

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	James Jukes to Legislative Liaison Officer re: Treasury Proposed Draft Bill: Border Violence Suppression Act of 1995 (partial, CIA Act) (1 page)	7/3/95	P3/b(3)

COLLECTION:

Clinton Presidential Records
 Domestic Policy Council
 Bruce Reed (Subject File)
 OA/Box Number: 21205

FOLDER TITLE:

Immigration [2]

1549

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

THE WHITE HOUSE
WASHINGTON

Bruce -

This is the best general summary of the municipal issues we've been looking at. Everyone thinks we should go with the broadest legislative proposal (Optic 3). We are now ~~discussing~~ discussing with DOT whether we can take certain administrative steps (described in the last section of the memo) that would make ~~a~~ broad legislative

proposal unnecessary. I can
brief you orally whenever
you want.

Elena

Immigration -
deportationDISCUSSION MEMORANDUM**Background**

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) severely restricts the availability of suspension of deportation in three ways:

(1) it extends the length of time immigrants must have resided in the U.S. to be eligible for suspension from seven to ten years and requires a greater showing of hardship. These rules apply to persons placed in removal proceedings after April 1, 1997;

(2) it sets a 4,000 annual cap on the total number of suspensions that can be granted, regardless of the number of individuals found eligible for suspension. Previously, there was no ceiling;

(3) it requires immigrants to meet the 7 (now 10) year residency prong before being placed in removal proceedings. (Prior to the IIRIRA, time would accrue throughout the course of proceedings.) This "stop-time" rule applies retroactively to individuals who were placed in proceedings prior to April 1, 1997.

The combination of these changes will dramatically reduce the number of immigrants currently in the U.S. who will be eligible for suspension. During your trip to Central American, you stated that you would work with Congress to seek to alleviate the harshest consequences of the law.

Persons Affected by the Law

While the suspension provisions of the IIRIRA will affect all nationalities, its consequences will be most acutely felt by the large number of Central Americans who entered the U.S. illegally in the mid/late 1980s in response to civil war and large-scale political persecution.

Nicaraguans: Approximately 40,000 Nicaraguans currently are in deportation proceedings. The Reagan Administration protected most of them from deportation during the pendency of a special DoJ review of their asylum applications. That program ended in June 1995 and the last available form of relief for Nicaraguans is to apply for suspension of deportation. Because of the way their cases were handled, Nicaraguans will be most severely affected by the retroactive application of the "stop-time" rule.

Guatemalans and Salvadorans: As a result of a settlement in a major class action lawsuit (known as ABC) that was reached in 1991, Salvadoran and Guatemalan asylum-seekers who came to the U.S. in the 1980s were protected from deportation until their

cc: Vice President
Chief of Staff

asylum claims could be decided under special adjudication procedures. Congress and the Executive branch also protected Salvadorans from deportation through various programs that expired in 1994. The ABC class is comprised of roughly 190,000 Salvadorans and 50,000 Guatemalans.

Because INS only fully put in place its special asylum procedures on April 7, 1997, and because ABC members did not press for rapid asylum hearings (believing that they were accruing time for purposes of suspension), a majority of them still have pending asylum applications and have yet to seek suspension of deportation. As a result, and barring a legislative change, they will be subject to the IIRIRA's stricter rules. Others were placed in proceedings before the accrual of seven years, and therefore will be barred by the "stop-time" rule.

In short, absent legislative fixes, approximately 280,000 Central Americans may eventually be subject to deportation. This could lead to serious disruptions to families in the U.S. and threaten the stability of Central American nations that rely heavily on remittances from immigrants and whose labor markets could not absorb a large number of returnees.

Congressional Sentiment

The legal modifications appear to have been motivated by the feeling that suspension was granted too generously. In addition, some in Congress wanted to eliminate the possibility of an amnesty-like program for Central Americans. At the same time, many Members were not aware of the full impact of these changes, particularly on long-standing de facto residents such as the ABC members.

Legislative Strategy Options

Option 1: Lift Cap for Cases in Proceedings Prior to April 1.

This option would affect between 19,000 to 38,000 individuals who would be granted suspension absent the cap. However, it would not address the core concerns of the immigrant community or of Central American governments because it would not assist about 215,000 ABC members not in proceedings as of April 1 (and therefore affected by the cap and the new suspension rules), nor would it help the 40,000 Nicaraguans affected by retroactive application of the "stop-time" rule. This is the most modest option which DoJ already is discussing with Members of Congress. In the meantime, DoJ has put a hold until September 30 on deportations of people who would have qualified but for the cap.

Option 2: Lift Cap for Cases in Proceedings Prior to April 1 and Reverse Retroactive Application of the "Stop-Time" Rule.

This option would benefit between 38,000 and 76,000 individuals -- essentially those helped by option 1 plus Nicaraguans and others affected by retroactive application of the "stop-time" rule. It could be justified as a fair transitional measure as the Administration moves toward full implementation of the law. However, it would be criticized from both sides: it would not help approximately 215,000 ABC class members not in proceedings as of April 1, and is likely to be strongly opposed by the principal congressional backers of the IIRIRA. Absent high-level White House efforts, proposing this could undermine our chances on option 1.

Option 3: Lift Cap for ABC Members and Individuals in Proceedings Prior to April 1; Reverse Retroactive Application of the "Stop-Time" Rule for Cases in Proceedings Prior to April 1; and Apply pre-April 1 Suspension Standards to ABC Members.

however than above

This is the broadest option and is expected to benefit roughly 119,000 individuals -- those covered by option 2 plus ABC members who would have qualified had there been no change in the law. This is the only option that addresses the bulk of the Central Americans' and immigrant community's concerns. Special treatment of ABC class members can be justified by their unique circumstances, which includes their long presence in the U.S. under temporary legal status and the fact that their asylum cases were delayed while INS put in place special asylum procedures -- as a result of which they are being barred from suspension because of legislation passed 6 years after the settlement agreement with DoJ. The Administration also could point out that these are transitional measures, and that full implementation of the immigration law will soon follow.

However, this option is likely to generate strong opposition from Members of Congress who will liken it to an amnesty and question the Administration's resolve to seriously enforce the immigration law. Moreover, it might be criticized for singling out for special treatment Salvadorans and Guatemalans. Absent high-level White House intervention along the lines of the final days of debate on the 1996 bill, even proposing this option could jeopardize the chances of options 1 or 2.

Related Issues

Two additional issues need to be resolved based on your decision on the foregoing options:

Issue #1: Whether to temporarily stop deporting individuals who would qualify for suspension under the option you select.

This would avoid the deportation of immigrants who may otherwise qualify were we to reach agreement with Congress. At the same time, the hold would not prejudice the outcome of our negotiations with Congress as deportations could resume if and when necessary.

Issue #2: Whether to agree, in negotiations with the Congress, to offset any increase in the number of suspension grants with a reduction in legal immigration numbers.

While not our preferred option, some Members of Congress might condition their agreement on an offset. With roughly 900,000 legal immigrants admitted per year, even the most generous option (#3) would entail reducing that number by only slightly over 10% or, if spread over several years, a fraction thereof.

However, any such option could be seen to conflict with the Administration's principle of favoring legal immigrants over those without legal status. In addition, several Members -- including Senator Abraham -- strongly oppose an offset, which they fear might re-open debate on other legal immigration issues.

Administrative Options

Immigration advocates are pressing us to take administrative steps instead of/in addition to legislative ones.

Step #1: Temporarily Halt ABC Asylum Interviews

Pursuant to the settlement, INS began conducting new asylum interviews of ABC members in April 1997. Interviews are resulting in large numbers of denials and placement of aliens in deportation proceedings -- thereby cutting off the accrual of time for suspension/cancellation purposes. Advocates seek an immediate, temporary halt to interviews as the Administration considers its options, arguing that the INS waited 6 years to schedule the interviews, only to hold them when they will cause most harm to the aliens as a result of the new "stop time" rule. However, a halt will be viewed by some Members as inconsistent with INS' commitment to move forward with interviews.

Step #2: Re-interpret the Cap Provision

Advocates argue that the IIRIRA can reasonably be read to impose a 4,000 cap on the number of adjustments of status granted annually, not on the number of suspensions. They ask that aliens granted suspension be placed on a wait list and permitted to remain in the U.S. legally until a number is available for

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adjustment of status in a subsequent fiscal year. While this arguably is a defensible interpretation of the law, it risks being viewed by some Members as an end-run around the cap.

Step #3: Reverse the decision applying the stop-time rule retroactively

Advocates are urging the Attorney General to reverse the Board of Immigration Appeals decision (known as *NJB*) holding that the stop-time rule applies retroactively. They argue that *NJB* was a 7-5 split decision by the Board and that a reversal would be legally justified. However, OLC has reviewed this issue and does not believe the advocates' interpretation is defensible.

procedure?

presumptive extreme hardship?

Clinton's trip leaves promises to keep

But he can't do it without Congress

By Warren P. Strobel
THE WASHINGTON TIMES

A1

BRIDGETOWN, Barbados — President Clinton promised more banana sales for worried Caribbean countries. He promised jittery Central American countries fewer U.S. deportations of immigrants. He promised more trade pacts, more cooperation and more respect.

But Mr. Clinton, who today wraps up a weeklong swing through Latin America and the Caribbean, won't know until he gets back to Washington and deals with Congress whether his policy toward the region is more than just promises.

The president and his delegation, who visited Mexico, Costa Rica and Barbados, were full of soothing words designed to assuage resentments among Washington's southern neighbors that range from anger over unilateral U.S. actions to bruised feelings of neglect.

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TRIP

From page A1

Here in the Caribbean, for example, its small island economies have been badly hurt by the 1993 North American Free Trade Agreement (NAFTA), which gives Mexican and Canadian products preferred access to the huge U.S. market.

At a meeting with 15 Caribbean leaders Saturday, the president announced that he will seek legislation from Congress that will eliminate tariffs on a range of Caribbean products, at a cost of \$2.3 billion to the U.S. Treasury.

It was less than the full "NAFTA parity" that his hosts wanted, and Mr. Clinton, challenged by a reporter, acknowledged that he was simply making a promise. "I think that everyone understands, and I made it clear in our meetings, that all I could do was ask the Congress for its support," he said.

One of the Caribbean's chief exports is apparel, and U.S. manufacturers may put up a stiff fight against giving foreign products easier access to American stores.

"It's not going to be a simple issue, but he made a very strong statement that he's going to pursue it," said White House spokesman David Johnson.

On a diplomatic and symbolic level, Mr. Clinton's trip appears to have been a success. Simply by appearing in places where presidents rarely tread, he sent a strong signal of U.S. engagement to regions worried about Washington's attention span.

The Caribbean summit was the first in the region ever attended by a U.S. president. His summit Thursday in San Jose, Costa Rica, with the leaders of Central America and the Dominican Republic was the first such meeting since the Johnson administration. No president had stopped in Mexico

City, where Mr. Clinton began his trip, since Jimmy Carter.

Local news media have covered the president and first lady Hillary Rodham Clinton like royalty, breathlessly reporting their every word and action. Costa Rican television covered virtually his entire visit live until the moment Air Force One departed San Jose airport and disappeared into the clouds.

Yesterday, Mr. Clinton was nowhere to be seen. The president, who has appeared tired and stiff during much of the trip, spent the day holed up in the 22-acre oceanfront estate of a wealthy British couple, Sir Anthony and Lady Bamford, who offered it to the first couple while they were away.

The president, still nursing a bum knee, did not leave the mansion, called Heron Bay, with its acres of blooming trees, and a pool and stone cabana guarded by statues carved into cherubs.

On Saturday, Jamaican Prime Minister P.J. Patterson, whose views are often at odds with Washington's, seemed grateful for Mr. Clinton's presence at the summit.

"In the closest of families, difficulties are bound to arise," he said, adding that to resolve them "they must have the capacity from time to time to meet within the bosom of the family."

Like the declarations he and his counterparts signed earlier in Mexico City and San Jose, the document Mr. Clinton and the Caribbean leaders agreed to Thursday is mostly a pledge of future intent.

The United States agreed to try to resolve the banana dispute, which involves a successful U.S. appeal to the World Trade Organization against a European Union system of licensing that favors Caribbean bananas. Washington doesn't oppose preferential treatment for the Caribbeans, but argued that the EU system amounted to quotas on the United States and

Central America.

If that dispute will require future talks with the Europeans, many of Mr. Clinton's promises on immigration — the subject on which regional leaders were the most emotional — will require negotiations with Congress.

In San Jose, Mr. Clinton announced that he will delay implementation of a provision in the new immigration law that could have the effect of forcing nearly 300,000 Central American immigrants from the 1980s back home. That gives him until Oct. 1 to persuade Congress to change the provision.

At one point Saturday, the president argued that he could avoid what leaders here fear most — mass deportations — without lawmakers' assent. "I don't agree we need congressional cooperation there, although I believe it's consistent with what Congress intended when they passed the law," he said.

But Mr. Clinton will need Congress' approval to negotiate new free-trade agreements, as he promised to do in an address in Mexico City. The issue of giving the president "fast-track" negotiating authority already is caught up in jostling among his own party for the Democratic presidential nomination in the year 2000.

With little money and uncertain support at home for grand initiatives, Mr. Clinton this week doled out a series of small policy announcements, just like he did on the campaign trail last year.

For Mexico, it was \$6 million to help train a new, and hopefully less corrupt, corps of drug agents. For Central America, it was the establishment of a regional center to professionalize the nations' police forces. For the Caribbean, it was surplus aircraft and Coast Guard cutters to help catch narcotics traffickers.

The Washington Times

MONDAY, MAY 12, 1997

Leanne/EK -
Huh?
-BR

Clinton to Address U.S. Deportation Threat Facing Central Americans By Patrick J. McDonnell

(c) 1997, Los Angeles Times

The end of Central American warfare and the passage of tough new immigration laws have combined to raise the prospect of deportation for some 300,000 Central Americans who have been living in the United States legally for years.

The thorny issue which has raised anxieties in both the United States and Central America is likely to be near the top of the agenda Thursday as President Clinton meets in Costa Rica with presidents of seven regional nations.

No resolution is expected Thursday, but Clinton administration officials confirmed negotiations with Congress were continuing in an effort to ease the deportation threat for longtime legal residents from Central America and other countries. However, the

Republican-controlled Congress has thus far resisted a legislative fix. The possibility of large-scale deportations of established Central American settlers has sparked vociferous protests in Los Angeles, center of the El Salvadoran and Guatemalan exile populations, and in Miami, the major destination of Nicaraguans.

The issue also has been a major preoccupation for weeks in Central America, where tenuous, post-civil war economies depend on remittances from exiles in the United States and are not equipped to handle a massive influx of returnees.

In California, social service groups report being besieged with inquiries from panicked Central American immigrants many with children born or reared here who must now contemplate forced return to homelands still reeling from years of political and social upheaval.

U.S. officials have said deportations will be on a case-by-case basis, but such assurances have not quelled fears.

"Going back would be a catastrophe for us," said Ana Garcia of Downey, Calif., a Salvadoran who awaits a deportation hearing in August that will determine the fate of her family of seven, including five children who speak perfect English and consider themselves Americans.

Her family, Garcia said, fled to the United States in 1988 after receiving death threats from leftist guerrillas. Her husband, Manuel Garcia, now runs a produce-trucking firm that supports his wife and children and has financed the purchase of two homes.

Just last month, the Immigration and Naturalization Service finally began reviewing most Central Americans' long-deferred claims for political asylum. Successive U.S. administrations since 1990 have permitted some 300,000 Central Americans to remain in the United States with temporary legal protection, bolstering hopes that some broad resolution of their cases would eventually be reached.

But the belated review of the asylum applications kicked off just as new federal laws came into effect strictly limiting "hardship" exceptions from deportations—the legal route that most Central Americans had pinned their hopes on. Among other things, Congress imposed a 4,000 per-year cap on hardship grants, a limit that has already been reached this year and will be clearly inadequate to accommodate the bulging numbers of Central Americans.

Meanwhile, with open warfare in the immigrants' home countries concluded for now in the hemisphere, experts say most Central American applicants will likely be denied asylum and will subsequently face formal deportation orders. Legal appeals may delay deportations for years, but the strict new guidelines mean relatively few will be able to avert expulsion, absent substantial legal or administrative changes, observers say.

Federal officials vow a fair process. "We understand the panic in the Central American community, but we ask them to be patient and understanding of the due process they are entitled to," said Brian Jordan, an INS spokesman.

In an interview this week with Univision, the Spanish-language television network, President Clinton called the Central American dilemma "a very difficult problem" that he was "very personally concerned about" and was working to resolve.

Clinton pointed to a central paradox: Washington allowed the Central Americans to remain here legally, but the 300,000 people affected never qualified as permanent legal immigrants. That fact prevented them from becoming U.S. citizens, a status that would have shielded them and their families from deportation.

The Central Americans' predicament here is to a large extent a legacy of bitter wars that convulsed the region during the 1970s and 1980s—conflicts that led multitudes to abandon a region that had become a proxy Cold War battlefield between the United States and Soviet Union.

U.S. officials generally refused to grant political asylum to Salvadorans and Guatemalans, by far the largest groups, whose

Washington-backed governments were fighting leftist insu. But, facing federal court challenges, the government eventually extended temporary legal protection to some 260,000 asylum applicants from the two nations.

Thousands of Nicaraguans fleeing the leftist Sandinista government were granted political asylum and, ultimately, permanent residence. But about 40,000 Nicaraguans were also left in legal limbo and are now seeking hardship exceptions to deportation.

Efforts to block the expulsion of the longtime resident Central Americans have run up against a stumbling block in Congress, which tightened laws last year in an effort to make deportation easier and close much-criticized legal "loopholes" that dragged out the process for years.

But immigrant advocates say the United States has a moral responsibility to extend permanent legal status to the Central Americans, particularly since U.S. policies contributed to the regional conflicts and the immigrants' return could prompt renewed problems in their homelands.

Presidents Receive Warm Reception From a Coached Crowd (Tlaxcala) By Stanley Meisler

(c) 1997, Los Angeles Times

TLAXCALA, Mexico For an hour Wednesday a Mexican official on the loudspeaker exhorted thousands of people in this old colonial town to cry out and whistle and wave their small flags with "pride and emotion and respect and joy" when the presidents of the United States and Mexico arrived together.

The Mexicans followed instructions, and President Clinton soon received the warmest and most massive welcome of his three-day state visit to Mexico, his first as president. The enthusiasm prompted Mack McLarty, the president's special envoy to the Americas, to tell reporters, "This is a home town crowd. ... You get out in the country, and the pe

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baseball caps and proclamations, viva Tlaxcala, viva the United States, Mexican and Tlaxcala paper flags.

The atmosphere was carnival-like. A half a dozen mariachi bands entertained the crowds. Folkloric dancers, the men in hand-carved wooden masks and the women in dazzling colored dresses, jumped and twirled in the plaza to the beat of a brass band. Rainbow-colored parasols snapped open against the sun. Mexicans on rooftops threw down confetti when the cars carrying the two presidents made their way to the plaza.

Both presidents wore jackets but no ties. Zedillo, speaking to the crowd, held up two Mexican newspapers. The headlines of one shouted that "Tlaxcala is the center of the world"; the second said in English, "Welcome Bill."

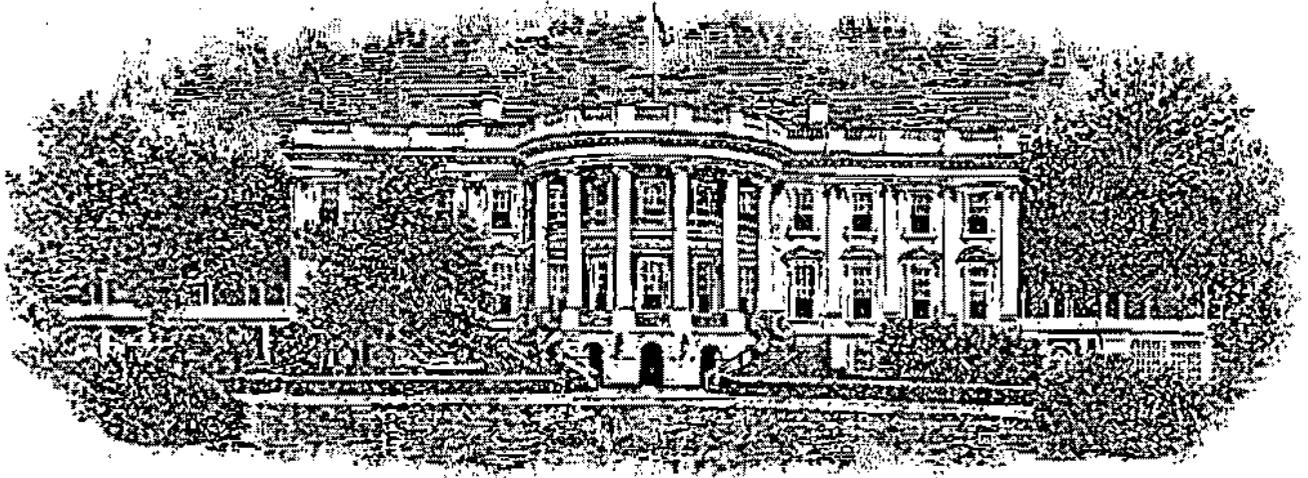
"This is an especially important day for my wife and for me," Clinton, who was accompanied by the first lady, told the crowd, "because we were married about 22 years ago, and we came to

Leave - Take a look at the POTUS interview to see what we've got to deal with. BR

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The White House



DOMESTIC POLICY

FACSIMILE TRANSMISSION COVER SHEET

TO: Bmco Reed

FAX NUMBER: 62878

TELEPHONE NUMBER: _____

FROM: Leanne Shimabukuro

TELEPHONE NUMBER: 65574

PAGES (INCLUDING COVER): 13

COMMENTS: NSC immigration materials

Laura/Leanne:

Attached are background and talking points that have been cleared by DOJ and INS. Also seen by Warnath. I will be forwarding to you additional points and qs and as later this afternoon.

Laura: Please pass to Rahm Emanuel for his quick clearance, as requested by Sylvia and Sandy (by 3:00 pm would be ideal).

For Leanne: Please pass to Bruce and let me know if there are any problems.

Also, could you both please run by Bruce and Rahm the following paragraph from the draft joint communique with Central Americans and seek their views:

"Having expressed their concerns to the President of the United States, the Presidents of Central America and the Dominican Republic and the Prime Minister of Belize are confident that the recent immigration legislation approved by the United States will be implemented with full respect for the human rights and dignity of the individuals it may affect, and welcome the United States government's initiation of consultations with its Congress on the scope and consequences of the law on our people, with a view to achieving our common humanitarian goals."

General Points on Migration

- Made the point repeatedly at home: U.S. is country of migrants, and migrants give this country many times over what they ask from it.
- Also have stressed that defining feature of our country is our diversity. Experience of other nations -- Bosnia; Northern Ireland -- teaches that we gain strength from respecting each other and rising above tendency to divide in terms of ethnic, racial, tribal groups.
- So, while true that illegal immigration is difficult problem our nation must tackle, must carefully balance control and compassion. I am committed to maintaining our proud tradition of welcome for legal immigrants who come to our country to work hard and play by the rules and of respect for human rights of all migrants.
- Our approach must rely on working in partnership with you, our neighbors, to find joint solutions to these problems.

Issue: Suspension of Deportation (principally for Central Americans)

Background:

- Aliens unlawfully in the U.S. traditionally could apply for suspension of deportation if they had resided in the U.S. for 7 years and if deportation would cause "extreme hardship" to themselves or a close family member. Aliens who are granted suspension are authorized to work in the U.S. and can obtain permanent legal status virtually automatically. The recently enacted immigration bill significantly curtails this remedy by: (1) raising the standard for granting suspension; and (2) imposing a 4,000-person cap on the number of suspensions in any fiscal year, beginning in 1997.
- The 4,000 annual cap for FY97 already has been reached.
 - This is due primarily to a timing discrepancy in the law. The more restrictive standards took effect prospectively (for cases begun on or after April 1, 1997), but the cap became effective immediately (on September 30, 1996)
 - These two timetables are in direct tension: the 4,000 cap is tailored to the new standards, but is far too low for cases adjudicated under the earlier rules. This has created a transitional "spike" in the numbers of potentially eligible claims.
 - The full implications of establishing different effective dates appears to have been overlooked during Congressional consideration of the bill.
- This is of interest to hundreds of thousands of Central Americans who have been living in the U.S. under legal temporary status for years, many of whom expected to benefit from suspension of deportation. Their deportation would split families and create great hardship to their home countries that depend on remittances from the U.S. and whose economies could not absorb all the returnees.

Status:

- INS will not issue orders of deportation until the end of FY 97 to aliens who would have qualified but for the cap.
- In the interim, we will work with the Congress to seek to address the problem raised during the transition phase.

- Options include: (i) Making cap applicable only to cases commenced on or after April 1, to eliminate timing discrepancy; (ii) raising the cap for FY 97; (3) allocating FY97 suspension grants that exceed the ceiling over the next several years.

