

NATURALIZATION - GROWING DELAY

reprog; initiatives to help language; statements supporting

DISABILITY AND NATURALIZATION REGULATION

week after next
app. waiver english & civics

DISCRIMINATION AT THE WORKPLACE BECAUSE OF THE PILOTS heightened risk for those who look or sound foreign

antidiscrimination group -eoc, ofccp, civ.rts

DETENTION AND DEPORTATION

review what we can do and can't do under the law
consult for ideas - sensitive compassionate

Access to Justice

WELFARE FIXES

IMMIGRATION BILL FIXES

There are a number of policy decisions that the Administration must make over the upcoming months arising out of implementation of the immigration and welfare reform bills.

I. Growing Delays in Processing Naturalization Applications

1) INS recently received **reprogramming** funds to maintain its current citizenship staffing level. [\$ 16.95 million for staffing; \$7.75 million for fingerprint checking; ceremonies and the Naturalization computer system -- Feb. 97]

2) **statements reaffirming the right of eligible individuals to naturalize in a reasonable time.** This week Reno and Meissner -- look for other opportunities.

3) Assisting individuals, particularly e.g. refugees, with **language and other skills necessary to become eligible for citizenship**, to get help with these skills. For example, working with private companies to encourage them to set up English-As-A-Second-Language courses in their workplace.

INS Disability & Naturalization Regulations

set to release week after next. Use next week for training and start some briefing.

- 1) procedure for applying for waiver of English and civics test
- 2) provide for accommodations throughout the naturalization process

Understanding of nature of oath still required -- OLC opinion

Reviewing next steps -- consideration of legislation either welfare fix or the oath itself for severely disabled.

Over 200 comments - consultation with HHS, SSA etc

Reconsideration & additional evidence etc.

allowing a guardian or proxy to assent to the oath on behalf of individuals who are too severely disabled to understand the oath.

- 1) We want to work together to push hard to get our welfare legislative proposal enacted which would help some of those who will not be able to retain their benefits because of their inability to understand the oath.
- 2) The INS will provide a full briefing on the regulations to all interested parties when they are issued. And the Administration will monitor how these regulations are implemented to make appropriate adjustments to the guidelines as necessary to ensure that they are implemented with sensitivity and compassion.

MONDAY -- Fact sheets, etc. to 70plus field offices on Monday -- 24 hours to review and absorb

TUESDAY -- also apprise organizations by invitation

WEDNESDAY, THURSDAY -- series of conference calls with the field offices &
update training
reschedule community meetings

interagency briefings
posted by Federal Register on 18th -- roll-out 18th or 19th

II. Civil Rights and Immigration-Related Concerns

A. Discrimination

heightened risk of discrimination to legal workers who “look or sound foreign” -- citizens and legal immigrants alike -- due to implementation of the immigration bill and our worksite enforcement initiatives (both employer sanctions and sweatshop enforcement).

the view that the Administration does not recognize the different forms of discrimination faced by those who “look or sound foreign” in the United States.

1. Anti-discrimination Group (Gil & Dennis) that has met over the past year and a half with organizations, including the Leadership Conf. Task Force. They also have met independently with our agencies. They have submitted **written** memos of issues and concerns. **Visited** the pilots.

CONSULTED ON

Design

Implementation

Evaluation

Follow-up on incidences

2) recently released **guidance to federal contracting agencies about their responsibilities against discrimination** (signed by Deval Patrick, Gil Cassellas, and Shirley Wilcher) as they comply with the law that prohibits hiring illegal workers.

3) This group also has completed drafting an interagency **informational card** that is user-friendly for workers to inform them of protections against discrimination in the work authorization pilots and where they can call in the federal government for assistance.

4) **MOU** between Labor and Justice to combat immigration-related discrimination

5) The DPC has been working with INS and DOL to reconcile their sometimes conflicting operational missions in joint sweatshop enforcement actions in order to identify illegal workers while protecting the rights of legal workers.

6) More broadly, the DPC began reviewing issues of hate crimes, violence, and harassment with Administration civil rights officials. (We should look for additional opportunities to use the bully pulpit by including this topic in appropriate speeches of the President and Attorney General.)

B. Opportunity

Concern that Latinos are not being particularly well served by programs designed to help expand opportunity, such as Head Start or job training, in which Latinos participate in a disproportionately small number.

Some participants in the meeting will be looking for the Administration to pledge to take the lead to address this issue to achieve better participation levels in these programs.

III. Detention and Deportation Issues

The immigration bill strengthens the ability of the federal government to detain and remove deportable aliens from this country. The groups have concerns about fairness -- particularly cases of hardship on families, many with citizen children -- and the potential for abuse.

E.g. Broadened the crimes that make you deportable -- recent article about fellow who was a student and got into a fight many years ago, entered with false documents

1) REVIEW AND DISCUSSION -- This is an area where there will be some difficult outcomes under the present law. But we are committed to implementing the law with fairness and sensitivity. We want to get the groups' **ideas** on how to achieve this by continuing our dialogue about this issue.

2) ACCESS TO JUSTICE -- The DPC has been working with the Justice Department and the American Bar Association to see if we can develop a meaningful program to encourage lawyers to volunteer to represent immigrants. The Attorney General and Deputy Attorney General have indicated their absolute commitment to this project. It is hoped that this will help ensure that each immigrant's rights are fully and fairly protected in asylum/detention/removal cases (and benefits cases). You may want to commit to having the President or Vice President participate in rolling this out at either the Summit on community service or as a separate event.

- 1) Presentations (letters or video) at conferences encouraging volunteer representation
- 2) Panels of Administration experts provided to help train about new law.
- 3) Encourage government attorneys (perhaps through a Presidential Memorandum)
- 4) Radio Address

IV. Welfare Reform "Fixes" to Legal Immigrant Restrictions

Finally, just an observation: At least some meeting participants are likely to urge the Administration to stick to its guns with its legislative fix proposal. In the past they have expressed opposition to compromises involving approaches such as block grants or two year delays in implementation.

Fought the "Gallegly" amendment -- threatened veto -- also for "modified" Gallegly

Demanded dropping more onerous provisions of the benefits section of the immigration bill and succeeded with most of it -- Got the charitable nonprofit organization

Obtained legislative delay on implementation

Fought for status quo on benefits verification rather than nationwide verification

Food Stamp directive?

Fought deporting legal immigrants for using government programs

Fought broader definition of "means-tested" in immigration bill

Fought extent of deeming to programs such as Head Start

In Implementing

President instructed protecting legal immigrants as much as possible while complying with the bill

40 quarters -- Recognition of the problems of farm workers, e.g. and help

Self-certification procedures during verification

Disability and accommodation during naturalization process

Medicaid -- states have to affirmatively modify their plans to drop Medicaid coverage

IMMIGRATION BILL FIXES

Legislative -- Both technical and nontechnical changes are under review. At DOJ/INS now.

For example, the asylum application cut-off.

Issue of whether the A.G. is the right one to make the substantial connection judgement between battered spouses or children and the need for benefits.

