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IMMIGRATION ISSUES

Making Needed Policy
and Management Decisions
on Immigration Issues

Statement of
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MAKING NEEDED POLICY AND MANAGEMENT
DECISIONS ON IMMIGRATION ISSUES

SUMMARY OF STATEMENT OF
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As the basic instrument of United States immigration policy, INS operates in an environment that features complex and difficult policy issues, such as (1) who should be permitted to legally enter the country, (2) what should be done to prevent aliens from entering illegally, and (3) what should be done to remove aliens who are here illegally.

INS is confronted with the problem of stopping millions of aliens trying to enter the country illegally. Preventing illegal entry raises several issues, including (1) the feasibility and effectiveness of different approaches to, and technologies for, improved border control; (2) humanitarian concerns, such as equitable treatment of aliens of different nationalities and divided families; and (3) cost considerations and trade-offs, such as choosing between alien detention and prevention of illegal entry.

In removing aliens from the country, INS is confronted with the almost impossible task of trying to locate and remove those aliens whom it believes should not remain here. Proposals to more effectively remove deportable aliens also raise difficult issues, some of which involve their rights to certain constitutionally based procedural protections.

The agency's task is particularly complicated because many immigration policy issues are beyond its control. However, INS also faces serious management problems that it can and must address.

Over the past decade weak management systems and inconsistent leadership at INS led to segmented autonomous programs, each of which tried to handle its own set of problems and gave little attention to the interrelationships among programs. Without coherent overall direction and basic management reforms, the organization has been unable to effectively address changing enforcement responsibilities and longstanding service delivery problems.

In previous reports, GAO recommended that the Attorney General and the INS Commissioner determine what INS priorities should be and then establish a multiyear financial, resource allocation, and accountability strategy to achieve them. Also, GAO recommended that INS develop an enforcement strategy that clearly delineated responsibilities, addressed problems at its detention facilities, and improved the services it provides to aliens. Regarding financial and information problems, GAO said that INS needs to develop a viable accounting and financial management system, improve controls over revenue and debt collection, and define its information needs.

All too often, in GAO's opinion, the focus of agency leadership has been only on the short term. Focus on the short-term consequences of actions has too often resulted in serious long-term problems. INS' problems are too longstanding to allow it to continually ignore the fundamental need to develop a strategic vision about how the agency should operate. Therefore, GAO recommended that the Attorney General and the Commissioner of INS begin the process of developing this vision and then build a consensus for it both within INS, as well as with Congress and affected groups in the country.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss (1) needed immigration policy and management decisions and (2) their impact on the operations of the Immigration and Naturalization Service (INS). My testimony is based on the immigration issues raised in our Justice transition report--Justice Issues (GAO/OCG-93-23TR, Dec. 1992)--and related GAO reports and testimony. Attached is a list of these reports and testimony.

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

- who should be permitted to legally enter the country,
- what should be done to prevent aliens from entering illegally, and
- what should be done to remove aliens who are here illegally.

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

We recognize that the resolution of these issues and building consensus on immigration policy will take time. However, the major management problems that have plagued INS need immediate attention. INS management has to improve significant weaknesses in its allocation of resources, organizational structure, financial management, and information management. These management problems must be addressed now. Responding to them should not be delayed pending resolution of the broader policy issues.

BACKGROUND

From without and from within, the United States is pressured to allow refugees to enter the country legally to escape conditions in other countries. As civil unrest, poor economic conditions, and natural disasters occur in other countries, refugees look to this country as a safe haven.

INS is basically an instrument of the United States' immigration policy. Its overall mission is to promote and allow only legal entry and travel to the United States. However, the two main units within INS--enforcement and service--have quite different, almost opposite, organizational objectives. One unit is charged with keeping aliens from illegally entering the country; the other unit is responsible for facilitating their legal entry.

In response to increased responsibilities and demands on INS, its budget has grown. Between 1975 and 1990, INS' budget more than tripled to over a billion dollars and the number of staff increased by 70 percent. In addition, INS is authorized to use fees it collects for many types of alien benefit applications, such as naturalization, and for inspections at airports and seaports.

IMMIGRATION POLICY DECISIONS NEEDED

Congress and the administration need to resolve the following immigration policy issues.

Who Should Be Permitted Entry?

When conditions in other countries deteriorate, the United States has traditionally responded to the plight of the refugees by permitting their entry. However, our country's response has been on a case-by-case basis. As a result of responding to specific international crises, INS often operates in a reactive mode that can appear, at times, to be inconsistent.

For example, the Foreign Operations Appropriations Act for fiscal year 1990 (Public Law 101-167) required the executive branch to provide enhanced opportunity for certain Soviets to qualify for refugee status.¹ In anticipation that some Soviet citizens would be denied refugee status, the Attorney General extended an offer of public interest parole² to all Soviets found ineligible for refugee status. In response to developments in East European countries, the United States pledged to move all East Europeans approved for resettlement before July 1, 1989, to the United States by the end of December 1989.