Talking Points

- In enforcing its immigration laws, Administration is committed to humanitarian tradition that characterizes best of our nation's spirit.
- Nationals from Central America came here fleeing war-torn nations and have since worked hard and played by the rules, contributing to the well-being both of the U.S. and of their home countries.
- While remarkable progress in Central America means many can return home, our common goal should be to minimize disruption to our economies, to political stability, and to your citizens in the U.S.
- We are taking several steps to meet these goals:
 - First, you can be assured that there will be no massive deportations and no targeting of Central Americans.
 - Second, the Administration has decided that between now and October 30, 1997, no order of deportation will be issued to any person who would have qualified for suspension in the absence of the ceiling.
 - In the next 6 months, we will work vigorously with the Congress to seek remedies to address this issue in a more humane way.
 - We also will keep you informed of any developments on these matters so that you can take appropriate steps -- both to inform your fellow citizens in the U.S. and to make any necessary preparations at home.

Qs and As

Q.: Why did you sign the bill with this provision?

A.:

- Administration opposed the cap during deliberations on the bill. But this provision was part of a lengthy, complex bill which generally supported my objectives of fighting illegal immigration through strengthened border control, tougher worksite enforcement and increased removal of criminal and other deportable illegal immigrants. I signed the bill for that reason.
- Addressing this problem is consistent with the principles that guide my Administration's immigration policies: keeping unauthorized immigrants out of the U.S., welcoming legal immigrants; and maintaining our nation's humanitarian traditions.
- This measure in its present form threatens to tear apart families and does not do justice to migrants who have spent years in the U.S. working hard and playing by the rules. Our illegal immigration control policies should be tough, but not harsh, especially where young children are involved.

Q.: Given the responsibility of the U.S. in the civil wars that drove Central Americans to flee, isn't the right thing to do to legalize their status and allow them to remain in the U.S.?

A.:

- U.S. welcomed Central Americans at a time when their home countries were devastated by war. Was right, humanitarian thing to do, consistent with our traditions.
- Countries have now made remarkable progress toward democracy, peace and reconciliation. Migrants no longer would face danger at home and it is time to think of return -- U.S. cannot accommodate everyone who wishes to come here.
- Our task is to do this as humanely as possible and by working closely with countries of region to minimize disruption to their economies and to the lives of the migrants.

[ADDED ISSUE FOR NICARAGUANS]

Background: Nicaraguans in the U.S. face the additional obstacle that the new law retroactively changes the manner in which their years of residence in the U.S. will be calculated for purposes of establishing eligibility for suspension. This retroactive

provision means that, because of the particular judicial procedures that were used in their case, a vast majority of Nicaraguans are unlikely to be granted suspension even if the cap were lifted.

Status:

DOJ/INS is considering administrative steps to address this problem.

Talking Points:

- Understand concerns of Nicaraguan community in the U.S.
- Have asked DOJ and INS to look closely at how we can implement the law in a way that does not penalize them or other nationals.

Issue: Extension of 245(i) -- adjustment of status (principally for Mexico)

Background:

- Under section 245(i) of the INA, certain eligible aliens could adjust their status while unlawfully present in the U.S. without first returning to their home country to obtain a visa. This required payment of a penalty fee. This section will sunset at the end of FY 97 and it is not extended in the new immigration law; in other words, illegal aliens will need to leave the U.S. in order to apply for a visa, regardless of whether they qualified while in the U.S.
- The most difficult case will involve an alien living illegally in the U.S. with a spouse or child who is a lawful permanent resident or U.S. citizen. The alien would be on a waiting list for an immigrant visa and, under the prior immigration laws, would pay a fine and adjust status under 245(i) without having to first return home. The change in the law would force such an alien to leave his or her family and receive his visa at home, in some instances having to wait for substantial periods of time.
- The government of Mexico (GOM) claims that tens of thousands of Mexicans who have applied for immigrant visas are living illegally in the U.S. with a lawful permanent spouse and children. In order to regularize their status and avoid future ineligibility for admission in the U.S., they would need to be separated from their families for extended periods of time.

Talking Points

- Agree that 245(i) should be extended; forcing aliens who have qualified for adjustment to return home to pick up their visa will impose senseless burden and might needlessly separate families.
- I have included a request for indefinite extension in the FY 98 budget submission, and Administration will fight for this.

Qs and As:

Q.: If these are illegal aliens, why should we allow them to stay in the U.S. and become legal?

A.: The issue is whether aliens who have qualified for legal status in the U.S. need to leave the country simply for the purpose of picking up their visa -- imposing a burden and disrupting their family lives for no sensible reason.

With 245(i), alien is permitted to legalize status without leaving but must pay a penalty because they were here illegally. Penalty has helped us fund INS detention programs.

Issue: Bars on Admission and Re-entry (principally Mexicans)

Background:

- Under the new law, aliens who are unlawfully present in the U.S. for 180 days after April 1, 1997 and then depart will be inadmissible for 3 years; similarly, aliens who are unlawfully present in the U.S. for one year or more after April 1, 1997 and then depart will be inadmissible for 10 years. (Section 212(a)(9)(b)).
- Imposition of these re-entry bars are waiveable on a case-by-case basis on humanitarian grounds, in instances where the unlawful alien is the spouse or child of a U.S. citizen or lawful permanent resident.
- The law also imposes a 10-year admissions bar on aliens who have been unlawfully present in the U.S. for an aggregate period of more than 1 year and who enter or attempt to re-enter the U.S. illegally. (Section 212(a)(9)(c))
- This bar is unwaiveable even in most extreme humanitarian circumstances -- such as where parent would be separated from his or her minor children living lawfully in U.S.
- During congressional consideration of these bars, Administration argued against automatic imposition of consequences for unlawful residence.

Status:

- Administration will support efforts to add waiver language in section (c) similar to that which exists in section (b).
- INS also will issue field guidance to make provision prospective.

Talking Points:

- Understand your concerns about 3/10 year bars and possible risk of separating families and asked Administration officials to closely consider your proposals.
- Let me first seek to reassure you on several points:

- These provisions will not result in any mass deportations or round-ups.
- Undocumented alien in U.S. is at no greater risk of apprehension and removal than under old law provided alien remains in U.S. If we succeed in extending 245(i), qualified alien will be able to adjust status in U.S. as under old law.
- Also commit that Administration will implement existing waiver provision humanely and with compassion.
- One way of accelerating adjustment of status for undocumented alien is for his/her relative to naturalize. If the relative naturalizes, then the alien will be able to legalize status in the next year. This is a message you may wish to convey to your nationals in U.S. In the meantime, we will continue efforts to improve our naturalization system.
- At same time, Administration is considering possible steps to soften harsh impact of law on persons unlawfully in the U.S. who leave and seek to re-enter.
- While we need to take steps against illegal immigration, I continue to oppose imposition of automatic consequences for unlawful stay. Administration should have ability to consider discretionary humanitarian factors that may justify relief in a particular case.
- Last year, my Administration sought waiver language on humanitarian grounds similar to that available in other parts of the law. I will continue to support that goal.
- In addition, INS intends to issue field guidance to make this provision applicable prospectively only, to give aliens proper notice and provide them with a transition period.

Qs. and As.

Q.: Why did you sign a bill with such a harsh provision?

A.:

- Administration opposed these provisions during deliberations on the bill. But this provision was part of a lengthy, complex bill which generally supported my objectives of

fighting illegal immigration. I signed the bill for that reason.

- The modifications we are seeking are fully consistent with the principles that guide our migration policies: keeping unauthorized immigrants out of the U.S., welcoming legal immigrants, and maintaining our nation's humanitarian traditions.
- Administration needs to maintain discretion to act humanely if faced with extraordinary humanitarian circumstances. Congress recognized this in other parts of the bill; waiver ability should be extended to 10 year bar for one-year aggregate unlawful residence.
- Principles of fairness also guide request for making law prospective. People are on notice, and from now on should face consequence if violate law. But not consistent with U.S. traditions to impose such harsh consequences for past actions without warning.
- We ought to be tough, but not harsh, especially where young children are involved.

Issue: Welfare Benefits for Legal Immigrants (principally for Mexico)

Background:

Welfare law denies most legal immigrants access to fundamental safety net programs unless they become citizens.

Status:

Administration's FY98 budget would correct welfare law's harsh provisions on legal immigrants. Includes \$14.6 billion to restore benefits for legal immigrants -- including Medicaid and Supplemental Security Income to legal immigrants children and to legal immigrants who become disabled after they entered the country.

Talking Points:

- Restoring fair treatment for legal immigrants is a key part of my agenda this year.
- Welfare law denies most legal immigrants access to fundamental safety net programs -- even though they are in the U.S. legally, are responsible members of our communities, and in many cases have worked and paid taxes.
- These provisions had nothing to do with real goal of welfare reform, which is to move people from welfare to work.
- My FY 98 budget would correct the law's harsh provisions on legal immigrants -- provisions that would burden State and local governments and that punish children and legal immigrants with severe disabilities.
- This country should protect legal immigrants and their families -- people admitted as permanent members of the American community -- when they suffer accidents or illnesses that prevent them from earning a living. Similarly, we should provide Medicaid to legal immigrant children if their families are impoverished.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 9/30 ACTION/CONCURRENCE/COMMENT DUE BY: 10/1 9:00 am

SUBJECT: Annibus / Immigration signing statement

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	McCURRY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PANETTA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	McGINTY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
McLARTY	<input type="checkbox"/>	<input type="checkbox"/>	NASH	<input type="checkbox"/>	<input type="checkbox"/>
ICKES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	QUINN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LIEBERMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RASCO	<input checked="" type="checkbox"/>	<input type="checkbox"/>
RAINES	<input type="checkbox"/>	<input type="checkbox"/>	REED <i>→</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/> 216
BAER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SOSNIK	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CURRY	<input type="checkbox"/>	<input type="checkbox"/>	STEPHANOPOULOS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EMANUEL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	STIGLITZ	<input type="checkbox"/>	<input type="checkbox"/>
GIBBONS	<input type="checkbox"/>	<input type="checkbox"/>	STREETT	<input type="checkbox"/>	<input type="checkbox"/>
HALE	<input type="checkbox"/>	<input type="checkbox"/>	TYSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HERMAN	<input type="checkbox"/>	<input type="checkbox"/>	HAWLEY	<input type="checkbox"/>	<input type="checkbox"/>
HIGGINS	<input type="checkbox"/>	<input type="checkbox"/>	WILLIAMS	<input type="checkbox"/>	<input type="checkbox"/>
HILLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Sperling</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
KLAIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Piv</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LAKE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Waldman</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LINDSEY	<input type="checkbox"/>	<input type="checkbox"/>	<u>Foley</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

REMARKS: Comments to his office

RESPONSE:

86 SEP 30 P 8

Immigration

I have signed into law tonight H.R. 3610, a fiscal 1997 omnibus appropriations and immigration reform bill.

This bill is good for America, and I am pleased that my Administration could fashion it with Congress on a bipartisan basis. It moves us further down the road toward our goal of a balanced budget while protecting, not violating, the values we share as Americans -- opportunity, responsibility, and community.

Specifically, the legislation restores needed funds for education and training, the environment, science and technology, and law enforcement; fully funds my anti-drug and counter-terrorism initiatives; extends the Brady Bill so that those who commit domestic violence cannot buy handguns; provides needed resources to respond to fires in the western part of the nation and to the devastation brought by Hurricanes Fran and Hortense; and includes landmark immigration reform legislation that cracks down on illegal immigration without punishing legal immigrants.

The bill restores substantial sums for education and training, furthering my agenda of life-long education to help Americans acquire the skills they need to get good jobs in the new global economy.

It provides the funds through which Head Start can serve an additional 50,000 disadvantaged young children; fulfills my request for the Goals 2000 education reform program, enabling States to more quickly raise their academic standards and implement innovative reform; increases funding for the Safe and Drug-Free Schools program, helping States reduce violence and drug abuse in schools; provides most of my request for the Technology Literacy Challenge Fund to help States leverage technology funds; fulfills my request for Title I -- education for the disadvantaged; and provides the funds to enable well over a half-million young people to participate in the Summer Jobs program.

For college students, I am pleased that the bill fulfills my request for the largest Pell Grant college scholarship awards in history and expands the number of middle- and low-income students who receive aid by 126,000 -- to 3.8 million. I am also pleased that the bill fully funds my Direct Lending program, enabling more students to take advantage of cheaper and more efficient loans.

For the environment, the bill provides funds to support the Environmental Protection Agency's early implementation of two major new environmental laws that I signed this summer -- the Safe Drinking Water Act, and the Pesticide and Food Safety Law. In addition, the bill provides additional funds for energy conservation and to help finish the clean-up of Boston Harbor and help prevent beach closures.

At the same time, the bill does not contain any of the riders that would have affected national Native American tribal rights, the Interior Department's management of subsistence

fishing in Alaska, long-term management of the Elwha Dam in Washington State, management of the Tongass National Forest in Alaska, and the issuance of energy-efficiency standards for appliances.

For research and technology, the bill promotes economic growth by continuing needed Federal support for advanced technology. It restores funding for the Commerce Department's Advanced Technology Program, providing resources for new grants to support innovative technology companies across the nation.

It also provides a sizeable increase for the National Institutes of Health, which will enable NIH to expand its critical research into new ways to treat breast cancer, AIDS and other diseases. I am also pleased that the bill provides nearly \$1 billion for Ryan White AIDS treatment grants, including funds to help States purchase a new class of AIDS drugs called "protease inhibitors" and other life-extending medications. And Congress also fully funded my request for the Department of Housing and Urban Development's program that provides housing assistance for people with AIDS.

For law enforcement, the bill provides \$1.4 billion to ensure that my program to put 100,000 more police on the streets of America's communities by the year 2000 proceeds on schedule; with this bill, we will have provided funding for 64,000 of the 100,000 that I called for at the start of my Administration. The bill also increases funds for Justice Department law enforcement programs, for the FBI's crime-fighting efforts, and for new Federal prisons. As I had urged, the bill also extends the Brady Bill to ensure that those who commit domestic violence cannot purchase guns.

I am pleased that the bill provides a \$1.4 billion increase in funding for anti-drug programs. It doubles funding for Drug Courts, increases funds for drug interdiction efforts by the Defense, Transportation, and Treasury departments, and provides the resources to expand the Drug Enforcement Administration's domestic efforts along the Southwest border and elsewhere.

For counter-terrorism, the bill funds my request for over \$1.1 billion to fight terrorism and to improve aviation security and safety. It enables the Justice and Treasury Departments to better investigate and prosecute terrorist acts, and it provides funds to implement the recommendations of Vice President Gore's Commission on Aviation Safety and Security and the Federal Aviation Administration's recent 90-day safety review. These funds will enable us to hire 300 more aviation security personnel, deploy new explosive detection teams, and buy high-technology bomb detection equipment to screen luggage.

I hereby designate as an emergency requirement, as Congress has already done, the \$122.6 million in fiscal 1996 funds and the \$230.68 million in fiscal 1997 funds for the Defense Department for anti-terrorism, counter-terrorism, and security enhancement programs in this Act -- pursuant to section 251 (b) (2) (D) (i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

This bill also funds the nation's defense program for another year; it fully funds my

defense anti-terrorism and counter-narcotics efforts as well as the Cooperative Threat Reduction program, and it provides a substantial amount of the funding for my dual-use technology program. But it also provides about \$9 billion more than I proposed for defense, including a substantial amount for weapons that are not even in the Defense Department's future plans and were not requested by the service chiefs. While this bill is part of a plan that adds funds for investments now and reduces them in the future, I continue to believe that my long-range plan is more rational. It provides sufficient funds now while increasing them at the turn of the century when new technologies will become available.

I am pleased that Congress has provided the minimum acceptable levels for certain key international affairs programs, such as the U.S. contribution to the International Development Association and the Korean Peninsula Energy Development Organization and for international peacekeeping operations and arrears. I also commend Congress for funding international family planning programs without the misguided Mexico City restrictions, and funding bilateral economic assistance without rescinding prior-year appropriations. In addition, Congress has facilitated the Middle East peace process by authorizing U.S. participation in the Middle East Development Bank. Nevertheless, I must note that the overall funding level for international affairs programs is well below what we need to assure that we can achieve our foreign policy objectives.

This bill, however, does more than fund the Government for the next fiscal year. It also includes landmark immigration reform legislation that builds on our progress of the last three years. It strengthens the rule of law by cracking down on illegal immigration at the border, in the workplace, and in the criminal justice system -- without punishing those living in the United States legally.

Specifically, the bill requires the sponsors of legal immigrants to take added responsibility for their well-being. And it does not include the Gallegly amendment, which I strongly opposed and which would have allowed States to refuse to educate the children of illegal immigrants. Nor does it include the proposed onerous provisions against legal immigrants, which would have gone beyond the welfare reform law.

Unfortunately, the immigration bill contains provisions that could weaken the nation's environmental laws, and place hardships on some U.S. citizens and permanent residents. I have asked the Attorney General to review both of these provisions, and to take steps to alleviate any potential discrimination against U.S. citizens and authorized workers -- particularly Hispanics and Asian-Americans who, by their appearance or accent, may appear to be foreign. Finally, I will seek to correct provisions in this bill that are inconsistent with international principles of refugee assistance, including the imposition of rigid deadlines for asylum applications.

The bill also makes important changes in the nation's banking laws. It assures the continued soundness of the bank and thrift deposit insurance system, and it includes significant regulatory relief for financial institutions. At my insistence, the bill does not erode the protection of consumers and communities.

I commend Senators Baucus and Bingaman for raising the awareness of the issue of the proper accounting of highway trust fund receipts. In next year's reauthorization of the Intermodal Surface Transportation and Efficiency Act, my Administration will rely on a baseline that treats all States fairly and equitably.

I am disappointed that one of my priorities -- a ban on physician "gag rules" -- was not included. Several States have passed similar legislation to ensure that doctors have the freedom to inform their patients of the full range of medical treatment options, and I am disappointed that Congress was not able to reach agreement on this measure.

Nevertheless, this bill is good for America. As I have said, it moves us down the path toward a balanced budget while protecting our values. It provides the needed resources to fight domestic and international terrorism. And it cracks down on illegal immigration while protecting legal immigrants.

I am pleased to sign it.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	James Jukes to Legislative Liaison Officer re: Treasury Proposed Draft Bill: Border Violence Suppression Act of 1995 (partial, CIA Act) (1 page)	7/3/95	P3/b(3)

**This marker identifies the original location of the withdrawn item listed above.
For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Bruce Reed (Subject File)
OA/Box Number: 21205

FOLDER TITLE:

Immigration [2]

rs49

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

The Honorable Al Gore
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

I am pleased to transmit herewith a draft bill, and an analysis thereof, "To establish a criminal penalty to suppress violence at the border and to enhance civil and criminal penalties under the Tariff Act of 1930."

The bill would strengthen border enforcement and enhance anti-crime efforts by setting forth strict and clearly defined penalties for the violation of customs law.

It would be appreciated if you would lay the draft bill before the Senate. An identical draft bill has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that there is no objection to the transmittal of this draft bill to the Congress, and that its enactment would be in accord with the Administration's program.

Sincerely,

Edward S. Knight
General Counsel

A BILL

"To establish a criminal penalty to suppress violence at the border and to enhance civil and criminal penalties under the Tariff Act of 1930."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

Sec. 1 That this Act may be cited as "The Border Violence Suppression Act of 1995."

Sec. 2. Title 18, chapter 27, United States Code, is amended by adding a new section 554 as follows:

"Sec. 554. Violence arising during, or as a result of, a violation of the arrival, reporting, entry and clearance requirements. (a) It shall be unlawful for any individual, master, person in charge of a vehicle, or aircraft pilot to:

"(1) attempt to commit or commit a crime of violence; or

"(2) attempt to elude or elude customs inspection or otherwise fail to stop at the command of an officer of customs during the course of, or as a result of, an intentional violation of Customs arrival, reporting, entry, and clearance requirements, as set forth in sections 1431, 1433, or 1434 of title 19, United States Code, or section 91 of title 46, United States Code Appendix.

"(b) Any individual, master, person in charge of a vehicle, or aircraft pilot who violates subsection (a) of this section shall, upon conviction be:

"(1) Imprisoned for up to 10 years, but not less than 5 years, and shall be fined not more than \$50,000, provided that the attempt, the crime of violence, or evasion of customs inspection does not result in injury, and provided that such person was not smuggling contraband or controlled substances into the United States; or

"(2) Imprisoned for up to 20 years, but not less than 10 years, and fined up to \$100,000, where the crime of violence results in personal injury, or where such person was transporting contraband or controlled substances into the United States; or

"(3) Imprisoned for life where the crime of violence results in the loss of life.

"(c) If two or more persons conspire to commit the offenses

set forth in subsection (a) of this section, and one or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as principals.

"(d) For purposes of this section, the term "crime of violence" is defined in section 16 of title 18, United States Code."

Sec. 3. Section 1961(1), title 18, United States Code, is amended by inserting "541, 542, 545, and 554 (relating to the smuggling of goods)," after "473 (relating to counterfeiting),".

Sec. 4. Section 436 of the Tariff Act of 1930 (section 1436 of title 19, United States Code) is amended:

a. In subsection (b) by deleting "\$5,000" and "10,000", and by inserting "10,000" and "\$20,000", respectively, in their stead; and

b. In subsection (c) by deleting "\$2,000"; "1 year", "\$10,000" and "5 years" and by inserting "\$2,000", "10 years", "\$100,000" and "20 years" in their stead.

ANALYSIS

Drug smuggling has always been associated with a potential for violence, and there has been an escalation of violence along the Southwest border. Increasingly, smugglers have taken to "portrunning," i.e., intentionally evading Customs inspection by driving through ports of entry without stopping. This method of smuggling has resulted in over a thousand accidents, causing injury to Federal officials and civilians alike. Customs expects two or three incidents of "portrunning" each day.

The draft bill addresses the problem by establishing a specific criminal penalty for "portrunning." The bill also provides for strict sanctions, particularly when the "portrunning results in a "crime of violence," and/or is accompanied by an attempt to smuggle contraband or controlled substances.

The draft bill proposes to make "portrunning" and certain other offenses "RICO" offenses. It also enhances the penalties in the Tariff Act of 1930 for this type of activity.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

LRM NO: 1837

FILE NO: 1073

6/28/95

LEGISLATIVE REFERRAL MEMORANDUM

Total Page(s): 21

TO: Legislative Liaison Officer - See Distribution below;
FROM: James JUKES (for)
Assistant Director for Legislative Reference
OMB CONTACT: Ingrid SCHROEDER 395-3883
Legislative Assistant's line (for simple responses): 395-3454
SUBJECT: Justice/INS Proposed Testimony RE: HR1015, Immigration in the National Interest Act of 1995

Immigration

DEADLINE: 3pm Wednesday, June 28, 1995

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President.

Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Justice/EOIR, State, Labor, and SSA are also testifying at this hearing.

*House ISS apprs
↓
Subcomm*

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Bruce Reed ✓

**RESPONSE TO
LEGISLATIVE REFERRAL MEMORANDUM**

**LRM NO: 1637
FILE NO: 1073**

If your response to this request for views is simple (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter.

Please include the LRM number shown above, and the subject shown below.

TO: Ingrid SCHROEDER 395-3683
Office of Management and Budget
Fax Number: 395-3109
Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ (Date)

_____ (Telephone)

SUBJECT: Justice/INS Proposed Testimony RE: HR1915, Immigration in the National Interest Act of 1995

The following is the response of our agency to your request for views on the above-captioned subject:

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____
- _____ Other: _____
- _____ FAX RETURN of _____ pages, attached to this response sheet

Draft

TESTIMONY OF
T. ALEXANDER ALENIKOFF
EXECUTIVE ASSOCIATE COMMISSIONER, PROGRAMS
IMMIGRATION AND NATURALIZATION SERVICE

before the
HOUSE SUBCOMMITTEE ON IMMIGRATION AND CLAIMS

concerning
H.R. 1915,
THE IMMIGRATION IN THE NATIONAL INTEREST ACT
OF 1995

and
H.R. 19__,
THE IMMIGRATION ENFORCEMENT
IMPROVEMENTS ACT OF 1995

JUNE 29, 1995

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today to discuss Chairman Smith's bill, H.R. 1915, the Immigration in the National Interest Act of 1995. I will also discuss the initiatives for strengthening immigration enforcement that are reflected in the Administration's legislative proposal, The Immigration Enforcement Act of 1995 introduced on Tuesday by Representative Howard Berman. The similarities in the two bills signal an important step toward crafting a bipartisan plan to combat illegal immigration on which we look forward to working with the subcommittee. In addition to these similarities, H.R. 1915 proposes fundamental and comprehensive changes in the deportation and exclusion processes, eligibility requirements for public benefits, and the process for legal immigration. The brief period of days between the introduction of the bill last week and today's hearing, has afforded little opportunity for a complete analysis of these new provisions and their practical and legal effects. We will offer our initial thoughts on some of these provisions today and we will provide a more extensive analysis of the Administration's position as the subcommittee continues its work on immigration legislation.