Certainly the dropping the "intent" standard regarding worker discrimination.

Administrative -- Continuing process across the spectrum of issues: border, workplace, removal practices and detention facilities. We have an interagency process run from here to address these issues. We include enforcement people at INS and Labor, civil rights, Democracy and Humanitarian Affairs office of NSC -- the range of offices.
tried to consult with you.

High-speed chases



U.S. Department of Justice

Special Counsel for Immigration Related
Unfair Employment Practices

Office of Special Counsel
(202) 653-8121

1100 Connecticut Avenue, N.W.
P.O. Box 65490
Washington, D.C. 20035-5490

**Legislative Labor Report:
The Immigration Act of 1990's
Anti-Discrimination Provisions**

I. The Office of Special Counsel (OSC) was created by § 102 of the Immigration Reform and Control Act of 1986 (IRCA), which added § 274B to the Immigration and Nationality Act, 8 U.S.C. § 1324b. It was amended by the Immigration Act of 1990.

- A. The mission of the OSC is to enforce IRCA's prohibition against national origin and citizenship status discrimination in the hiring, firing, or recruitment and referral for a fee.
- B. The OSC is an separate component of the Department of Justice reporting to the Attorney General or his designated representative.
- C. The OSC may be reached by writing:

Office of Special Counsel
P.O. Box 65490
Washington, D.C. 20035-5490

or calling:

1-800-255-7688 (toll free)
[(202) 653-8121 in the Washington, D.C. area]

TDD 1-800-237-2515 (toll free)
[(202) 296-0168 in the Washington, D.C. area]

II. IRCA's antidiscrimination provision prohibits an individual or an entity, including an employer, from discriminating in the hiring, firing, or recruitment and referral for a fee. It does not cover employers discriminating in the terms and conditions of employment.

- A. It protects all individuals other than unauthorized aliens from such discrimination on the basis of national origin.

2. The Equal Employment Opportunity Commission (EEOC) has jurisdiction over national origin discrimination involving employers of 15 or more under Title VII of the 1964 Civil Rights Act. Title VII prohibits discrimination in the terms and conditions of employment as well as hiring, firing, and recruitment and referral for a fee.
 3. The OSC has jurisdiction over national origin discrimination involving employers of 4 to 14 employees.
- B. IRCA's antidiscrimination provision prohibits citizenship status discrimination any "protected individual."
1. The provisions apply to all employers who have more than 4 employees.
 - a. The OSC has jurisdiction over all charges of citizenship status discrimination as long as they involve hiring, firing, or recruitment and referral for a fee.
 - b. The OSC does not have jurisdiction over charges of discrimination involving the terms and conditions of employment, even if the discrimination is based on an employees citizenship status.
 2. A "protected individual" is a person who:
 - a. is a citizen or national of the United States, or
 - b. is an alien who:
 - i. is lawfully admitted for permanent residence, or
 - ii. is granted the status of an alien lawfully admitted for temporary residence or special agricultural worker under 8 U.S.C. § 1160(a), 8 U.S.C. § 1161(a), or 8 U.S.C. § 1255a(a)(1), or
 - iii. is admitted as a refugee under 8 U.S.C. § 1157, or
 - iv. is granted asylum under 8 U.S.C. § 1158.

- c. An alien loses protection from citizenship status discrimination, if:
 - i. the alien does not apply for naturalization within 6 months of becoming eligible by virtue of a period of lawful permanent residence; or
 - ii. if having applied on a timely basis, the alien has not been naturalized within 2 years of applying (not counting INS processing time) - unless the alien can establish that s/he is actively pursuing naturalization.
- 3. IRCA's antidiscrimination provision prohibit a "citizens only" hiring practice. An employer cannot impose an across-the-board U.S. citizen only policy for all its jobs, unless such a requirement can be legally justified for each position. Convenience alone is not an acceptable justification. Only in very limited circumstances can an employer maintain a preference for U.S. citizens. The OSC construes each of these exceptions narrowly. They exception must apply to the particular job at issue. An employer mat have a preference for citizens where:
 - a. required in order to comply with law, regulation, or executive order;
 - b. required by federal, state, or local government contract; or
 - c. the Attorney General determines it to be essential for an employer to do business with an agency or department of the Federal, State, or a local government.

III. IRCA's antidiscrimination provisions treats certain practices as unfair employment practices.

- A. It is an unfair employment practice for an employer:
 - 1. to request from an applicant or employee more or different documents than are required for purposes of satisfying the employment verification provisions of the INS Form I-9; or

2. to refuse to honor documents that on their face reasonably appear to be genuine. /
 - B. Only "protected individuals" are protected from unfair documentation practices by employers.
- IV. IRCA's antidiscrimination provision makes it an unfair employment practice for an employer to intimidate, threaten, coerce, or retaliate against individuals who are involved with a discrimination charge.
- A. It is an unfair employment practice for an employer to intimidate, threaten, coerce, or retaliate against any individual:
 1. for the purpose of interfering with any right that individual may have under the antidiscrimination provision; or
 2. because an individual has filed or intends to file a discrimination charge; or
 3. because an individual has filed or intends to file a complaint; or
 4. because an individual testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to the antidiscrimination provision.
- V. IRCA's antidiscrimination provision sets forth procedures for the processing of discrimination charges.
- A. A charge of discrimination may be filed by an injured party, an authorized representative of the injured party, or an Immigration and Naturalization Service (INS) officer.
 - B. Charges must be filed within 180 days of the alleged discrimination. However, this provision is subject to equitable tolling given appropriate circumstances. United States v. Mesa Airlines, id., pp. 6843-6847; In Re: Investigation of St. Christopher-Ottillie, OCAHO Case Nos. 88-2-01-0016A0 through -0016D0, Order Denying Petitions to Quash . . . (ALJ Morse, May 5, 1988).
 - C. The OSC has 120 days in which to conduct an investigation and determine whether there is reasonable cause to believe that the discrimination charge is true. Only the OSC may file a complaint before an Administrative Law Judge based on the charge during this 120 day period.

- D. If the OSC declines to file or does not file a complaint before an Administrative Law Judge within this 120 day period, the OSC shall notify the person making the charge of the determination not to file a complaint.
 - E. The person making the charge may then file a complaint before an Administrative Law Judge at any time within 90 days after the date of receipt of the notice of determination from the OSC. The OSC may also file a complaint during this same 90 day period.
 - F. Should OSC file a complaint before an Administrative Law Judge based upon the charge, the person who filed the charge shall be considered a party to the complaint. Such person shall also be considered a party for any subsequent appeal concerning the complaint.
- VI. IRCA's antidiscrimination provision sets forth the powers of an Administrative Law Judge.
- A. Upon a finding of discrimination or other unauthorized activity by an employer, an Administrative Law Judge has discretion to order, among other things:
 - 1. a discriminating employer to hire or reinstate an injured party with or without back pay (back pay liability shall not accrue from a date more than two years prior to the date of the filing of a charge with the Administrative Law Judge);
 - 2. a discriminating employer to pay a civil penalty of not more than \$2,000 for each individual discriminated against. In the case of an employer previously subject to an order, a civil penalty of not more than \$10,000 may be ordered for each individual discriminated against;
 - 3. a discriminating employer to post notices to employees about their rights under IRCA;
 - 4. a discriminating employer to educate its personnel about IRCA's requirements;
 - 5. a discriminating employer to remove a false review or warning from the employee's file;
 - 6. a discriminating employer to lift any restrictions placed on an employee's assignments, work shifts, or movements.

