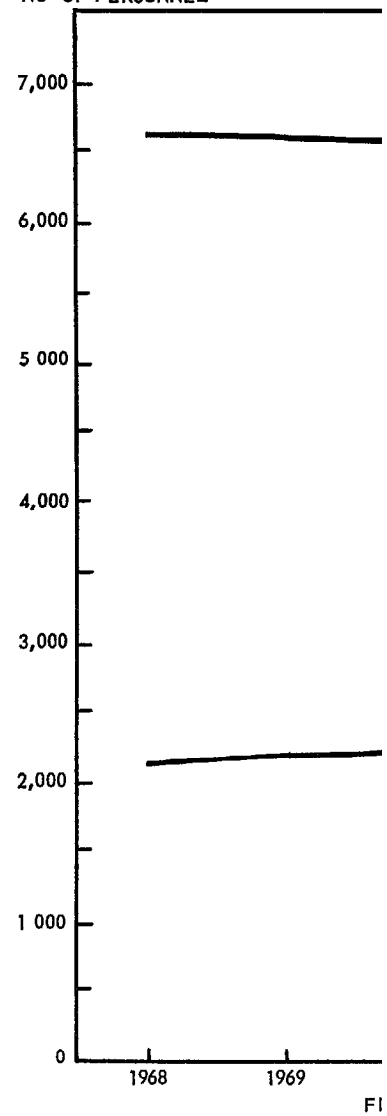


IMMIGRATION AND NATURALIZATION SERVICE COST AND MANPOWER

COST IN MILLIONS



NO OF PERSONNEL



FI

CHAPTER 2

THE ILLEGAL ALIEN PROBLEM

INS does not have this problem under control. The large number of illegal aliens located by INS and the consequent strain on its resources have caused INS to establish operating practices which have diluted the deterrent effect of its enforcement efforts. These practices include (1) granting most illegal aliens voluntary departure in lieu of deporting or prosecuting them and (2) discontinuing many special search and area control operations which had successfully located large numbers of illegal aliens.

MAGNITUDE OF THE PROBLEM

INS reports show that, of the 505,949 illegal aliens apprehended in fiscal year 1972, 95 percent entered by one of the following methods:

- 398,290 sneaked into the country (79 percent),
- 64,547 entered as visitors (13 percent), and
- 19,257 entered as ship crewmen (3 percent)

Of the 398,290 who sneaked in, 391,887 were Mexicans and 3,662 were Canadians, the majority of whom claimed they crossed over the land borders of 6,000 miles.

Of the 64,547 who entered as visitors, 53,052 were either Mexican, Canadian, or other Western Hemisphere nationals. The crewmen were mainly Greeks, Scandinavians, and Chinese and other Asians.

INS enforcement officers had the following comments on the magnitude of the illegal alien problem and INS' ineffectiveness in controlling it:

- Locating and apprehending illegal aliens in the New York area is no problem. The number apprehended is directly related to the number that can be processed and detained (New York district office).

- Illegal aliens can be located and apprehended at will, however, because of lack of detention and travel funds, area control searches are conducted infrequently (Boston district office)
- The existing investigative force of seven is a thin line of defense and, as a result, the district cannot provide effective enforcement (Kansas City district office)
- With more investigators, the district could apprehend considerably more aliens (Miami district office)
- Investigation Division searches in the States along the Mexican border are generally ineffective (southwest regional office)

INS district offices in Los Angeles and New York received about 33,000 complaints or leads concerning illegal aliens in fiscal year 1972 and, at the time of our review, had a backlog of about 77,000 uninvestigated complaints or leads. INS told us that those complaints and leads, which indicate a high apprehension potential, are investigated as available manpower permits.

Repeaters

Many of the illegal aliens apprehended by INS have previously been apprehended and expelled--some as many as 10 times.

The incentive to reenter appears stronger than the available deterrents to inhibit reentry. Border Patrol statistics show that about 31 percent of the illegal aliens apprehended in fiscal year 1972 were repeaters.

These statistics show that the repeater rate is higher in those Patrol sectors where the illegal aliens apprehended were predominantly Mexicans. In the Swanton, Vermont, sector, where almost no Mexicans were apprehended, the repeater rate was only 5 percent.

	Illegal aliens apprehended by Border Patrol in fiscal year 1972			
	<u>Total</u>	<u>Percent Mexican</u>	<u>Number of repeaters</u>	<u>Percent repeaters</u>
Nationwide	<u>369,495</u>	<u>96</u>	<u>115,758</u>	<u>31</u>
Selected Border Pa- trol sectors				
Chula Vista, California	73,115	98	16,611	23
El Centro, California	15,327	99	4,531	30
Swanton, Vermont	3,491	(a)	188	5
Miami, Florida	<u>5,656</u>	<u>65</u>	<u>1,619</u>	<u>29</u>
Total	<u>97,589</u>	<u>93</u>	<u>22,949</u>	<u>24</u>

^aLess than 1 percent.

An INS analysis showed that, of 3,161 Mexican aliens who claimed they sneaked in, 797 were repeaters, of which 108 had been apprehended more than 3 times. A Labor study showed that, of 75 illegal Mexican aliens interviewed, 33 percent were repeaters. Almost 44 percent said they would try again to reenter.

Most illegal aliens enter to work

In recent years the Congress and a number of State and local governments have focused considerable attention on the problem created by the influx of illegal aliens. They have, to varying degrees, pointed out the serious economic and social problems created by illegal aliens and have indicated that the problem is economically based--the alien wants employment and the employer wants cheap labor.

Our review confirms that the incentive to enter illegally or to violate nonimmigrant status is principally based on the search for jobs. The illegal aliens come from countries which do not enjoy the same prosperity as the United States.

INS reports show that, during fiscal year 1972, 440,805, or 87 percent of the illegal aliens apprehended, were either employed or seeking employment. Of the 192,591, or 43 percent,

who were employed, 89,680 were employed in agriculture and 102,911 were employed in industry or other businesses. Almost all the agricultural workers were Mexican.

Concerning the illegal Mexican aliens, a 1970 Labor study stated

"The illegals are desperately poor, often trying to support their distant families by * * * understandably seeking an escape from unemployment or very low wages in Mexico. (More than half of those * * * made less than eight dollars a week when working in Mexico.)"

BUSINESSES REPEATEDLY HIRE ILLEGAL ALIENS

Many employers continue to hire illegal aliens even after INS visits their businesses and takes other steps to discourage them from employing illegal aliens. Records at three of the five district offices showed that INS often visits the same business several times and apprehends illegal aliens each time. One district office did not document repeat visits, and another had made repeat visits to only four businesses.

The Los Angeles and Kansas City district offices had sent letters to employers asking them not to hire illegal aliens. Subsequent INS visits to these businesses showed that the letters did little or no good. Los Angeles district officials said their correspondence with employers had little effect because these employers knew they would not be penalized.

Los Angeles district office records show that, for about 5 years beginning in 1967, 769 businesses had been searched for illegal aliens. Of those businesses, 215 had been searched more than once, as shown below.

<u>Number of businesses</u>	<u>Number of times searched</u>
186	2 to 4
25	5 to 7
3	8 to 9
<u>1</u>	14
<u>215</u>	

Illegal aliens were found in all but three of the visits. A total of 6,431 aliens were found, or about 30 illegal aliens at each business. The business searched 14 times was visited 12 times during a 3-month period in 1968, and 91 illegal aliens were apprehended. The following examples show that repeated searches by the Los Angeles district office have had little effect on the employment of illegal aliens

- A company employing 20 to 25 persons to load and unload meat trucks was visited by INS 5 times during a 7-month period in 1971. These visits resulted in the apprehension of 49 illegal aliens--15 on March 30, 5 on May 25, 12 on August 31, 2 on October 27, and 15 on November 1
- A company employing 120 to 150 person in making steel products was visited by INS 7 times from September 1967 to January 1972. These visits resulted in the apprehension of 160 illegal aliens--58 on September 14, 1967, 6 on December 13, 1967, 5 on March 8, 1968, 37 on July 14, 1971, 14 on August 20, 1971, 20 on September 22, 1971, and 20 on January 26, 1972
- INS visited a ceramics company employing 350 persons 7 times between February 1968 and August 1972. These visits resulted in the apprehension of 133 illegal aliens--8 on February 20, 1968, 74 on October 6, 1971, 13 on July 26, 1972; 5 on August 2, 1972, 10 on August 4, 1972, 10 on August 8, 1972, and 13 on August 30, 1972. The company has not allowed INS to enter its plant to establish whether any illegal aliens were there. Apprehensions have been limited to the area immediately outside the company's property. For example, the 74 apprehensions on October 6, 1971,

resulted from a check of 150 workers at a nearby parking lot

Records at the INS New York district office show that, of about 1,700 businesses visited, about 180 had been visited more than once. Records for 17 of the businesses visited more than once showed that INS had made 49 visits and located 291 illegal aliens. Most of the businesses had been visited less than three times. Examples of repeat visits by INS follow.

--On October 20, 1970, INS apprehended three illegal aliens at a poultry-processing plant. During visits on September 8, 1971, and January 25, 1972, 35 more were apprehended.

--On April 1, 1971, INS apprehended three illegal aliens at a knitting mill. During a visit on November 18, 1971, nine more were apprehended.

LOCATING ILLEGAL ALIENS

INS can readily locate and apprehend illegal aliens, however, INS could apprehend more illegal aliens if it had more detention funds and space, investigators, border patrolmen, transportation funds, and time.

Searches successful when used

The results of special searches demonstrate the ease with which INS can locate and apprehend illegal aliens. These searches bring together INS enforcement officers to make a broad sweep of a selected area to apprehend the large number of illegal aliens which has built up and which may not otherwise be located.

In the Los Angeles district, INS conducted special searches in fiscal years 1969 and 1970. In a 6-week search in 1970, 10,031 illegal aliens were apprehended, or about 5 illegal aliens per officer-day. This average suggests a large illegal alien population because the total number of apprehensions in the Los Angeles district is apparently limited only by the number of officer-days INS is willing or able to expend on these searches.

Southwest regional office officials have indicated that the illegal alien situation had reached such proportions in Los Angeles that it was beyond their control with existing personnel. In fiscal year 1972 special searches were requested for smaller industrial areas, such as Dallas, Denver, and Albuquerque, but not for Los Angeles. A regional official in a memorandum dated March 31, 1972, said the Los Angeles metropolitan area had, as a conservative estimate, a potential illegal alien population of more than 24,000 and no less than 9,000 cases awaiting investigation for which a special detail of at least 100 officers for an extended period would be necessary. Special searches were eliminated in the southwest region in fiscal year 1973 because of a lack of funds.

The results of a special search by the Border Patrol in Livermore, California, show a large illegal alien population. In this search from July 12 through August 8, 1971, 4,988 illegal aliens were apprehended with no appreciable decline in the number of illegal aliens apprehended weekly.

During 8 special searches in fiscal year 1972 in the Miami patrol sector, 2,390 illegal aliens were apprehended. The searches involved from 2 to 14 officers and lasted from 3 to 30 days. In 1 search, which lasted 30 days and involved 14 officers, 886 illegal aliens, mostly Mexicans and British West Indians, were apprehended.

The Kansas City district office made 4 special searches in 1971 and 1972 which resulted in the apprehension of 337 illegal aliens. One of these searches lasted 10 days during which 7 officers apprehended 176 illegal aliens in western Kansas.

The following examples show the ease with which illegal aliens are located during routine searches:

- The New York district office initiated a subway pickup program in June 1972. Investigators questioned people as they emerged from subway stations in areas where aliens were known to live or work. Between June and August 1972, 7 pickups, involving an average of 16 investigators, resulted in the apprehension of 251 illegal aliens. The two operations we observed lasted about 2 hours each and resulted in a total of 70 apprehensions.

-We observed a Border Patrol search in a small town south of Miami. In 2 hours, 15 illegal aliens were apprehended. A Miami border patrolman told us that he could locate an illegal alien in 30 minutes in Miami. He then proved it by locating three in 20 minutes.

BACKLOG OF UNVERIFIED DEPARTURES OF
ILLEGAL ALIENS

Two of the five INS district offices we visited had mounting backlogs of unverified departures by illegal aliens allowed to depart on their own recognizance. The New York and Los Angeles offices had 38,030 such cases, of which 6,601 had been referred to investigators. On many of the 38,030 cases, INS had taken no action to locate the aliens for several months. We reviewed a random sample of 200 cases which showed:

<u>Departures not verified</u>						
	<u>Cases not referred to investigators</u>	<u>Sample</u>	<u>Average days since required departure</u>	<u>Cases referred to investigators</u>	<u>Sample</u>	<u>Average days since last attempt to locate</u>
New York	23,527	50	821	1,721	50	391
Los Angeles	7,902	50	401	4,880	50	733
	<u>31,429</u>	<u>100</u>		<u>6,601</u>	<u>100</u>	

INS reports show that for 1970, 1971, and 1972 about 50,000 departures were verified annually. During this same period the number of unverified departures increased from about 30,000 to about 58,000.