On February 7, 1995, the President announced a major initiative for addressing illegal immigration. The initiative emphasizes gaining control of our borders by the strategic placement of personnel, physical barriers, and technology; addressing the principal incentive for illegal immigration - employment - by strengthening our worksite enforcement and improving the methods for verifying employment authorization; and increasing the number of criminal aliens removed from the United States and deterring their reentry. We believe the Administration's bill, H.R. -- will help to accomplish these goals. Many of the

provisions in the Administration's bill are substantially similar to H.R. 1915. We strongly endorse those provisions as a firm foundation for deterring illegal immigration.

I. BORDER CONTROL

Regaining control of our borders has been and must continue to be the primary focus of our enforcement efforts. The Administration Bill provides for strengthened border control through increased border patrol and inspection resources, expanded commuter lane programs, special exclusion provisions, enhanced penalties, programs for interior repatriation, and improved technology.

The Cuban exodus last year demonstrated the need for a prompt procedure for dealing with excludable aliens who seek admission to the United States. Both the Administration bill and H.R. 1915 contain a provision for special exclusion procedures that would allow the Attorney General to order an alien excluded and deported without a hearing before an immigration judge. The Administration's proposal is substantially similar to section 302 of H.R. 1915, except that the special procedures (and the need to have asylum officers readily available to screen asylum applications) would be available for use at the discretion of the Attorney General when "extraordinary immigration situations" threaten our existing procedures. The special exclusion procedures in H.R. 1915 would apply to arriving aliens who use fraudulent documents or fail to present documents. We believe the approach outlined in the Berman bill affords appropriate discretion for the Attorney General to address fraudulent document use and smuggling situations, while limiting the impact on agency resources that would result from having two parallel processes in place for exclusion. In addition, the Administration bill would authorize use of the existing Immigration Emergency

Fund for third country repatriations without the requirement that the President declare an emergency. The bill would also amend 50 U.S.C. 191 (Magnuson Act) to permit control and seizure of vessels where an immigration emergency is determined by the Attorney General to exist. Under the bill, the Attorney General could delegate to local enforcement officers the authority to enforce the immigration laws when she determines that an actual or anticipated mass migration presents an urgent need.

Both the Administration Bill and H.R. 1915 direct the United States Sentencing Commission to increase the base offense levels for failure to depart under an order of deportation, for illegal reentry after deportation, as well as for passport and visa fraud. These increases are needed to reflect the enhanced penalties provided by the Violent Crime Control Act of 1994. *(Check the increases recently made by the Sentencing Commission to see if the proposed changes are reflected).*

H.R. 1915 would authorize an increase of 1,000 border patrol agents per year from 1996 through 2000. The Administration proposes increases of at least 700 agents in each of fiscal years 1996-1998, to the maximum extent possible with standards of professionalism and training. This proposal reflects the Administration's commitment to achieve a strength of 7,281 agents by the end of FY 1998. We strongly believe that an annual increase of 700 agents represents the maximum agent strength that the Border Patrol can responsibly achieve in each year. At the levels proposed by the Administration, the Border Patrol will experience a 45% increase in agent strength between 1993 and 1996. Law enforcement experts indicate that it is very risky to allow an agency's overall ratio of inexperienced to experienced agents to exceed 30% in terms of maintaining performance, professionalism, and

integrity. Moreover, even at the levels proposed by the Administration, the INS will face significant challenges in recruiting, hiring, and training new agents. For these reasons we recommend that the subcommittee carefully reconsider the levels of increase being proposed and the impact they will have on the agency's mission and professionalism. H.R. 1915 includes specific requirements for fencing and deployment of agents. As you are aware the INS has developed a strategic plan for border control that reflects a flexible and firm deployment of the resources and assets required to achieve our goals. Each border area has developed its own tactics within the plan that are tailored to the particular circumstances of the area. The results of that approach are reflected in the successful implementation of Operations "Hold-The-Line" in El Paso, "Gatekeeper" in San Diego, and "Safeguard" in Arizona. Accordingly, we believe the deployment of personnel, physical barriers, and technology are not conducive to legislative prescription and are better left to the people who are responsible for the day-to-day operation at the ground level.

Section 104 would require that all border crossing cards issued beyond six months from the date of enactment contain biometric information. After eighteen months no border crosser could be admitted without a biometric match between the card and the alien. We agree that border crossing cards must be made more secure and are already taking steps to do so, we would like to work with the subcommittee to take advantage of available technology to accomplish the goal of a machine-readable card with biometrics within a reasonable period of time. We must develop an infrastructure for issuance of the card and a means to issue replacement cards for one million current cardholders while minimizing any diversion of resources from land border inspection and recognizing our current international

obligation to issue new border crossing cards at no charge.

Section 105 contains a civil penalty for illegal entry. We believe the collection of such a fee will be difficult to accomplish and may require the detention of aliens, the vast majority of whom accept voluntary departure within hours of their entry. This would likely tie up detention space more appropriately used for criminal alien removal. Section 113 would require a pilot program at three of the five busiest airports of entry for the collection by immigration officers of departure records from each departing alien. We agree that a reliable system for tracking departures is necessary and have been working with the Department of State to create one. We would be happy to share with the subcommittee our efforts to date to design a test that provides meaningful data consistent with INS inspections resources and the availability of user fee funds.

II. CONTROL OF UNLAWFUL EMPLOYMENT AND VERIFICATION

The Administration recognizes that employment is the single most important incentive for illegal immigration and that employer sanctions are a major tool for interior enforcement, including reducing the attraction for nonimmigrant overstays. The Administration's commitment to Employer Sanctions enforcement is reflected in the FY 1996 budget submission which includes an investment of \$79.5 million for worksite enforcement and verification of employment authorization. The Administration bill strengthens employer sanctions to promote employer compliance and to increase their effectiveness as a deterrent to illegal immigration.

The Administration bill would double the amount of the employer sanctions penalties for employers who have also willfully or repeatedly violated the Fair Labor Standards Act,

the Agricultural Worker Protection Act, and the Family and Medical Leave Act. The Administration bill makes parallel increases in both employer sanctions and anti-discrimination penalties. Since their enactment, in 1986, these penalty provisions have been set at the same levels in order to discourage discriminatory application and deter illegal hiring. Employer sanctions penalties collected in excess of \$5,000,000 would be credited to INS appropriations to fund employer sanctions enforcement and related expenses. Fees collected from employers, recruiters, and referrers who subscribe to a telephone verification system pilot project would be credited to the INS salaries and expenses appropriation to be available for employer verification costs. Like H.R. 1915, the Administration bill would amend the criminal provisions on fraud and related activity in connection with identification documents if committed to facilitate a drug trafficking offense or an act of international terrorism. The bill would authorize Immigration and Labor Department Officers to issue subpoenas in employer sanctions cases.

The reduction of the number of documents that can be used as evidence of employment authorization and identity is of vital importance in our efforts to combat the use of forged and counterfeit documents and to engender employer compliance with the law. Both proposals would eliminate three documents that now can be used to establish both employment authorization and identity: the certificate of citizenship, the certificate of naturalization, and an unexpired foreign passport stamped by the Attorney General with employment authorization. Under our proposal, only a United States passport, resident alien card, alien registration card, or other secure employment authorization document issued by Attorney General would be acceptable to establish both identity and work authorization.

H.R. 1915 would require the Attorney General with the Commissioner of Social Security to establish by October 1, 1999, an automated system to verify eligibility for employment. While we agree that a system for accurate verification of a potential employee's status is vital to assist employers in meeting their obligations to hire only authorized aliens, we strongly oppose the requirement that a permanent verification system be established within four years. Under the Administration proposal pilot projects will be tested and evaluated for three years so that technical feasibility, cost effectiveness, resistance to fraud, and impact on employers and employees can be assessed and determined. The Administration Bill authorizes employment verification pilot projects that will improve the INS databases; expand the telephone verification system for non-citizens up to 1,000 employers; simulate links between INS and Social Security Administration databases; and test a new two step process for citizens and non-citizens to verify employment authorization using INS and SSA data. The pilots will be built to guard against discrimination, violations of privacy, and document fraud. After three years, we would then request authority from Congress to implement those projects that work.

Section 401 of H.R. 1915 would authorize 350 investigator positions for the enforcement of employer sanctions. The Administration's FY 1996 budget request includes 365 investigator positions for enforcement of employer sanctions. *(Do we point out the difference here or do we leave this issue out?)*

III. ILLEGAL ALIEN REMOVAL

One of the most important deterrents to illegal immigration is a credible and timely threat of removal for violation of the immigration laws. Too often aliens fail to appear for

their hearings or abscond in the face of an order of deportation. The Administration's proposed budget for FY 1996 includes an enhancement of \$166.2 million to increase the Service's detention and removal capacity. The Administration bill would further enhance our ability to remove illegal aliens through imposing penalties on aliens who willfully fail to depart, streamlining the appeals process, and restricting relief from deportation.

The Administration bill would save travel and hearing time and resources by permitting deportation proceedings to be conducted by video conference or telephone. It would also clarify the authority of immigration judges to issue subpoenas in proceedings under sections 236 (exclusion) and 242 (deportation) of the INA. To further streamline the process the Administration bill would permit the entry of orders of exclusion and deportation stipulated to by the alien and the INS, and provide that such stipulated orders are conclusive. By regulation, an alien who stipulates to a final order of deportation will agree in writing to waive any appeal rights.

Both H.R. 1915 and the Berman bill would amend the provisions of existing law regarding relief from exclusion under section 212(c) for long term permanent residents and suspension of deportation under section 244 of the INA for aliens present in the United States for a long period and whose deportation would pose an extreme hardship. Both bills would limit the relief available under current law and would consolidate both forms of relief for deportable aliens into one provision termed "cancellation of deportation."

Under H.R. 1915, an alien who enters the United States without having been inspected and admitted by an immigration officer will be treated as an applicant for admission. Consequently, he will have the burden of proving admissibility to the United

States and will be ineligible for the relief of cancellation of deportation unless he has adjusted to permanent residence. This represents a fundamental change in the "entry" doctrine. We agree that revision of the "entry" distinction between exclusion and deportation proceedings is long overdue. To afford more process to an alien who enters the United States by evading inspection than to a person who appears for inspection at a port of entry defies logic. We also support consolidating exclusion and deportation into one removal process. We are concerned, however, that elimination of what is currently suspension of deportation for those who enter without inspection will work a hardship on certain long term residents and their family members. Accordingly, we would like to work with the subcommittee to identify appropriate exceptions, for example, aliens who arrived in the United States as children, to avoid potentially harsh results in some cases.

The Administration's proposal, like H.R. 1915, would also amend the existing provisions for voluntary departure. Prehearing voluntary departure may be granted to any alien other than an aggravated felon. The Attorney General may require a voluntary departure bond. At the conclusion of a deportation proceeding, voluntary departure may be granted only if the person has been of good moral character for 5 years prior to the order, is not deportable under certain criminal or national security grounds, and demonstrates by clear and convincing evidence that he has the means to depart the United States and intends to do so. The alien would be required to post a voluntary departure bond. Any alien who failed to depart within the time set for voluntary departure would be subject to civil penalties of \$500 per day (\$1,000 to \$5,000 under H.R. 1915). Judicial review of voluntary departure orders would be limited.

The Administration is committed to ensuring that aliens in deportation proceedings are afforded appropriate due process; however, the availability of multiple layers of judicial review has frustrated the timely removal of deportable aliens. Both bills would rewrite the judicial review provisions of section 106 of the INA. Review of an order of exclusion would be in the Court of Appeals instead of District Court and the time period within which a petition for review could be filed would be reduced. Under the Administration bill, the administrative findings of fact underlying an order of exclusion or deportation may not be overturned unless a reasonable adjudicator would be compelled to conclude to the contrary. Review of orders of deportation against aggravated felons would be limited under both bills. H.R. 1915 would require the Attorney General to remove an alien within 90 days of being ordered deported or release him from custody under an order of supervision. Current law provides for removal within six months of a final order and no limitation for exclusion cases. Section 305 of H.R. 1915 would require the Attorney General to detain an alien from the time a final administrative order is issued until he is removed. The removal period is tolled if a court stays removal pending review. However, this section would appear to require the detention of an alien during the thirty-day period within which he may file a petition for review with the court. We do not support this change.

Section 301(c) of H.R. 1915 would render inadmissible for ten years an alien unlawfully present in the United States for an aggregate period of one year or more. There would be limited exceptions for minors and applicants for asylum, however, as noted above the strict application of this ground without some provision for a waiver may work a hardship in some compelling cases. In addition, we would anticipate difficult issues of proof

with respect to the period of an alien's unlawful presence in the United States. We do not support this provision.

H.R. 1915 would establish a special process for the removal of alien terrorists. The provisions are identical to those in H.R. 1710, The Comprehensive Antiterrorism Act of 1995, on which the Department has provided substantial input. We support these provisions (*all of them?*). Section 358 of H.R. 1915 would authorize \$150 million for FY 1996 for the detention and removal of aliens. The Administration's FY 1996 budget includes an enhancement of \$166.2 million to increase the Service's detention and removal capacity. (*What does this represent?*)

IV. ALIEN SMUGGLING CONTROL

INS routinely conducts investigations of large scale criminal alien organizations involved in smuggling aliens and narcotics into the United States. These rings use false or fraudulently procured identification documents to circumvent immigration controls, obtain naturalization by fraud, or more recently, land hundreds of aliens directly onto U.S. shores. Many investigations involve multi-agency task forces, in which the investigative targets are engaged in a variety of criminal activities and enterprises including counterfeiting, illegal acquisition of firearms and explosives, narcotics smuggling and trafficking, and money laundering. These groups engage in racketeering activities including extortion, bribery, obstruction of investigation by violence, and financial fraud. The Administration Bill contains three provisions (also included in H.R. 1915) to strengthen our control of alien smuggling: authorize the use of wiretaps in criminal conspiracies; authorize seizure and

forfeiture of real and personal property in cases of alien smuggling and harboring of aliens (current forfeiture authority is limited to conveyances); and authorize use of appropriated funds to lease space, establish, acquire, or operate business entities for undercover operations. Funds generated by such operations would be deposited in financial institutions or used to offset expenses incurred in the course of such operations. Both bills would also apply the RICO provisions to smuggling, harboring or inducement of illegal alien for gain.

Both bills would make several changes relating to the definition and applicability of "aggravated felony." The statutory definition of "aggravated felony" would be amended by adding a requirement that the offense of trafficking in document fraud be "for the purpose of commercial advantage." Both bills would provide that the term "aggravated felony" applies "for all purposes to convictions entered before, on, or after the date of enactment of this Act." This amendment will end controversy over which convictions are covered by the definition. The Administration bill would also amend the provisions relating to withholding of deportation, to provide that an alien convicted of an aggravated felony who has been sentenced to five years or more is ineligible for withholding of deportation as having been convicted of a particularly serious crime. This is consistent with our obligations under international conventions with respect to nonrefoulement.

V. INSPECTIONS AND ADMISSIONS

Title V of the Administration bill contains several provisions to strengthen our inspection and admission procedures. Similar provisions are included in Titles III and VII of H.R. 1915. The bills would increase the penalty for aliens unlawfully brought from contiguous territories. A "stowaway" would be defined to mean any alien who obtains

transportation without consent either through concealment or evasion and clarifies that it is the duty of the carrier to detain a stowaway until he has been inspected by an immigration officer and to pay for any detention costs incurred by the Attorney General should she take custody of the alien. The fine against a carrier for failure to comply with its obligations would increase from \$3,000 to \$5,000 per stowaway, payable to the Commissioner as offsetting collections. The current exemption from payment of the inspections user fee for "cruise ships" would also be eliminated. While H.R. 1915 requires the addition of inspectors and infrastructure improvements at the land ports of entry, it lacks a mechanism for funding these enhancements. The Administration bill includes authority to charge a border services user fee to pay for port inspectors and improvements. This proposal includes a provision for the States to determine which ports will participate and would authorize the establishment of Border Service Councils for each port to develop priorities for use of the fees collected. The infrastructure improvements and new inspectors the fee will pay for are critical to improved service at the ports of entry.

VI. REFORM OF LEGAL IMMIGRATION

In addition to the enforcement related changes I have discussed, H.R. 1915 would significantly reform the legal immigration system. The bill would establish a worldwide level of approximately 535,000 immigrants, divided among family-sponsored (330,000), employment-based (135,000), and humanitarian immigrants (70,000). Family sponsored immigrants would include spouses and minor children of U.S. citizens and permanent residents and the parents of adult citizens if certain conditions are met. Unskilled workers would no longer be eligible for employment-based visas. The diversity program would be

eliminated. Humanitarian immigrants would include refugees, asylees, and other immigrants of special humanitarian concern.

When the Commission on Immigration Reform issued its preliminary recommendations on June 7, the President stated that the recommendations of the Commission are consistent with his views -- they are pro-family, pro-work, and pro-naturalization. This Administration has repeatedly embraced the Nation's tradition of legal immigration, which is fueled by the desire of families to reunite and the need for employers to find workers to help them compete in a global marketplace. We look forward to reviewing the Commission's work in depth once the report becomes available and we will study all of the proposals carefully. Since Congress just passed major legal immigration reform legislation in 1990, we are particularly interested in reviewing the problems the Commission has identified with the current law that have led to its proposal for reform so soon. Once we have had an opportunity to study the report and the Commission's findings, we will be in a position to offer an informed analysis of the legal immigration reform proposals in H.R. 1915.

Section 521 of H.R. 1915 would limit annual refugee admissions to 75,000 in 1997 and 50,000 thereafter, absent enactment of a law that would provide for higher numbers. We do not support legislatively limiting annual refugee admissions. The current process of consultation between Congress and the executive branch on the annual refugee admissions level, which began in 1981, is working well and allows Congress to participate in the process of determining appropriate refugee admission levels. In recent years, refugee admission numbers have been decreasing. Imposing a strict and arbitrary limitation on annual

admissions would constitute an unwarranted restriction on the process and on the President's responsibility to determine issues of foreign policy. A similar restriction was deleted from S. 269 by an amendment successfully offered by Senators Kennedy and Grassley during the markup.

Section 524 of H.R. 1915 would restrict the Attorney General's parole authority by requiring a case-by-case determination and limiting its availability to medical emergencies, the imminent death of a family member, cases in which the alien's presence as a witness is required, or a cooperating witness or informant whose life would be threatened. We oppose this restriction. The current law provides the Attorney General with appropriate flexibility to deal with compelling immigration situations. For example, the amendment would not permit the parole of an alien to attend the funeral of a close family member or parole of a parent to accompany a child paroled into the United States for an organ transplant. In addition, one advantage of the special exclusion provisions included in both bills is the opportunity they would afford to bring aliens intercepted at sea to the United States for a brief period for "credible fear" screening without implicating a full panoply of hearing and appeal rights. It is not at all clear that this option would be available in light of the proposed restrictions on the Attorney General's parole authority. As currently written the parole restriction would appear to limit the ability of the Attorney General to parole from custody an alien seeking admission. We don't believe this was the intention and if the parole restrictions remain in the bill an amendment should be made to clarify this distinction between the two uses of the term "parole."

Title VIII of H.R. 1915 contains a number of miscellaneous amendments affecting

both immigrants and nonimmigrants. We support the provision in Section 802 which would amend the definitions of the terms "child" and "parent" to eliminate any reference to "legitimate child." This change will alleviate the problem that adoptive parents have had under current law when adopting a child in a country that makes no legal distinction between legitimate and illegitimate birth. Section 806 would distinguish between employers who are dependent on H1-B nonimmigrant employees and other employers of H1-B's in terms of the labor condition application requirements. *(Need input here from Exams.)* Finally, section 808 would limit the eligibility of an alien to adjust status under section 245(i) to those persons who are afforded protection from deportation under the family unity provisions of section 301 of the Immigration Act of 1990. Section 245(i), which was added by the 1995 Appropriations Act, provides a waiver of certain restrictions on adjustment of status upon the payment of a penalty. In order to be eligible for the waiver, an alien must be otherwise admissible as an immigrant. We oppose this restriction.

VII. RESTRICTIONS ON BENEFITS FOR ILLEGAL ALIENS

Section 605 of the bill would require the Attorney General to define lawful presence in regulation, with the guidance that an alien should not be considered to be lawfully present in the United States merely because he or she may be considered to be "permanently residing in the United States under color of law." We are concerned that, given the history of difficulties in defining lawful presence, greater legislative guidance would be appropriate in defining lawful presence or eligible alien. We would suggest the definition of eligible alien the Administration proposed in its welfare reform bill introduced last year, the "Work and Responsibility Act of 1994." We would be pleased to work with you to further develop

this language.

We would also urge that this definition apply only to the four primary needs-based programs--AFDC, SSI, Medicaid, and Food Stamps--allowing for State and local cash and medical general assistance programs to also use this definition. We believe that programs under the Housing and Community Development Act of 1980 should not be subject to these requirements because it would impose a great burden on HUD programs, FHA contract programs, and Community Development Block Grants to identify noncitizens who may indirectly benefit from these non-direct assistance programs. It would also jeopardize progress made and cooperation by HUD, INS, housing authorities, and multifamily project housing owners to smoothly implement section 214 of the Housing and Community Development Act of 1980.

Section 621 defines grounds for inadmissibility and requires that employment based immigrants, other than those qualifying as aliens of extraordinary ability, must show valid offers of employment. Those aliens whose employment classification is based on petitions filed by relatives or by entities in which relatives have a significant ownership interest, must also have affidavits of support executed by those relatives. We believe that further guidance on the extent of relationship envisioned in this provision would be instructive, but are concerned about the ease of enforcing such a provision unless the relationship is close.

Section 632 requires that affidavits of support be legally binding contracts. We strongly support making the affidavit of support legally binding, and concur with this requirement until citizenship. We have concerns about the requirement that deeming provisions apply to minor children of U.S. citizens and permanent resident aliens until age

21, regardless of citizenship, especially since the petitioning age for naturalization begins at age 18. Further, many orphans and adopted children, as well as children of naturalized former legal permanent residents, become U.S. citizens while still minors, creating disparate access to benefits among U.S. citizens.

CONCLUSION

Mr. Chairman, you have acted tirelessly over the last several months, conducting hearings and examining the issues, to make the Immigration and Nationality Act a more effective statute to protect the integrity of our borders and provide immigration benefits in a rational manner. Your bill, H.R. 1915, and the Immigration Enforcement Bill of 1995 contains many provisions to further goals that we share — heightened border control, effective exclusion and deportation procedures, improved employment authorization verification, tougher anti-smuggling measures.

We stand ready to work with the Subcommittee to craft bipartisan legislation that deters illegal alien entry and presence, while maintaining opportunities for legal immigrants to contribute to our economy and society.

I would be glad to answer any questions you may have.

FROM

STEPHEN C. WARNATH

Bruce,

Here is a copy of
the draft immigration
decision memo. I would
appreciate any comments
you may have, particularly
concerning the welfare eligibility
section.

Thanks,

Steve

DRAFT

Immigration

January 4, 1995

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: CAROL H. RASCO

SUBJECT: Immigration Policy Recommendations

PURPOSE

To obtain your guidance on issues relating to immigration.

BACKGROUND

The Interagency Working Group on Immigration, which I chair with Doris Meissner, has gathered views from across the Administration on several primary issues that will be faced in the near term. They include: employment authorization verification, eligibility for public benefits (including Proposition 187 and its offspring), legal immigration, and border fees (which was addressed independently during the budget process). This memorandum summarizes this work, proposes a broad proactive immigration strategy for the Administration designed to immediately and squarely address central immigration issues, and seeks your guidance on key policy options in this debate.

OVERALL STRATEGY OPTIONS

Developing an overall Administration immigration strategy offers three possible courses of action:

- o A proactive strategy -- this may include reference in the State of the Union or other remarks by you about the Administration's immigration activities and policies, a Presidential Memorandum containing directives on immigration; and/or a legislative proposal;
- o A reactive posture that allows Republicans to put forward positions that may become controversial and politically divisive;
- o Item-by-item decisions regarding which issues to address proactively or reactively.

On the basis of what appears to be a consensus of the views of the Working Group and the White House Immigration Core Group, this memorandum contains recommendations that could form the basis of a proactive Administration strategy over the next two months for controlling illegal immigration and reforming legal immigration.

SUMMARY OF PROPOSED PROACTIVE STRATEGY

In the first two months of 1995, the Administration will initiate the following activities:

- The President issues a Presidential Memorandum (summarized at Tab 1).
- The Administration proposes new immigration reform legislation (summarized at Tab 2).
- Attorney General Reno and Commissioner Meissner announce border control expansion to South Texas and other '95 budget initiatives to deter illegal immigration.
- The President reinforces strategic policy themes in the State of the Union address.
- The White House and/or the Attorney General announce '96 immigration budget initiatives -- emphasizing border control, worksite enforcement, and cost reimbursement to States.
- The Attorney General and Commissioner Meissner develop and announce the Administration's integrated illegal immigration deterrence strategy. This strategy creates Targeted Deterrence Areas (Summarized at Tab 3) which will concentrate and coordinate deterrence and enforcement activities in selected geographical locations where the impact of illegal immigration is particularly acute. While anchored by our border control strategy, this approach would establish clusters of linked enforcement activities such as worksite standards enforcement, removal of criminal aliens, and new enforcement against organized crime involved in illegal immigration. The Administration would invite State and local

governments to devise and propose acceptable companion strategies to address illegal immigration issues.