7. a prevailing party, other than the United States, to pay a reasonable attorney's fee, if the losing party's argument was without reasonable foundation in law and fact.

B. An Administrative Law Judge's orders are enforced by an appropriate petition to a United States District Court. This includes the enforcement of investigative subpoenas requested by the OSC and issued by an Administrative Law Judge.

VII. IRCA's antidiscrimination provision provides for a direct appeal of an Administrative Law Judge's final order to a United States Court of Appeals. Unlike employer sanctions cases, there is no administrative review of an Administrative Law Judge's orders in an IRCA discrimination case by any executive branch official.

Who at INS D.C. is resp. - who at Justice is resp.

If someone were to do what Hunter said he did today (25 agents)
how many would be a duty.

Clarity of border strategy — Is this deterrence at the border or
something else - interior apprehensions
Y this rather than that — Like 3 fences we
add fencing - private property have three layers
add patrol (1) border
National Guard / Military (2)
(3) Y is this better

Sounded like we ~~didn't~~ reject all add'l resources, ideas
"We think we can get the job done with what the Admin. has
requested, if you want to give us more

Costs Americans more money as soon as they set
foot in U.S.

successful if you have high rates, successful if you
have low rates

Offering a visit was good

□ If they gave us 1,000 more tomorrow what would we do
with them.

"Election Eve Conversation"

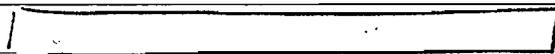
If it was rejected, why?

"maximum subtlety"

The literature

Illustrations, Graphs, Photos

lighting



night scopes



March 29th - INS appropriate

F.O. → Janet →

CALL JULIE ANIBREUER

✓ CALL TREASURY

CALL INTERIOR

Q+As to CALOBYN

= ALSO, CUSTOMER SERVICE

=

BORDER FEE

LEGISLATIVE CANG.

BULLETED DOT PB MONDAY

NGA

Mtg

GETMO

Nov 29th

R-208

10AM

KATHY

~~6221~~

69241

John & Raum --

This is the tentative list of INS "big thoughts" that was being worked on yesterday. (They were finalizing the memo -- to go to Ron Klain -- today.)

- Amend labor law to permit business asset forfeiture for violations of immigration law.
- Expand joint training program for officials from Mexico, in particular, regarding border enforcement on the Mexican side of the border.
- Drastic reform of the legal proceedings involved with deportation and removal to simplify the process and end loopholes that are presently abused at an astonishing rate.
- Increase penalties for criminal reentry.
- New national detention procedures which would prevent individuals from being released from one location because the detention facility was full there. Instead that person would go to a detention facility in another part of the country to await deportation.
- To increase enforcement of employer sanctions: increase investigations, introduce legislation to increase penalties, and enhanced Labor efforts.
- Also, debarment of federal contractors who violate employer sanctions (this will effect some of the targeted industries like the garment trade).
- Border infrastructure restructuring (this would include consideration of border fees)
- Increased efforts on international cooperation to counter smuggling.
- Joint study with Mexico and Canada to develop strategy for three countries to address illegal immigration.
- Something to reduce visa overstayers.

Things on this list may be added or subtracted in the process of getting it to Ron. However, this is my best info right now.

PHOTOCOPY
PRESERVATION

*Hope this is helpful if you
don't have the memo from Ron.
I haven't seen it yet.*
John Stur

The key provision of Proposition 187, the initiative popularly known as Save Our State or S.O.S., says that no person -- citizen, legal immigrant or illegal alien -- "shall receive any public social services to which he or she may otherwise be entitled until the legal status of that person has been verified." Those services include education, health care (except for emergency care) and welfare (although illegal immigrants generally are not eligible for welfare, food stamps or most social programs, although children born in this county are).

From a policy perspective, the pros and cons argued by proponents and opponents include:

PROS

- States heavily-impacted by illegal immigration are desperate to reduce the bill to their treasuries. Proponents claim that it will free up scarce State budget resources. (However, likely cost the State federal funding)
- Arguably reduces incentives to potential illegal immigrants who would be drawn to U.S. for services. (But this is disputed, the biggest incentive is jobs, not health care or social services.)
- Increases the penalty for manufacturing, distributing, selling, or using false citizenship documents

CONS

Education --

- Denial of educational benefits based upon the child's status is subject to Constitutional challenge as violating Plyer v. Doe which requires education of children without regard to legal status. The Administration has not issued an opinion on this.
- Could produce uneducated underclass in California cities -- out of school and onto the streets, these kids are more likely to get into trouble and criminal activity -- ultimately costing communities more.
- By requiring school officials to verify citizenship of every child and every parent, it essentially transforms schools into

immigration offices and teachers into immigration police and divert from proper educational mission of the schools. Secretary Riley said: "Schools are places for education. . . It is not the place to enforce immigration laws."

- Costs and paperwork would be huge.
- The argument is made that this just punishes children for decisions of parents.

Health benefits --

- Denial of benefits, such as immunization has wider health implications and potential costs for the community
- Without access to basic care, immigrants' health conditions could worsen into emergency condition that would require more expensive care which would still be covered under SOS.
- Does denial of, for example, prenatal care reduce illegal immigration or just put mothers health unnecessarily at risk? (The percentage of births to illegal aliens in L.A. public hospitals is pretty staggering.)

GENERAL POINTS:

- We must stop the flow of illegal immigrants into the U.S., but the real solution remains a comprehensive national immigration strategy -- one that reduces the number of illegal immigrants by closing the borders, enforcement and deportation.
- Arguably increases discrimination and harassment against citizens who look or sound "foreign".
- Fiscal effects - Both Secretary Riley and the State itself have estimated that the State could lose billions in federal funding if S.O.S. passes.

PHOTOCOPY
PRESERVATION



HERE'S AN INTERESTING FAX...

... From the Office of Public Affairs
U.S. IMMIGRATION & NATURALIZATION SERVICE

425 I Street, NW, Washington, DC 20536



(202) 514-2648



(202) 514-1776

Date: 3/17/97

Fax to: STEVE WARNATH

Fax Number:

From: Eric C. Andrus 202/514-8080/2648 FAX: 202/514-9833

Pages (Including Cover):

Comments: REACTION? NO Q+A ON SPONSORSHIP -
~~WE'RE~~ WE'RE WORKING WITH BOB BACH TO
RELEASE FINAL STUDY RESULTS ASAP. ILL
KEEP YOU UPDATED.