In commenting on a draft of this report (see app II), the Department of Justice said that

"* * * many of these aliens undoubtedly have departed. Moreover, it is our experience that we can more effectively and productively utilize our manpower in the location of deportable aliens through valid leads involving several illegal aliens rather than the investigation of individual cases where the addresses or whereabouts of the aliens are often obsolete. As manpower becomes available the latter cases should be at least spot checked to determine the whereabouts of these aliens."

Considering the age of the cases and the low priority given them, it seems likely that many departures will not

be verified For instance, in Los Angeles none of the 50 cases in our sample which had been referred to investigators had been investigated These cases had been with the investigators an average of 624 days Los Angeles officials estimated it would take 20 months to eliminate the backlog if all investigative efforts were directed solely to the cases that had been referred to investigators as of June 30, 1972

MINIMAL PROSECUTION OR DEPORTATION

Because of the large number of illegal aliens apprehended, deportation hearings and criminal prosecutions have been waived, in most cases, in favor of voluntary departures Because such a small portion of illegal aliens are deported or prosecuted, the deterrent effect of such proceedings is negated

In fiscal years 1971 and 1972 INS apprehended about 900,000 illegal aliens, prosecuted 23,347, or about 3 percent, and deported 33,905, or about 4 percent

Prosecutions

The principal violations of Federal criminal statutes INS detected in fiscal year 1972 were (1) illegal entry of aliens, (2) reentry of a deported alien, (3) smuggling or harboring of illegal aliens, (4) false representation to citizenship, (5) fraud and misuse of visas and other documents, and (6) overstay of permitted time by alien crewmen

During fiscal year 1972, INS detected 428,418 violations in these 6 categories and instituted 12,727 prosecutions-- about 3 percent

The decision to prosecute rests with the cognizant U S attorney In some districts INS has written agreements with U S attorneys authorizing INS to waive prosecutions on certain violations under certain conditions In other districts INS discusses each case with the U S attorney before deciding whether to seek prosecution

Most of the violations and prosecutions are in INS's southwest region and are for illegal entry The first offense is a misdemeanor punishable by imprisonment for not more than 6 months or by a fine of not more than \$500, or

both Subsequent offenses are felonies punishable by imprisonment for not more than 2 years or by a fine of up to \$1,000, or both.

A southwest regional office official told us that the prosecution priority within the U S attorneys' offices is (1) subversive cases, (2) criminal and narcotic cases, (3) immoral cases, and (4) all other cases U S attorneys place most immigration violations in category 4 The U S Attorney's Manual directs that an alien who entered illegally be prosecuted in the district where the violation occurred U S attorneys in districts which do not border Mexico usually do not refer for prosecution illegal entry cases involving Mexicans because experience has shown that cases transferred from one district to another are rarely prosecuted

Southwest region's efforts to
increase prosecutions

The southwest regional office has attempted to improve its communications with U S attorneys by reaching agreements on the types of cases that will be prosecuted In 1972 the number of cases accepted by U S attorneys increased 30 percent, from 9,342 in 1971 to 12,115 in 1972 This increase is not significant in the light of total violations and the fact that the acceptance rate declined in 1972, as follows

<u>Fiscal</u> <u>year</u>	<u>Violations</u>	<u>Cases</u> <u>presented</u> <u>to U S</u> <u>attorneys</u>	<u>Cases</u> <u>accepted</u>	<u>Percent</u> <u>accepted</u>
1971	325,993	12,921	9,342	72
1972	412,004	25,476	12,113	48

One of the main reasons for the increase in cases accepted for prosecution was the establishment and increased activity of U S Magistrate Courts A southwest regional office report indicated that the increase in prosecutions has served as a deterrent Regional officials told us, however, that the success of prosecution efforts has varied throughout the region

INS said U S attorneys are reluctant to prosecute immigration cases for many reasons, including the effect a

large number of such cases would have on local court backlogs and the sympathetic attitude, in some instances, of the judge or magistrate toward such cases. Southwest region officials consider their record for prosecution of aliens for illegal entry in the Laredo, Texas, Patrol Sector as outstanding and attribute it to a favorable attitude toward prosecuting immigration cases by the U S magistrates. In the Del Rio Patrol Sector, which is in an adjacent U S attorney district, INS and the U S attorney have been less successful because, according to an INS official, the U S judge and magistrate are not sympathetic toward prosecution.

Smuggling aliens for profit

Smuggling illegal aliens has increased steadily in recent years. In fiscal year 1972 in the southwest region, the Border Patrol apprehended 4,100 smugglers and 24,000 aliens who had been assisted or induced to enter the United States unlawfully or who had been transported unlawfully after entry. This is an increase of 368 percent in smugglers apprehended and 569 percent in smuggled aliens apprehended since fiscal year 1966. Similar data was not available from the Investigations Division, INS reports on smuggling violations during fiscal years 1971 and 1972 showed that this Division detected approximately one-eighth of the violations. The Immigration and Nationality Act (8 U S C 1324) provides that smuggling violations be punishable by imprisonment up to 5 years or a fine up to \$2,000, or both.

INS reports show that numerous smuggling ventures charged fees from \$50 to \$300 a person for assistance in crossing the Mexican border and transportation to agricultural and industrial areas, some as far as central and northern California, Colorado, Idaho, Missouri, Illinois, and Florida. Vehicles used included automobiles, rental vans, trucks, trailers, and campers with specially built compartments to conceal aliens. Smugglers frequently use large rented vehicles because they can accommodate large loads and cannot be easily traced to the smuggler.

INS officials said they do not ask U S attorneys to prosecute when the smuggling was for reasons other than profit--such as to reunite families--because U S attorneys refuse to prosecute for humanitarian reasons. Although no data was available on the number of smuggling cases for

which prosecution was waived for humanitarian reasons, southwest regional office officials told us the number is substantial. One official indicated that such cases account for 40 percent of all smuggling cases.

The following summary shows the number of smuggling violations cited and the results of prosecutions during fiscal years 1971 and 1972 in the southwest region.

	<u>Fiscal year</u>	
	<u>1971</u>	<u>1972</u>
Violations	3,018	5,074
Prosecuted as felonies (8 U S C 1324)	774	721
Percent prosecuted	26	14
Convicted	629	502
Prosecuted as misdemeanors (8 U S C 1325) (note a)	(b)	1,613
Percent prosecuted	-	32
Convicted	-	1,592
Total prosecutions	-	2,334
Percent of total violations prosecuted	-	46
Fines		
Imposed	\$91,460	\$162,125
Suspended	12,800	9,225
Percent suspended	14	6
Imprisonment (months)		
Imposed	10,178	14,059
Suspended	6,523	7,912
Percent suspended	64	56

^aSmuggling violations reduced to the charge of illegal entry in lieu of prosecution as a felony.

^bInformation on misdemeanor prosecutions and resulting penalties was not available for fiscal year 1971.

In fiscal year 1972, 2,334 of the 5,074 violations were prosecuted. Smugglers convicted were sentenced to an average of 7 months in jail and fined an average of \$80. On the average, 4 months' imprisonment and \$4 of the fine were suspended, leaving the convicted smuggler with an average of 3 months to serve and \$76 to pay.

The following examples illustrate the monetary gains from smuggling aliens, the methods employed to avoid detention, and the penalties imposed upon conviction.

--A Border Patrol officer observed a large number of people emerge from the bushes and enter the rear of a truck. Other officers in the area were alerted and a U S citizen was arrested as he attempted to smuggle 47 illegal Mexican aliens northward in a 2-ton truck with a 20-foot van box. The arrangements to be smuggled in and transported north were made in Tijuana, Mexico. Each alien was to pay \$200 upon arrival at his destination. Also, for each alien delivered to his destination, the smuggler was to be paid \$10 by another man whom he did not identify.

The smuggler pleaded guilty and was sentenced to 3 years' imprisonment. The sentence was reduced to 6 months and he was placed on 3 years' probation. The 47 illegal aliens were detained by the U S Marshal for 13 days at a cost of \$5,181 and then allowed to depart voluntarily.

--A U S resident was arrested as he attempted to smuggle seven aliens in his 25-foot motor home modified to conceal the aliens in a hidden compartment. The arrangements to be smuggled in and transported north were made in Tijuana. Each alien was to pay \$200 upon arrival at his destination. The aliens were brought in on foot in two separate groups and taken to the smuggler's house for transportation north.

Three months earlier, a Bureau of Customs inspector found the smuggler at a port-of-entry transporting six illegal aliens in the hidden compartment of his motor home. Two months after that, Border Patrol

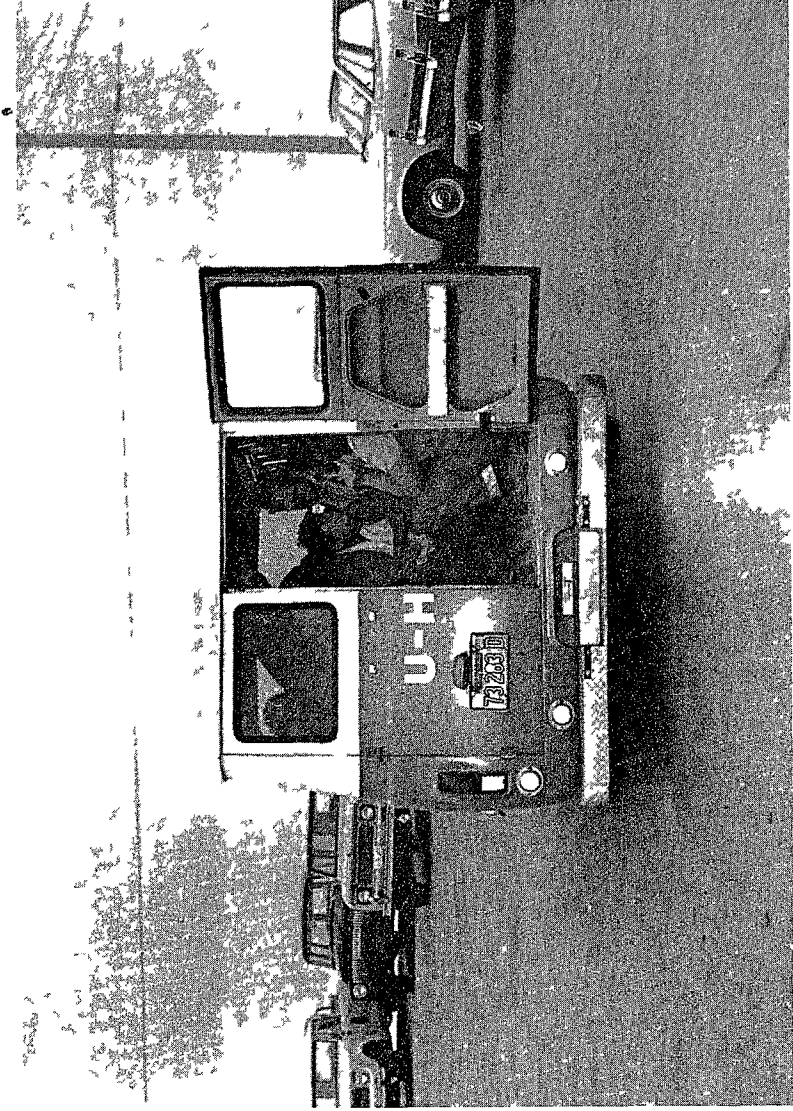
* officers found 20 illegal aliens in the smuggler's residence. In both instances prosecution was not instituted.

The smuggler was sentenced to 3 years' imprisonment and fined \$500. He paid the fine, the sentence was reduced to 90 days, and he was placed on 3 years' probation.

--Four illegal aliens driving north in a car were encountered at a border patrol checkpoint and arrested. Interrogation revealed that they had met two men in Tijuana the previous night and had arranged to be smuggled to Los Angeles for \$200 each. Patrol officers, on being advised by the aliens that they were to travel north until met by another vehicle, substituted two officers for the aliens and drove the car north. When signaled to stop, the officers apprehended one of the two men (a U S resident) who had met the aliens in Tijuana. The officers later arrested the second man (a Mexican) who had guided the illegal aliens across the border to the waiting car.