Naturalization and INS service improvements would be emphasized in these areas as well.

- The Administration will launch an aggressive communications strategy with several goals: (1) broaden national recognition of and support for current enforcement efforts; (2) expand appeal for naturalization; (3) enforce antidiscrimination message; and, (4) emphasize the need to develop community efforts to combat ethnic and racial tensions associated with anti-immigration campaigns.
- Secretary Reich highlights the Labor Department intensified worksite standards enforcement efforts in targeted deterrence areas.
- The Administration internally identifies a few nationally-recognized and respected public figures to serve as surrogate spokespersons and advocates for its immigration policy -- particularly to engage the debate on national talkshows.
- The Administration's immigration policy and activities is further reinforced in a President's Radio Address (probably in March).

PROPOSED PRESIDENTIAL MEMORANDUM

The first salvo in the proactive strategy, issuance of a Presidential Memorandum (see summary at Tab 1), establishes policy leadership and guidance, principles and priorities. The advantage of issuing such a directive is that it can coherently present your vision of immigration, stakes out a proactive position on a number of central immigration issues, and provides a framework over the next year for the Administration's activities.

Highlights include:

- o Establishing the Targeted Deterrence Areas policy.
- o Expanding the Border Control Strategy to South Texas.
- o Establishing a plan for a National Mobile Deterrence Response capacity.
- o Initiating Pilot Programs to improve verification for work authorization.
- o Adapting deterrence strategies to new smuggling routes.
- o Enhancing intelligence gathering on illegal alien smuggling.
- o Creating a new enforcement initiative on visa overstayers.
- o Improving the detention and removal system.
- o Directing attention to worksite enforcement of labor standards and protections, and of employer sanctions.
- o Defending U.S. citizens and legal residents from discrimination and harassment related to reactions to immigration issues.
- o Seeking to expand international cooperation on migration issues.
- o Improving INS services, including support for enhanced naturalization campaign.
- o Searching aggressively for cooperative strategies to work with States, especially in those areas in which the targeted deterrence strategy is deployed.

Because there continues to be a general lack of public awareness about the Administration's immigration activities, we would also look for opportunities to issue at least one more immigration-related directive by the end of this year to further highlight and reinforce our work.

PROPOSED LEGISLATION

A proactive strategy would include a package of legislative initiatives. In preparation, should you decide to go forward, the White House Immigration Core Group and the White House Legislative Office have held meetings to discuss legislative issues, and a number of legislative soundings were made on the Hill by the White House Legislative Office and the legislative offices of the Department of Justice and INS. A summary of possible legislation, drafted principally by the Department of Justice and INS, is attached at Tab 2. Its central components include:

- Employment Authorization Verification
- Border Control
- Targeted Deterrence Areas
- Benefits Eligibility
- Anti-Discrimination
- Removal and Procedural Streamlining
- Anti-smuggling
- Legal Immigration Reductions [Optional]

The contents of an Administration proposal would reflect a legislative stance designed to preserve the opportunity for bipartisan agreement addressing major immigration issues.

A COHERENT POLICY BASED UPON PRINCIPLES AND PRIORITIES

The principles and priorities of this Administration's overall immigration policy stress three goals: deterring illegal immigration, welcoming legal immigrants and protecting refugees from harm. It is easier to state our goals than the underlying principles and priorities that link the elements of a coherent immigration policy, but articulating our

principles and priorities with clarity will become the central challenge in the national debate on immigration policy. The following principles and priorities do not fully address the complexities of immigration policy, but they do suggest some of the themes reflected in the recommendations in this memorandum. Further articulation and refinement will be needed as we go forward.

The imperative to deter illegal immigration reflects the fundamental national and economic security goals of a nation's need to control its borders. It also reflects an application of the Administration's vision of a national community where people strive not only to work hard, but also to contribute their fair share and play by the rules. An individual's illegal entry by definition defies this vision. Moreover, undocumented status virtually ensures some level of social marginalization and risks growth of an underclass rather than integration into and full participation in society. Consistent with the theme of playing by the rules, our strengthened worksite enforcement recognizes that those who flaunt immigration laws are not just illegal aliens, but also employers who attempt to gain competitive advantage by hiring illegal aliens.

Our policy should reflect a commitment to integrating legal immigrants into our national community. They have been invited to enter our country, to invest their skills and energy, to join with us in the pursuit of a shared American dream. Policies that promote integration include those that facilitate immigrants gaining citizenship or utilizing services that will aid in their ability to contribute to society. Our policies should thus reinforce our vision of a national community whose members -- citizens and noncitizens alike -- work hard, contribute their fair share and play by the rules for this is part of our societal contract with legal immigrants as well as citizens.

Our immigration priorities should reinforce immigration's role in strengthening families and communities (through reunification of close family members) and strengthening the economy (by supporting needed employment-based immigration when that does not compete with Americans for jobs). These are our core interests that benefit our national, State, and local communities.

Two other principles that our policies and actions should stand for are: 1) protecting citizens and legal immigrants from discrimination and harassment and 2) fiscal equity in immigration matters with States and localities, by supporting fiscal relief for State costs of immigration -- legal and illegal -- and opposing additional cost-shifting to States and localities.

The remainder of this memorandum focuses on three core controversies of the forthcoming immigration debates.

VERIFICATION OF EMPLOYMENT AUTHORIZATION

No previous Administration has invested the political will and resources to enforce immigration law effectively, either at the border or in workplaces. This Administration has a clear, aggressive border enforcement strategy. While enhancing those activities, there is need for increased effective enforcement in the workplace.

Current law requires new job hires to present a choice of documents to establish their authority to work. An employer who knowingly hires a worker without proper documents may be fined. Most unauthorized workers, however, can obtain and present fraudulent documents of sufficient apparent authenticity to pass this initial screen. Verification of employment authorization, then, is a weak link in this enforcement area.

The Administration has repeatedly declared its firm commitment to improving the system of employment verification. Current steps to overcome deficiencies include:

- o reducing the number of acceptable work authorization documents administratively and seek legislation to establish only 2 acceptable documents for noncitizens and a small number (4) for U.S. citizens, while making those documents more tamper-proof and counterfeit resistant;
- o expanding a small Telephone Verification System pilot begun under the previous Administration to a significant number of employers;
- o initiating an overhaul of the INS and SSA records database and infrastructure to greatly improve their reliability and usefulness. This database improvement is crucial to any verification system.

Despite these steps, there is general agreement among the participants in the interagency immigration discussion that we need to strengthen the effectiveness of the verification system to develop a more credible deterrence to illegal aliens' access to the U.S. labor market.

The Jordan Commission's Verification Proposal

The Commission on Immigration Reform (the "Jordan Commission") has proposed that you direct the Social Security Administration and the INS to link information from each agency's databases to create a new national database (a "registry") to cover every job applicant, citizen or non-citizen alike. The proposal creates a single, national verification system that requires each job applicant to provide his or her social security number, name, date of birth, and some proof of identity, either a card or personalized PIN number. The Commission proposes that you establish pilots in the five largest immigration States to test this registry.

On the Hill, we can anticipate that Senator Simpson and other Congressional leaders may introduce legislation that requires a registry-like verification system. Supporters of the Commission's recommendation argue that it represents a far simpler and more reliable method for determining work authorization than present efforts and will reduce discrimination against job applicants. Groups expressing deep concern and opposition include the Hispanic Caucus, the Asian Pacific American Caucus and various civil rights groups. They have voiced strong opposition based upon concerns about discrimination and harassment and the historically poor reliability of INS records. Some have argued that the proposal will lead inevitably to some form of National I.D. They point out that their constituents are likely to disproportionately bear the burden of errors in the database or the process and the penalty for such error is the denial of employment. Some Civil Rights offices in the Administration have echoed these concerns in interagency meetings.

There is also opposition from those -- including conservatives -- who are concerned about safeguarding privacy and the difficulty of protecting personal information in a database from unauthorized access and abusive use.

In response to the Commission's proposal, I convened a subgroup to examine the idea of a national registry. I requested INS and SSA to conduct a technical review of the feasibility of creating such a registry. The INS/SSA technical review team was instructed to approach the proposal in the spirit of making the registry work as quickly as possible and assuming no financial constraints.

After a thorough study, the team concluded that the Commission's proposal for a registry-based set of pilots in five states has serious practical implications. The most significant problem is the time-frame needed to begin the registry-based pilots: At a

minimum, the Commission's requirement that the Administration link INS-SSA data into a complete and usable single system would take five years just to establish the integrated database before meaningful pilots could be conducted. This conclusion makes it impossible to adhere strictly to the Commission's public call for immediate pilots of the registry.

The fundamental technical problem is that the INS and SSA systems work off completely different numbers for individual identification and recordkeeping. The INS uses an assigned Alien Number, SSA the Social Security Number. Currently, INS has 15 million records that do not contain a Social Security Number. The estimated five-year time frame includes an ambitious effort to improve existing systems, including a public campaign to have all aliens register and provide their SSN to the INS. These ambitious efforts could, in practice, take much longer and prove unreliable in the future.

Doris Meissner has discussed this conclusion with the Commission's Executive Director. We now have agreement with her recognizing that a national registry of a linked database is many years away. We also agree that much can be done through multiple pilots of various verification systems in a timely fashion. Doris and I spoke privately with Barbara Jordan and we have a mutual understanding that Ms. Jordan and the Commission will express support for the Administration's own aggressive pilot programs as a basis for determining whether a database method can work. We expect to continue our public support for the Commission's activities and have again expressed our willingness to work with them.

Verification Options

1. Adopt the Commission on Immigration Reform's call for a national registry of INS/SSA data.
2. Propose an alternative, large-scale phased-in pilot program that immediately begins to test a set of interrelated verification approaches that constitute building blocks for a national registry.

Verification Recommendation

Option 2.

The Administration cannot wait at least five years to show demonstrable progress on efforts to improve employment verification, and to increase, as a result, effective

enforcement against the hiring of unauthorized workers. Verification is required by law and Congress granted the President the authority to initiate pilots to test methods to improve the system. The Administration should embark on an aggressive, large-scale pilot program targeted in areas of highest concentration of illegal aliens in the five most impacted States. The set of mutually-reinforcing pilots would include:

Pilot 1: A significantly expanded Telephone Verification Pilot

INS will proceed with expansion of its Telephone Verification System (TVS) pilot from 9 employers to 750-1000 employers.

Pilot 2: Social Security Number Validation

To become an effective part of an employment verification system, the Social Security Administration needs to develop new ways of making its database available to employers in timely fashion, and of protecting its records from access by unauthorized users. The Administration would therefore initiate a pilot in the Targeted Deterrence Areas that would utilize the Social Security database plus the identification of the applicant from the currently required list of documents.

Pilot 3: Integrated, 2-Step Social Security Number/INS Verification

The Social Security Administration will establish a phased-in pilot that will include at least 1000 employers to test an automated system to verify a person's Social Security Number and U.S. citizenship. If no confirmation is made, the applicant's work authorization information will be checked through the INS database. (While this pilot utilizes both the SSA and INS databases, it does not merge them.)

Pilot 4: Electronic Simulation and Test of National Registry

As an initial test of the Commission's registry proposal, an INS-SSA team attempted to link individual records from the two databases. The early test used large samples involving hundreds of thousands of names. More such tests of the database can be done before it is applied in the workplace, and analysis of the results of mismatches and misidentifications will help subsequent refinements detect and resolve problems before implementation begins. These are critical steps in any development of electronic databases and are fully supportive of the Commission on Immigration Reform's vision of intermediate steps to fully test a national registry.

The protocol for all pilots would contain stringent antidiscrimination and privacy safeguards and would utilize continuing and careful monitoring to protect those rights. And they would be time-limited. Nevertheless, database pilots will be opposed vociferously by those individuals and groups that oppose the Commission's national registry proposal. It is impossible to overstate the depth of their opposition as they have expressed it to us. We can initiate a continuing dialogue with these groups and enlist their input on discrimination and privacy protections, but this will not be enough to mitigate their concerns.

All proposed pilots could begin within 1995 and generate sufficient experience to be evaluated in 1997.

We request approval to take actions consistent with this recommendation.

Approve _____ Disapprove _____

ELIGIBILITY FOR PUBLIC BENEFITS

A broad consensus exists that illegal immigrants should be ineligible, as current law provides, to receive public benefits. There is much less agreement on legal immigrants' eligibility. Some Republican proposals will seek to deny all immigrants access to benefits. The Administration's welfare reform proposal makes financial choices that also limit legal immigrants' eligibility.

Illegal Immigrants' Eligibility For Benefits

The three principal options are: 1) support current legal restrictions on illegal alien eligibility; 2) support extension of restrictions to other selected programs that do not presently consider illegal immigration status for eligibility; or 3) bar eligibility for all programs.

Recommendation:

Option 2: Support extension of illegal alien ineligibility to selected programs.

As a fundamental position on this issue we should declare that:

Illegal aliens should not be eligible for public services and benefits, with

limited exceptions. These limited exceptions include emergency medical services, children's right to an education, temporary humanitarian assistance in emergencies (e.g., earthquakes), and to protect certain public health and safety interests (e.g. immunizations).

Thus, we would reaffirm that illegal aliens should not be eligible for programs from which they are presently barred. In addition, we should support extension of ineligibility to appropriate programs that currently do not consider immigration status for eligibility using these categories of exceptions as a general guide for specific determinations. If you approve this approach, the interagency group will proceed with a program-by-program analysis.

This position extends current law barring illegal alien eligibility in certain programs while reaffirming basic Constitutional protections and upholding the government's duty to protect public health and safety. This recommendation also is fully consistent with the Jordan Commission's position on this issue. The interagency group rejected the call for denying all services and benefits to illegal aliens or any proposal more restrictive than the position expressed here for the reasons that you articulated in opposing Proposition 187.

Approve _____ Disapprove _____

Lawful Permanent Residents

A prospective immigrant must demonstrate that he or she will not become a "public charge" if admitted for permanent residence. Some legal immigrants (LPRs) meet this public charge requirement because they are admitted with an employment-based visa. Others who have sufficient personal assets also meet the requirement.

A "sponsored immigrant" (primarily a family reunification case) requires a sponsor in the United States to furnish an affidavit of support promising financial assistance to the immigrant if necessary. The affidavit of support is currently not legally enforceable.

Once admitted to the United States, LPRs are generally eligible for publicly-funded

services and benefits on the same terms as U.S. citizens. An immigrant may receive assistance from three major public programs — AFDC, SSI and Food stamps — if they meet the means-test for each program. For the purpose of calculating income and assets, the immigrants' sponsor's income is considered available ("deemed") to the legal immigrant for a certain number of years. The deeming period for AFDC and Food Stamps is currently 3 years. For SSI, the period has been extended from 3 to 5 years for LPRs applying for benefits between January 1, 1994 and October 1, 1996. (Deeming does not apply to refugees, asylees, or parolees.)

The policy issues in this area will present themselves in a variety of forms seeking to deny or limit eligibility for the three major programs (AFDC, SSI and Food Stamps), extend the limits to other programs, lengthen the deeming period, and promote stricter sponsorship enforcement. Some Republican proposals simply bar eligibility for these and other programs and the Welfare Reform Taskforce is considering a proposal to extend the deeming period to ten years.

Legal Immigration Eligibility Options

Option 1: Support a uniform deeming period for AFDC, SSI, Food Stamps and Medicaid of 5 years or more. (A corollary to this option would be to uniformly extend the deeming period for these programs to more than 5 years or at the time of naturalization.)

Option 2: Extend the deeming period and expand it beyond the covered programs (beyond AFDC, SSI, and Food Stamps). A series of decisions would still be needed on which programs to include in the expanded coverage.

Option 3: Fully bar eligibility for a pre-determined period (or permanently in some proposals) or until naturalization.

Recommendation: Adopt Option 1: Extend the deeming period for AFDC, SSI, Food Stamps and Medicaid to a uniform period of at least five years. This recommendation recognizes that families who petition to bring their relatives into this country must accept some additional responsibility for sustaining the newcomers for some period following their entry. If the Welfare Reform Task Force concludes that compelling financial considerations require a period longer than 5 years -- the length of time for an immigrant to become eligible for citizenship -- then the requirement should be for that term of years or naturalization, whichever is first. If this is the conclusion of the Welfare

Reform Task Force, then the Interagency Working Group on Immigration will work closely with that group to ensure that immigration policy factors are reflected.

Approve _____ Disapprove _____

We also recommend, as part of your legislative package, requiring sponsors to sign a legally binding contract of support. Presently, the affidavit of support is nonbinding and provides no protection against immigrants becoming public charges. This recommendation is made although we understand that even if the document is legally binding, there will be complex issues involved in its enforcement.

Approve _____ Disapprove _____

Authorizing States to Follow Federal Rules

States who are seeking greater flexibility to address immigrant eligibility issues will seek extension of eligibility restrictions included in Federal programs to State programs. The Administration's welfare reform bill provided such authority and Senator Feinstein's draft legislation proposes to authorize States to follow the Federal deeming provisions. Without such a delegation, an immigrant barred from a Federal program could still be eligible for State-financed programs. States argue that this is one of the ways that the Federal government shifts costs to them. Fully delegating such authority to States, however, may conflict with exclusive Federal authority to regulate immigration.

Recommendation

Support proposals that allow States to define eligibility rules that mirror Federal guidelines, while preserving Federal prerogatives in this area. This is most consistent with opposing cost shifting while not usurping Federal authority on immigration issues.

Approve _____ Disapprove _____

Mixed Household Eligibility

It is not unusual to find households where one parent is a legalized immigrant, one is here illegally, and the children are U.S. citizens. These mixed households raise

complex problems in determining eligibility.

Options

1. Deny publicly-funded services and benefits to the entire household or family unit.
2. Apply a pro rata approach to household benefits, following current practice in the AFDC and Food Stamp programs and in HUD regulations.

Recommendation: Option 2

Option 1 provides the greatest assurances that illegal immigrants will not receive public benefits. The Interagency eligibility subgroup did not favor this option because it would deny U.S. citizens and legal permanent residents access to assistance for which they would normally be eligible. This option may also have a disproportionate impact on particular ethnic groups whose families are more likely to consist of persons with different legal statuses and may provide heightened grounds for legal challenge.

Option 2 would establish a uniform method for determining benefit levels in mixed households for all publicly-funded programs. However, some illegal aliens would continue to benefit from the resources made available to citizen or legal immigrant family simply by virtue of their residence in the household -- another context in which verification arises as a difficult issue. A pro rating scheme also requires verification of the legal status of all members in the household. Decisions would still be needed on which programs would require this pro rating system.

The interagency subgroup rejected a third option -- granting eligibility for all family members if any immediate relative is a U.S. citizen or legal permanent resident -- as it would clearly sanction significant number of illegal aliens obtaining indirect access to public benefits.

The Administration should support Option 2.

Approve _____ Disapprove _____

PRUCOL

The term "Permanently Residing in the United States Under Color of Law" (PRUCOL) is currently used by four major federal benefit programs to indicate categories of non-citizens who are not permanent residents but are eligible for benefits (AFDC, SSI, Medicaid and unemployment insurance). PRUCOL is not an official immigration status provided for under the Immigration and Nationality Act, nor is it defined the same way by each Federal program. As a result, some non-citizens may be eligible under some benefit programs but not others. These categories result typically from special Congressional action, such as granting Deferred Enforced Departure, or from court rulings arising from hardship claims.

The Administration's welfare reform bill eliminated the current statutory reference to PRUCOL and created a uniform definition of eligibility by listing the specific immigration statuses eligible for benefits under the AFDC, SSI, and Medicaid programs. The Food Stamp program currently lists specific immigration statuses rather than PRUCOL for eligibility purposes, although it is not as comprehensive or flexible as the proposed welfare reform legislation. (The Administration's Health Care reform bill also limited PRUCOL benefit eligibility.)

From the standpoint of immigration policy, a standardized and uniform listing of eligible immigration statuses has merit. The Interagency Working Group on Immigration will work closely with the Welfare Reform Taskforce to examine how legislative proposals on immigration reform and immigration policy considerations relate to more general welfare reform considerations and financial factors.

Verification Issues for Eligibility Debate

There is widespread perception that illegal immigrants obtain government benefits to which they are not eligible by law. Our goal is to increase public confidence in the Federal government's ability to prevent illegal immigrants from improperly receiving benefits.

The Immigration Reform and Control Act of 1986 required INS to develop and implement an information system -- known as the SAVE system -- to become a national system to verify benefits eligibility for AFDC, Medicaid, Food Stamps, unemployment compensation, federal housing programs, and Title IV Educational Assistance Programs.

Many of the issues involved in the earlier discussion of verification apply to public benefits eligibility, and the interagency group will prepare a proposal for you of pilots to develop and test improvements in the SAVE system.

Proposition 187

You, the Vice President and other senior Administration officials are now widely known to have spoken out against Proposition 187. The Vice President also reaffirmed this view after the election. Because the central components of the Proposition were enjoined without Administration intervention, there has been a period to monitor how the situation has developed. However, Congress will introduce legislation to nationalize Prop. 187 and some citizens are trying to jumpstart a Prop. 187-like initiative in their own States.

Because the Administration came out aggressively in opposition prior to the vote, the primary issue now is strategic: how prominent should the Administration now be in presenting its views on efforts to expand Proposition 187 beyond California. There are also issues that have arisen which impact the missions of Departments and Agencies, such as reports of individuals failing to seek needed medical care to which they are still entitled and incidences of discrimination. Several agencies have requested approval to respond publicly. For example, the Department of Education would like to begin to make the case about the benefits for communities from keeping all kids in school rather than kicking them out into the street and the Constitutional basis for this enunciated in Plyler v. Doe.

Options

1. Attempt to avoid taking a public stance as long as Proposition 187 is enjoined in litigation. Intervention could backfire and give critics an opportunity to refocus the debate on challenges to the Administration's commitment to curtail illegal immigration.
2. Adopt a prominent role voicing public opposition to nationalizing those parts of Proposition 187-like proposals that are inconsistent with the Administration's policy regarding eligibility for benefits and services. Senior agency officials would express carefully planned statements to advance their agencies' core missions. The opposition would not be wholesale because we can support several items, such as the increase on penalties for use of fraudulent documents and the ban on postsecondary education benefits.

Recommendation: Option 2. As a practical matter, the ability to remain silent on this issue will end shortly as we will face Congressional initiatives mirroring Prop. 187. If you select this option, the White House Core Immigration Group will prepare a point-by-point plan for publicly engaging the policy debate that will accompany these initiatives.

At this time and certainly during the development of this plan, we support the status quo regarding nonintervention in the Prop. 187 lawsuits.

We request a decision to proceed consistent with this recommendation.

Approve _____ Disapprove _____

LEGAL IMMIGRATION

The new Congress will consider substantial cuts in legal immigration levels. Senator Simpson, for example, is likely to introduce legislation to cut legal immigration by 20% to 25%. This will present the Administration with the political question of whether it should propose its own initiative to reduce legal immigration. On the one hand, this may be viewed as demonstrating a serious commitment to dealing with all of the difficult immigration issues. On the other hand, any proposal to reduce legal immigration will likely be viewed by many as an assault on this country's historical support for legal immigration and provoke an enormous public outcry.

If a determination is made, for strategic reasons, to move toward a bipartisan position near the middle, then the Interagency legal immigration subgroup concluded that it would be possible to propose cuts that would place a marker of moderation in the debate, defending the legal immigration system against deeper cuts. These reductions would recognize that conditions in the latter half of the 1990s are different than in the 1980s when inflated, debt-driven expansion appeared to support a demand for larger numbers of legal immigrants.

There are three principal options: 1) Oppose all efforts to reduce legal immigration levels; 2) Support a general percentage cut of 10%-15% without identifying which categories would be cut; and 3) reduce current admissions by proposing reductions targeted at selected categories.

Recommendation

If a strategic decision is made to propose or support legal immigration reduction, the Interagency group recommends an overall package of legal immigration reform that would temporarily reduce total admissions by 10% to 15%, representing significant cuts but less than the 20% to 25% Senator Simpson and others are likely to propose in legislation. The group further recommends targeting selected categories rather than permitting the perception that the Administration would consider reductions to all categories -- e.g. reunification with close family members -- which would be more fundamental and will be more contentiously fought. The group identified the following categories, any or all of which could be introduced or supported as a package:

- o Eliminate the category of so-called diversity visas: (55,000)

The purpose of the so-called diversity numbers is to provide new "seed" immigration by opening a small number of visas to areas that had not enjoyed long-term family-based migration. In 1994, the program increased immigration from Africa by 20,000; from Europe by 24,000. The program is widely viewed as a political response to a small number of constituency groups and is opposed by the Department of State because of its administrative complexity and the excessive expectations a lottery raises abroad. Senator Kennedy was a strong proponent of its introduction into the 1990 Act and will likely oppose its reduction or elimination.