— ERIC

Memorandum

TO: Rahm Emanuel
FROM: Eric C. Andrus, INS
RE: Linking welfare reform fixes to INS' new guidelines for naturalizing people with disabilities and the elderly
DATE: March 17, 1997

An opportunity exists to detail the administration's proposed welfare reform fixes when INS announces its new guidelines for naturalizing people with disabilities and the elderly. Although not part of the 1996 Immigration law, these new regulations will be published in the federal register on Wednesday. The announcement will be made in the form of a media briefing on Tuesday at 1:00 (see attached fact sheet). CBO and congressional briefings on the new regulations also will be held on Tuesday.

In addition to the fact sheet, we are preparing a statement for the Commissioner. In the statement, she could bridge from these new regs to the fact that naturalization is not the full answer to the harsh provisions against legal immigrants included in the Welfare Reform Law, then discuss how the Administration is proposing to address this issue. Perhaps a statement from the White House, or a letter from the President could fully address the Administration's proposals and be distributed at tomorrow's INS briefing.

Please call to discuss. Thank you.

CC= WARNATH

THE WHITE HOUSE
OFFICE OF DOMESTIC POLICY

CAROL H. RASCO

Assistant to the President for Domestic Policy

To: STEVE

Draft response for POTUS
and forward to CHR by _____

Draft response for CHR by: X FBI FEB 17

Please reply directly to the writer
(copy to CHR) by: _____

Please advise by: _____

Let's discuss: ROZ: TICKLER 2/17

For your information: _____

Reply using form code: _____

File: _____

Send copy to (original to CHR): _____

Schedule ? : Accept Pending Regret

Designee to attend: _____

Remarks: PLEASE draft one page memo
from CHR to POTUS explaining the
issue and indicating what anything
we are doing that will address the
problem. Thank.

CC: VP

CR
Bierman

~~_____~~
FYI - ~~_____~~ seen in clear
Som of this? 29 3 day 1995?

THE PRESIDENT HAS SEEN
2-10-95

FEB 13 1995

INS 'Enforcement Deficit' Tied to Law

Voluntary Compliance Provision Fails to Deter Hiring of Illegals

By Roberto Suro
Washington Post Staff Writer

NEW YORK—On one side of the battle are the factories, shops, restaurants and families that employ some 200,000 illegal immigrants here. Facing them are just 18 federal immigration officers enforcing the law prohibiting that employment.

These officers are up against more than just numbers. Their regulations require them to give businesses three days notice before they can inspect employment records and, in all but rare cases, they interview workers only after receiving an employer's permission. About 40 percent of their work involves spot checks on businesses randomly selected by a computer with no reason to assume anything is amiss. Such visits produce few violations.

"I'd guess you'd have to say this is an unusual form of law enforcement," said Demetrios Georgakopoulos, who is in charge of enforcing the employment law at the Immigration and Naturalization Service's (INS) New York office. "Our goal is to bring about the highest rate of compliance possible. We do not measure our success by the number of fines we issue or the number of aliens we detain."

Most laws create enforcement mechanisms and set out punishments on the assumption that some people will break the rules. But the 1986 federal law prohibiting employment of illegal immigrants is different: It assumes that if employers are given enough information and encouragement, they will obey. And although policymakers generally agree this strategy has failed to halt the flow of illegal immigrants to the

United States, the Clinton administration and leading Republicans in Congress have reaffirmed their commitment to it as they plan a new assault on illegal immigration this year.

Congress is expected soon to take up proposals for a computerized registry of eligible workers that is designed to make it more difficult for illegal immigrants to find work. But critics argue this approach will not begin to solve the problem for the same reason the voluntary approach has not succeeded: It will not deter businesses that deliberately employ illegal workers because they work for substandard wages.

"Businessmen owners are not scared of the INS because it is never around," said Wilfredo Larancuent, director of organizing for the Amalgamated Clothing and Textile Workers Union in New York, adding. "It is not a threat, and that makes the whole thing a joke. If a guy running a sewing loft or a laundry or a restaurant needs to cut labor costs, he knows he can hire a few illegal workers, pay them less than the minimum wage and get away with it."

At the INS, enforcement of the employer sanctions law has become a low priority item. Since 1989 the number of agents assigned to enforcement has dropped by more than half, as has the number of fines issued. While the INS is getting more than 2,000 additional personnel this year, only 38 are projected to be added to the staff investigating violations of the law.

Despite an illegal immigrant population nationwide of an estimated 4 million, the INS completed only 1,761 cases producing fines against employers in 1993, the last year for

which figures are available, and it had only 318 people assigned to enforcement. By comparison the Border Patrol now employs nearly 5,000 agents.

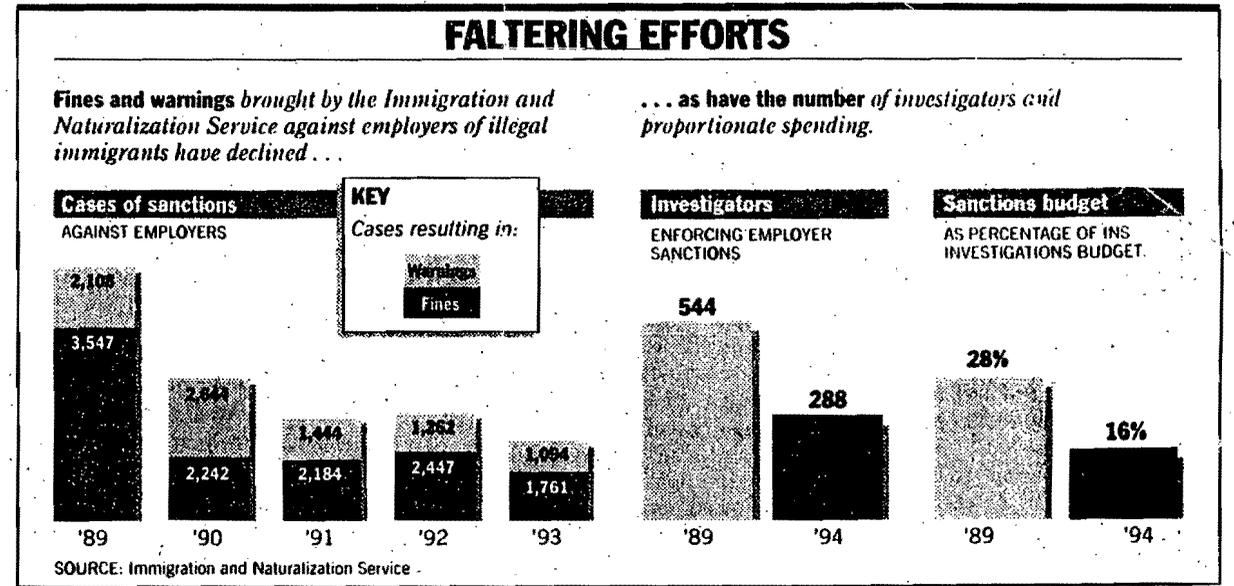
As resources have dwindled sharply, more cases have gone uninvestigated. By last September the INS had accumulated a backlog of 36,000 leads on possible violations it had been unable to check out, according to a report by the General Accounting Office.