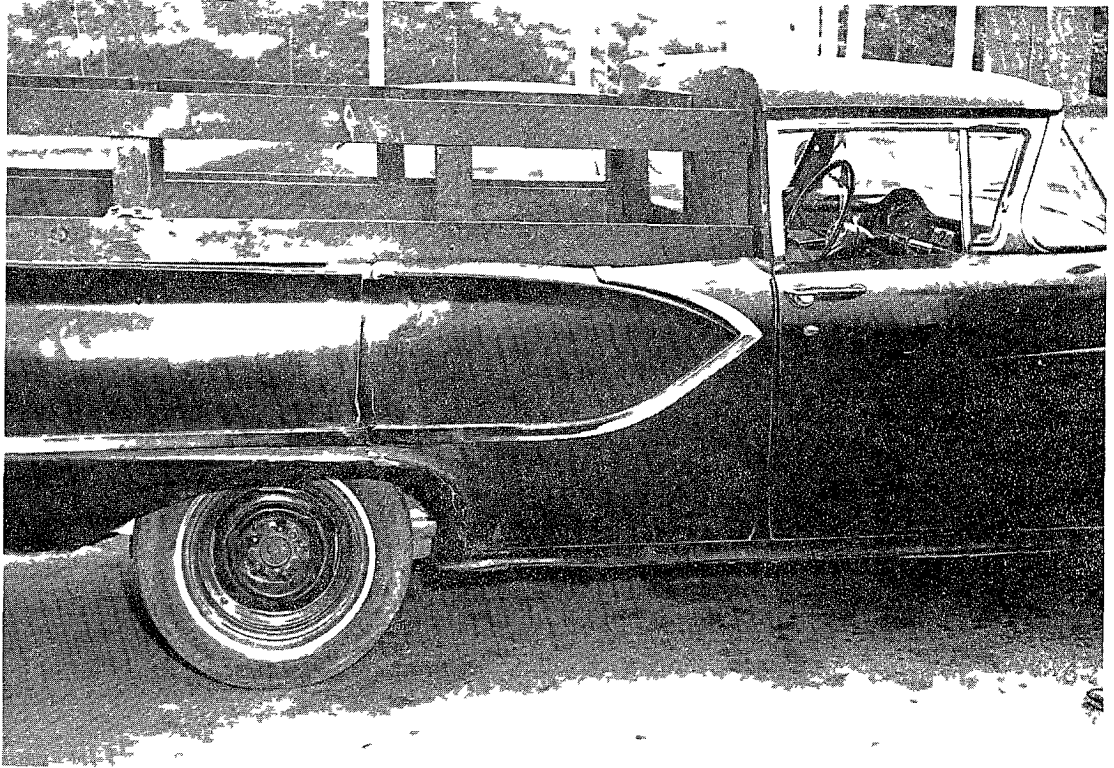
The Mexican and the U S resident agreed to plead guilty to a misdemeanor, each was fined \$50, received a 60-day suspended sentence, and was placed on 2 years' probation.

Excluding smugglers motivated by reasons other than profit, a large percentage of the apprehended commercial smugglers are being prosecuted. However, it is unlikely that a smuggler being paid anywhere from \$50 to \$300 a person would be discouraged by the light fines levied and the short sentences served.

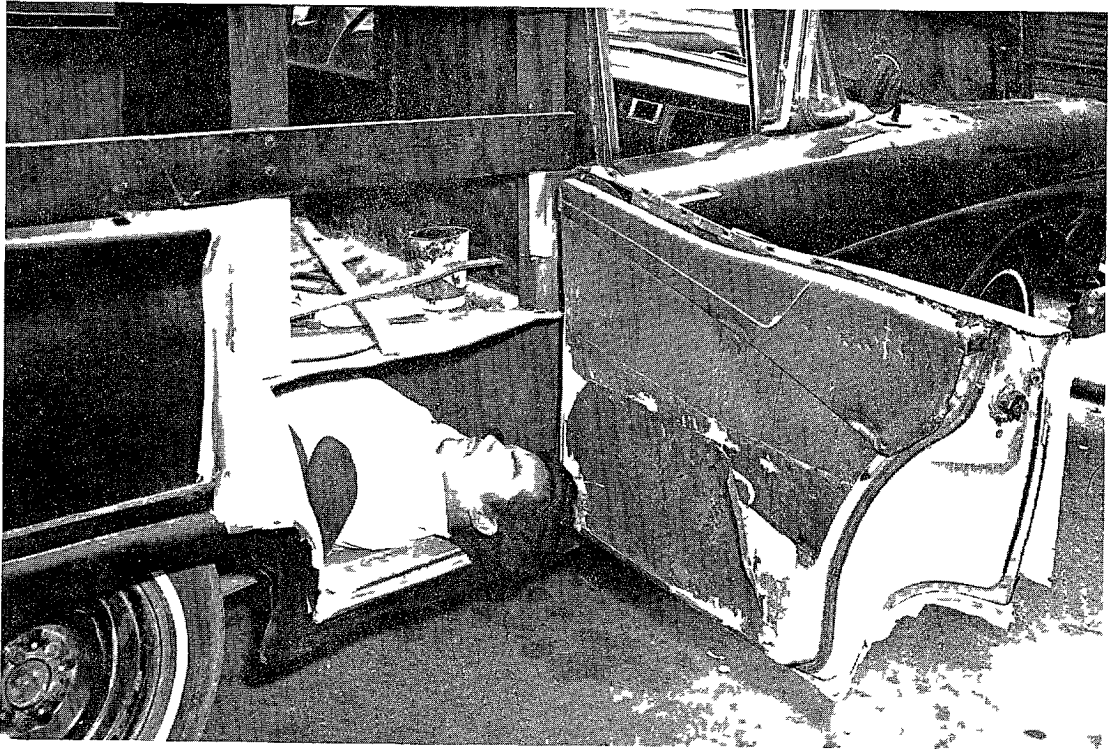


Photographs provided by U S Border Patrol,
U S Immigration and Naturalization Service

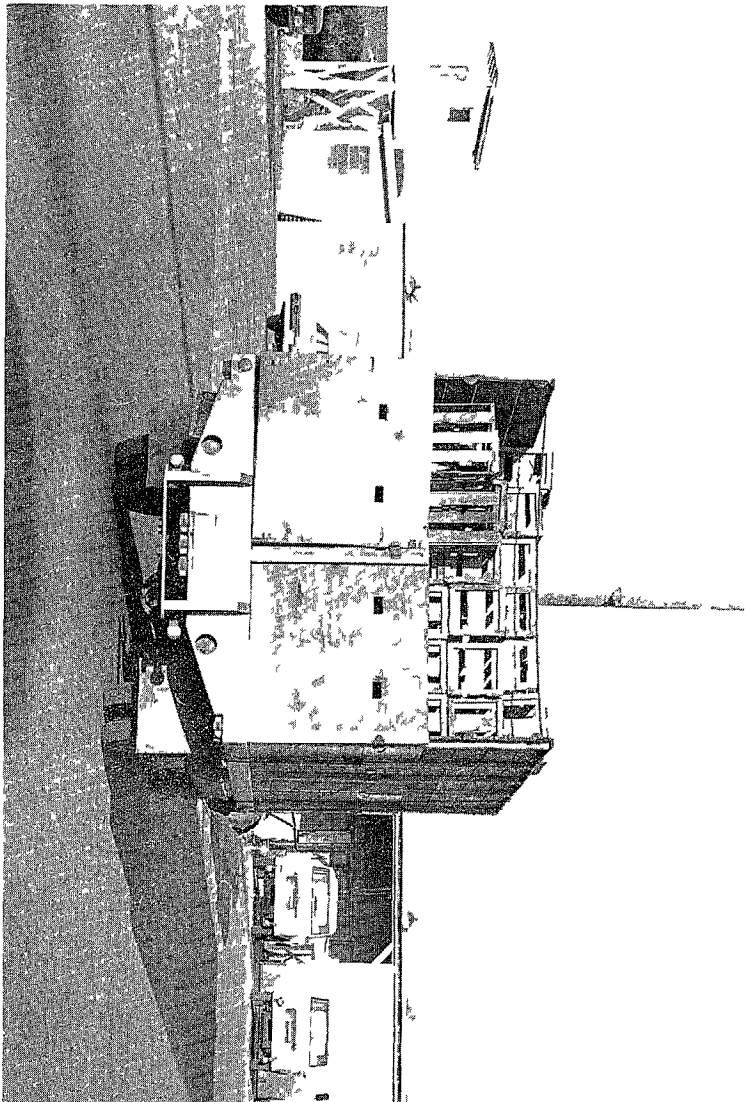




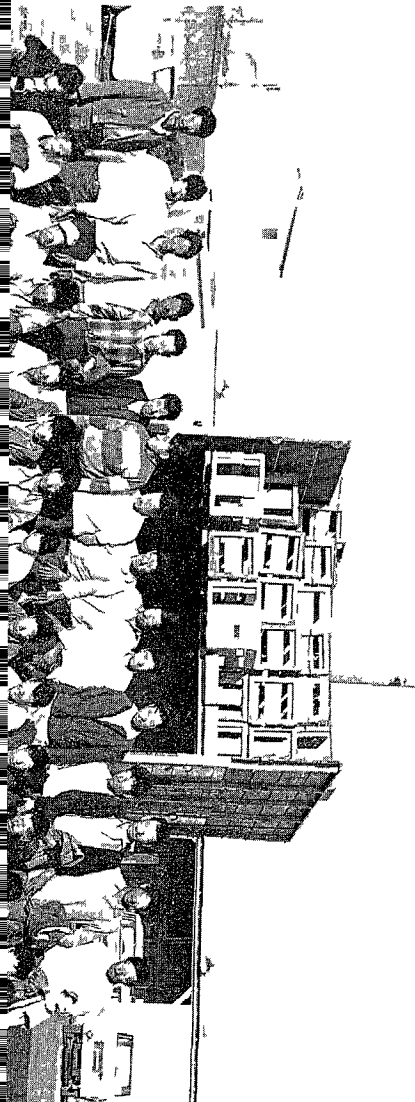
Photographs provided by U S Border Patrol,
U S Immigration and Naturalization Service

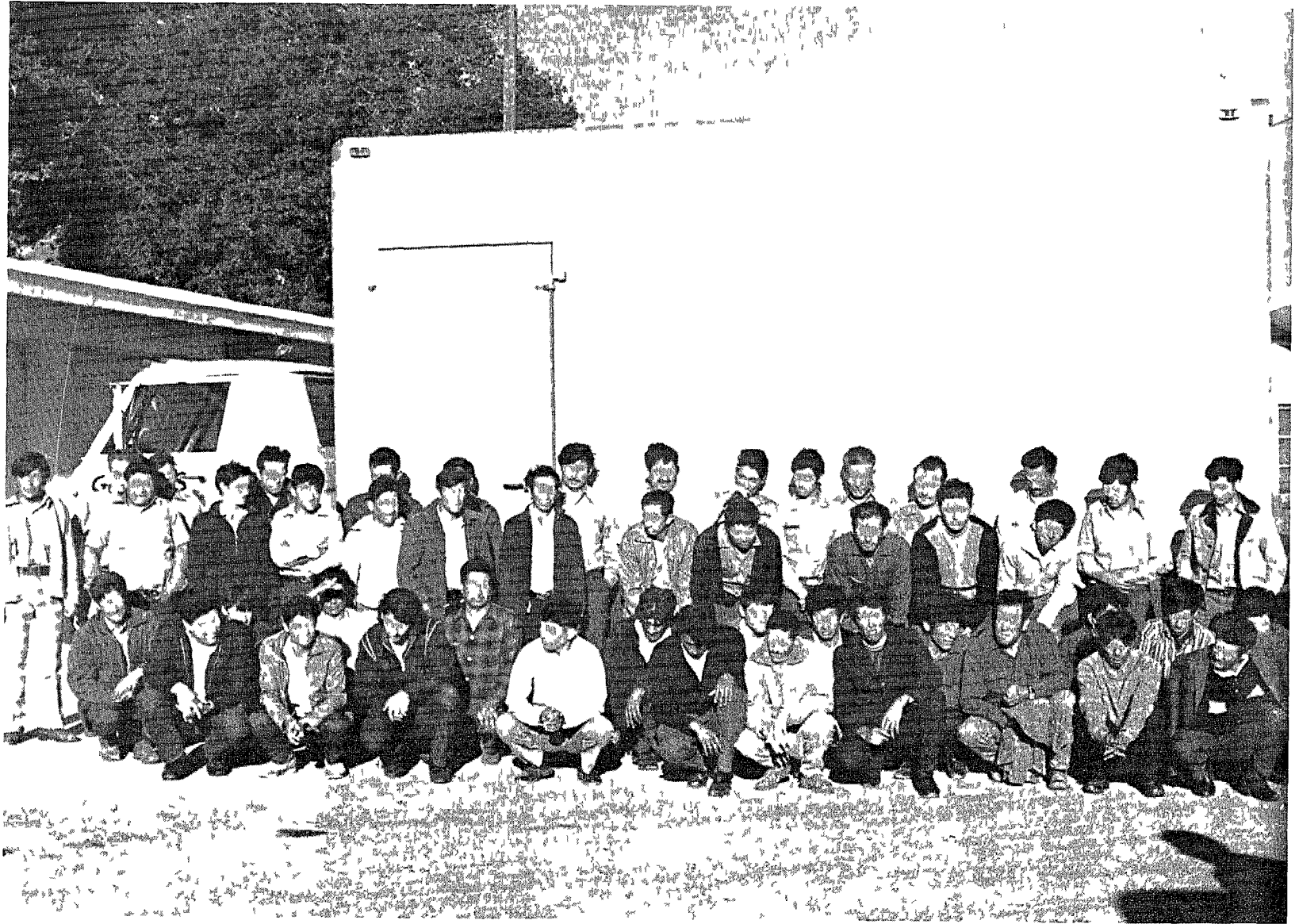


Hidden compartment used to conceal illegal aliens



Photographs provided by U S Border Patrol,
U S Immigration and Naturalization Service





47 smuggled Mexican aliens and truck used to transport

Photographs provided by U S Border Patrol,
U S Immigration and Naturalization Service

Deportations

During fiscal year 1972 INS completed 33,741 deportation hearings and deported 16,266 aliens. Many of the hearings resulted in the aliens' being granted voluntary departure. Most illegal aliens are granted voluntary departure without deportation hearings.