- o Reduce total immigration by eliminating the practice of filling an underused preference category with excess demand in another preference category.

Under current law, higher preference family- and employment-based admissions numbers which are not used in a year become available for use in lower preference categories. Unused admission numbers in each of these two categories also become available in the following year. Eliminating this practice would reduce annual admissions (by approximately 25,000 for "flow down" and by approximately

38,000 for "flow across") without requiring fundamental changes in the principles of the immigration system.

- o Reduce or eliminate unskilled component of employment-based third preference (10,000)

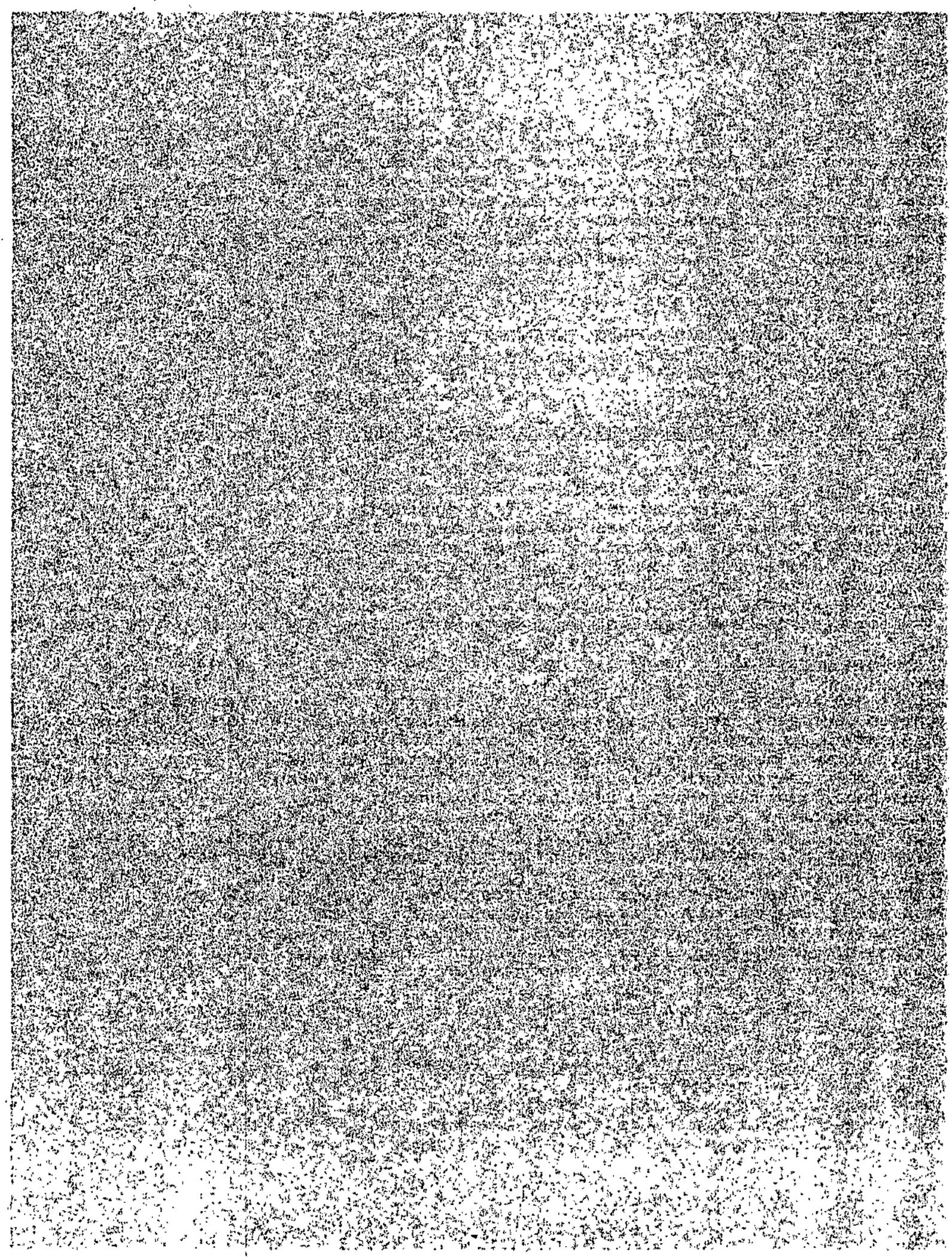
This category is oversubscribed with a current waiting list of more than 95,000. As a result, an employer would have to wait approximately nine years to fill his or her need for this worker. The waiting period seriously undermines the legitimacy of any claim to an employer's "economic need."

- o Reduce the skilled component of employment-based third preference (140,000)

Although this would be extremely controversial, the Department of Labor and INS both would support reduction in the number of skilled employment visas offered. In particular, the Department of Labor considers this responsive to reducing economic insecurities among skilled workers who are experiencing job restructuring and company downsizing.

We request guidance on whether to proceed at this time with proposing/supporting reductions to legal immigration consistent with the identified categories.

Approve _____ Disapprove _____



The proposed strategy recommends that the President sign a Presidential Memorandum to stake out major immigration issues and provide leadership and direction for the Administration. The Memorandum would also tell the story of what the Administration has been doing and will be doing in the next year. The initiatives here should be viewed in conjunction with the proposed legislative package and is subject to Presidential guidance.

SUMMARY OF PRESIDENTIAL MEMORANDUM

DETECTING ILLEGAL IMMIGRATION

EXPANSION OF COMPREHENSIVE BORDER CONTROL STRATEGY

This Administration's strategy for border control by - deterrence was first tested at El Paso, Texas in the Spring of 1993 in what became Operation Hold-the-Line. After its success was demonstrated there, it was extended to California as Operation Gatekeeper and then to Arizona as Operation Safeguard. This Administration is demonstrating how a well-constructed and implemented deterrence strategy supported by adequate resources and technology can make a difference at the border.

Extension to South Texas and Stabilizing Expansion at Arizona

Would direct the Attorney General and the Commissioner of the Immigration and Naturalization Service to immediately expand and adapt implementation of the Administration's border control strategy of prevention through deterrence at strategic border locations in South Texas and to fortify the expansion in Arizona.

Mobile Deterrence Teams

The Attorney General and the Commissioner would develop a readiness plan for the deployment of the Border Patrol, U.S. attorneys and other relevant personnel and supporting resources to respond quickly to emerging situations anywhere along the national border to deter buildups of illegal border crossers, smuggling operations, or other problem areas.

Accelerate Strategic Use of High Technology.

For many years Border Patrol agents were too often behind desks instead of patrolling the border. Through the strategic use of sensors, night scopes,

helicopters, light planes, all-terrain vehicles, fingerprinting and automation we have freed up trained Border Patrol agents to deploy at the border and have increased their effectiveness. The Memorandum would direct the Attorney General to accelerate the utilization of these support resources of our deterrence strategy.

Border Patrol Training

The Commissioner will ensure that the quality of the Border Patrol agents' performance of their duties and responsibilities is not diminished in implementing the new strategy during the rapid build-up.

Strong Criminal Enforcement of Smugglers and Repeat Illegal Crossers

As part of this Administration's deterrence strategy, the Attorney General would assign a team of prosecutors dedicated to enforce the Department's new authority granted under the Crime Bill to prosecute smugglers and repeat illegal criminal crossers.

ANTI-SMUGGLING INITIATIVE

Adapting Deterrence Strategy to New Smuggling Routes

This Administration has successfully choked off large ship-based smuggling. Last year, we intercepted over a dozen ships and made over 2,500 arrests, a jump from approximately 150 arrests in 1991. In response to this strong enforcement effort, smugglers are now testing new smuggling routes and opportunities. The Memorandum would direct the National Security Council and the Department of State to lead the planning and implementation of the Administration's interagency deterrence strategy to counter these new assaults upon our shores by criminal organizations.

Enhanced Illegal Smuggling and Border Crossing Intelligence Gathering

To support the evaluation of operations for effective and flexible resource deployment to counter smuggling, the Department of Justice and INS, the Department of State and other relevant agencies would launch an enhanced intelligence gathering operation to monitor and assess the status of smuggling, participation by organized crime and illegal border crossing strategies.

VISA OVERSTAY DETERRENCE

- Roughly forty percent of illegal immigration results from persons who come into the country legally and then stay in our country after they should leave. All departments and agencies with jurisdiction in this area would be directed to take affirmative steps to review their programs to strengthen the Federal government's deterrence of this form of illegal immigration. This would include increased Administrative capacity to locate and remove and, to the extent Administratively possible, strengthen sanctions such as prosecution and denial of future lawful reentry. Recommendations for administrative initiatives would be presented to the White House Interagency Working Group on Immigration by January 30, 1995. The Memorandum would encourage Congress to pass needed legislative reform to effectively deter this abuse of our immigration laws.

DETENTION AND DEPORTATION

The Administration's deterrence strategy will be expanded to further improve the country's detention and deportation capability to close the "revolving door" of illegal migration that resulted in the past when apprehended deportable aliens have been released back into communities because of the absence of detention space.

Comprehensive Deportation Process Reform

The Department of Justice, in consultation with relevant agencies as necessary, would be directed to finalize its deportation reform initiative through administrative action and seek to obtain legislative authority to the extent necessary to establish a streamlined, fair and efficient procedure to determine status and expedite removal of aliens ineligible to remain in the United States. In addition, the Department of Justice would increase the number of lawyers, to the extent necessary in the Attorney General's discretion, to enhance the staffing of deportation and exclusion hearings.

Develop a National Detention Plan

- This country has a shortage of local detention space for deportable aliens that in the past has resulted in aliens being released back into communities. This Administration has undertaken to devise a National Detention and Transportation Policy that will use

detention space anywhere in the United States rather than continuing the unacceptable practice of releasing deportable aliens that have been apprehended because local space is not available. The Memorandum would seek Congress' support in providing the necessary funding to implement this policy.

It would also direct the Department of Defense and the Department of Justice to jointly assess the feasibility and desirability for the nation of utilizing selected closed military bases as INS detention centers. The Department of Defense and Department of Justice, in their discretion and to the extent of the Administration's authority, establish temporary INS detention centers on closed military bases.

The Memorandum would express commitment to seeking new funding from Congress to support efforts by INS District Offices to remove aliens with final orders of deportation.

We will also work with State and local officials to increase cooperation of law enforcement officers in identification of criminal aliens.

REMOVAL OF CRIMINAL ALIENS

Verification

To expedite removal of criminal aliens from this country and reduce costs to federal and state governments, the INS would be directed to immediately implement a program initially involving a large number of state and federal prisons in the seven states most heavily impacted by illegal immigration to verify the immigration status of all of the criminal aliens within those prisons. This program will be phased-in as quickly as possible with full implementation to be completed within three(?) years.

The Attorney General would seek to enter into agreements with Governors regarding notification of incarceration of aliens in State correctional facilities. This will facilitate voluntary transfer of criminal aliens to their country of origin or expeditious deportation upon the completion of their sentences.

The Attorney General would also be directed to expand the use of MOUs with States to expedite the deportation of nonviolent criminal aliens.

WORKSITE ENFORCEMENT

- Another major component of the Administration's deterrence strategy is to toughen worksite enforcement. This counterpart of border control involves targeting enforcement efforts at employers and industries which historically have relied upon employment of illegal immigrants to maximize the strategy's deterrent impact.
- Employers who employ illegal immigrants often do so to obtain competitive advantage over law-abiding employers. Not only do these businesses obtain unfair competitive advantage, their unlawful use of illegal immigrants tends to suppress wage and work conditions for our country's legal workers.
- The Memorandum would direct the Department of Labor to create a deterrence unit that will: 1) coordinate a deterrence strategy to identify industries with labor law violations related to illegal immigration; (2) conduct labor law strike forces through joint inspections of industries by Federal, State and local agencies; and 3) encourage cooperation among the Federal, State and local agencies to achieve the objective.
- As part of this effort, the Department of Labor would significantly increase its efforts for worksite enforcement targeting industries that employ unauthorized workers in the seven states where illegal aliens concentrate.
- The Department of Labor, INS, and other relevant agencies would be instructed to further collaborate on implementation of a more comprehensive legal assault upon those who subvert fair competition in this way including seeking to maximize use of authority to confiscate assets which are the fruits of that unfair competition and other increased penalties.

WORK AUTHORIZATION VERIFICATION

- The Memorandum would direct the Social Security Administration and the INS to immediately initiate large-scale pilots using social security numbers and the INS database in the five most impacted states.

ANTI-DISCRIMINATION

- The Memorandum would instruct the Attorney General, the Chairman of the Equal Employment Opportunity Commission and other relevant Administration officials to aggressively pursue those who, purporting to be acting in conformity with the immigration laws, violate the protections afforded to all of our citizens to be free from discrimination and harassment.

REIMBURSEMENT OF STATE COSTS

- The Memorandum could express President's position supporting fiscal equity among the Federal and State and local governments on immigration costs. It could commit to looking for opportunities to work with Congress to support States' efforts to obtain fiscal relief.

INTERNATIONAL

- Following the passage of NAFTA and the success of the Summit of the Americas, this Memorandum would direct the Secretary of State to coordinate an interagency review of migration patterns in light of developing trade and economic development in the region and how best to utilize economic development as a incentive to deterring illegal migration.
- The Department of State would be directed to proceed with discussions with foreign governments with the objective of entering into acceptable arrangements for return of criminal aliens.

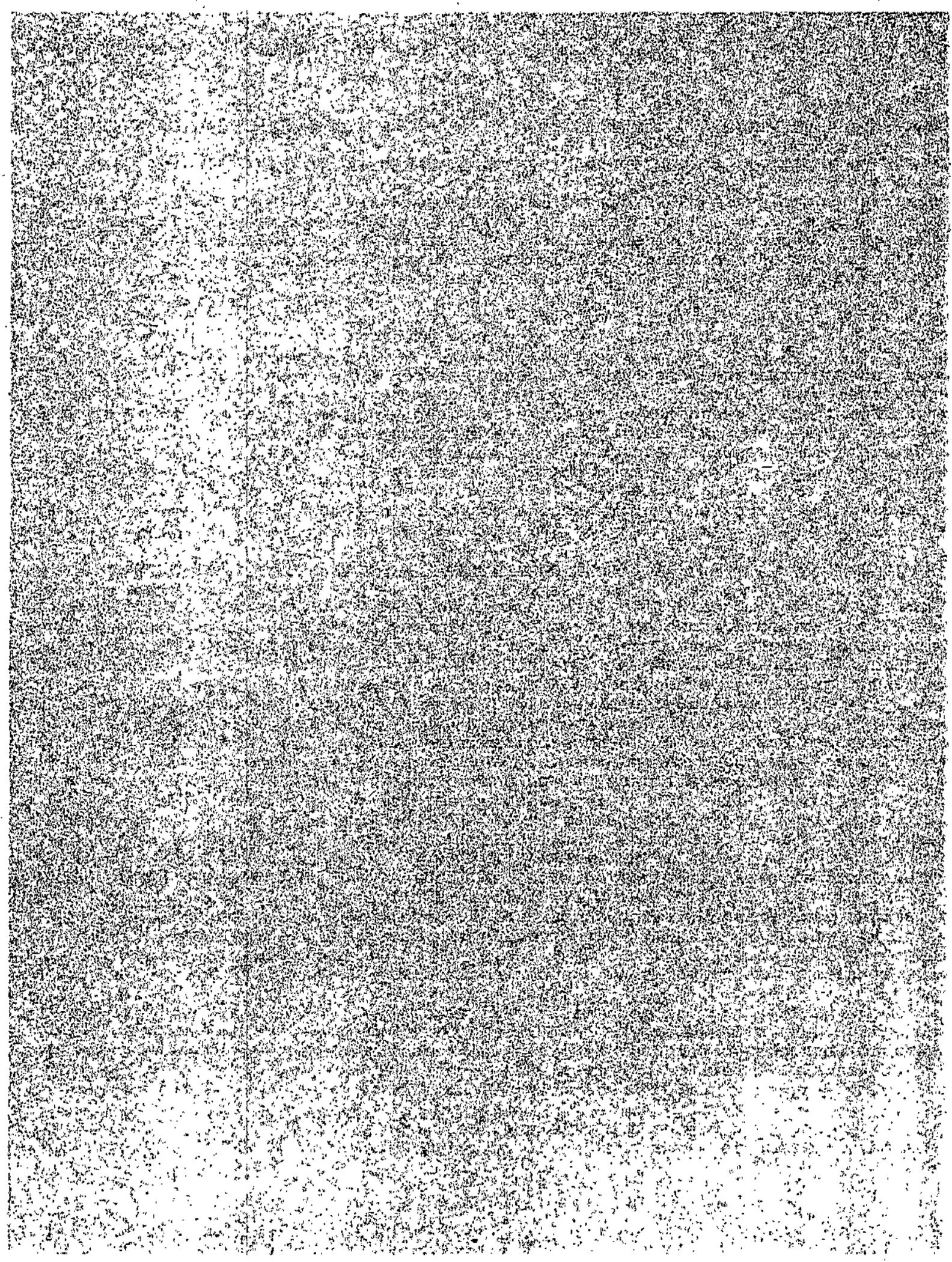
FEES COLLECTED BY THE INS

- The Memorandum would direct the Department of Justice/INS to prepare a report recommending solutions to INS' inability to fully collect millions of dollars annually in fees owed to the federal government.

NATURALIZATION AND INS SERVICES

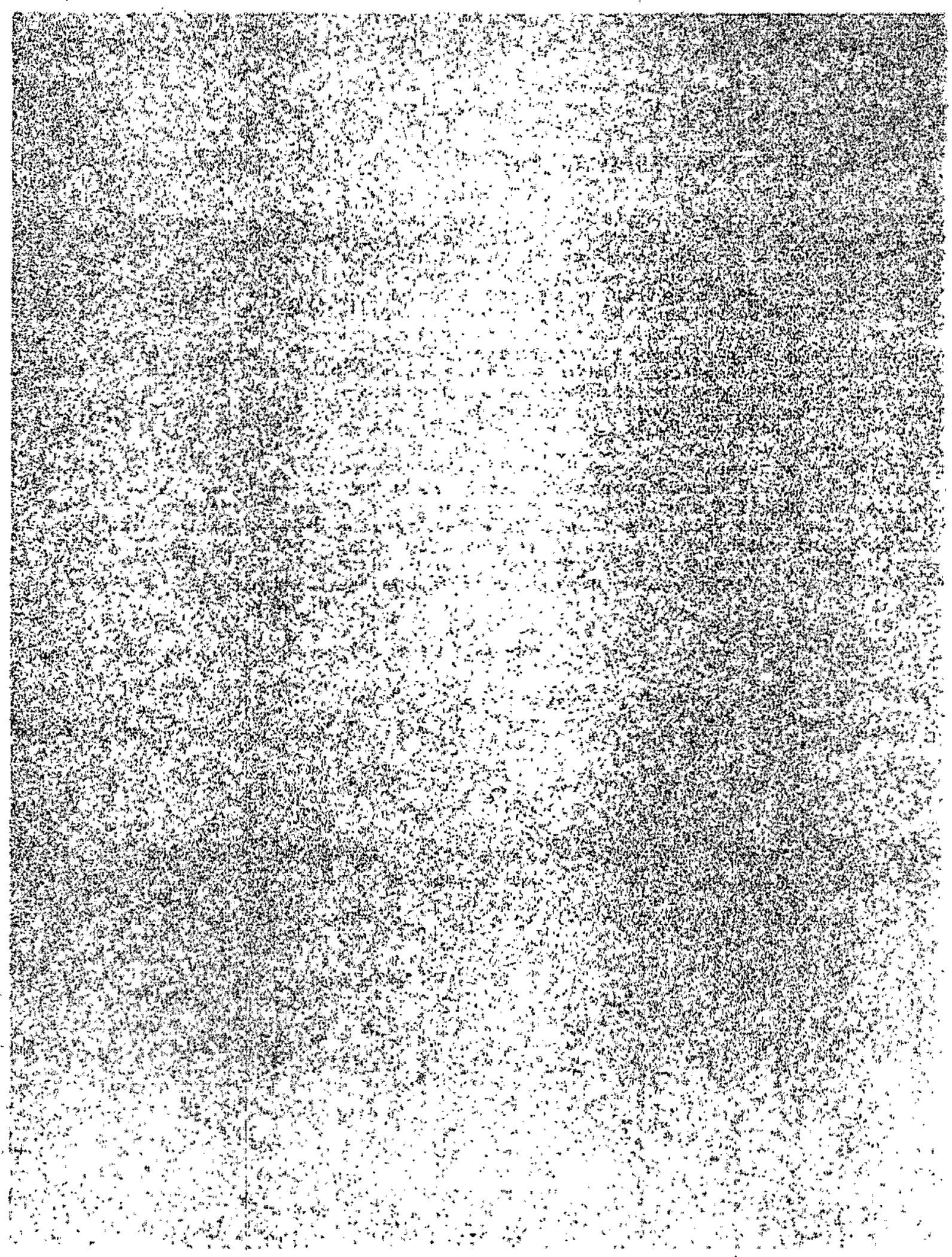
- To correct years of complaints about INS operations and services, the Commissioner has begun a significant reorganization of INS. Consistent with the Administration's reinventing government, the Commissioner has pledged that INS will achieve shorter lines; demonstrably improved responsiveness in answering customers' phone inquiries and in other ways increase the ease of dealing with the INS by June 1995. The Memorandum will also call for the National

Performance Review to further consult with INS to build on improvements in customer service already made and obtaining customer service performance measures. The INS would be directed to take the steps necessary to streamline its interview process and computerize the naturalization application procedures to reduce backlogs.



SUMMARY OF TARGETED DETERRENCE ZONES

A centerpiece of the deterrence strategy will be Targeted Deterrence Areas. For the first time, this Administration will apply concentrated coordinated deterrence strategies in selected locations such as San Diego by multiple agencies of the federal government. This effort will be anchored by the continued stabilization of the border using the Administration's border deterrence strategy. We would add intensified worksite standards enforcement (federal/state/and local cooperation) and expand employer sanctions pilots (especially targeting past violators and industries with historically high levels of illegal immigrant hirings). The Administration would target organized crime smuggling activities. We would examine offering greater access to the Law Enforcement Support Center to state and local law enforcement officials and would identify every opportunity to work with State, local governments and community groups to devise acceptable strategies to address illegal immigration. The Administration will also publicize that the Justice Department, EEOC, etc. will be vigilant in fighting discrimination and harassment against citizens and legal immigrants, and prosecuting as necessary to protect their rights.



POSSIBLE IMMIGRATION BILL

Title I - Employment Authorization Verification Act

- Authorizes the President to establish a National Employment and Benefits Verification Pilot Program based upon the findings of Administration pilots that test various means to verify legal status for employment authorization and public benefits eligibility.
- Authorizes funds to support this Pilot Program over a multiyear period.
- Reduces the number of documents that can be produced by aliens to verify eligibility for employment to two. Mandates that these documents be made fraud-proof to the greatest extent possible. Encourages state and local governments to adopt standardized birth certificates and other "breeder documents."
- Authorizes necessary funding to implement these recommendations.

Title II - Border Control Act

- Authorizes increase of 750 border patrol agents (with support) a year for the next three years (FY96,97,98), with goal of having 7,000 border agents in Southwest Border states by January 1, 2000. (FY92 total was 3,500; FY95 total is 4,400) (Total amount authorized is \$85 million in FY96, \$170m in FY97, and \$225m in FY98.)
- Authorizes increase of 700 new land border inspectors (with support) a year for the next three years (FY96,97,98) with goal of having ___ such inspectors in Southwest Border states by January 1, 2000. (FY92 total was ___; FY95 total was ___). (Total amount authorized is \$80 million in FY96, \$160m in FY97, and \$240m in FY98.)
- Authorizes, in addition to those sums previously authorized in the Crime Bill, \$12M for FY96, \$42M for FY97, and \$167M for FY98 for technological enhancements to assist in border control efforts.
- Authorizes imposition of a border crossing fee.
- Insures that these promises are kept by creating a Border Control Trust Fund. Total funding (\$1.3 billion over three years) comes from a transfer of amounts for this purpose already set aside in the Crime Bill Trust Fund (\$105 million) - plus revenues from the border crossing fee.
- Provides that aliens observed by sight or by any device entering or attempting to enter the U.S. shall be placed in

exclusion proceedings (thereby altering the current practice at the Southwest border or placing such aliens in deportation proceedings). As a result, these aliens could be excluded from the U.S. without a deportation hearing. (This proposal would give us a tool to deal with the contingency of mass demands for deportation hearings by California border crossers.)