INS Commissioner Doris Meissner conceded, "We have a substantial enforcement deficit because our resources have steadily declined in this area just when we needed to be boosting them." She blamed Congress for scaling back administration requests for additional investigators in recent years even as it mandated new tasks for them to take on.

There is a consensus among policymakers that the flow of illegal immigrants to the United States has reached troubling proportions. In his State of the Union address last week President Clinton spoke of the need to halt "the kind of abuse of our immigration laws we have seen in recent years," and endorsed plans to begin work on the computerized workers' registry and on improved identity documents.

The administration is expected to unveil a detailed initiative and spending proposals within a few days. Sen. Alan K. Simpson (R-Wyo.), chairman of the Senate Judiciary immigration subcommittee, introduced a bill last week that would also create a computerized verification system for workers.

Under the 1986 law employers are required to ask job applicants for documents showing they are autho-



rized to work, but employers are not required to verify the documents' authenticity. As a result, many illegal immigrants use counterfeit papers to get work, and their employers are deemed blameless.

The proposed registry and improved documents are designed to make it more difficult for illegals to use fake identities. But critics of the voluntary compliance strategy argue the new proposals will not affect the substantial number of employers who knowingly violate the law. Although the majority of employers want to comply, "it's not them you have to worry about, it is the others," said Saskia Sassen, professor of urban planning at Columbia University.

These employers belong to the shadow world of the underground economy that Sassen has chronicled in several books. "These employers violate all kinds of laws when it comes to their workers whether it be laws on overtime, the environment or safe working conditions, and hiring illegal workers is just one of many irregularities," she said. "No

computer registry will make a difference in these cases because these employers are not looking for easier ways to comply. On the contrary, these workplaces can only exist under an umbrella of violations."

The rapid expansion of the service industries, competition from national chains in areas such as food services and retailing, global competition in many areas of manufacturing and economic downturns have all helped create a sector of the economy that operates on thin profit margins and employs large numbers of low wage workers.

Secretary of Labor Robert E. Reich recently described this way of doing business as "the low road to competitiveness . . . hiring illegal immigrants, paying them very little in conditions of squalor and lack of safety that rival conditions in the Third World."

Just how big a chunk of the workforce is employed in this sector of the economy—and how big a challenge it poses in the enforcement of immigration law—is a sharply disputed issue even within government.

According to the INS, 90 percent of all employers are in compliance with the law. But the Labor Department, which inspects four times as many business each year as the INS, puts compliance at a mere 47 percent. One reason for this discrepancy, administration officials said, is that Labor Department officers judge compliance when they conclude their inspection, while the INS defers a decision until it has given an employer "educational assistance" and opportunities to correct mistakes.

The INS is reevaluating its enforcement strategies and said it intends to target sectors of the economy known for consistent violations. But even this initiative is based on increasing voluntary compliance with the creation of a new verification system that is expected to take several years.

"The way you go after the bad guys is by promoting compliance," said Meissner, the INS commissioner. "You get as much compliance as possible so you can target resources at the problem areas."

DEC. 27, 1996 - JAN. 2, 1997

INS Provides Electronic Access to Widely-Used Government Form

□ Employment Verification Form I-9 Now Available on Internet.

WASHINGTON, DC - The Immigration and Naturalization Service (INS) has announced that more than nine million employers nationwide now have immediate access, via the Internet, to one of the most widely used government forms - the Employment Eligibility Verification Form I-9, which all employers must complete for each new hire.

A regulation published in the *Federal Register* on October 7, 1996, permits INS to provide the form on-line. As of November 18, employers can download the

blank form I-9 computer file to their machine or print the form directly off the Internet site. The electronic generation of this form provides immediate access -- eliminating the need for employers to order and then wait for delivery of the forms.

"Many businesses have asked us to make the form available electronically. We listened and we've responded," said INS Deputy Commissioner Chris Sale. "The I-9 is one of the government's most

(Continued on Page 17)

INS Provides...

(Continued from Page 1)

used forms. This is an important step forward in serving our customers."

While the regulation allows for electronic generation of the form, it does not allow the electronic storage of the form. INS is studying the feasibility of electronic storage, however, at this time, employers are still required to keep a paper copy of the completed Form I-9.

The Immigration Reform and Control Act of 1986 (IRCA), which implemented employer sanctions law to remove the job magnet that draws illegal immigration, requires employers to hire only persons who may legally work in the United States. To comply with this law, employers must verify both identity and employment eligibility of each newly hired employee by completing and retaining a Form I-9.

Approximately 1,100 users accessed the electronic Form I-9 during the first week of its availability on the Internet. The form is available from the INS World Wide Web site at <http://www.usdoj.gov/ins>.

EXECUTIVE OFFICE OF THE PRESIDENT

15-Jul-1994 05:54pm

TO: Lin C. Liu
TO: Harry G. Meyers
TO: Kenneth L. Schwartz

FROM: Margaret R. Shaw
Office of Mgmt and Budget, HTS

CC: Stephen C. Warnath

SUBJECT: Immigration talking points

FYI. I've just given Toiv talking points on immigration to share with the IN governor (Bye?) for his appearance on Brinkley sunday with Wilson and Weld.

The file is i:\data\immig.tps. They are Liu's from this morning, just taking out the Presidential references ("I will...").

The Washington Post

DATE: 3-10-97
PAGE: 0-3

Refugee Families Resettle

■ The two Kurdish families who were crammed into an apartment on 16th Street NW in the District have found new housing, but it took a move to Atlanta.

The 18 men, women and children who make up the families of Haji and Mohamed Arif—all of them related—had been sharing a two-bedroom apartment in Mount Pleasant since November after having been brought to the United States to avoid persecution by Iraqi leader Saddam Hussein.

The Arif families are among 6,500 Kurds granted refugee status last year after Saddam-backed troops moved into a safety zone in August that had been set up in northern Iraq by U.S. allies.

The International Rescue Committee, which was responsible for caring for the Arif families, had tried to find alternative housing in the Washington area for them, Regional Director Krista Gallegos said.

But the families remained unsatisfied and decided to move late last month to Atlanta, where they have relatives, said Pary Karadaghi, executive director of the Kurdish Human Rights Watch of Fairfax, which also had been trying to help the Arifs get settled.

Hundreds of other Kurdish refugees remain in the Washington area, and within the next several weeks, another 500 or so are expected as the United States transfers refugees from a military base in Guam.

As of Wednesday, 3,292 Kurds of the

nearly 6,500 who were granted refugee status were still in Guam, where they have been awaiting permanent placement. The Kurds being evacuated worked for the U.S. military, relief organizations or CIA-backed groups that had been set up in northern Iraq at the end of the Persian Gulf War.

Gallegos said that progress has been made for the Kurds who have already arrived.

"All of the children are in school. The adults are in English-as-a-second-language training, and they also are in job training," she said, referring to cases assigned to the International Rescue Committee.

But Karadaghi said a great deal of work remains before the refugees are fully integrated into the community.