Formal deportation orders may inhibit reentry because deported aliens cannot legally reenter without obtaining permission from the Attorney General. Without such permission, reentry is a felony.

Our review of decisions rendered in April and May 1972 in the 5 INS district offices showed that 2,053 hearings were held and that 1,448 aliens, or 71 percent, were granted voluntary departures, and 270 aliens, or 13 percent, were issued deportation orders.

INS personnel commented on the reasons for granting voluntary departure.

- INS personnel in Los Angeles stated that, to reduce the cost to the Government, most of the hearings will result in the granting of voluntary departure when the alien agrees to pay for his transportation and when he and his attorney agree not to appeal the case to the Board of Immigration Appeals.
- INS personnel in Miami noted that factors in the decision to grant voluntary departure included (1) ability of the alien to pay his way home, (2) moral character of the alien, and (3) availability of INS funds for detaining and deporting the alien.
- INS central office officials told us that the number and availability of INS special inquiry officers (immigration judges) limits the number of deportation hearings. Further, it is not considered prudent to hold for hearings those classes of aliens who, precedence shows, will be granted voluntary departure.

CONCLUSIONS

Though the motivation behind the flood of illegal entrants is economic, we believe inadequate enforcement of immigration laws contributes to the rise in illegal entries. Deterrence through INS hearings and prosecution has been overshadowed by an emphasis on allowing voluntary departure, even though such departure probably does not deter aliens from immigration violations

Because of the difficulty in processing the large number of violators, waiving deportation hearings for aliens who agree to voluntarily depart seems to be the only prudent alternative. It appears that an effective enforcement program hinges on (1) eliminating the economic incentives attracting illegal aliens (see ch 4) and (2) increasing the resources for apprehending and processing illegal aliens

AGENCY COMMENTS AND OUR EVALUATION

The Department of Justice, in a letter dated May 2, 1973 (see app II), commented on a draft of this report

"The report also states that because of the increase in alien violators INS has had to resort to voluntary departure in lieu of formal deportation and criminal prosecution, thus diluting the deterrent effect of INS's enforcement efforts. This conclusion is not completely factual as every effort is still being made to deport flagrant violators and to prosecute those who violate the major criminal immigration law statutes. Before the large influx of illegal Mexican nationals began in 1965 and for several years thereafter nearly all adult Mexican male aliens apprehended were fingerprinted and held in detention until fingerprint returns were received. On the basis of their past records relatively large numbers were prosecuted and deported. Despite these procedures, the influx continued to escalate at ever increasing rates. There is no evidence provided in the draft report to support GAO's conclusion that deportation and prosecution would serve as any more of a deterrent now than it did earlier, nor does our past experience support such a conclusion. We believe the number of Mexican nationals illegally in the United States is substantially attributable to the termination in December 1964 of Public Law 78 which permitted the importation of Mexican agricultural workers for temporary periods.

"The largest class of illegal aliens apprehended in the United States are Mexican nationals who either entered the United States illegally or violated status after entry as nonimmigrants. To understand the Mexican alien problem, it is important to recognize the character and plight of illegal Mexican nationals who constitute more than 85 percent of the total immigration violators encountered by INS. Such aliens normally enter the United States to seek employment so as to fulfill the basic needs of food, clothing, and

shelter and to support their families in Mexico. The threat of their having to reapply for admission into the United States after deportation means very little as these aliens realize they will probably never be able to legally emigrate to the United States. Similarly, the threat of imprisonment of the illegal entrant in many instances has little deterrent effect as incarceration may be more of a benefit than a punishment since they will be provided their basic needs and possibly learn the rudiments of a trade or job skill while in prison so as to be in a better position to compete for employment in Mexico upon release.

"The most important deterrent to illegal entries from Mexico is the prompt apprehension and return of aliens to Mexico before any gain can be realized from their entry. It has also been found that the return of such aliens to the interior of Mexico, near their homes, with the cooperation of the Mexican government, keeps many from attempting another illegal entry. However, the lack of INS funds during the past few years has precluded such return of many indigent aliens."

Because INS also does not require positive identification of most apprehended illegal aliens, it is not in a position to know all aliens who have past criminal records or all aliens who have entered the country illegally and were previously deported.

There is no way to determine exactly how many aliens were deterred from illegally entering the United States because of INS deportation and prosecution efforts. However, a 1972 INS report analyzing its prosecution program cited a widening gap between the volume of criminal violations encountered and the relative number of violators being prosecuted. Special Inquiry Officers in Los Angeles, Miami, and New York have told us that they consider the deportation process a deterrent to reentry.

However, as pointed out above, granting voluntary departure in lieu of deportation or prosecution is only one practice which has diluted the deterrent effort of INS enforcement activities. Equally significant was the discontinuation of many special searches and area control operations

The Department agreed, however, that inadequate enforcement is contributing to the rise in illegal entries and that an effective enforcement program hinges on (1) increasing the resources for apprehending and processing illegal aliens and (2) eliminating the economic incentives attracting illegal aliens.

CHAPTER 3

IMPROVED GOVERNMENT AGENCY COOPERATION NEEDED

TO REDUCE ADVERSE IMPACTS OF ILLEGAL ALIENS

INS does not have the resources to apprehend and expel all illegal aliens and should emphasize those operations that minimize their adverse effect on the economy. To be successful, INS needs the cooperation of other Government agencies. Three areas where improved Government agency cooperation is needed concern illegal aliens who

--do not pay Federal taxes on income earned in the United States,

--are on welfare, and

--hold jobs that could be filled by citizens or lawful aliens

INS and the Internal Revenue Service (IRS), local welfare agencies, and State employment agencies have cooperated at times, however, these efforts have been unsystematic or sporadic and have had little effect. Most Government agencies involved in the activities discussed in this report either do not feel obligated to cooperate with INS or question the benefits of such cooperation.

ILLEGAL ALIENS ARE EXPELLED WITHOUT ASSURANCE THAT FEDERAL INCOME TAXES ARE COLLECTED

INS and IRS do not cooperate to insure that departing illegal aliens pay the Federal income taxes they owe. Such taxes may never be collected if they are not collected before departure.

IRS's Internal Revenue Manual emphasizes that, because illegal aliens are fugitives in this country, they frequently attempt to avoid Federal income taxes.

INS regulations in effect since April 1970 require that formal liaison be established with local IRS offices to furnish information on aliens who may be evading income taxes.

In 1972 INS apprehended 192,591 illegal aliens who were employed. The five district offices included in our review apprehended 36,217 aliens, 24,432 of them were employed.

Cooperation between IRS and the five INS district offices was unsystematic, sporadic, or nonexistent. We were denied access to certain IRS records and were not permitted to interview IRS district officials. On the basis of available information, however, we believe better INS-IRS cooperation would be in the best interest of the Government.

Tax collection program at
INS detention facilities
in the southwest region

In September 1966 an experiment conducted by an IRS revenue officer resulted in the collection of a substantial amount of unpaid income taxes from aliens detained at the INS detention facility at El Paso, Texas. On the basis of the results achieved in five visits, the revenue officer submitted a suggestion to his superior outlining the potential of an ongoing tax collection program. The suggestion pointed out that the visits to this detention facility had resulted in \$354 of collected taxes per man-hour spent, and the revenue officer estimated that \$275,000 a year could be collected at the El Paso detention facility. Data at the INS southwest regional office shows the results of three of these visits by the revenue officer.

<u>Date of visit</u>	<u>Number of aliens</u>	<u>Amount collected</u>
Sept 19, 1966	11	\$2,300
Jan. 10, 1967	12	2,821
Jan 17 and 18, 1967	<u>12</u>	<u>1,112</u>
Total	<u>35</u>	<u>\$6,233</u>

Because of the revenue officer's suggestion, IRS developed guidelines for collecting unpaid taxes from aliens at detention facilities in the Southwest. IRS headquarters recommended that tax collection programs be established for the INS detention facilities in El Paso and Port Isabel, Texas, and El Centro, California, but left the final decision to local IRS management.

As of August 1972 IRS was active at only the El Paso detention facility. The supervisors of the detention facilities at Port Isabel and El Centro told us that, for at least the past 1-1/2 years, IRS had not visited these facilities. About 140,000 illegal aliens were admitted to detention facilities in the southwest region during fiscal years 1971 and 1972.

After our inquiries on this matter, the southwest region's Associate Commissioner, Management, issued a memorandum dated August 23, 1972, to all INS supervisory personnel concerning the collection of taxes from aliens. The memorandum stated that INS would cooperate with IRS and that IRS should be notified of each alien taken into custody for violation of the immigration laws who met the taxability criteria. Taxability may arise, according to the IRS Internal Revenue Manual, when an alien has been in the United States for over 6 months and has assets of over \$500 in his possession.

The August 1972 INS activity report for the El Centro detention facility listed 11 aliens as having \$500 or more in their possession for a total of \$16,502. The supervisory officer of the detention facility said INS had notified IRS of the amounts of money the aliens had, but an IRS agent told us that an alien had to have over \$1,000 in his possession before it would be worthwhile for IRS to make a visit. Another agent said IRS was interested in only those aliens who had over \$1,000 and were involved in drug traffic or smuggling operations.

Los Angeles district office

In November 1971 INS and IRS cooperated on a special project in Los Angeles. During that month illegal aliens who came into the Los Angeles district office seeking voluntary departure were referred to IRS. Of 98 aliens referred, 90 were assessed a total of \$110,243 in taxes, of which \$7,170 was collected on the spot. The remaining eight aliens were not immediately assessed because they had not filed any income tax returns, some as far back as 1963.

Although this project showed the potential benefits of INS-IRS cooperation, no program existed for referring to IRS most of the aliens processed through the Los Angeles

district office According to the district office deportation officer, only aliens granted extensions of stay who apply for immigrant visas are referred to IRS for tax clearance Aliens not referred include aliens departing either voluntarily or under deportation orders In Los Angeles, during fiscal years 1971 and 1972, about 16,000 aliens departed voluntarily and about 750 were deported

New York district office

Neither INS nor IRS had a systematic program to insure that departing illegal aliens in this office had paid their income taxes If an investigator believed an alien might be violating IRS income tax regulations, a local INS form specifying the possible violation was forwarded to IRS An INS official told us that INS did not follow up to determine whether the alien had reported to IRS or had paid his taxes

In March 1972 the district office requested IRS to station agents at the INS office to assess any taxes that might be due from illegal aliens being processed. In response, IRS assigned two agents for a 3-day pilot study. Subsequently IRS informed INS that it was not feasible to station an IRS agent permanently because IRS was not interested in collecting an average of \$100 to \$200 an alien, even though these aliens had paid no taxes or claimed too many dependents.

Apprehension reports prepared by the district for illegal aliens apprehended during July 1972 showed that, of 819 apprehended, 113 had a total of about \$345,000 in cash One alien had been in the United States illegally for over 6 years INS records show that he worked as a self-employed ice cream vendor earning about \$250 a week and had sent \$40,000 to his native country During his stay in the United States, he filed a Federal income tax return only once

Boston district office

Officials here said they telephoned IRS occasionally to report possible tax evaders but IRS did not express any interest They stated that each case was assessed on its merits for possible tax evasion and referral to IRS. District officials had not documented any of the telephone contacts with IRS They said they referred about 10 cases a year, but they could not identify them.