- Authorizes funds for a two-year test of an "interior repatriation" program.
- Authorizes funding for improved Border Patrol training and requires an annual report by the Attorney General on efforts to eliminate abuses.
- Directs the Sentencing Commission to increase penalties for failing to depart the U.S., or for reentering the country illegally.
- Allows the INS to acquire from other agencies any surplus U.S. Government property for use in detaining illegal aliens.

Title III - Targeted Deterrence Areas Act

- Identifies local areas with high estimated number of illegal immigrants to be the target of a targeted, integrated approach to enforcement. Authorizes for these areas, and subject to development of integrated plans that will increase productivity, additional INS employer sanction inspectors, DOL wage/hour inspectors, detention and removal resources, and INS trial attorneys to handle employer sanctions cases. Verification pilots authorized in Title I should be located in one of these targeted areas and be coordinated with other enforcement efforts such as employer sanctions.
- o Authorizes funds for use in these deterrence areas to establish mechanisms that allow state and local cooperation with Federal authorities in the following areas:
 1. enforce state laws and workplace standards in firms and industrial sectors with high employment of illegal workers;
 2. promote naturalization through local public education campaigns, and innovative strategies to help Federal authorities make the application process more efficient;
 3. establish partnerships with the private, voluntary sector to provide English language training classes for immigrants;

Title IV - Public Benefits Control Act

{subject to Presidential guidance}

- Restricts benefits to adult illegal immigrants, by generally denying such benefits to adults who enter or remain unlawfully. Final list of excepted benefits would need to be developed; it is likely to include emergency medical, medical care to prevent public health dangers, prenatal care, and sustenance aid during a Presidentially-declared disaster. The provision would not affect existing assistance provided to children.
- Increases the penalty for fraudulently claiming to be a U.S. citizen when seeking employment or public benefits.
- Directs the Sentencing Commission to increase the penalties for the use, manufacture, or distribution of fraudulent documents. Makes asset forfeiture available a sanction in document fraud cases.

Title V - Anti-Discrimination Act

- Extends Public Accommodations Act to ban discrimination by retailers, shopping malls, and other non-covered commercial entities.
- Increases penalties for discrimination in the application of employment verification laws.

Title VI - The Illegal Alien Removal Act

- Authorizes \$37 million for expanded INS detention facilities, so as to hold deportable aliens pending their deportation. Authorizes 250 new INS agents to apprehend and deport aliens under orders of deportation. Authorizes \$10 million for new INS trial attorneys and EOIR judges to help process these cases.
- Authorizes federal courts to require consent to deportation as a condition of probation.
- Permits video-conferencing hearings in deportation cases.
- Empowers the Secretary of State and the Attorney General to enter into agreements with foreign nations for the involuntary incarceration in that country of aliens convicted of crimes here.
- Establishes civil penalties for failure to appear for an immigration hearing, or for absconding after the entry of an order of removal. Increases other penalties for absconding after a removal order.
- Permits deportation, even before appeal, of aliens convicted of aggravated felonies (other than lawful permanent resident aliens); all appeals to federal courts would have to be

filed from overseas.

- Increases penalties (escalating to a total bar or non-immigrant visas) against countries that refuse, repeatedly, to issue documents necessary to remove their nationals from the United States.
- Authorizes a pilot program to expand and facilitate stipulated deportations, based on the successful efforts in Florence, Arizona.

Title VII - The Alien Smuggling Control Act

- Directs the Sentencing Commission to substantially increase the penalties for smuggling illegal immigrants, and immigration document forgery. Authorizes 50 new Assistant U.S. Attorneys to prosecute these offenses.
- Permits asset forfeiture to be imposed in cases involving alien smuggling.
- Clarifies and expands the applicability of RICO to immigrant smuggling.
- Permits the use of videotaped testimony by deportable or excludable aliens in smugglers' trials.

Title VIII - Legal Immigration Reform Act

{Subject to Presidential guidance}

- Reduces legal immigration by 55,000 persons a year, by eliminating the so-called "diversity allotment."
- Eliminates the "fall down" and "flow across" provisions of current law.
- Reduces employment-based visas by 30,000 each year.

Title IX - The Immigration Law Improvement Act

- Effectuates a sweeping change of the law with respect to the removal of aliens, by generally combining exclusion and deportation proceedings; effectuating a change in the entry doctrine; and streamlining complex hearing procedures, as follows:
 - Creates a single administrative proceeding to establish the removability of an alien from the United States. This single proceeding will replace the current exclusion and deportation proceedings. The proceeding will take place before an immigration judge.
 - [Subject to clearance by State Department]. Provides

that persons who are present in the United States without having been inspected and lawfully admitted will no longer be considered to have made an "entry" into the United States. Instead, they will be subject to the same enforcement provisions, and receive the same substantive and procedural rights, as persons who present themselves for inspection at the border and are found inadmissible. Persons who are present in the United States without inspection, having entered from a contiguous territory, also may be required to return to that territory pending their hearing.

- Streamlines other forms of relief presently available under sections 212(c) and 244 of the INA to make relief more uniform in application and to reduce litigation of relief issues in federal court.
- Creates a single avenue of judicial review for aliens found to be inadmissible or deportable from the United States.
- Establishes a commission including representatives of the Congress, Department of Justice, and the Judicial Conference of the United States to review the issues concerning judicial review of immigration judge decisions and to make recommendations for legislative and procedural reforms, including the possibility of centralizing appeals in a single court such as the Federal Circuit.
- Allows a collection of a \$6 per passenger fee from cruise ship passengers, to pay for INS inspections of these ships.
- Allows access to immigrant legalization files, when such access is: needed to identify a dead/incapacitated alien; for national security; to avoid an immediate risk to another's life; or in furtherance of a prosecution for serious violent crimes and drug trafficking.
- Makes a number of technical changes in immigration law, including making permanent the visa waiver program, clarifying the procedures for adopting foreign children born out of wedlock, and correcting defects in the legislation passed last year to implement judicial deportation.
- Authorizes expedited exclusion

Imm16

MEMORANDUM TO DISTRIBUTION*

From: Jeremy Ben-Ami
Stephen Warnath

Subject: Materials for Immigration Roll-out

Date: February 6, 1995

Attached please find the following materials for use in relation to the immigration announcement and event tomorrow:

1. One page description of Administration Immigration Agenda
2. Fact Sheet on Presidential Memorandum
3. Executive Summary and accompanying charts on \$1 billion budget initiative
4. Fact Sheet on Border Fee

The above materials are intended for public distribution

In addition, three other pieces are included which have not been prepared for public distribution but can be given to people needing guidance on how to speak about the administration's immigration initiative:

1. Talking Points
2. Questions and Answers
3. Outline of Immigration Legislation

We urge you to distribute these materials as appropriate to other people in your office. Please feel free to call us if you have any questions or need any further information.

Distribution*

Erskine Bowles
Harold Ickes
Carol Rasco
John Angell
Martha Foley
Rahm Emanuel
Karen Hancox
Tracey Thornton
Tom Epstein
John Emerson
Jennifer O'Connor

Doris Matsui
Mary Ellen Glynn
Kathy McKiernan
Eric Schwartz
Chris Edley
Lin Liu
Suzanne Ramos
Dennis Hayashi, HHS
Larry Thompson, SSA
Kris Balderston, DOL
Chris Peacock, Treasury

EXECUTIVE SUMMARY

The President's 1996 Immigration Initiative

For Further Information, Contact: Office of Public Affairs
Immigration and Naturalization Service
(202) 514-2648 2/95

Strengthening the Nation's Immigration System

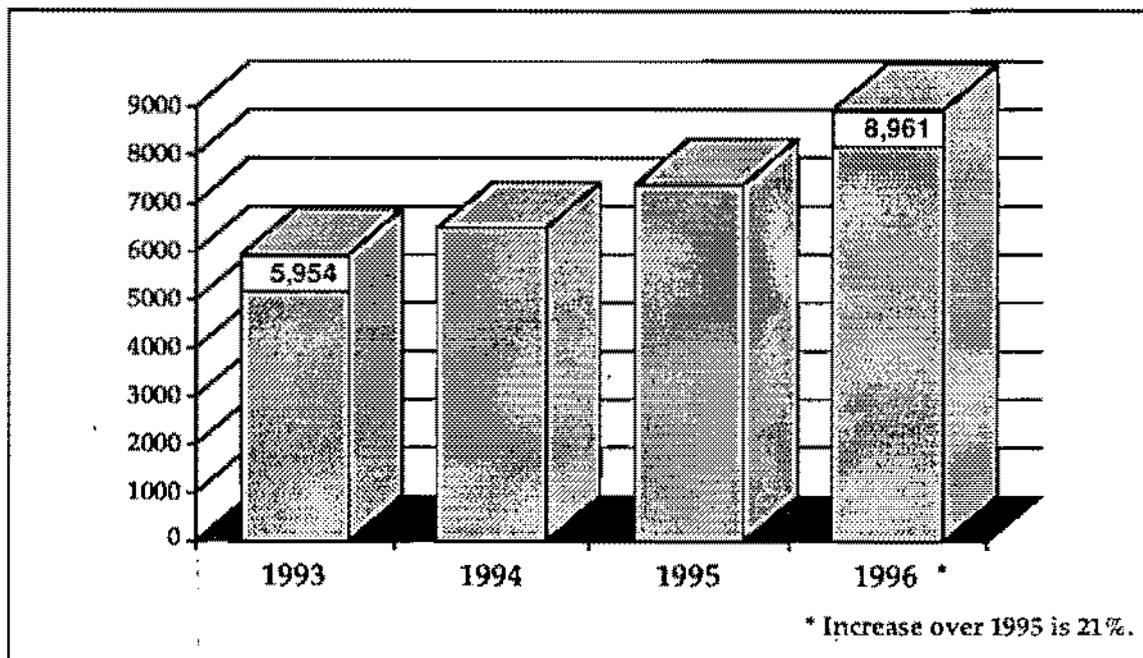
After two years of unprecedented efforts, the President's FY 1996 budget includes an additional \$1 billion to further strengthen the Administration's commitment to border security and to its comprehensive strategy "that addresses job security through worksite enforcement, community security through removal of criminal aliens, and economic security through assistance to states."

Strengthen Border Enforcement and Management

With a record infusion of new resources in 1994 and 1995, this Administration is taking control of the border. The FY 1996 budget provides an additional \$369 million to strategically reinforce our border strategy and to build on successes. This strategy includes:

- 700 new Border Patrol agents, 680 new INS inspectors, and 165 new support staff, bringing the number of INS personnel devoted to nationwide border control to nearly 9,000, a 51 percent increase over 1993. On the Southwest border alone, we will have increased border control staffing (agents, inspectors, and support) by 60 percent by the end of FY 1996.

INS Border Control Staffing Increases by 51% Since 1993*



* Includes Border Patrol Agents, INS Inspectors and support staff.

- Over 1,000 new INS and Customs inspectors for land ports of entry to complement border enforcement activities and facilitate commercial vehicular and pedestrian traffic;
- Continued technological improvements, including surveillance cameras, fingerprint technology, encrypted radios, and sensors to augment agent effectiveness;
- Automated lookout systems and case tracking systems to facilitate traffic and inspections processes and provide electronic information exchanges between overseas Consular offices and the domestic inspection process;
- Enhanced domestic and overseas enforcement and intelligence enforcement resources to deter alien smuggling and the use of fraudulent documents; and
- A new Border Services User Fee program at land border ports of entry to pay for improvements that will ease traffic congestion, expedite the issuance of Border Crossing Cards and detect fraudulent documents.

Expand and Improve Worksite Enforcement and Verification

The President's budget includes \$93 million to reverse years of inattention to enforcement of labor standards and employer sanctions. The Administration also has firmly endorsed the recommendations of the Jordan Commission to conduct pilots to test various techniques for improving verification of employment authorization and is now seeking substantial funding to implement these pilots. The worksite initiatives will help to ensure that jobs are available only to those who are authorized to work in the United States. The budget enhancement provides:

- 365 new INS investigators—an 85 percent increase over 1993—for a targeted enforcement effort in the seven states with the largest number of illegal immigrants and against industries that have historically exploited illegal workers;
- 202 new Department of Labor Wage and Hour investigators and other enforcement personnel to maintain fair and lawful labor practices; and
- \$28 million for several verification pilots, including expanding the INS Telephone Verification System for employers. We also will significantly improve the quality of INS records and make additions to Social Security Administration databases that contain information related to work eligibility.

Triple the Number of Illegal Aliens Deported Since 1993 and Increase Detention

The Administration's immigration strategy will ensure that more aliens who have been ordered deported or excluded actually depart from the United States. The Administration's FY 1996 budget requests \$178 million to expand the capacity to detain and remove both criminal aliens and other deportable aliens. With these resources, the Administration will:

- Triple the deportation of both criminal and non-criminal aliens from 37,000 in 1993 to more than 110,000 in 1996, based on current projections. Next year, we expect to

deport more than 58,000 criminal aliens, more than double the number of criminal aliens we plan to deport in 1995;

- Increase detention of deportable aliens by adding more than 2,800 beds to detention facilities, an increase of 46 percent over 1993;
- Implement streamlined administrative procedures authorized in the Violent Crime Control and Law Enforcement Act of 1994 to deport aggravated felons, saving costs related to the judicial process; and
- Ensure that those denied asylum are deported from the United States.

Expand Assistance to States

Deterring illegal immigration is the best way to contain the associated costs to states. Beyond this clear federal responsibility to support states by deterring illegal immigration and removing illegal aliens, the Administration is requesting a total of \$563 million for direct assistance to states and improved services, including \$550 million to offset the states' costs associated with illegal immigrants.¹ The resources requested will:

- Fund the commitment established in 1986 by Congress to reimburse states for the costs of incarcerating illegal aliens. The \$300 million in resources requested for incarceration costs represents the full amount authorized and exceeds reimbursements in 1995 by \$170 million;
- Provide \$100 million for grants to school districts that enroll large numbers of recent immigrant students—double the amount provided for FY 1995; and
- Provide \$150 million for a new discretionary grant program to help states cover the costs of providing emergency and certain other medical services.
- Expand the current Law Enforcement Support Center pilot, which assists local law enforcement agencies in determining whether criminals arrested for felonies are non-citizens.
- Fund a high quality Center for Immigration Statistics to collect, evaluate, and disseminate accurate and timely immigration data to Congress, state and local governments, and the public.

Deny Public Benefits to Undocumented Migrants

Undocumented migrants should not be eligible for public services or benefits, with very limited exceptions. These exceptions include emergency medical services, children's right to an education, temporary emergency or humanitarian disaster assistance, and services necessary for the protection of public health and safety interests (e.g., immunization programs).

The Administration will work to improve benefit eligibility verification to protect the integrity of these programs from eligibility fraud by undocumented migrants.

¹ Of the total \$563 million budget request for assistance and services, \$383.4 million represents the increase from FY 1995. See funding summary attached.

SUMMARY OF \$1 BILLION IMMIGRATION BUDGET ENHANCEMENT
 (\$ in millions)

BORDER ENFORCEMENT AND MANAGEMENT

Border Control Between Ports of Entry	\$ 81.0
Facilitation/Enforcement at Ports of Entry	260.1
Enhance Anti-Smuggling, Intelligence and Overseas Deterrence	<u>28.2</u>
SUBTOTAL	369.3

WORKSITE ENFORCEMENT AND VERIFICATION

Department of Justice	53.7
Department of Labor	11.0
Verification Information Systems Pilots	<u>28.3</u>
SUBTOTAL	93.0

DETENTION AND REMOVAL OF CRIMINAL AND DEPORTABLE ALIENS

178.0

ASSISTANCE TO STATES

Incarceration of Criminal Aliens	170.0*
MEDICAID/Emergency Medical Services	150.0
Immigrant Education	50.0*
Law Enforcement Support Center	3.4
Center for Quality Immigration Statistics	<u>10.0</u>
SUBTOTAL	383.4*

Total 1996 Assistance to States

\$300.0
150.0
100.0
3.4
<u>10.0</u>
\$563.4**
**Includes \$550M for Incarceration/Medical/Education

TOTAL INCREASE REQUIRED

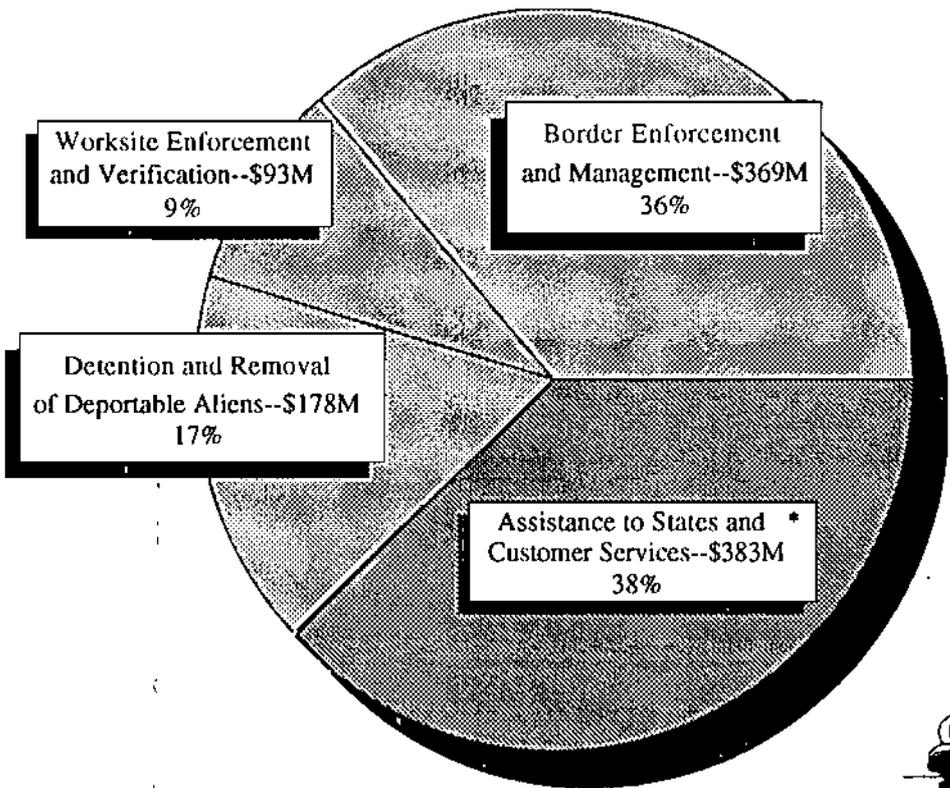
\$1,023.7

Financed through Fees	219.0
New Appropriations (Budget Authority) Needed	804.7

* Amounts represent increases from FY 1995 to FY 1996.

Reforming the Nation's Immigration System

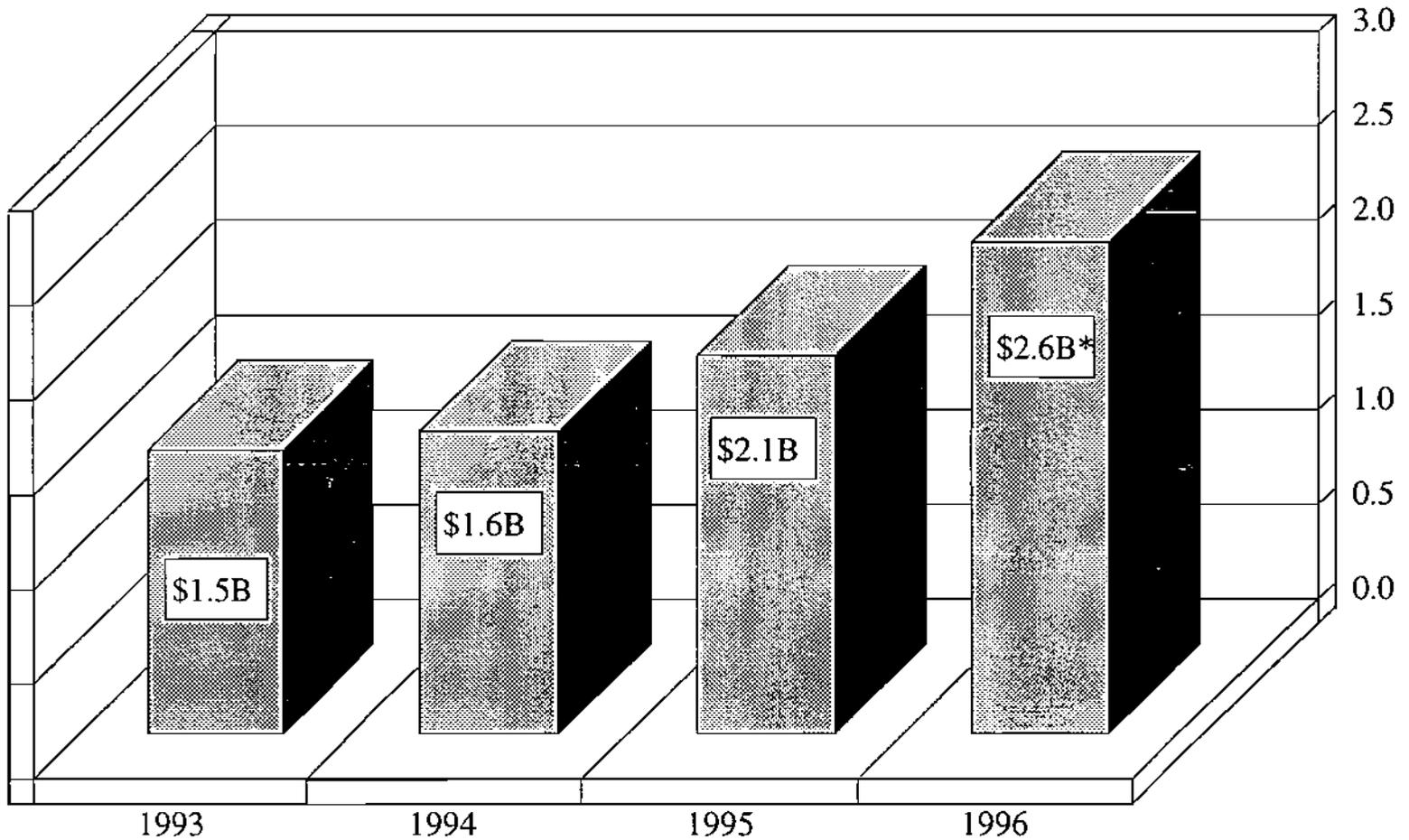
1996 Targeted Enhancement--\$1 Billion



* Total FY 1996 Budget Request for Assistance to States and Service = \$563 Million, including \$550 Million for Incarceration/Medical/Education costs.

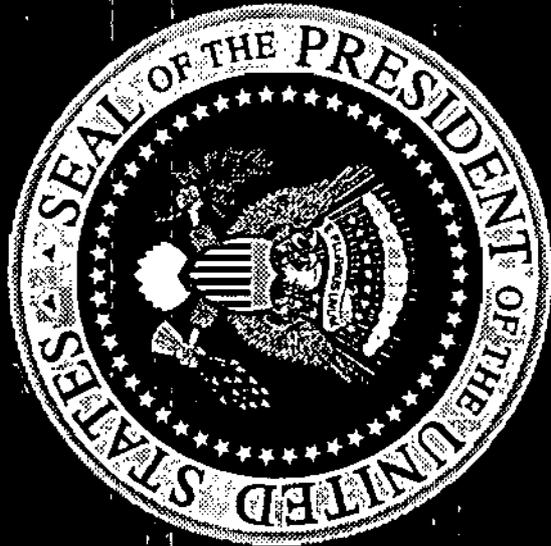


**Immigration and Naturalization Service's
Budget Increases by Over 70% Since 1993**
(Dollars in Billions)



*This growth represents a 24% of increase over 1995.