Her organization, working with Christian Relief Services of Lorton, is trying to find families or individuals willing to "adopt" Kurdish refugees, to serve as mentors or to provide assistance in buying groceries or other items.

The refugees with children are, in some cases, provided up to five years of government assistance. But the benefits alone frequently are not enough, she said.

"It really takes a village of people and volunteers to help the Kurds arriving to adjust," she said. "If we want them to become self-sufficient, they need some help at first."

For more information, call the Kurdish Human Rights Watch at 703-385-3806.

— Eric Lipton

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and a lot of immigrants are confused," said Jana Mason, a lobbyist with Immigration and Refugee Services of America, a nonprofit advocacy group in Washington.

In general, the new laws that go into effect on April 1 do not change the present rules for marriage and immigration.

Then, as now, marrying a United States citizen confers a decided advantage if the immigrant has legal status to begin with. The married immigrant can become a conditional resident after an initial interview with the Immigration and Naturalization Service several months after the wedding, if the agency determines the marriage is legitimate. Permanent status comes in two years and citizenship, if desired, in three years.

But other combinations — illegal immigrants marrying citizens, or le-

gal or illegal immigrants marrying green card holders — are more complicated and much less certain. This is helping to drive some of the confusion over the new law.

The section of the law passed by Congress last September that has illegal immigrants most worried is aimed at preventing people from entering the country illegally and driving those who are already here back to their home countries.

Currently, illegal immigrants who apply for legal status are not penalized in the visa process for having entered the country without documentation, although they may be deported at any time.

On April 1, a clock starts ticking toward a set of escalating penalties for illegal entries: illegal immigrants who are deported or leave the country after the end of September — and who subsequently wish to apply for a visa — will be barred from re-entering the United States for three years. Immigrants who leave a year after the April 1 date will be barred for 10 years.

"As for the significance of the April 1 date, it is no more than a trip wire that begins a clock ticking," said Elissa M. McGovern, a lawyer with the American Immigration Lawyers Association, a nationwide organization.

What several lawyers say may be furthering confusion is uncertainty about the future of another immigration law, which has been seen as helpful in getting many illegal immigrants legal status, but is viewed as being somewhat contradictory to the new regulations. In 1994, Congress passed a law that included a section called 245i, which allowed qualified immigrants to change their status without leaving the country, simply by paying a \$1,000 fine. The law is set to expire at the end of September, and there has been no clear indication whether Congress will renew it. If it is not extended, many immigrants who have to leave the country could be barred under the new laws.

So, some lawyers speculate, this gives many people another incentive for marrying before April 1.

Because the waiting time in New York for applications under the 245i rule is between six and eight months, papers would have to be filed at least by April 1. And being married to a citizen would give an immigrant an edge with immigration officials.

"Those people, if they don't rush a little bit they might not get it in on time," said Carlos Bajo, director of the Office for Immigrant Services of Catholic Charities of the Archdiocese of New York.

At bottom, immigrants say, these are uncertain times, and no one wants to take any chances, even if it means waiting in long lines day after day until they finally can squeeze in to get a license.

Love for Country, if Not for the Betrothed

An Illusory Deadline Drives Immigrants in a Rush to Marriage

By IAN FISHER

The crowds keep getting bigger as April 1 nears: women in new white shoes, sleepy men carrying \$30 money orders, couples who met only months, weeks or days ago.

Last week, Irwin Rendon, 38, went to the Queens County Court House at 3 A.M. and was still not the first person on line — the line that starts in front of a sign that says Marriage Licenses.

The two words have become an obsession among immigrants in New York and some other cities around the country.

"I'm getting married because I love her," said Mr. Rendon, a U.S. citizen, sitting on a milk crate next to his fiancée, Lorraine Contreras, 29.

But like many of the more than 200 people in line, Mr. Rendon acknowledged a zone of practicality in his passion. Ms. Contreras is, like him, from Guatemala, and he believes that tough new immigration laws that go into effect in April will make it harder for her to stay in the United States. So the wedding will come quicker.

There is a gap, though, between hope and reality. Since huge numbers of immigrants began applying for marriage licenses two months ago, immigration experts have agreed there is nothing magical about April 1. The effect of marriage on immigration — real in many cases, but illusory in others — is the same, whether the wedding takes place before or after that date.

Yet the crush continues in an unprecedented way, in what advocates for immigrants say is a desperate attempt to do something — anything — to stay here despite complicated new laws that raise the specter of banishment from the country. Adding incentive are new laws taking away Federal benefits, like food stamps, from all noncitizens. Driven by rumor, fear and inaccurate information, the frenzy has been most evident in New York City, but officials in New Jersey, Miami and Houston also report a marked increase in weddings.

It has breathed new life into an underground industry that makes

some immigrants victims and law-breakers at once. Marriage brokers, illegal under Federal law, are finding eager customers, at \$5,000 or more a match. Hustlers are taking their share, renting out plastic bouquets for \$20, driving, interpreting, serving as witnesses or helping fill out forms — all for a fee.

Last week in Queens, Sergei Kershenko, 28, a Russian immigrant, wandered out of the crowded line for marriage licenses, looking desperately for a woman who had agreed to marry him for \$3,000. But she was nowhere to be found.

"I don't know her name," Mr. Kershenko said.

At the line in front of the Municipal Building in Manhattan, a woman who said she had set up four marriages in the last several months kept a hawk's eye on the couple she hoped would be her fifth, a man from northern Africa paying a Puerto Rican woman \$5,000 to marry him. Her cut was \$800, she said, and she was waiting for the first installment, due after the license was filled out.

"Nobody on that line is in love," said the woman, a 41-year-old welfare mother who, like others interviewed, spoke on the condition of anonymity.

Advocates for immigrants say the vast majority of the marriages are not purely for convenience, but some mix of love and reasonable worry. But skeptical Federal immigration officials say that they will scrutinize the matches very carefully, as they do in all immigration cases involving marriage, to decide which are legitimate.

And the chances of getting caught are small. Of the 96,033 marriages between immigrants and citizens or legal residents in 1994, the last year for which data are available, 717 were invalidated because of fraud.

The number of immigrants flooding into marriage license bureaus is soaring. In Houston, 3,292 marriage licenses were issued in February,

compared with 2,515 in February 1996. In metropolitan Miami, the number rose in February to 3,460, compared with 2,419 for the same period the year before. Oddly, other cities with large immigrant populations, like Los Angeles and San Francisco, have reported no major increases.

In New York, where fist fights and shouting matches have been common in long lines, the numbers are most dramatic: a rough tallying of ceremonies performed by the City Clerk in Manhattan in February showed double the number from the

previous year, to 2,612 from 1,301 in 1996. Around the city in January, the last month for which complete data are available, the number of licenses issued rose 47 percent, to 6,577 this year, from 4,471 in 1996. The number of ceremonies performed that month also nearly doubled, to 5,083 from 2,652 last year.