District officials said the aliens apprehended in the district do not have enough money for substantial tax collections. District apprehension reports do not show how much money the aliens had, therefore we could not estimate the tax collection potential.

Kansas City district office

The local IRS office had requested INS to notify it only when an alien had at least \$1,500 in his possession. An official of the Kansas City district office stated that he had referred several cases to IRS but that IRS took no action because of the small amount of money involved.

District reports for illegal aliens apprehended in May 1972, for example, showed that most illegal aliens did not have much money in their possession. Only 3 of the 137 adults were reported to have over \$100--a foreign student working without permission had about \$500 and two aliens had \$154 and \$123, respectively. Another 29 illegal aliens were reported as having from 5 cents to \$80.40, 9 had no funds. The records did not show the amount of funds the remaining 96 persons had in their possession when located. However, 32 of the 96 did not have enough money to pay the \$37 bus fare back to Mexico.

Miami district office

Officials here said they have no criteria for referrals to IRS, each case is decided individually. Cases are referred by telephone and the local IRS office, in the district office building, sends a representative to interview the alien and determine his tax liability. An INS official estimated that 100 cases a year are referred to IRS.

Internal Revenue Service

IRS headquarters officials gave us an IRS internal audit report dated June 4, 1971, on the collection operations of the IRS Los Angeles district office. The report said

--Not all aliens filed required and/or proper tax returns before departing

- An alien's failure to file required tax returns does not deter his departure unless IRS requests such action
- Employers of nonresident aliens had not reported taxes withheld
- Airline personnel interviewed showed little interest in helping IRS enforce its regulations which require that departing aliens have a certificate of compliance with the tax laws
- INS believes it is IRS' problem to identify and take actions against aliens who have not complied with tax laws INS suggests, and IRS concurs, that they should coordinate the implementation of this requirement at the national level

The Director, Internal Audit Division, outlined some actions taken or proposed as a result of the audit report in a memorandum dated September 3, 1971. These actions included (1) consideration by an IRS committee of the tax issues cited in the report, (2) checking a few employers of nonresident aliens for compliance in withholding taxes and (3) additional press releases regarding alien income tax responsibility.

According to IRS headquarters officials, IRS had no formal arrangements with INS and no national program for tax clearance of illegal aliens. They said IRS did plan to verify the filing of required tax returns by departing aliens who were admitted with permission to work temporarily. In fiscal year 1972, 25,092 such aliens were admitted.

Conclusions

Both INS and IRS recognize that illegal aliens in many cases do not pay their Federal income taxes and that both agencies must coordinate tax collection. Both agencies have left coordination up to their local offices.

Present cooperation is unsystematic and sporadic and does not insure that apprehended illegal aliens pay the taxes they owe.

Not all illegal aliens apprehended can pay the taxes due before they depart, however, many illegal aliens can pay all or some of their taxes

The IRS internal audit report on the operations of the IRS Los Angeles district office shows that better INS-IRS coordination is needed not only for departing illegal aliens but also for aliens who are lawfully admitted to work

Recommendation to the Attorney General and
to the Secretary of the Treasury

We recommend that the Attorney General and the Secretary of the Treasury agree on the goals and duties of each agency in their efforts to collect taxes from departing aliens. On the basis of agreements reached, operating instructions of both agencies should be revised to provide that efforts be made to collect taxes from aliens before they leave and, as a minimum, should include (1) criteria under which aliens will be referred to IRS for tax determinations, (2) a system for making such referrals, and (3) followup procedures to monitor and measure the system's effectiveness

Agency comments

In commenting on a draft of this report (see app III), the Acting Commissioner, IRS, stated that

- Discussions with INS have been reopened and a revised program is now under consideration. This new program will provide firm guidelines specifying when INS will advise IRS of an illegal alien's being deported. When this notification is received, IRS will interview the alien, determine his tax status, and collect as much of the tax due as feasible.
- IRS instructions will provide for mandatory followup in all districts when an INS referral is received. In addition, INS will limit its referrals to those aliens falling within established guidelines.
- The revised program incorporates the three suggestions in the report.

The Acting Commissioner said implementing the revised program will increase tax collections from this source and concurrently will remove some of the incentive for aliens to enter illegally. He stated that IRS believes that compliance with withholding tax requirements by persons employing aliens is the preferred way to insure that aliens satisfy their tax liabilities and that IRS is considering various methods of monitoring the tax status of these employees.

LIMITED COOPERATION FROM LOCAL
WELFARE AGENCIES

Illegal aliens are receiving welfare payments under programs funded by the Federal and State Governments. Providing welfare could attract illegal aliens and prolong their stay.

No estimates of the number of illegal aliens on welfare are available. INS occasionally apprehends aliens who have been receiving welfare payments or other benefits, and some State agencies and commissions have concluded that illegal aliens cause a drain on welfare programs. Examples of illegal aliens receiving welfare in several States show that the problem is widespread.

- The Los Angeles district office followed up on 17 leads concerning aliens on welfare who were possibly illegal aliens. INS located eight who were in the United States illegally. These eight were mothers who were heads of families receiving assistance under the Aid to Families with Dependent Children program. Welfare assistance to these eight families since 1969 totaled \$31,617. Five of the aliens entered the country with Mexican border crossing cards, one had no document of entry, one admitted to being smuggled in, and one entered with a visitor's visa.
- The New York district office and the New York State Welfare Inspector General provided us with 16 examples of aliens who had entered as nonimmigrants and who had received welfare. The New York City Department of Social Services verified that 14 of these aliens received some type of welfare. Eleven of these 14 were in the country in violation of their nonimmigrant status--usually by overstaying their permitted time. These aliens had entered with visitor or student visas. One was a Canadian who entered in 1969 as a visitor. INS apprehended him in June 1972. State and city welfare agencies found he had received welfare in 1970 and 1972. INS granted him voluntary departure.
- Boston district office officials told us about illegal aliens who had received welfare. Most of these had

entered on visitor visas. One of these was a Portuguese citizen who entered in February 1969 for 20 days as a visitor. In March 1969 she applied to have her status changed to permanent resident. INS denied this change. She was given until October 1969 to depart but did not depart until sometime before a scheduled May 1971 hearing. She received about \$2,600 in welfare between December 1969 and May 1971.

--INS investigators at the Miami district office said about 17 illegal aliens had received welfare payments or food stamps.

To reduce the number of illegal aliens on welfare, INS and local welfare agencies must cooperate to identify such aliens. At the time of our fieldwork, the Department of Health, Education, and Welfare (HEW) interpreted Federal and State laws and regulations as preventing the disclosure of information on welfare applicants or recipients. In October 1972 Social Security Act amendments (86 Stat 1492) provided that information under welfare programs could be disclosed to law enforcement officials.

These amendments also restricted eligibility under welfare programs to citizens or aliens residing lawfully in the United States.

Cooperation between INS and welfare agencies

Cooperation between INS and local welfare agencies is limited and usually depends on INS officials' finding a cooperative welfare caseworker.

In February 1972 the New York State Department of Social Services asked HEW to issue regulations clarifying (1) whether aliens could be prohibited from receiving welfare and (2) the information which may be obtained from applicants regarding their alien status.

As of March 7, 1973, HEW had not responded.

The New York City Department of Social Services does not require an applicant to prove citizenship or alien status. However, some caseworkers were requesting this information and were verifying status from INS. INS officials told us that, when they receive information about an illegal alien

either receiving or applying for welfare, they call him into the district office for questioning

In 1970 the California State Social Welfare Board studied problems concerning illegal aliens on welfare and determined that the problem was widespread in the State. Their study indicated that little, if any, communication existed between county welfare offices and INS for identifying illegal aliens. The study noted that in some areas local welfare authorities interpreted laws and regulations on the confidentiality of welfare records as preventing this kind of communication with immigration authorities. The study noted also that the Federal and State welfare eligibility requirements did not distinguish between citizens and non-citizens.

In response to the problem of illegal aliens and temporarily admitted foreign nationals who were being supported by welfare programs, the California Welfare Reform Act of 1971, enacted in August 1971, contains a provision designed to prevent the granting of aid to illegal aliens and temporary foreign visitors. The act set up a mechanism for communication between county welfare offices and INS to identify illegal aliens on welfare. It provides, in part, that

"Any alien who is otherwise qualified for aid shall be eligible to receive public assistance if he certifies under penalty of perjury that to the best of his knowledge he is in the country legally and is entitled to remain indefinitely, or if he certifies that he is not under order of deportation, or if he certifies that he is married to an individual not under order of deportation

"Such certification by the alien shall, upon receipt, be forwarded to the United States Immigration and Naturalization Service for verification. Aid shall continue pending such verification "

The act requires that this coordination between county welfare offices and INS be implemented by October 1, 1971. State officials informed us that, as of November 1972, procedures for implementing the section of the act had not been finalized because other sections were given higher priority.

Los Angeles County welfare offices were requiring applicants for, or recipients of, aid to sign the certification but were not forwarding the certification to INS because the State Department of Social Welfare had not developed formal procedures. A local welfare official told us that, because of State and county regulations on confidentiality of welfare records, the office policy was not to provide data on applicants or recipients when asked by a law enforcement agency, such as INS, unless the recipient or applicant gives it permission. He also stated that the office will not notify INS of an individual who admits to being in the United States illegally if the individual is not eligible for welfare.

Although the effectiveness of the law cannot be determined at this time, INS officials and California and Los Angeles County welfare officials hope that, when implemented, it will substantially reduce the number of illegal and temporarily admitted aliens on welfare. However, these officials told us that the success of the law was doubtful because the law did not specifically prohibit illegal aliens from receiving welfare. To illustrate, an alien is not under a deportation order until he is apprehended and subjected to a deportation hearing. Because less than 5 percent of the deportable aliens apprehended in the INS southwest region during fiscal years 1971 and 1972 were subjected to deportation hearings and less than 4 percent were deported, most illegal aliens could establish residence as required by California law and become eligible for public assistance.

We discussed the certification procedures with California welfare officials in November 1972. They subsequently issued instructions to all county welfare directors informing them that the California Welfare Reform Act of 1971 was intended to establish that illegal aliens were not California residents and, therefore, were not eligible for welfare.

Conclusions

Cooperation between INS and local welfare agencies is extremely limited. California has made a start in officially communicating with INS by passing a law which requires that INS verify certain certifications by welfare applicants.

The recent social security amendments permitting disclosure of information on welfare applicants or recipients

to law enforcement officials is another step in paving the way for an interchange of information between INS and local welfare agencies in identifying illegal aliens who may be applying for or receiving welfare assistance

HEW could play an important part in encouraging State and local welfare agencies to refer potential cases of illegal aliens to INS for investigation. Where State laws still provide for safeguarding welfare records, HEW should encourage the States to permit disclosing such welfare information to law enforcement officials in connection with the duties of those officials.

Recommendation to the Attorney General
and to the Secretary of HEW

We recommend that the Attorney General and the Secretary of HEW develop guidelines for Federal and local welfare agencies to provide information to INS for identifying illegal aliens applying for or receiving welfare assistance.

Agency comments

The Department of Justice (see app II) said the recent Social Security amendments would substantially benefit INS enforcement. The Department agreed that HEW could play an important role in encouraging State and local welfare agencies to refer potential cases of illegal aliens to INS for investigation and said it would cooperate with HEW. The Department pointed out that HEW will need to develop a procedure so that HEW employees can determine whether a welfare recipient is a citizen or legal alien.

In commenting on a draft of this report (see app V), HEW agreed on the need for welfare agencies to provide information on illegal aliens to INS and said the intent of our recommendation would be accomplished through policies and procedures presently contemplated. HEW said that

"Section 137 of the Social Security Amendments of 1972 calls for DHEW to take certain measures to further tighten up the procedures for issuing social security numbers, to assign numbers to aliens at the time of their lawful admission, and to assign numbers to individuals who apply for or receive cash benefits under any program financed in whole or in part from

Federal funds The provisions require all applicants for social security numbers to submit sufficient evidence to establish age, identity, and citizenship or alien status. To carry out these provisions, SSA has been studying and defining policies whereby the Immigration and Naturalization Service will be notified whenever an alien or a foreign-born individual applies for a social security number but does not provide the necessary proofs "

STATE EMPLOYMENT AGENCIES COULD
COUNSEL EMPLOYERS OF ILLEGAL ALIENS AND
REFER LAWFUL APPLICANTS

A principal economic problem with illegal aliens is the displacement of citizens or lawful aliens from jobs. Our comparison of the type of jobs held by illegal aliens apprehended by INS in four INS districts with the local demand for such jobs showed that these aliens occupied jobs for which there was a demand by citizens or lawful aliens.