Accepting the Immigration Challenge



Border
Deterrence

Assistance to
States and Service

Worksite
Enforcement

★ Removal of Criminal
and Deportable Aliens



1996

Making the Nation's Immigration System Work

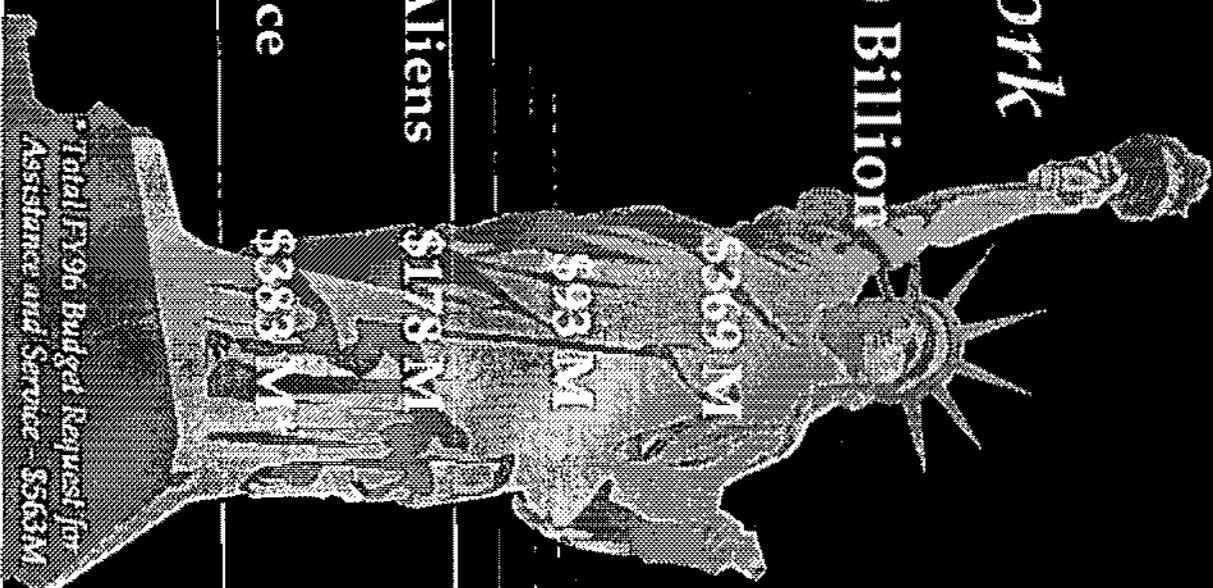
Targeted 1996 Enhancement -- \$1.0 Billion

Border Enforcement and Management

Worksite Enforcement and Verification

Detention and Removal of Deportable Aliens

Assistance to States and Customer Service



* Total FY96 Budget Request for Assistance and Service - \$563M

Illegal Immigration Strategy

DETECT PREVENT

- Border Patrol Agents
- Port of Entry Inspectors
- Automation/Technology
- Anti-Smuggling Units
- Field Intelligence Groups
- Interior Repatriation

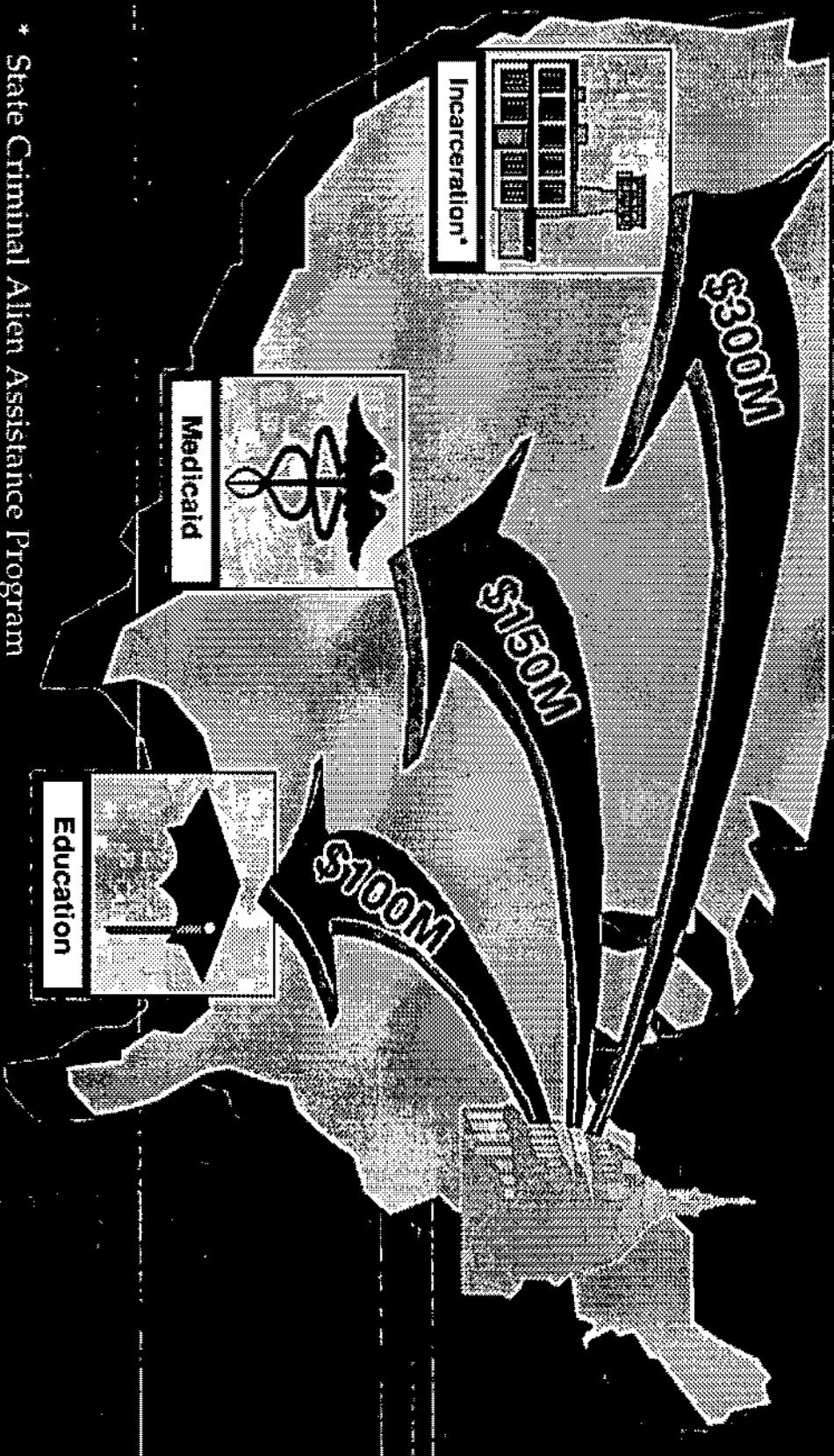
ENFORCEMENT

- Worksite Enforcement
- Fraudulent Document Initiatives
- Status Verification

REMOVE ALL

- Expand Detention Capacity
- Remove Criminal Aliens - IIRP
- Remove Denied Asylum Seekers
- Remove Deportable Aliens

Assistance to States for Immigration Related Costs



* State Criminal Alien Assistance Program

Border Enforcement and Management

"The simple fact is that we must not and will not surrender our borders to those who wish to exploit our history of compassion and justice."

President Clinton

Targeted 1996 Enhancement -- \$369 Million

700 New Border Patrol Agents

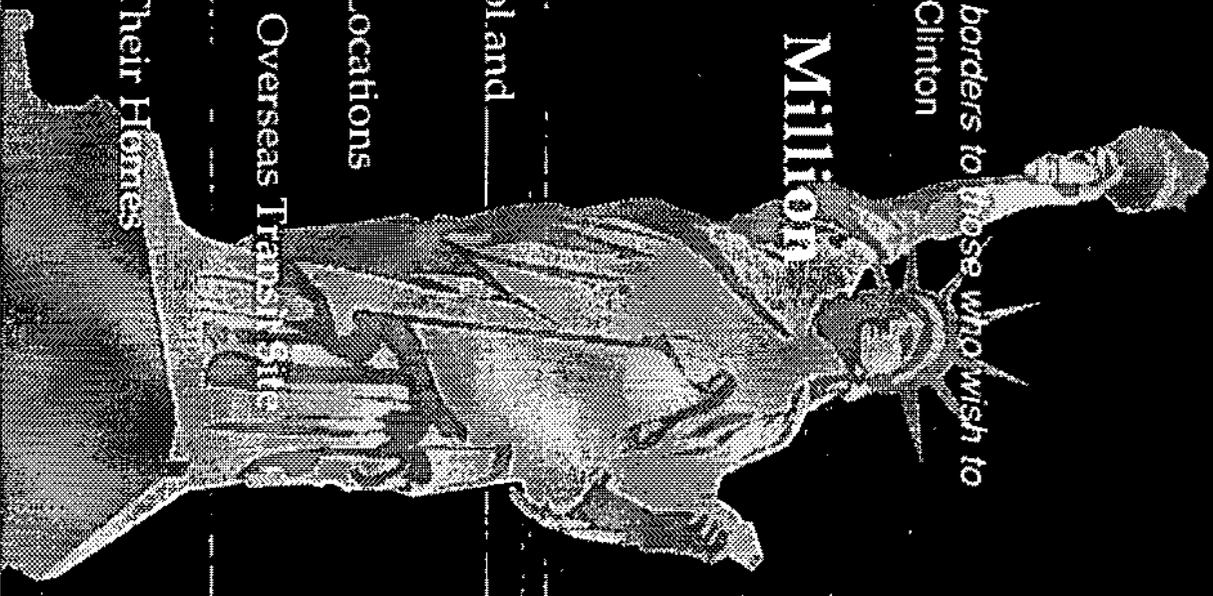
1055 New INS and Customs Inspectors

Expanded Automation and Technology for Border Patrol and Ports of Entry

New Field Intelligence Groups at Key Southern Border Locations

A Substantial Increase in Domestic Anti-smuggling and Overseas Transit Resources

Proposed Pilot for Repatriating Illegal Aliens Closer to Their Homes



Worksite Enforcement and Verification

"Recognizing that employment is the primary incentive for illegal immigration, the Administration's interior enforcement strategy is targeted at reducing the migrant job opportunities for illegal migrants." Commissioner Meissner, INS

Targeted 1996 Enhancement -- \$93 Million

365 New INS Investigators and 202 DOL Wage and Hour and Other Enforcement Personnel Targeted to Illegal Employment Practices in Targeted Locations and Industries

Reduce the Number of Acceptable Documents to Show Work Authorization

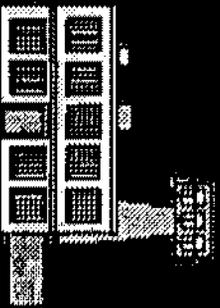
Improve INS Documents with Enhanced Security Features

Expand the Telephone Verification Pilot from 200 to 1,000 Employers

Initiate Pilots with SSA to Test and Improve the Employment Verification Process

Improve INS Records and Make Additions to SSA Databases to Support Verification





Detention and Removal of Deportable Aliens

"When people enter the country illegally and commit crimes, we must ensure that those who have been ordered excluded or deported are removed from the United States."

President Clinton

Targeted 1996 Enhancement -- \$178 Million

Expand the Institutional Hearing Program (IHP) from 5 to 7 states

Double the Number of Criminal Alien Removals Over 1995

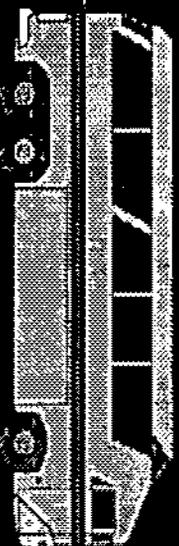
Increase Removal of Non-Criminal Illegal Aliens

Remove Aggravated Felons Through Administrative Deportation Procedures

Expediently Remove Persons Denied Asylum

Substantially Expand Detention Bed Space

Provide a Transportation Network and New Vehicles for Rapid Removal



Assistance to States and Customer Service

"While we will continue to effectively control illegal immigration, the Federal government will share responsibility with the states to help pay certain costs for illegal immigrants. We will also continue to give quality service to our customers." Attorney General Reno

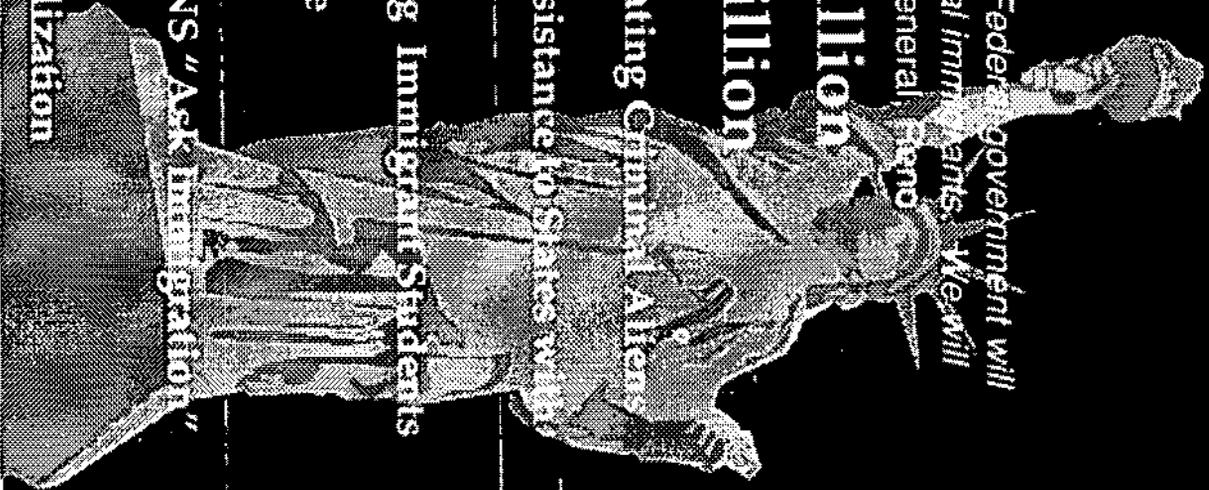
Targeted 1996 Enhancement -- \$383 Million
Total FY96 Budget Request -- \$563 Million

Provide \$300M to Reimburse States for the Cost of Incarcerating Criminal Aliens
Provide \$150M for MEDICAID and Emergency Medical Assistance to States with High Populations of Illegal Immigrants

Provide \$100M to States for Costs Associated with Educating Immigrant Students
Expand the Law Enforcement Support Center to Assist State and Local Law Enforcement Authorities

Reduce Waiting Times for Information by Enhancing the INS "Ask Immigration" Telephone System

Promote Knowledge and Streamline the Process for Naturalization



This Administration's Progress

With the resources requested for 1996, combined with our progress since 1993, we will...

Increase INS Personnel for Border Control by 51% Nationwide, and 60% on the Southwest Border

Increase Personnel Dedicated to Investigating and Prosecuting Unauthorized Employment Practices by 30%

Increase Detention Capacity by Nearly 46%

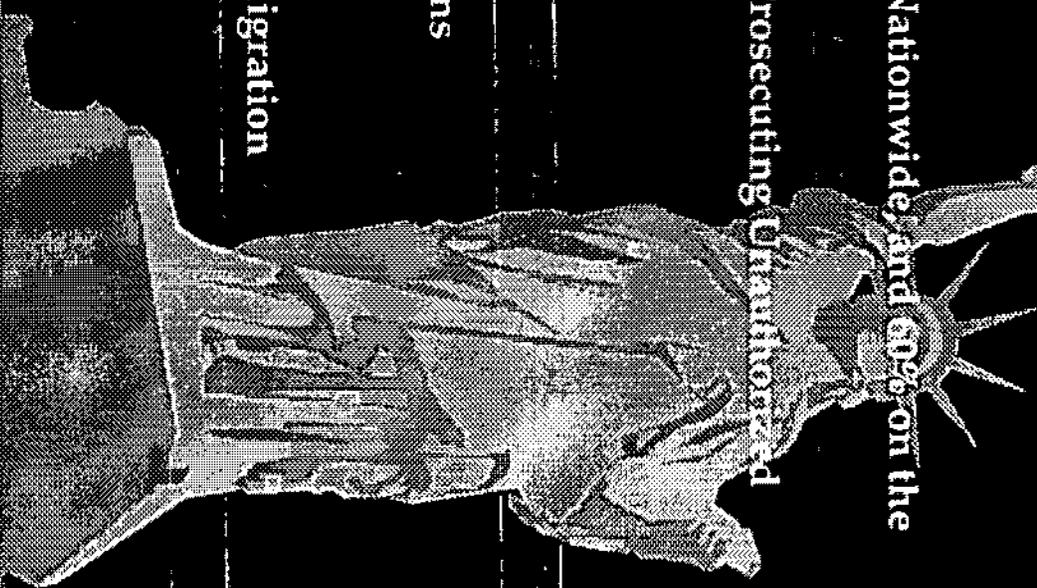
Remove Over 100,000 Criminal Aliens

Remove Over 95,000 Non-Criminal Deportable Aliens

Reform the Asylum System

Provide \$730M to States for the Costs of Illegal Immigration

Naturalize Over 1 Million New Citizens



FACT SHEET

The President's 1996 Immigration Initiative

For Further Information, Contact: Office of Public Affairs
Immigration and Naturalization Service
(202) 514-2648 2/95

Critical New Improvements to Ports of Entry to Be Funded By Users of Border Services and Facilities

To fund needed improvements at the ports of entry, the 1996 budget includes a user services fee of \$3 per vehicle and \$1.50 per pedestrian upon entry into the U.S. from Canada or Mexico. A discounted fee for frequent border crossers will be offered. By collecting the fee from those using border services and facilities, the federal government will generate \$400 million on an annual basis to reinvest in the hiring of new INS and Customs inspectors, technology and other new resources.

We Anticipate Increased Traffic at Ports of Entry

- There is a critical need to improve the handling of legal traffic and crack down on illegal traffic at the nation's land border ports of entry.
- Our growing control of illegal immigration routes along the border and the implementation of NAFTA will continue to result in an increase in both illegal and commercial traffic at the ports.
- In too many border communities, commerce and legal traffic has been slowed as a result of insufficient numbers of INS and Customs staff who inspect vehicles and pedestrians at the ports of entry and because of insufficient technology that could speed the process.

We Must Reverse Neglect at Ports and Fund Necessary Improvements

- We are committed to reversing decades of neglect at the port facilities and providing the resources needed to handle future decades of international commerce upon which our nation's economy depends.
- Until last year, there has been virtually no funding increase to hire new INS inspectors, although traffic has increased as international commerce and attempted illegal entries have grown.

We Can Pay for New Inspectors and Equipment Through a Services User Fee

- We are adopting the recommendation of the bi-partisan Commission on Immigration Reform, appointed by Congress and chaired by former Rep. Barbara Jordan, which suggested a user services fee to fund these critical improvements.
- We can substantially reduce waiting time from several hours to no more than 20 minutes, as well as strengthen our detection of illegal traffic by hiring new inspectors and implementing new technology.

- We will hire 680 INS Inspectors and 375 Customs Inspectors this year which will be funded by the fee collection.
- Just as we have paid for new resources that have vastly improved INS and Customs operations at the airports through a services user fee, we are proposing to fund necessary improvements at the land border ports through a services user fee as well.
- Beyond adding new inspectors and equipment, we are also committed to developing toll collection methods that will minimize crossing times. We are conducting a comprehensive study to assess innovative methods of fee collection, including the use of further automation and advanced technology.

It Makes Sense for Those Using Border Facilities to Fund Their Improvements

- Americans have traditionally paid as they went for the infrastructure services they use. Millions pay tolls on a daily basis to cross bridges and use highways. Since 1987, anyone entering the U.S. at an international airport has paid a \$14.50 user fee (in the price of their airline ticket) for inspection services.

User Fee Will Assist Border Communities

- All the revenue collected will be reinvested in border communities. In fact, the law requires that the revenues collected be used to directly benefit the people paying the fee.
- INS and Customs will work closely with the border communities to identify how to best reinvest the revenues generated by the fee at the ports of entry in their areas. The border communities will benefit from the creation of new INS and Customs jobs at their local port(s).

THE PRESIDENT'S FY1996 IMMIGRATION INITIATIVE

The Clinton administration has made the strongest commitment to fighting illegal immigration in history. The 1996 budget will add \$1 billion to the fight-- to strengthen the border, enforce workplace rules, increase deportations, and assist the states with their costs.

Key Initiatives

1. **Strengthen Border Enforcement**
 - increasing Border Control staffing by 51 percent since 1993
2. **Protect American Jobs by Enforcing Rules at the Workplace**
 - implementing the Jordan Commission recommendation to pilot workplace verification systems
 - increasing the number of investigators devoted to worksite enforcement -- a dramatic 85% at the INS and 12% at Labor -- since 1993
3. **Triple Deportations of Illegal Aliens**
 - from 37,000 in 1993 to 110,000 in 1996
 - Double the deportation of criminal aliens next year alone
4. **Assist States**
 - \$550 million in total assistance to states to offset costs associated with illegal immigrants -- an increase of \$383 million

Actions Today

1. Signing Presidential Memorandum
2. Announcing Intention to Introduce Legislation
3. Getting Briefed on Border Control Efforts
4. Reinforcing Announcement of \$1 Billion Initiative

TALKING POINTS ILLEGAL IMMIGRATION

"We are a nation of immigrants. But we are also a nation of laws. It is wrong and ultimately self-defeating for a nation of immigrants to permit the kind of abuse of our immigration laws we have seen in recent years, and we must do more to stop it."

— President Clinton
1995 State of the Union

ILLEGAL IMMIGRATION -- AN INHERITED PROBLEM

- This Administration inherited a serious illegal immigration problem as a result of a decade of failed immigration policies.

THE CLINTON ADMINISTRATION HAS MADE THE STRONGEST COMMITMENT TO FIGHTING ILLEGAL IMMIGRATION IN HISTORY

- The President's 1996 budget calls for a \$1 billion increase to combat illegal immigration through border control, worksite enforcement, removal of criminal aliens, and assistance to States (and other key initiatives).

FOUR POINT PLAN

1. STRENGTHENING BORDER CONTROL -- The Clinton Administration is doing more at the border to deter illegal immigration than any Administration in history.

- **Border Personnel** -- By the end of 1996, increasing the overall Border personnel by 51% since 1993, and 60% at the Southwest border.
- **Anti-smuggling** -- Will substantially increase resources to combat alien smuggling and seek to negotiate arrangements to ensure assistance of foreign governments on international immigration issues.

2. PROTECTING AMERICAN JOBS -- Worksite Enforcement and Verification

The Clinton Administration is the first to take strong steps for effective enforcement of employer sanctions and minimum labor standards to address illegal immigration.

- The Administration is vigorously enforcing the labor and employer sanctions laws against employers who hire illegal aliens for business advantage, and deporting illegal immigrants, including visa overstayers, who take jobs away from American workers.
- The Administration is committed to establishing an effective, nondiscriminatory means of verifying the employment authorization of all new employees.

The Administration fully supports the Commission on Immigration Reform recommendation to create pilot projects to test various techniques for improving workplace verification, including a pilot to use a new worker's social security number to confirm work authorization.

3. DEPORTING CRIMINAL AND DEPORTABLE ALIENS -- The Clinton Administration is the first Administration to develop a National Detention and Removal Program which will:

- Triple the number of criminal and other deportable aliens deported since 1993.
- Increase detention capacity by 46 percent.
- Deport greater numbers of fraudulent asylum seekers based upon Administration asylum reform.

4. ASSISTANCE TO STATES

- The Federal government and some States shoulder most of the inherited costs because of failed immigration policies of the past.
- Deterring illegal immigration (by border control, worksite enforcement, and removal of deportable aliens) is the best longterm solution to keep costs from growing far beyond that which the Federal government and a few States face today.
- This is the first Administration to address its primary responsibility of controlling illegal immigration squarely and thereby curtail the cause of increased burdens on States.
- This Administration has a vision of shared responsibility for the costs of illegal immigration. It is the first to obtain funding from Congress to reimburse States for a share of the costs of incarcerating criminal aliens, in addition to assisting with education and medical care costs.

* * * * *

DENYING PUBLIC BENEFITS -- The Clinton Administration believes that:

- Illegal aliens should not be eligible for public services or welfare benefits. The only exceptions include matters of general public health and safety, such as emergency medical services, immunizations and temporary disaster assistance, and every child's right to a public education.
- The Clinton Administration is reviewing ways to improve benefit eligibility verification to crack down on welfare fraud by illegal aliens.

PRESIDENT'S MEMORANDUM ON ILLEGAL IMMIGRATION

February 7, 1995

The Presidential Memorandum signed today contains initiatives to strengthen the Administration's comprehensive strategy to curtail illegal immigration. The strategy focuses on strong border deterrence backed up by effective worksite enforcement, and removal of criminal and other deportable aliens. The Memorandum, in combination with the Administration's \$1 billion immigration budget initiative and forthcoming immigration legislation, provides an unprecedented program to reverse the course of failed immigration policies of the past decade.

Highlights

BORDER CONTROL -- Expedient implementation of the Administration's comprehensive border control strategy, including flexible response capacity to quickly address emerging situations along the borders to deter buildups of illegal crossers, smuggling operations and other problems.

ANTI-SMUGGLING -- Adaptation of successful anti-smuggling strategies to new routes and tactics, and greater emphasis on international cooperation.

OVERSTAYING VISAS -- Development of a strategy to address the problem of people overstaying their visas -- the cause of nearly half of illegal immigration.

WORKSITE ENFORCEMENT -- Strengthening enforcement of employer sanctions and labor and work standards. Creation of work authorization pilots, including testing the use of Social Security numbers to check work authorization.

DEPORTATION AND DETENTION -- Creation of a National Detention and Removal Plan and deportation procedural reform.

CRIMINAL ALIENS -- Continued expansion of identification and removal of criminal aliens.

TARGETED DETERRENCE AREAS -- Development of Targeted Deterrence Areas to organize enhanced interagency and intergovernmental cooperation to maximize effectiveness of illegal immigration initiatives in strategically-selected locations.

INTERNATIONAL COOPERATION -- A package of initiatives for international cooperation to fight illegal immigration.