As a result of a 1979 Memorandum of Understanding between the United Nations High Commissioner for Refugees and the government of Vietnam, a program was established to provide a safe and legal means for people to leave Vietnam openly rather than clandestinely by boat. Under the conditions of the program, Vietnamese had the opportunity to enter the United States. Also, the Attorney General is authorized to grant temporary protected status under certain conditions to nationals from countries with social or political unrest. In our June 1992 report,³ we pointed out that the

¹This included Jews, Evangelical Christians, Ukrainian Catholics, and Ukrainian Orthodox Church members.

²Parole is a procedure used to temporarily admit an excludable alien into the United States for emergency reasons or when in the public interest.

³Immigration Control: Immigration Policies Affect INS Detention Efforts (GAO/GGD-92-85, June 25, 1992).

nationals from five countries--El Salvador, Kuwait, Lebanon, Liberia, and Somalia--were granted this status.

What Should Be Done To Prevent Illegal Entry?

INS is confronted with the problem of trying to stop millions of aliens who attempt to enter the country illegally. Some of these aliens smuggle contraband such as drugs. Immigration policy related to the prevention of illegal entry is affected by such issues as the following:

- the economic disparities between United States and other nations, such as Mexico, which cause illegal immigration;
- conflicts between trade facilitation objectives calling for efficient flow of goods across the border and immigration control needs calling for better documentation and closer scrutiny of cross-border traffic;
- the reliance of U.S. employers on inexpensive labor, legal and illegal, from other countries; and
- the reliance of the other countries' economies on money earned in the United States and returned and spent in those countries.

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

What Should Be Done To Remove Aliens Illegally Here?

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

In our October 1989 report on deporting and excluding aliens from the country,⁴ we pointed out problems INS had in deporting aliens.

⁴Immigration Control: Deporting and Excluding Aliens From the United States (GAO/GGD-90-18, Oct. 26, 1989).

For example, 27 percent of the aliens had not appeared for their scheduled deportation hearings, which effectively stopped resolution of their deportation cases. While their nonappearance may be attributed in some instances to INS' failure to notify them of the time and place of their hearings, it may also have been due to the general lack of sanctions for failing to appear. In fact, our work has shown the deportation component of the immigration policy does not work well. If it is to be an effective component, it must be improved. But deciding how far to go in terms of strengthening the deportation process is related to the issue of how Congress wants the immigration laws to be enforced.

In our June 1992 report on INS detention efforts,⁵ we pointed out that INS treated aliens with similar types of violations or backgrounds differently. For example, some excludable⁶ aliens were released within a few days, while others remained in detention for extended time periods. Whether INS detained an alien and for how long depended on the amount of available space where the alien was eventually detained, the location of the alien's apprehension, and laws and administrative practices directed at certain nationalities. For example:

- INS detained Haitians who tried to enter the country for extended periods of time. At INS' Krome detention facility in Florida, the average length of time Haitians in our sample had already spent in detention was 101 days, while Indians had been detained an average of 69 days.
- INS detained Chinese aliens as they tried to enter the country in New York. Limited detention space in New York resulted in INS transferring some of these aliens to its Denver facility. The Chinese in our sample had spent an average of 11 days in detention in New York compared to 86 days for those transferred to Denver. The difference in detention time was related to the location of their detention rather than to their behavior or the factors surrounding their individual cases.
- INS detained excludable and deportable aliens for different lengths of time. Excludable aliens who were detained had been detained an average of 56 days. Deportable aliens who illegally entered the country and were subsequently apprehended for noncriminal behavior had been detained an average of 47 days.

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

⁶Excludable aliens are those persons to whom INS denies admission to the country.

Congress and the Administration Need to
Address Immigration Policy Issues

Efforts to permit entry of refugees, to tighten the nation's borders, and to expedite the expulsion of illegal aliens must take into account the plight of refugees escaping intolerable conditions and their rights to constitutionally based protections. They also must deal with such complex and sensitive issues as potential strains in our relationships with other nations, humanitarian concerns relating to equitable treatment of aliens, and difficult budgetary trade-offs.

NEED FOR STRONG LEADERSHIP AND MANAGEMENT

In addition to these difficult policy issues requiring the attention of Congress and the administration, INS needs strong leadership and management to

- balance the roles of enforcement and service and
- overcome problems in the management of its enforcement efforts and of the services that it provides to aliens.⁷

Managing its competing enforcement and service functions means making hard decisions regarding resource allocation to ensure the agency's most effective operations. For example, in our August 1992 testimony,⁸ we pointed out that Border Patrol funding increased 82 percent between fiscal years 1986 and 1991--from \$164 million to \$299 million. However, the proportion of total Border Patrol agent time devoted to border control activities decreased from 71 percent to 60 percent from 1986 to 1991. Further, the Border Patrol's vehicles and electronic equipment were in poor condition at the four locations we visited. Without suitable vehicles and electronic detection devices, the Border Patrol sometimes did not patrol areas known for high levels of illegal entry and drug smuggling.