We also discussed with officials of INS and local employment agencies the potential benefits of expanded coordination between INS and those agencies in three INS district offices--Boston, Miami, and New York City. None of these offices had a program for furnishing apprehension data to the State employment agencies for the State agencies to use in counseling employers of illegal aliens and in referring lawful job applicants.

New York City

Our review of selected categories of jobs held by illegal aliens apprehended by INS showed that there were applicants for these jobs at the New York State Department of Labor.

<u>Jobs held by illegal aliens</u>	<u>Illegal aliens apprehended</u>	<u>Number of applicants on file at local employment office</u>
Packager	11	157
Electroplater	2	11
Factory mechanic	1	25
Factory worker	10	150
Machine operator, plastic	13	10
Assembler	3	63
Electronic inspector	1	20
Cook	1	11
Dishwasher	1	4
Porter	<u>1</u>	<u>3</u>
Total	<u>44</u>	<u>454</u>

INS had no program for referring data on possible job openings to the New York State Department of Labor, however, officials of that agency and the INS New York district office expressed interest in such a program. After we discussed the potential of such liaison with these officials, the office instituted an informal job referral system in August 1972.

A New York State Department of Labor official said INS had referred 15 job openings through October 16, 1972, but no one had been placed in those jobs.

Miami

We selected 10 cases of illegal aliens who had been apprehended while employed in the Miami area. Statistics obtained from the Florida State Employment Service showed that, in all 10 cases, the local labor supply for the alien-held jobs either was considered adequate or exceeded the jobs available.

The following case exemplifies how illegal aliens displace citizens and lawful aliens in the job market. In July 1972 INS apprehended several illegal aliens employed by a Miami area restaurant chain. Officials of the firm that operated the chain requested and were granted permission to identify and replace all illegal aliens in their employ rather than having INS raid the restaurants. Within a few weeks, restaurant officials identified approximately 20 restaurant managers as illegal aliens. INS informed us that, by the end of September 1972, the firm had discharged about 40 illegal aliens from restaurants in Dade County, Florida. Statistical data provided by the Florida State Employment Service indicates that, for the types of food service positions occupied by these illegal aliens, the local labor supply equaled or exceeded the demand.

No program exists for referring INS apprehensions data to the Florida State Employment Service. The manager of the employment service's Miami Downtown Manpower Center told us that such a program would not be very useful because (1) an attempt by the employment service to fill the jobs vacated because of INS apprehensions would lead the employers to suspect collusion between the employment service and INS, and, as a result, the employers would probably not cooperate.

with the employment service and (2) the employers of illegal aliens did not work through the employment service in hiring the aliens and therefore would probably not do so after INS apprehends the aliens. Rather, they would hire more illegal aliens.

Los Angeles

The Los Angeles district office provides the California State Employment Service--Department of Human Resources and Development (HRD)--lists of establishments searched and the number of illegal aliens apprehended. The office started this practice in 1967, but only since January 1972 have lists been provided regularly. From January through June 1972, the office provided HRD with information on 72 establishments where searches resulted in the apprehension of 660 illegal aliens.

Local HRD officials acknowledged receipt of such information and indicated that, because of other priorities and instructions from a State HRD representative to withhold use of the information, they had taken no action. According to the State HRD representative, the decision not to use the information at that time was based on his opinion of the mood in the Los Angeles area concerning illegal aliens. He said the use of this information would have to be evaluated before further instructions would be issued on how to handle it.

Local HRD officials believe the information could be valuable and useful but its use would require INS-HRD coordination. They suggested that, as a first step, an HRD official visit the Los Angeles district office and inform the investigators of the data needed and the HRD services available to an employer.

An INS official told us that he believes that coordination between INS and State employment agencies has merit and that cooperation should be obtained from such agencies and from the Department of Labor.

Boston

The Director of the Massachusetts Division of Employment Security told us a program of job referrals from INS

would be beneficial and could be tried on a pilot basis and expanded if the results warranted. He said that, if his agency could place 10 persons a month from such liaison, it would be worthwhile. He said that, administratively, a referral program would generally require such information as salary, location, and type of work.

Officials of the district office did not see any merit in such a program and pointed out that frequently the aliens continue to work on the same job until they depart--thus employment could continue for several months because of requests for extensions of stay for personal and other matters. They said that, considering the district's workload, it does not need to take on the additional responsibility of a job referral program.

Conclusions

INS's apprehensions of illegal aliens create many vacancies which citizens or lawful aliens could fill. State employment agencies could counsel employers of illegal aliens and, if desired by those employers, assist them by referring lawful applicants. INS district office officials in Los Angeles and New York have shown an interest in trying to develop such a program.

The success of such a program would depend on the interest and support of the Departments of Justice and Labor, the willingness of the various State employment agencies to participate, and the cooperation from the affected businesses.

Agency comments

Since opinions of INS and State employment service officials differ, we suggested in a draft of this report, that a study be made to determine the benefits which could be derived from counseling employers of illegal aliens, providing them with labor market information, and referring lawful applicants to them.

The Department of Justice (see app II) said referring lists of places of employment where illegal aliens had been

removed had been discontinued in the Los Angeles district due to nonuse by the employment agency. According to the Department, furnishing such data to the New York State Employment Office was discontinued also due to the State employment agency's lack of interest. The Department said INS was very willing to furnish any information available in its records to Federal, State, or local employment agencies but did not believe it was in a position to further counsel the employers of illegal aliens.

Labor (see app IV) said no Federal law prohibits employers from hiring aliens who are in the United States in violation of the Immigration and Nationality Act. Labor stated that, because jobs lure the illegal aliens and employers repeatedly hire illegal aliens because of their willingness to accept wages below the prevailing rate and perform menial and low status jobs, the employment service can do little to cooperate. Further the present curtailment of the Department of Labor's resources prohibits Labor from even contemplating a cooperative effort of the magnitude we envisioned.

In May 1973 House bill 982 was passed by the House which would among other things restrain employers from hiring illegal aliens. (See ch 4) We are recommending that the Senate give favorable consideration to aspects of this bill which would make it unlawful to hire illegal aliens. We believe that, if this legislation is enacted and enforced, it would remove a major economic incentive which attracts illegal aliens. Therefore we are not making any further recommendation with regard to the employment of illegal aliens until the outcome of this legislation is determined.

CHAPTER 4

NEED FOR SANCTIONS TO DISCOURAGE

HIRING ILLEGAL ALIENS

No Federal law prohibits employers from hiring aliens who are in the United States in violation of the Immigration and Nationality Act. Because jobs lure illegal aliens and employers repeatedly hire illegal aliens in many cases after INS visits, a law is needed to discourage such employment.

Subcommittee No. 1 of the House Committee on the Judiciary has held extensive hearings on unemployment and related considerations, such as the cost of unemployment benefits and welfare benefits resulting from illegal aliens. In August 1972 the Subcommittee issued Report 92-1366, entitled, "Amending the Immigration and Nationality Act, and For Other Purposes." The report outlined the problem of illegal aliens present to the Nation and concluded that the most direct approach to stem their influx is to enact legislation to significantly reduce the possibility of their obtaining employment.

On August 3, 1972, the Subcommittee introduced a bill (H.R. 16188) to amend various sections of the Immigration and Nationality Act. This bill would restrain employers from hiring illegal aliens by making it unlawful for any employer knowingly to employ an illegal alien and would provide penalties to encourage compliance. The Congress adjourned before taking final action on the bill. This legislation was reintroduced in January 1973 as House bill 982 and the House of Representatives passed it in May 1973.

STATES RECOGNIZE NEED FOR SANCTIONS

Many States recognize the problems discussed in our report. California, in November 1971, passed a law penalizing employers that knowingly hire an illegal alien if such employment would adversely affect lawful aliens and citizens. In March 1972 the Superior Court of the State of California for the County of Los Angeles ruled the statute unconstitutional because Federal immigration laws preempt the field and the State law was so vague and uncertain in defining illegal aliens that it failed to provide the degree of certainty required to meet the constitutional guarantys of due process.

On October 1, 1971, an Illinois legislative investigating commission reported to the Illinois General Assembly on its 3-month investigation of the problems caused by illegal Mexican aliens. According to the report, the problem posed by these aliens in Illinois was primarily an economic one which could easily be resolved if the illegal alien was denied employment. It stated "The only practical remedy seems to be the passage of a State law obliging employers to demand written proof of legal alien or citizenship status as a prerequisite for employment * * * " As a result of its investigation, the commission proposed a bill to prohibit hiring illegal aliens.

The Texas Good Neighbor Commission (a State agency which coordinates programs to improve conditions for Texas migrant farmworkers) studied the illegal entry of Mexicans and concluded in its 1971 annual report that "the first and most direct approach to stem this illegal invasion is to dry up the work prospects and thus eliminate the principal reason for entry ". The commission pointed to the need to amend the Immigration and Nationality Act to make employers who hire illegal entrants subject to criminal prosecution.

A study by the California State Social Welfare Board (which acts as an advisor to the Governor and the State Director of Social Welfare) revealed problems the State encountered with illegal aliens. The board, in a report dated January 1973, stated that Federal legislation should be enacted which would prohibit the hiring of illegal aliens and levy penalties against those employers convicted of violations.

Personnel in the INS southwest regional office told us that the passage of the California law penalizing employers that knowingly hire illegal aliens (subsequently declared unconstitutional) clearly affected the action of employers and diminished the incentive for illegal aliens to come to California. They observed that

--Employers hiring illegal aliens began to voluntarily comply with the law by requesting INS assistance in determining the status of the employees and encouraging illegal aliens to try to change their status to enable them to work.

- The number of aliens coming into the INS Los Angeles district office to inquire about their status increased substantially to about 90 a day, when the law was declared unconstitutional, the number diminished
- The number of entries and attempted entries of illegal aliens at the Mexican border changed from a concentration in California to a concentration in Arizona and Texas while the law was in effect

Conclusion

The increasing number of illegal aliens entering the country has reached severe proportions and far exceeds INS's ability to cope with the problem

Although the illegal alien problem may never be completely eliminated, sanctions against employers are necessary in dealing with the problem

Matter for consideration by the Congress

The bill (H R 982) to prohibit the employment of illegal aliens and provide penalties to encourage compliance would remove a major economic incentive. We recommend that the Senate give favorable consideration to aspects of House bill 982 which make it unlawful to hire illegal aliens

CHAPTER 5

SCOPE OF REVIEW

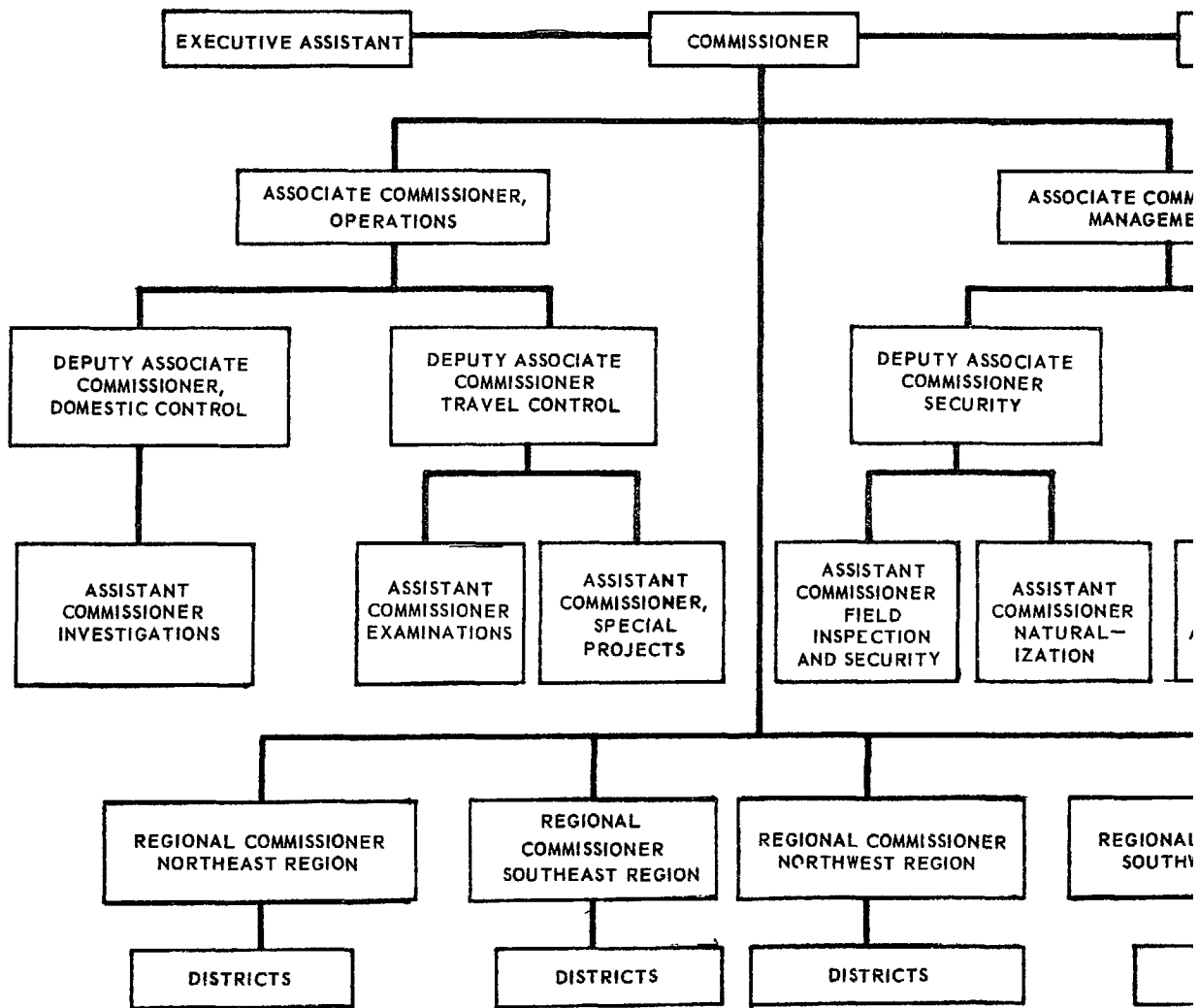
We reviewed the laws prescribing the conditions for entry into the United States of immigrants and nonimmigrants and examined INS policies, procedures, and practices for preventing illegal entry of aliens and for locating, apprehending, and expelling illegal aliens