PRESIDENT'S IMMIGRATION LEGISLATION

Key Provisions

February 7, 1995

The President today announced his intention to introduce legislation to strengthen efforts to control and prevent illegal immigration. Among the legislation's key provisions will be:

STRENGTHENING BORDER CONTROL

- increasing penalties for failure to depart upon a final order of deportation or illegal reentry
- a pilot program to improve the effectiveness of repatriation of illegal aliens to their country of origin
- expedited exclusion authority for the Attorney General to address extraordinary migration situations.

ENHANCING WORKSITE ENFORCEMENT

- reducing employment verification documents and making them more fraud-resistant
- funding and implementation of pilot projects for verifying work authorization by the most cost-effective, fraud-resistant and non-discriminatory method
- increased penalties for work-related document fraud.

STREAMLINING DEPORTATION PROCEDURES

- making identification and removal of criminal illegal and other deportable aliens from the United States quicker and easier.

INCREASING PENALTIES

- for alien-smuggling, immigration document fraud, and fraudulently claiming to be a U.S. citizen when seeking public benefits.

IMPROVING OPERATIONS AT PORTS-OF-ENTRY

- benefiting international and local commerce and expediting traffic at ports-of-entry by authorizing Commuter Lane pilot projects and a Border Services User Fee.

STRENGTHENING SPONSORSHIP OBLIGATIONS

- to prevent legal immigrants from becoming public charges.

EXPANDING ASSISTANCE TO STATES

- authorizing Medicaid grants to assist States with emergency medical care costs for undocumented immigrants.

ILLEGAL IMMIGRATION

SELECTED QUESTIONS AND ANSWERS

February 7, 1995

Why is the Administration proposing a border fee?

The proposed fee will be charged to those who use border facilities and services to fund improvements to the infrastructure and service provided at those ports-of-entry. We already charge a fee to anyone entering the U.S. at our international airports.

The border fee should benefit our international neighbors, as well as Americans, by expediting legal border traffic as a result of infrastructure improvements and thereby aiding international commerce and trade in the border communities.

[See accompanying Fact Sheet on the Administration's border fee proposal for more details.]

Is this illegal immigration announcement part of an Administration effort to shift to the right in response to the November elections?

No. This is the next step in continuing the Administration's longterm commitment to curtail illegal immigration. In the summer of 1993, the President announced an illegal immigration initiative to make it tougher for illegal aliens to get into this country and to treat crime syndicates that smuggle aliens as a serious crime. Last February we began to map out our comprehensive strategy, including plans for securing the Southwest border. Operation Hold-the-Line at the El Paso border was initiated at that time. This, then, continues the Administration's sustained and serious commitment to protect the integrity of this country's borders and its immigration laws after a decade of failed immigration policies.

Why is so much of this effort targeted at the Southwest border (or California)?

Because most illegal land border crossings occur along the Southwest border. We have a responsibility to invest taxpayers' money where it has the most likelihood of being effective.

Moreover, the Administration's comprehensive illegal immigration program includes more than just border control along the Southwest border. It includes employer sanctions enforcement, anti-smuggling initiatives, criminal alien removal, stopping asylum abuse, curtailing illegal entry at international airports such as New York's JFK, and addressing the visa overstayers problem. So it is inaccurate to characterize the Administration's work as directed just at the Southwest border (or in response to California politics).

Is this Administration supportive of the Jordan Commission's recommendation on work authorization verification?

Yes. The Clinton Administration is firmly committed to establishing an effective, non-discriminatory means of verifying the employment authorization of all new employees. The Administration fully supports the recommendation of the Commission on Immigration Reform, chaired by former Congresswoman Barbara Jordan, to create pilot projects to test various methods for improving workplace verifications. We will initiate a pilot to determine how to use a new worker's Social Security number to strengthen work authorization verification efforts. We look forward to working with the Commission and others to accomplish this Administration's goal of an effective national work authorization verification program.

What about privacy and civil rights concerns that have been expressed by opponents of the Jordan Commission's verification recommendation?

We are absolutely committed to protecting these fundamental rights. The Administration will develop pilots carefully, building in safeguards against the invasion of privacy and discrimination. All employers participating in the pilots will be instructed as to the laws against discrimination as well as the verification requirements. We will also monitor these pilots closely for evidence of discriminatory actions. Our goal is to create a system that will prevent such discrimination.

How far is the Administration going in denying illegal immigrant benefits?

The Administration believes that illegal aliens should not be eligible for public services or welfare benefits. The only exceptions include matters of general public health and safety, such as emergency medical services, immunizations and temporary disaster assistance, and every child's right to a public education.

What is the Administration's view of nationalizing Proposition 187?

As stated in the preceding answer, illegal aliens should be denied eligibility for public services or welfare benefits, with very limited exceptions that help protect all of our health and safety such as immunizations. This includes a child's right to a public education. The Supreme Court has ruled that our country's Constitution requires this and there are public health and safety concerns with kicking children out of school and into the streets.

The Administration has contended that the cost of illegal immigration is not the responsibility of the Federal government. Is the Administration changing its position?

From the beginning, the Administration has held a consistent view on this issue. The Federal government and some States shoulder most of the inherited costs because of failed immigration policies over the past decade. Deterring illegal immigration is the best longterm solution to keep costs from growing far beyond that which the Federal government and a few States face today. This is the first Administration to address its primary responsibility of controlling illegal immigration squarely and thereby curtail the cause of increased burdens on the States. This Administration has a vision of shared responsibility for the costs of illegal immigration and it is the first to obtain funding from Congress to reimburse States for a share of the costs for incarcerating criminal aliens, in addition to providing funding for education and medical care costs.

From a strictly legal standpoint, the Administration believes that neither the Constitution nor any statute require the Federal government to reimburse States for illegal immigration costs.

What about visa overstayers, who make up nearly half of illegal immigrants residing in our country?

No Administration has ever made a serious effort to identify and deport visa overstayers. This Administration is committed to begin to address this form of illegal immigration. The Presidential Memorandum issued today directs the Departments and Agencies to review their policies and practices to identify necessary reforms to curtail visa overstayers and to enhance investigations and prosecution of those who fraudulently produce or misuse passports, visas, and other travel documents.

What about legal immigration?

The policies and priorities announced today focus on the problem of illegal immigration. We believe that these actions are necessary and ultimately supportive of our strong heritage of legal immigration.

Why nothing about naturalization?

Today's announcements are targeted specifically to curtail illegal immigration. Although not emphasized today, we will continue to stress naturalization initiatives. We are currently spending approximately \$7 million to expand outreach and naturalization initiatives. Moreover, we are going to do all we can on an interagency and intergovernmental basis to help legal immigrants with the process toward naturalization. We believe that we should help legal immigrants become productive and full members in our National Community. It is in our country's best interests to facilitate their becoming citizens and fully participating in the American dream.

The Fortress Party?

By WILLIAM J. BENNETT
And JACK KEMP

1/2

Immigration has become one of the most controversial issues in contemporary American politics. We urge Republicans not to support an anti-immigration movement that we consider, in the long run, to be politically unwise and fundamentally at odds with the best tradition and spirit of our party. And we believe that Republicans should oppose some of the policies being proposed to deal with illegal immigration—including California's Proposition 187, the "Save Our State" initiative.

Much needs to be done to curb illegal immigration, and we are certainly not in favor of illegal immigrants receiving state or federal welfare benefits. But, at the same time, concerns about illegal immigration should not give rise to a series of fundamentally flawed, constitutionally questionable "solutions." We are concerned, too, that the legitimate concerns about illegal immigrants are broadening into an ugly antipathy toward all immigrants.

America's immigrants are a net positive gain economically. They tend to live in strong, stable families; possess impressive energy and entrepreneurial spirit; have a deeply rooted religious faith; and make important intellectual contributions to the nation. Most come to America in large part because they believe in traditional American ideals. Their achievements and contributions are worth celebrating, not demeaning or denying.

We realize that anti-immigration rhetoric is perceived to bring short-term political advantage. But we believe that in the medium and long-term, this posture is a loser for the GOP. Here are some reasons why:

- The anti-immigration boomerang, if it is hurled, will come back to hurt the GOP. The Republican Party helped to create a Democratic base in many of America's cities with its hostile stand toward the last generation of immigrants from Italy, Ireland and Central Europe. Can anyone calculate the political cost this time of turning away Asians and Hispanics?

- Political parties are identified not simply by the policies they propose, but by the spirit they embody. Under Ronald Reagan, the GOP became the party of optimism, confidence and opportunity. If some of the anti-immigration proponents have their way, his shining "city on a hill" will be replaced by an isolated fortress with the drawbridge up.

- The most ardent opponents of immigration are among the core constituencies of the Democrats. The GOP should offer a clear, sharp contrast with that unprincipled political posture. As Ron Unz writes in the current Policy Review, "if used properly, immigration could serve as the issue that breaks the Democratic Party and forges a new and dominant conservative/Republican governing coalition."

- One of the chief problems in contemporary politics is the tendency to over-promise. If some of the anti-immigration measures now being considered do pass, the problems that they are supposed to ameliorate will still be with us. And there will be a political price to pay.

The leading edge of the immigration debate can be found in California, where on Nov. 8 voters will consider Proposition 187. Right now, it has strong support among the public, and it is not hard to understand why. At a cursory glance, this initiative seems reasonable. It purports to cut off a host of social services to illegal immigrants. When combined with the fact that the federal government has failed to control the borders and deport illegal immigrants, the appeal becomes even

stronger. Indeed, one of us (William J. Bennett) initially voiced support for Proposition 187 when first asked about it.

The problem is with the fine print. Some of the concerns that Proposition 187 addresses are valid. But the promises turn out to be illusory, and some of the means to achieve the stated ends are pernicious. Proposition 187 is bad policy for a number of reasons, not least because it will not decrease illegal immigration and will distract Washington from enacting, necessary, fundamental reform.

There is a myth driving much of the support for Proposition 187: that illegal immigrants are allowed to receive welfare benefits. In fact, under current law, illegal immigrants are already ineligible for publicly funded welfare assistance or food stamps. They can already be criminally prosecuted for producing or obtaining fraudulent work permits.

Then what are the benefits Proposition 187 will deny? The main target is public education. The initiative would bar children of illegal immigrants from public elementary and secondary schools. And U.S.-born children of illegal immigrants—U.S. citizens—could, in effect, be required to inform on their parents, who would then face deportation. This is not a road we should head down.

But Proposition 187 does more than just close school doors to children. Nurses

We realize that anti-immigration rhetoric is perceived to bring short-term political advantage. But the anti-immigration boomerang, if it is hurled, will come back to hurt the GOP.

would be required to verify the immigration status of patients seeking medical care. And teachers and school officials would have to report any student who appears to be an illegal alien to federal authorities. They would be forced to investigate and certify the citizenship of new students, current students, and their parents as well. This is profoundly anti-conservative; it relies on a Big Brother approach and imposes expensive regulatory burdens. It is also a mandate for ethnic discrimination. Does anyone seriously doubt that Latino children named Rodriguez would be more likely to appear to be illegal than Anglo children named, say, Jones? Besides, the INS already has more leads on illegal immigrants than it can now handle.

Both sides concede that Proposition 187 is unconstitutional, but proponents want to force a legal challenge. It will be several years before the Supreme Court hears the case, and it is not likely to pass constitutional muster. In the meantime, there will be no effective control on illegal immigration and the state will spend hundreds of thousands of dollars in legal bills bringing the case to the Supreme Court. Moreover, the state will undoubtedly be sued by immigrants wrongly denied schooling or medical care.

Two other ideas gaining popularity in the immigration debate are the national identification or worker verification card proposed by the House Republican Immigration Task Force and the "computer registry system" proposed by the U.S. Commission on Immigration Reform. Ironically, at a time when Republicans should be focusing on scaling back the size and

File:
Immigration

GOP Contract: Let's See the Fine Print

I appreciate Robert Bartley's compliments ("Mud Takes Over as Press Nixes GOP Issues Bid," editorial page, Oct. 13) about the seriousness and impact of "Meet the Press." I have the same respect for him and the editorial page of *The Wall Street Journal*.

I must take strong exception, however, to his suggestion that my questioning of Newt Gingrich about the Republican Contract With America had the effect of "driving serious issues out of the campaign."

Quite the contrary.

I believe fiscal accountability and responsibility is the most serious issue in this year's congressional campaigns. When the GOP contract endorsed a balanced-budget amendment as one of its prescriptions to deal with the federal deficit problem, I assumed the amendment was a serious proposal. I am troubled by Mr. Bartley's contention that "the amendment headed the contract only because it's the pet of focus groups run by pollster Frank Luntz." Is he suggesting it's simply a ploy to win votes? If so, that's the kind of cynicism that would drive serious issues out of any campaign.

I prefer to think that Rep. Gingrich and the Republicans are honorable and truly believe the federal budget should be balanced. That being the case, my mission on "Meet the Press" was to find out from Mr. Gingrich which federal programs should be eliminated, cut or capped. Is that not reasonable? Is that not serious? Is that not central to any discussion of the role of the federal government in our lives?

Mr. Gingrich declined to be specific, saying, in effect, it was not possible to answer in the "news context of today in 20-second bites" and besides, "you would like us to play a game where we sit out here and give you five bad things you can then say Republicans are for."

Why the reluctance? If the welfare state has grown too large and, as Mr. Gingrich says, we should "replace it," shouldn't the American people be told which specific programs are to be reduced or eliminated? I believe the only reason for the lack of specificity is politics—the recognition that balancing the budget would mean reducing entitlements. These programs, many of which directly benefit the middle class, account for half our federal outlays. If we do nothing, they soon will account for two-

thirds of all federal spending—leaving precious little flexibility to address national defense or domestic concerns. No one—not Mr. Gingrich, the Republicans nor the Democrats—wants to share that bad news with the voters this November. As David Frum, a former assistant editorial features editor, points out in his book "Dead Right": "If you cannot say 'no' to middle class constituents, you cannot lighten the crushing load of government upon society, and it is that burden, in turn, that makes the social programs that conservatives fret about so intractable."

One last point. Mr. Bartley writes: "With the Reagan tax cuts output grew smartly, and government revenues grew at the same pace even with lower tax rates." Fair enough, as long as you include the revenues gained from the 1982 tax increase. Mr. Bartley goes on: "But with Reagan budgets repeatedly declared 'dead on arrival' in a Democratic Congress, federal spending grew even faster. So we had deficits." Not quite. If every Reagan budget had been adopted by Congress without any changes, federal spending would still have grown dramatically more than revenues. In fact, the aggregate amount of the budgets submitted by Mr. Reagan during his eight years as president was larger than budgets approved by the Congress! Granted, there were some differences over domestic and defense priorities, but the fact remains that neither the Democratic Congress nor the Republican president sought to significantly reduce federal spending.

"Not one major spending program was abolished during the Reagan presidency," Mr. Frum writes. He goes on: "Conservatives would later airily pin the blame for the spending binge on a hostile Democratic Congress. But a quick flip through the pages of the budget documents of the decade shows that the fastest growing spending was on Republican constituencies: pensioners, farmers and veterans." Both Democrats and Republicans created our deficit problem. Should we not demand specific solutions from both parties?

I urge the *Journal* to confront this most "serious issue" and enter the debate. It has already begun on "Meet the Press."

TIMOTHY J. RUSSELL
Moderator
Meet the Press

Washington

Immigration

September 27, 1994

MEMORANDUM FOR CONFERENCE CALL PARTICIPANTS

FROM: RON KLAIN *RK*
SUBJECT: POSSIBLE GORELICK TESTIMONY

Attached is an outline of Jamie's possible testimony before Congress on Thursday. I need, ASAP, the following reactions:

1. Edley: Will you clear this? A final text will be late in coming.
2. Epstein: Is this consistent with the basic message construct agreed upon?
3. Emanuel: If you agree with this, can you get Harold to impose it upon the other agencies? Testifying at the hearing are DoL and HHS, in addition to DoJ.

We still do not have Jamie's final agreement to actually do this (remember, we are putting her out there on two issues (ID card and verification) that we are treading the line on), nor has the Subcommittee yet agreed to take her.

OUTLINE OF GORELICK TESTIMONY

1. We take the problem of illegal immigration seriously
 - Unlike previous administrations, actually acting (compare our stats on agents, deports to previous)
 - Not just in past thirty days, but over 18 months

2. Key to this problem is keeping illegals from coming; once they are here, battle is half-lost.
 - Tough border enforcement
 - Improved economy in Mexico

3. We have a tough border enforcement strategy
 - What we have done thus far
 - Operation Gatekeeper

4. For those who do make it here -- and for those who came in under previous lax enforcement regime -- it is critical that we have tough enforcement of employer sanctions.
 - Previous enforcement a failure
 - What we plan to do (defer to DoL)

5. In the context of tough enforcement, happy to look at other measures:
 - Better employee verification, by limiting # of documents (we have proposed a reg to make some changes, intend to propose a bill to make more changes). If we do this, don't need a National ID card;
 - Improve existing databases to verify employment (again, if we do this don't need national database);
 - We share Jordan Commission goals -- just think our way is cheaper and more effective.

6. We will be back next year with an immigration bill, to improve and enhance enforcement:
 - Tougher border enforcement;
 - Expedited deportation and exclusion;
 - Limit employee verification documents;
 - Easier removal of invalid asylum seekers;
 - Studing border fee as possible item for this bill.



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

January 12, 1994

Immigration

MEMORANDUM FOR MACK McLARTY
GEORGE STEPHANOPOULOS
~~CAROL RASCO~~
RAHM EMANUEL
JANET RENO

FROM : Leon E. Panetta 

SUBJECT : Early Announcement of the Illegal Immigration Initiatives
in the 1995 Budget

This memorandum outlines a potential major initiative pertaining to illegal immigration and border security. On June 18, 1993, the President announced a crackdown on alien smuggling, including tougher criminal penalties for smugglers. Then, on July 27, he announced a package to strengthen immigration law enforcement, including a 1994 budget amendment for \$172.5 million. The amendment included \$45 million for the INS Border Patrol, \$31 million for "expedited exclusion" of ineligible asylum seekers, and other investments related to visa processing and deportation of criminal aliens. We had some success with this package in the appropriations bill, where Congress provided \$45 million for up to 600 new Border Patrol agents, and INS fees to pay for the proposed Expedited Exclusion program.

The Summer '93 initiatives highlighted the President's commitment to pursue an aggressive program to curb illegal immigration. As we pointed out then, however, these were limited initial steps in terms of likely impact on the estimated 300,000 illegal entries annually and the problem of approximately 3.2 million undocumented immigrants already living in our communities. The costs to State and local governments are enormous, controversial, and growing. Meanwhile, the responsibility for border control is a uniquely Federal one.

We have been working with other White House offices, DOJ, and INS to craft a major illegal immigration initiative which allows the President to "get out in front" politically. The goal is to institute a visible program that has measurable effects as quickly as possible. This plan could be announced within days, with detailed appropriation requests released as part of the Budget in February (see attachment). The initiative totals \$368 million in 1995 and focuses on:

- o further strengthening our ability to control the border, with near-term emphasis on Border Patrol agents, including measures like Operation Blockade in El Paso;
- o expediting the deportation process of criminal aliens;
- o improving the affirmative asylum adjudications process;
- o implementing the NPR recommendation for INS-Customs coordination at the border;
- o increasing enforcement of employer sanctions to discourage the employment of undocumented aliens, thereby reducing the U.S. employment "magnet" effect; and
- o actively promoting the naturalization of eligible aliens for the first time.

The two last items, totalling \$68 million, can be funded out of general revenues as part of DOJ's regular 1995 budget. The remaining \$300 million would come from the Violent Crime Reduction Trust Fund, which we succeeded in amending on the Senate floor to make some immigration law enforcement activities permissible programs for the Trust Fund. (A further element might be to announce our hope that the Crime Bill would be amended so that some of the funds, such as those the Senate designated for Federally-run regional prisons, might instead be devoted to State grants based on number of incarcerated aliens.)

I believe that an early announcement of a Presidential immigration plan, and our hope to use the Trust Fund, may help us recruit Governors and others to retain these provisions when the Crime bill goes to conference. Moreover, in case the Crime conference is delayed, it may be desirable to unveil the immigration initiatives now. Finally, using the Trust Fund for this purpose will not interfere with the other two primary programs we propose to fund in 1995 -- 100,000 Cops and Brady Bill criminal records upgrades (see attachment). Indeed, we will have room to support use of the Trust Fund for prisons and other purposes in FY 1996 and beyond, if we so choose.

OMB has been working with DOJ and INS to develop a detailed plan. The most significant remaining difference of views concerns the Border Patrol. Senator Dianne Feinstein has proposed a plan to increase Border Patrol positions by 600 in 1995 and by another 600 in 1996. At a December 9th meeting, senior White House, OMB and DOJ representatives agreed it would be politically sound to meet the Feinstein proposal at least half way in terms of its personnel request.

INS has a draft Border Patrol plan on how it intends to invest in the Border Patrol. Its 1995 proposal provides 390 additional border Patrol agents "on-the-line." This plan calls for hiring only 150 new agents, however. In order to reach its 390-agent goal, INS believes that it could redirect 200 existing agents from program support to front-line duties due to technology enhancements. Furthermore, INS intends to transfer 40 existing agents from interior locations to the border.

OMB recommends increasing the number of Border Patrol agents from the 150 contemplated by INS to 300 in 1995. OMB also recommends announcing the Administration's plan to provide for 300 more agents in 1996. This proposal is consistent with the outcome of the December 9th meeting. Furthermore, this personnel increase, along with INS' plan for redirection of agent resources, takes the Border Patrol to 540 additional agents "on-the-line" in 1995. This proposal also allows the Administration to share some political credit with Senator Feinstein.

I believe this minor outstanding disagreement on the content of the initiative can be resolved very quickly, if we all agree that an announcement should be made.

Attachments

cc: David Gergen
Robert Rubin
Phil Lader
Marcia Hale
Bruce Lindsey

Attachment

Proposed Immigration Initiatives for 1995

(\$300M included in Violent Crime Reduction Trust Fund and \$68M included in Regular DOJ Budget)

INITIATIVES	(IN \$M)	(Positions)
Initiatives to be presented as investments in Regular 1995 Budget for the Department of Justice:		
Initiative I: Naturalization	200	100
A. Grants for Education and Outreach	15	
B. INS District Office Naturalization Outreach and Promotion	3	
C. Streamline Naturalization Process and Increase Personnel to Reduce Processing Time	12	
Initiative II: Employer Sanctions Law Enforcement and Anti-Discrimination	70	40
A. Expand Telephone Verification System (TVS) to 500 Employers	3	
B. Increase Sanctions Education and Investigations to Prevent Illegal Hiring	22	
C. Investigate and Prosecute Fraudulent Document Vendors	6	
D. Protect Legal Aliens' Rights/Anti-discrimination Education	5	
Initiatives to be funded under the Violent Crime Reduction Trust Fund (VCRTF), as authorized under the Senate Version of the Crime Bill:		
Initiative III: Alternative Asylum Referral	60	100
A. Increase Numbers of Asylum Officers and Immigration Judges to Adjudicate Claims	64	
Initiative IV: Immigration Law Enforcement	136	610
A. Prevent Illegal Immigration	(181)	
1. Increase Border Patrol Positions by 300 in 1995 (Additional 300 in 1996)	20 *	
2. Develop and Implement Automated Case Processing	30	
3. Purchase Encrypted Voice Raiders for High Risk Southern Border Patrol Sectors	25	
4. Control Admission at Port of Entry by Integrating State and Justice Databases	32	
5. Reduce Illegal Immigration and Alien Smuggling by Integrating Internal INS Databases	74 *	
C. Expedite Deportation of Criminal Aliens	(35)	
1. Increase INS Capability to Use Automation to Capture and Relay Fingerprint Information	28	
2. Expand the Institutional Hearing Program to Expedite Criminal Alien Deportations	27	
TOTAL	666	700

* INS disagrees with spending on these two items. INS proposes \$10M for 150 new Border Patrol agent positions in 1995. However, Senator Dianne Feinstein's proposal calls for 600 Border Patrol positions in 1995 and 600 more in 1996. OMB recommends \$20M and 300 positions for the Border Patrol in 1995 and another 300 in 1996 to meet the Feinstein proposal half way in terms of personnel. With additional spending proposed here to improve INS technology and equipment (\$55M), and the subsequent redirection of existing agents from program support to front line duties, the Administration can make the case that INS will increase its resources sufficiently to match the Feinstein proposal in terms of overall border control strength.

Attachment

Proposed Budgetary Display of the
Violent Crime Reduction Trust Fund

<u>Activities</u>	<u>(BA in millions)</u>	
	<u>1995</u>	<u>1996</u>
100,000 Cops/Community Policing.....	1,720	2,070
Brady Bill Criminal Records Upgrades.....	100	100
Immigration Initiatives.....	300	350
All Other Crime Bill Programs (e.g. Police Corps, Boot Camps, Prisons, Drug Courts, e	303	1,767
TOTAL	2,423*	4,287*

* This is the budget authority level provided in the Senate's Crime Bill.