Over the past decade weak management systems and inconsistent leadership at INS led to segmented autonomous programs, each of

⁷Immigration Management: Strong Leadership and Management Reforms Needed to Address Serious Problems (GAO/GGD-91-28, Jan. 23, 1991); Information Management: Immigration and Naturalization Service Lacks Ready Access to Essential Data (GAO/IMTEC-90-75, Sep. 27, 1990); and Financial Management: INS Lacks Accountability and Controls Over Its Resources (GAO/AFMD-91-20, Jan. 24, 1991).

⁸Border Patrol: Southwest Border Enforcement Affected by Mission Expansion and Budget (GAO/T-GGD-92-66, Aug. 5, 1992).

which tried to handle its own set of problems and gave little attention to the interrelationships among programs. Without coherent overall direction and basic management reforms, the organization has been unable to effectively address changing enforcement responsibilities and longstanding service delivery problems.

INS's budget development process has been chaotic. Its budgets are mainly compilations of program submissions with little accountability for funds or attention to agencywide priorities. Although INS is addressing some of these management problems, action is still needed to improve program enforcement and service. For example, even though aliens pay fees to cover processing costs, they still have to wait months to have their applications processed. While expenditures nearly doubled between fiscal years 1986 and 1989, overall processing times have not improved, and in key INS districts processing times substantially exceeded INS' criteria. Recently, INS has improved its processing times for some alien applications.

We have made a number of recommendations to address the problems related to INS' program operations, financial management, and information management. Specifically, we recommended that the Attorney General and the INS Commissioner determine what INS priorities should be and then establish a multiyear financial, resource allocation, and accountability strategy to achieve them. Also, we recommended that INS develop an enforcement strategy that clearly delineates responsibilities, addresses problems at its detention facilities, and improves the services it provides to aliens. Regarding financial and information problems, we said that INS needs to develop a viable accounting and financial management system, improve controls over revenue and debt collection, and define its information needs.

Even though the recommendations need to be implemented to help solve INS' problems, we are not confident that acting on them will result in a more effective INS. The Attorney General and the Commissioner of INS must articulate a vision of how INS should operate to effectively carry out its role of implementing the Nation's immigration policy. The approach to managing INS has been too ad hoc over the years. Specific improvements must be undertaken within a broad strategic context about how the agency should operate.

All too often, in our opinion, the focus of agency leadership is only on the short term. Focus on the short-term consequences of actions has too often resulted in serious long-term problems. INS' problems are too longstanding to allow it to continually ignore the fundamental need to develop a strategic vision about how the agency should operate. Therefore, we recommended that the Attorney General and the Commissioner of INS begin the process of developing this vision and then build a consensus for it within INS, as well

as with Congress and affected groups in the country. The exact means that the Attorney General and the Commissioner use to develop a strategic context for INS to operate within should be left to them. But there must be an explicit commitment by the leadership to seriously engage in the effort if long-term improvements in INS are to be realized.

The Office of the Attorney General has begun to focus on management issues relating to INS. New people have been recruited for key positions, and a renewed effort has been made to deal with the long-term problems that exist at INS. Achieving progress will be difficult, but we are encouraged by the Justice Department's commitment to bring about change. It is important that this commitment be sustained by the new administration in the years to come.

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

RELATED GAO PRODUCTS

Border Patrol: Southwest Border Enforcement Affected by Mission Expansion and Budget (GAO/T-GGD-92-66, Aug. 5, 1992)

Financial Management: INS Lacks Accountability and Controls Over Its Resources (GAO/AFMD-91-20, Jan. 24, 1991)

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

Information Management: Immigration and Naturalization Service Lacks Ready Access to Essential Data (GAO/IMTEC-90-75, Sep. 27, 1990)

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

Immigration Management: Strong Leadership and Management Reforms Needed to Address Serious Problems (GAO/GGD-91-28, Jan. 23, 1991)

Justice Issues (GAO/OCG-93-23TR, Dec. 1992)

Refugees and U.S. Asylum Seekers from Central America (GAO/T-NSIAD-89-16, Mar. 9, 1989)

Refugees from Eastern Europe (GAO-T/NSIAD-90-7, Nov. 2, 1989)

Refugee Program: The Orderly Departure Program From Vietnam (GAO/NSIAD-90-137, Apr. 11, 1990)

Soviet Refugees: Processing and Admittance to the United States (GAO/NSIAD-90-158, May 9, 1990)

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