We made our review at the INS central office in Washington, D C , and INS offices and facilities in California, Florida, Massachusetts, Missouri, New York, and Vermont

We also visited and obtained information from officials of local welfare agencies and State employment agencies in five of the six States included in our review and from headquarters officials of IRS, HEW, and Labor

IRS headquarters officials did not permit us to interview district directors and denied us access to the results of studies or projects on tax collections from illegal aliens

**UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE**





UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D C 20530

May 2, 1973

Address Reply to the
Division Indicated
and Refer to Initials and Number

Mr Daniel F Stanton
Assistant Director
General Government Division
United States General Accounting Office
Washington, D C 20548

Dear Mr Stanton

This letter is in response to your request for comments on the draft report titled "Efforts to Apprehend and Expel Illegal Aliens and Reduce Some of the Economic Burdens They Cause "

The draft report dramatically points out the serious "illegal alien problem" presently facing the Immigration and Naturalization Service (INS) in the enforcement of the immigration and nationality laws. This problem has been recognized and acknowledged by the Department for the past several years and has been stated in various reports and requests for additional funds and personnel, as well as the recommendation that possible remedial legislation be enacted. The legislation most needed at this time is a provision making it unlawful for employers to knowingly employ aliens who are illegally in the United States. Such legislation is now pending in the Congress in H R 982. Assistant Attorney General Mike McKeivitt, Office of Legislative Affairs, testified in support of this legislation before Subcommittee No 1 of the Committee on the Judiciary, House of Representatives on March 7, 1973. Similar legislation passed the House of Representatives during the last session of Congress without action being taken by the Senate before adjournment.

We agree with the conclusions on page[1] of the draft report that INS has little difficulty locating illegal aliens, and the number of illegal aliens located is constrained, to a great extent, by the availability of detention funds, investigators and border patrolmen, detention space, transportation funds, and time. Operating in the midst of these constraints, we believe INS

GAO note Page references in this appendix have been changed to correspond to the pages of this report

has done an effective job as evidenced by the fact that a quarter to one-half of the estimated deportable aliens in this country are being removed annually and, during fiscal year 1972, approximately 67 percent of the 500,000 deportable aliens located in the United States were located within 30 days after illegal entry or after having become deportable

The report also states that because of the increase in alien violators INS has had to resort to voluntary departure in lieu of formal deportation and criminal prosecution, thus diluting the deterrent effect of INS's enforcement efforts. This conclusion is not completely factual as every effort is still being made to deport flagrant violators and to prosecute those who violate the major criminal immigration law statutes. Before the large influx of illegal Mexican nationals began in 1965 and for several years thereafter nearly all adult Mexican male aliens apprehended were fingerprinted and held in detention until fingerprint returns were received. On the basis of their past records relatively large numbers were prosecuted and deported. Despite these procedures, the influx continued to escalate at ever increasing rates. There is no evidence provided in the draft report to support GAO's conclusion that deportation and prosecution would serve as any more of a deterrent now than it did earlier, nor does our past experience support such a conclusion. We believe the number of Mexican nationals illegally in the United States is substantially attributable to the termination in December 1964 of Public Law 78 which permitted the importation of Mexican agricultural workers for temporary periods.

The largest class of illegal aliens apprehended in the United States are Mexican nationals who either entered the United States illegally or violated status after entry as nonimmigrants. To understand the Mexican alien problem, it is important to recognize the character and plight of illegal Mexican nationals who constitute more than 85 percent of the total immigration violators encountered by INS. Such aliens normally enter the United States to seek employment so as to fulfill the basic needs of food, clothing, and shelter and to support their families in Mexico. The threat of their having to reapply for admission into the United States after deportation means very little as these aliens realize they will probably never be able to legally emigrate to the United States. Similarly, the threat of imprisonment of the illegal entrant in many instances has little deterrent effect as incarceration may be more of a benefit than a punishment since they will

APPENDIX II

be provided their basic needs and possibly learn the rudiments of a trade or job skill while in prison so as to be in a better position to compete for employment in Mexico upon release

The most important deterrent to illegal entries from Mexico is the prompt apprehension and return of aliens to Mexico before any gain can be realized from their entry. It has also been found that the return of such aliens to the interior of Mexico, near their homes, with the cooperation of the Mexican government, keeps many from attempting another illegal entry. However, the lack of INS funds during the past few years has precluded such return of many indigent aliens.

The statistical information on repeaters shown on page [10] of the report is usually taken from the statements of the aliens at the time of apprehension without fingerprints and complete record checks being made. As the information furnished is often self-serving and not factual, the percent of repeaters is believed to be much higher than the 31 percent shown in the draft report.

We do not question the situation described on page [17] of the report as to the lack of action by INS on the 38,000 cases of aliens required to depart but allegedly failing to do so. However, many of these aliens undoubtedly have departed. Moreover, it is our experience that we can more effectively and productively utilize our manpower in the location of deportable aliens through valid leads involving several illegal aliens rather than the investigation of individual cases where the addresses or whereabouts of the aliens are often obsolete. As manpower becomes available the latter cases should be at least spot checked to determine the whereabouts of these aliens.

We agree with the statement on page [29] that inadequate enforcement is contributing to the rise in illegal entries into the United States. We also agree that an effective enforcement program hinges on (1) increasing the resources devoted to the apprehension and processing of illegal aliens and (2) eliminating the economic incentives attracting illegal aliens to the United States, such as H. R. 982 now pending in the Congress. As the draft report points out, the motivating force behind the flood of illegal entrants is economic and thus has an adverse impact on the economy. Recognizing this fact, INS has made every effort to emphasize those operations that deprive aliens of economic gain and minimize the adverse impact on the economy. As a result

of these efforts in fiscal year 1972, 248,000 deportable aliens were located while seeking employment, an additional 89,680 were located while working in agriculture and 102,911 were located while working in industry and related occupations

The draft report recommends that improved cooperation between INS and the Internal Revenue Service (IRS), local welfare agencies and State employment agencies is needed to minimize the adverse impact illegal aliens have on the economy. We acknowledge that an improved, more systematic exchange of information between INS and the various agencies named would be beneficial.

Liaison with IRS on a field office basis has been a requirement of INS for some time. Referral locally of illegal aliens with substantial sums of unreported earnings has been effective in the collection of delinquent taxes in many areas. Success has depended upon the criteria established for referral and the capabilities of IRS to process such cases immediately. Prior to receipt of this draft report, there had been meetings at the seat of Government level between INS and the IRS relative to the aforementioned problem, as well as the standardization of procedures incident to the collection of income taxes on the unreported earnings of illegal aliens, smugglers of aliens, and others engaged in the unlawful exploitation of illegal status aliens for gain. Such meetings were also directed toward the establishment of procedures leading to the identification and reporting to IRS of employers who fail to withhold required amounts of taxable income from the salaries of illegal status aliens. Further consultations on these matters have been scheduled with the view toward the ultimate establishment of nationwide procedures for the interservice enforcement of Internal Revenue statutes incident to departing nonimmigrants, illegal status aliens, and the employers of such aliens.

While the draft report suggests an extensive collection effort be made to obtain unpaid income taxes from illegal aliens in custody, it offers no estimate of the overall cost of such collection efforts. The proposed procedures incident to the some 192,000 illegal aliens found employed in fiscal year 1972 would have required the assignment of a substantial number of IRS employees to this task. Added to this would be the cost in man-hours to INS necessitated by increased record keeping, more intensive clothing and

APPENDIX II

body searches of aliens in custody in order to locate money hidden on their person or sewn in their clothing, more extensive interrogation to determine if the criteria for referral exists, scheduling and movement of aliens and their property to points of IRS interviews, and the rescheduling of transportation when delayed by IRS processing. Moreover, additional detention time may be needed for IRS action, which leads to a further question of authority to hold aliens in custody for such processing after the aliens are completely ready for voluntary departure or deportation.

Two widely varying situations are encountered regarding illegal aliens apprehended by INS who may have unreported income tax liabilities. The first is the Mexican national who usually has his savings in his possession provided he has not sent it to his home in Mexico. The second is the illegal alien of other nationalities, often found in metropolitan areas in the eastern United States, who does not have substantial sums of money in his possession but deposits his earnings in banks or other financial institutions. Substantial funds of the latter group are often tied up in such items as businesses, automobiles, and household furnishings. Many of these illegal aliens are not taken into custody when placed under deportation proceedings. In addition to the above considerations, we know, from long experience with Mexican aliens, that soon after procedures are established to collect money for their transportation home, they begin mailing greater amounts of their money to Mexico before arrest and hide the remainder.

The draft report also recommends that the Attorney General and the Secretary of Health, Education, and Welfare develop guidelines for federal and local welfare agencies to provide information to INS for the identification of illegal aliens applying for or receiving welfare payments. Prior to October 1972, the Department of Health, Education and Welfare (HEW) interpreted Federal and State laws and regulations as preventing the disclosure of information on welfare applicants or recipients. In October 1972, the Social Security Act was amended to permit disclosure to law enforcement officials of information on welfare applicants or recipients who may be illegal aliens. This change will be of substantial benefit to our enforcement efforts. We agree with the comment on page [45] of the report that HEW could play an

important role in encouraging the State and local welfare agencies to refer potential cases of illegal aliens to INS for investigation and we will work cooperatively with HEW in an effort to meet this objective

Regarding Aid to Families with Dependent Children, which is not covered by the above amending legislation, H R 982 submitted by Congressman Rodino and identical bill H R 3803 submitted by Congressman Eilberg, have a provision (Section 274A) which states "Any officer or employee of the Department of Health, Education, and Welfare shall disclose to the Service the name and most recent address of any alien who such officer or employee knows is not lawfully in the United States and who is receiving assistance under any State plan under title I, X, XIV, XVI, XIX, or part A of title IV of the Social Security Act " This proposed legislation makes the disclosure mandatory for Health, Education, and Welfare employees and also includes Aid to Dependent Children recipients A procedure under which Health, Education, and Welfare employees can determine whether a welfare recipient is lawfully in the United States will need to be developed by HEW

The report further recommends that the Attorney General and the Secretary of Labor conduct a study to determine the benefits which could be derived from using the services of INS and/or State employment agencies to counsel employers of illegal aliens by (a) providing labor market information and (b) referring job applicants As indicated on page [50] of the report, the New York and Los Angeles Immigration offices expressed an interest in this procedure at the time GAO employees visited those offices For some time prior to the GAO visit the Los Angeles office sent letters to certain employers suspected of employing illegal aliens pointing out the possibility they were employing illegal aliens in the United States and requesting they terminate such employment and hire United States citizens or permanent resident aliens The cooperation of INS was extended to all employers who desired the assistance of our officers to interrogate any or all of their employees to determine if any were aliens illegally in the United States Also, in January 1972, before the GAO visited the Los Angeles office, lists of places of employment where illegal aliens had been removed, thus leaving job vacancies, were being furnished the local State employment office This procedure

was discontinued in September 1972, due to the lack of utilization on the part of the employment agency. After the GAO visit to the New York office the names of employers found to have illegal aliens working for them were furnished to the New York State Employment Office. This procedure was discontinued in November 1972 also due to the lack of interest on the part of the State employment agency. Apparently the State employment agency was not able to use the information due to the resistance of employers in asking for job applicant referrals. INS is very willing to furnish any information available in its records to Federal, State or local employment agencies, but we do not feel that INS is in a position to further counsel the employers of illegal aliens.