In interviews with scores of people waiting on lines, it was clear that few people — if anyone — knew exactly what frightened them in the new laws. One 22-year-old woman from Brooklyn agreed to marry a man she had met only a few months ago, a 22-

year-old illegal immigrant from Honduras, because she thought that getting married would prevent him from being deported.

"Exactly, I don't know," said a waiter and naturalized citizen who was marrying his girlfriend, a 24-year-old student from Slovakia. "The advice was to do it before and not have any problems."

The advice, though, does not usually come from lawyers, but from friends and incomplete news accounts from the mainstream media and the immigrant press.

"Just getting married won't do it,

cont'd

hardship" to a legal resident spouse, parent or child. Hardship to the applicants themselves no longer counts—eliminating from consideration single people like Infanzon.

Well aware that the INS in Los Angeles is declining to arrest people on the spot, Infanzon first traveled to the busy Border Patrol checkpoint along Interstate 5 north of San Clemente. Expecting to be shackled and thrown into detention by *la migra*, Infanzon was instead met by skeptical officers who

showed him to the door.

"Go to Los Angeles or San Diego," one advised him. "We can't help you here."

He finally managed to get arrested at another Border Patrol checkpoint near El Centro. Freed on his own recognizance, Infanzon now awaits a deportation hearing date.

"I hope what I have done will finally lift this weight from my life," the Mexico City native said afterward. "I can't keep on living with this uncertainty, not knowing if I really belong to this society or not."

INS officials could provide no estimate of how many have turned themselves in voluntarily because of the April 1 deadline. But private immigration lawyers say they have advised many clients to get arrested in a seemingly paradoxical effort to avert deportation. All face long odds and are now on a formal track to be deported.

Besides surrender, the new law is forcing thousands to make another kind of excruciating choice: Return to their home countries or hunker down into shadow existences, with virtually no prospect for relief.

"What hurts me most is having to leave my family behind," said Peter Zawadzki, a 36-year-old Pole who lost a claim for political asylum and now probably faces a four-year wait to obtain a visa through his wife, a legal U.S. resident.

In the past, said Carl Shusterman, the couple's attorney, many in Zawadzki's position have remained unlawfully until their visa numbers were called. But the legal implications change radically April 1.

That's when the clock starts ticking on new rules that strictly penalize those who remain here

without legal status. Illegal immigrants who stay for six months after April 1 are henceforth banned from the United States for three years, even if they have a legal visa upon attempting to reenter; those here illegally for a year or more face 10-year bans.

Rather than risk such a long-term separation, Zawadzki says he is steeling himself to return to Poland until his visa is ready, leaving behind his wife and his 14-month-old, Erica, a U.S. citizen by birth.

"What else can I do?" asked the perplexed Zawadzki, a former member of the Polish national body-building team.

The new law also imposes the apparent first-ever annual limit—4,000—on the number of hardship exceptions to deportation. With demand rising, this year's cap has practically been reached already, leaving in legal limbo pending cases like those of Tai Liao, a 25-year-old Taiwan native who is scheduled for a deportation hearing this month.

"This whole situation is very frustrating," said Liao, who arrived with his mother 15 years ago on a tourist visa and remained illegally, graduating last year from dental school in Loma Linda.

Today, Liao's income as a dentist helps support his aging parents, legal immigrants who run a fish-and-chips shop in Redlands. Thoroughly Americanized, Liao says his spoken Mandarin is rough and he cannot read or write in his native language. He would appear to have a strong hardship case, even under the new law, but the cap mandate means no new waivers are being granted.

Reflecting on his predicament, a disbelieving Liao concluded, "There's no security from one day to the next."

'Hunting a Way In

Immigration: Illegal immigrants grapple with law that will speed deportation.

By PATRICK J. McDONNELL
TIMES STAFF WRITER

Sergio Infanzon, an illegal immigrant for a decade, decided last month to roll the dice. He turned himself in to the Border Patrol.

It was self-interest that motivated this gambit, however, and immigration authorities in Los Angeles and San Diego were not inclined to play along. Infanzon had to travel four hours to El Centro to find agents willing to collar him.

Behind the seemingly bizarre incarceration fervor of Infanzon and others is a historic new federal law that will slam the hatch on most illegal immigrants' already faint hopes of obtaining lawful status.

By surrendering before April 1—the effective date of many of the new law's provisions—many are gambling they will have a slim chance of staving off deportation under a humanitarian "hardship" exception for long-time residents. Come next month, Infanzon and many others will have no chance.

The odd spectacle of illegal immigrants desperate to get busted underscores how the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 dramatically alters the nation's immigration landscape.

At its core, the Republican-crafted law makes deportation easier and faster for authorities, while making it harder for newly arriving illegal immigrants to gain a foothold.

Supporters laud the act as a long-overdue breakthrough, while immigrant advocates denounce it as the most draconian legislation since the 1920s. All agree that its impact will be far-reaching.

"This is certainly one of the most significant changes ever in immigration law," acknowledged Eric Andrus, national spokesman for the

Immigration and Naturalization Service, which is scrambling to train almost 20,000 employees in the details of the new law.

The streamlined deportation process—renamed "removal"—raises the stakes considerably for the nation's estimated 5 million illegal immigrants, almost half of whom reside in California. Also facing expulsion are many here with temporary legal statuses and even green-card holders whose criminal pasts now render them deportable.

And, in an effort to curb what critics call abuse of the political asylum process, the law greatly restricts who will qualify for safe haven. Starting April 1, asylum-seekers generally must file their request within one year of entering the United States, the first-ever such time limit. In the past, people often delayed declaring for asylum for years—often filing only when they were caught. This affects those already residing here, either illegally or on temporary visas.

Newcomers claiming asylum upon arrival at borders, airports and seaports will face an even more pressing deadline: They must immediately demonstrate a "credible fear" of political or religious persecution. Their claims must be adjudicated within seven days, while applicants remain detained.

Undocumented arrivals at ports of entry who do not claim asylum may find themselves being sent back home on the next plane. Until now, virtually everyone has been entitled to a hearing.

Overall, the fast-moving legal panorama is in stark contrast to the time-consuming layers of administrative hearings and judicial review that have traditionally allowed deportation cases to drag on for years. The revisions—already facing constitutional challenges—are an outgrowth of hostility toward illegal immigration and a perception that many exploit loopholes to extend their stays indefinitely. As of April 1, time is no longer an ally.

"The whole process as far as being able to manipulate the system and remain longer has been

shortened considerably," said Richard K. Rogers, INS district director in Los Angeles.

The act contains no explicit call for large-scale deportations, massive workplace raids or neighborhood sweeps—though enforcement actions have risen sharply in recent years as the INS budget has ballooned, a trend that seems certain to accelerate.

With such complex and often drastic changes on the horizon, the approach of April 1 has generated a potent rumor mill and virtual misinformation industry. The sense of panic has even been blamed for long lines in marriage queues in New York, although the potential benefit garnered by tying the knot with a legal resident before April 1 is marginal.

Seizing the initiative, some illegal immigrants have made a calculated risk: Surrender before April 1 in the hope of initiating court proceedings under the more favorable terms of the lapsing law.