As to the matters presented on page [54] for consideration by the Congress, we support these recommendations and believe that enactment of such remedial legislation would be a significant milestone in resolving the illegal alien problem.

The following paragraphs relate to editorial comments, suggested corrective language or statistical corrections. The latter corrections were discussed with Mr. Willis of your office.

[See GAO note, p 67]

[See GAO note, p 67]

Page [9]

Certain area control operations have been curtailed not only because of a lack of funds but also to permit the use of available manpower on the border to apprehend in the immediate border area those aliens entering illegally

[See GAO note, p 67.]

Page [12] "Businesses Repeatedly Hiring Illegal Aliens"

INS records in the various offices do not completely reflect our efforts to check and recheck places of business that hire illegal aliens. Very often INS officers question employees while they are going to or from work as employers often challenge the authority of INS officers to enter their places of business. Also if officers do enter the places of business the illegal aliens very often hide or leave the premises. INS authority to enter the nonpublic portion of businesses to question suspects has been challenged in the courts and deportation hearings and it is the policy not to enter places of business without permission and knowledge of the owner or person in charge.

Page [19]

The conclusion reached on the prosecution of immigration law violations is unfortunately correct. INS realizes the limitations as to the volume of prosecutions that can be authorized by United States Attorneys because of the limited detention capabilities, overburdening the courts, etc. Although there has been a slight increase in the time to serve and the fines collected, significantly more meaningful sentences and fines could serve as a deterrent to smugglers and transporters of illegal aliens. This is a matter within the discretion of the courts.

[See GAO note, p 67]

[See GAO note]

The draft report shows an in-depth inquiry into the operations of INS in those offices covered. Our comments are not meant to be critical of the efforts expended and we feel confident the report will serve a useful purpose to the Congress in its understanding of our problem in preventing the illegal entry of aliens and locating and expelling aliens who are deportable under the Immigration and Nationality Act within the confines of existing law and available resources.

We shall continue to exert every effort to enforce the immigration and nationality laws in a humanitarian manner as diligently and effectively as possible within the statutory authority and resources allotted to us.

We appreciate the opportunity afforded us to provide comments on the draft report.

Sincerely,



Glen E. Pommerening
Acting Assistant Attorney General
for Administration

GAO note Selected comments relate to items eliminated
in final report

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US Treasury Department

Internal Revenue Service

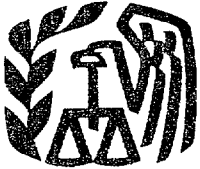
Washington, DC 20224

Date

| In reply refer to

APR 16 1973

ACTS C R



Mr Charles P McAuley
Assistant Director, General Governmen.
Division
General Accounting Office, Room 212
District National Building
Washington, D.C

Dear Mr McAuley

A copy of the proposed General Accounting Office report to the Congress on efforts to apprehend and expel illegal aliens and reduce some of the economic burden they cause has been furnished to the Internal Revenue Service (IRS) We have reviewed this document, with particular attention being paid to Chapter 3, since it relates to IRS activities and cooperation with the Immigration and Naturalization Service (INS), and would like to present our views on some of the matters discussed

We have been concerned with the joint IRS/INS program on illegal aliens because manpower limitations and higher priorities for other delinquency programs have not permitted us to achieve what we would consider maximum compliance. However, this area has been under examination and we have determined that the magnitude of tax avoidance involved justifies some increase in our compliance efforts In this regard, discussions with the INS have been re-opened and a revised program is now under consideration. This new program will provide firm guidelines specifying when the INS will advise the IRS of an illegal alien being deported When this notification is received, the IRS will interview the alien, determine his tax status, and collect as much of the tax due as is feasible under the circumstances

The existing and revised programs are similar in many respects, but the addition of several new provisions will strengthen the program and ensure that it is properly implemented. For example, the IRS instructions will provide for mandatory follow-up in all districts when an INS referral is received In addition, the INS will limit their referrals to those aliens falling within established guidelines

Mr McAuley

These additions, and several others of less significance, will result in a program that will monitor the apprehended illegal alien area to the maximum extent possible under the limitations imposed by manpower availability


We believe that the revised program incorporates the three suggestions contained in the section of the report entitled, Recommendation to Attorney General and to Secretary of the Treasury

[See GAO note]

We are confident that implementation of the revised IRS/INS program on apprehended illegal aliens will increase tax collections from this source while concurrently it will remove some of the incentive for aliens to enter the United States illegally. However, we recognize that this program alone will not resolve all of our problems with illegal aliens. It is our opinion that compliance with withholding tax requirements by persons that employ aliens is the preferred way to assure that aliens satisfy their tax liabilities. Consequently, we are currently considering various methods of monitoring the tax status of these employers. We will continue to explore this and other avenues in our attempt to maximize compliance with tax laws and regulations.

With kind regards,

Sincerely,


Acting Commissioner

GAO note Selected comments relate to items eliminated in final report

U S DEPARTMENT OF LABOR
OFFICE OF THE ASSISTANT SECRETARY FOR MANPOWER
WASHINGTON D C 20210



MAY 15 1973

Mr. David F. Stanton
Associate Director
General Government Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Stanton.

Pursuant to your request, these are our comments to the proposed GAO report entitled "Efforts to Apprehend and Expel Illegal Aliens and Reduce Some of the Economic Burdens They Cause."

There is no Federal law which prohibits employers from hiring aliens who are in the United States in violation of the Immigration and Nationality Act. Since jobs lure the illegal aliens to the United States and employers repeatedly hire illegal aliens in many cases because of their willingness to accept wages below the prevailing wage of the area and perform the most menial and low status jobs, there is very little the Employment Service can do in a cooperative arrangement.

For the Employment Service, another Government agency, to attempt to "counsel" with employers accustomed to hiring illegal aliens after their work force has been disrupted by the INS would be an impossible situation and no rapport would be possible.

[See GAO note]

The example provided on page 47 of the proposed GAO report of a selection of categories of jobs held by illegal aliens apprehended by INS is not typical of jobs held by illegal aliens and fails to reflect the wages paid illegal aliens, all of which upon examination will reflect, in our experience, wages below the prevailing wage.

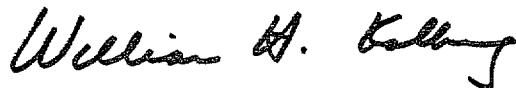
GAO note We agree that the categories of jobs listed in the report are not typical of those held by most illegal aliens that are apprehended. However, there are many aliens apprehended, particularly in the larger cities, who have jobs like those listed on page 47 of our report

In addition, the Employment Service in the several States is presently hard-pressed to change the image of a low wage, menial job type organization. Considerable effort is currently being expended with our limited resources to persuade employers to utilize the Employment Service and to provide them with the services they want, such as capable, efficient, skilled workers who have been trained or had experience in the job category for which they have a need at a wage prevailing in the area

Furthermore, we must be exceedingly careful to avoid any semblance of becoming a compliance agency for any purpose whatsoever. To recommend to the several State agencies this type of "counseling" activity as suggested would be most detrimental to progress they are making with employers

Finally, the curtailment of our resources at this time and during FY '74 prohibits our even contemplating a cooperative effort of the magnitude envisioned by the GAO personnel who prepared this report.

Sincerely,



WILLIAM H KOLBERG
Assistant Secretary for Manpower

GAO note

Page references in this appendix have been changed to correspond to the pages of this report

APPENDIX V



DEPARTMENT OF HEALTH EDUCATION AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON D C 20201

JUN 13 1973

Mr Franklin A Curtis
Associate Director
Manpower and Welfare Division
United States General Accounting Office
Washington, D C 20548

Dear Mr Curtis

The Secretary has asked that I reply to your letter of March 9, 1973, in which you asked for our comments on a draft report entitled, "Efforts to Apprehend and Expel Illegal Aliens and Reduce Some of the Economic Burdens they Cause " Our comments are enclosed

We appreciate the opportunity to review and comment on this report in draft form

Sincerely yours,

James B Cardwell
Assistant Secretary, Comptroller

Enclosure

COMMENTS ON GAO'S DRAFT REPORT ENTITLED, "EFFORTS TO APPREHEND AND EXPEL ILLEGAL ALIENS AND REDUCE SOME OF THE ECONOMIC BURDENS THEY CAUSE"

This draft report to the Congress is the result of a Congressional request that GAO determine whether the Immigration and Naturalization Service is operating with efficiency and economy. The report deals with the nature of the illegal alien problem and its impact on the Service's enforcement. GAO found a number of areas in which improvements could be made, one conclusion was that better cooperation between the Service and other Government agencies--one of which is DHEW--could help to relieve some of the burdens caused by illegal aliens.

DHEW is involved in only one of GAO's recommendations. It asks that the Attorney General and the Secretary of Health, Education, and Welfare develop guidelines for Federal and local welfare agencies to provide information to INS for the identification of illegal aliens applying for or receiving welfare payments. We agree on the need for welfare agencies to provide information on illegal aliens to the Service, and believe that the intent of GAO's recommendation will be accomplished through implementation of the policies and procedures discussed below.

Over the years the Social Security Administration has worked with the Immigration and Naturalization Service in furnishing requested information about aliens. It has been SSA's long-standing policy, in issuing social security numbers, to screen against its files the applications of persons over age 16, and to require applicants over age 54 to provide evidence to establish their identity--these steps were intended to deter improper attempts to obtain numbers and to reduce the problems that the Service and other agencies have to deal with.

Section 137 of the Social Security Amendments of 1972 calls for DHEW to take certain measures to further tighten up the procedures for issuing social security numbers, to assign numbers to aliens at the time of their lawful admission, and to assign numbers to individuals who apply for or receive cash benefits under any program financed in whole or in part from Federal funds. The provisions require all applicants for social security numbers to submit sufficient evidence to establish age, identity, and citizenship or alien status. To carry out these provisions, SSA has been studying and defining policies whereby the Immigration and Naturalization Service will be notified whenever an alien or a foreign-born individual applies for a social security number but does not provide the necessary proofs.

[See GAO note]

We will continue to work with these welfare agencies in encouraging their cooperation with the Service SSA too will continue to work closely with the Service in the further development of cooperative procedures and in the resolution of any problems that may arise

GAO note Deleted comments relate to matters discussed in the draft but omitted from this report.

PRINCIPAL OFFICIALS RESPONSIBLE
FOR ADMINISTERING ACTIVITIES
DISCUSSED IN THIS REPORT

	Tenure of office	
	From	To
<u>DEPARTMENT OF JUSTICE</u>		
ATTORNEY GENERAL		
Elliot L Richardson	May 1973	Present
Elliot L. Richardson (acting)	Apr 1973	May 1973
Richard G Kleindienst	June 1972	Apr 1973
Richard G Kleindienst (acting)	Feb 1972	June 1972
John N Mitchell	Jan 1969	Feb 1972
Ramsey Clark	Oct 1966	Jan 1969
COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE		
James F Greene (acting)	Apr 1973	Present
Raymond F Farrell	Jan 1972	Mar 1973
<u>DEPARTMENT OF THE TREASURY</u>		
SECRETARY OF THE TREASURY		
George P Shultz	June 1972	Present
John P Connally	Feb 1971	June 1972
David M Kennedy	Jan 1969	Feb 1971
COMMISSIONER OF INTERNAL REVENUE		
Johnnie M Walters	Aug 1971	Present
Harold T Swartz (acting)	June 1971	Aug 1971
Randolph W Thrower	Apr 1969	June 1971
<u>DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE</u>		
SECRETARY OF HEALTH, EDUCATION, AND WELFARE		
Caspar W. Weinberger	Feb 1973	Present
Frank C. Carlucci (acting)	Jan 1973	Feb 1973
Elliot L Richardson	June 1970	Jan 1973
Robert H Finch	Jan 1969	June 1970
Wilbur J Cohen	Mar 1968	Jan 1969
John W Gardner	Aug 1965	Mar 1968

APPENDIX VI

Tenure of office
From To

DEPARTMENT OF LABOR

SECRETARY OF LABOR

Peter J Brennan	Feb. 1973	Present
James D Hodgson	July 1970	Feb 1973
George P Shultz	Jan 1969	June 1970
W Willard Wirtz	Sept 1962	Jan 1969

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