"Giving myself up was hard for me to do, but I felt it was my only hope," said Infanzon, 30, a church-going engineering student who has learned English during his 10 years in California and boasts a folder full

of recommendations from teachers, church members and others.

Infanzon hopes to win "suspension of deportation," a reprieve now available to those of "good moral character" who have lived here at least seven years and can prove "extreme hardship."

Starting April 1, the rules will change. Applicants must have been living in the United States for 10 years and prove that their expulsion would cause "exceptional and extremely unusual

cont'd

Deportation Threatens Longtime Residents of the United States

By PATRICK J. McDONNELL
TIMES STAFF WRITER

Born at the start of the bloody Salvadoran civil war, Romel Tovar was brought to the San Fernando Valley by his grandmother when he was 6. Today, he is a thoroughly assimilated, freshman scholarship student at exclusive Middlebury College in Vermont.

He also faces deportation.

Tovar, 18, is one of hundreds of thousands of Central Americans who remain in legal limbo years after their arrival in the United States. For them, the new immigration law is a crushing blow.

Concentrated in Southern California, more than 300,000 Salvadorans and Guatemalans are awaiting adjudication of political asylum petitions that in most cases have been pending for

years.

Long-delayed interviews with asylum officers are finally scheduled to start next month. But experts say the end of the civil wars at home probably mean that relatively few will prevail.

Advocates have held out the hope that immigration judges will allow most to remain under "hardship" exceptions to deportation for longtime residents. Many now have U.S.-born children and have been living with provisional legal status in the United States since at least 1990 and are protected by a federal court settlement.

But the new law drastically limits such hardship waivers, casting a pall of uncertainty and raising the specter of large-scale deportations. Community representatives vow to fight on, seeking a reprieve from Congress and the Clinton administration.

However, activists pushing to limit immigration have likewise vowed to resist any special "fix" for Central Americans. And the charged political climate surrounding immigration would seem to rule out a deal.

In tranquil, late-winter Vermont, Tovar prepares for a deportation hearing in Los Angeles on March 19. His lawyer withdrew his asylum claim and surrendered him, gambling that Tovar would have a better shot at a hardship grant before strict provisions of the new law take effect April 1.

"Nothing in my everyday environment reminds me that I'm an immigrant from El Salvador—except for this case," said Tovar, whose family here includes the Rosenfelds, who have helped rear him. "Besides that, I'm a regular American kid."

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

LRM NO: 3769

FILE NO: 1073

O.K.

3/13/96

LEGISLATIVE REFERRAL MEMORANDUM

Total Page(s): _____

TO: Legislative Liaison Officer - See Distribution below:

FROM: James JUKES

(for) Assistant Director for Legislative Reference

OMB Ingrid SCHROEDER 395-3883. Legislative Assistant's line (for simple responses): 395-3454
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schroeder_l@a1.eop.gov

DEADLINE: Noon Thursday, March 14, 1996

SUBJECT: LABOR Proposed Report RE: S1394, Immigration Reform Act of 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.

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**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

LRM NO: 3769

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 395-3883
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 Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

SUBJECT: LABOR Proposed Report RE: S1394, Immigration Reform 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 #5

Honorable Alan Simpson
Chairman, Subcommittee on Immigration
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

You have announced your intention to offer an amendment that will strike out of S. 1394, the "Immigration Reform Act of 1996," all of the employment-based immigration reform provisions. I am writing to urge you to reconsider. Further, you should know that I would strongly recommend the President veto this bill if it does not adequately protect U.S. workers.

Our nation's immigration policy has reached a crossroads. We must decide whether we want to help U.S. workers or protect unfair employers. The Administration has made its choice. We support immigration law reform that will help America's working families find and keep good jobs and raise their incomes.

Employment-based immigration to fill skill shortages, as well as the temporary admission of skilled foreign workers, is sometimes unavoidable. But the Administration firmly believes that hiring foreign over domestic workers should be the rare exception, not the rule. And we believe that such exceptions should become even rarer, and more tightly targeted on gaps in the domestic labor market than is generally the case under current law. The reforms that you have championed will help give U.S. workers the fair opportunity they deserve to get and keep high-wage, high-skill jobs:

(1) Protecting U.S. Workers Who Have High-Wage/High-Skill Jobs From Layoffs ("No layoff")

It is entirely unreasonable that an employer in this country, acting entirely within existing law, is able to lay off U.S. workers to replace them with foreign workers. This is exactly what is happening now. Our public policy tolerates it, perhaps encourages it, and our policy must change.

(2) Recruiting U.S. Workers Who Have the Skills for High-Wage/High-Skill Jobs ("Recruit and Retain")

Maintaining a strong and growing economy requires both that U.S. workers secure the training they need to succeed in global competition and that they have a fair opportunity to use their skills in high-wage, high-skill jobs. We cannot expect working

DRAFT #5

families to improve their economic status if we post "Road Closed" signs on the paths to a higher standard of living.

Further, if employers must turn to foreign labor, this is a symptom signaling defects in our nation's skill-building system. Reform of our immigration laws should remedy such defects, not acquiesce in them. A training fund dedicated to building the skills of American workers directly and efficiently links the problem of skill shortages with the only valid long-term solution --- investment in training U.S. workers.

(3) Giving U.S. Workers a Better Shot at Getting High-Wage/High-Skill Jobs

A shorter length of stay for foreign temporary workers would better reflect the temporary nature of the employment need while opening up high-wage, high-skill employment opportunities to skilled U.S. workers. Current law stacks the deck against U.S. workers in favor of nonimmigrant workers.

The Clinton Administration is deeply committed to enhancing U.S. global competitiveness, economic growth, and domestic job creation. But the simple truth is that the "typical" foreign temporary worker is not a one-of-a-kind chef or a Ph.D. engineer as some news stories suggest and the business lobby would have us believe. The vast majority of applications for workers under the H-1B visa program (skilled foreign temporary workers) are for jobs that do not require more than a four-year college degree and minimal occupational training. For example, employers' applications for foreign health therapists accounted for one-half (49.9%) of all H-1B jobs during FY 1994 while computer-related occupations accounted for almost one-quarter (23.9%) of these jobs.

Thus, at least three-out-of-four H-1B jobs were in occupations that, in most cases, require no more than a bachelor's degree and minimal occupational training. Wage data from H-1B applications indicate that almost two-thirds (65%) involve jobs paying \$40,000 or less, and almost three-out-of-four (75%) involve jobs paying \$50,000 or less. While a small number of employers use this employment-based immigration program to hire the world's "best and brightest," it is clearly the exception, not the rule.

Nonetheless, a large number of working families in Wyoming and across the U.S. would be thrilled to have a fair opportunity to earn \$30,000 or \$40,000 working in health care or computer programming. This immigration bill can be the ticket to higher incomes for these working families if you will retain the important worker protection and training provisions already in

DRAFT #5

your bill. Again, I hope you will reconsider tearing up these families' ticket.

Thank you for considering these additional views on S. 1394.

Sincerely,

Robert B. Reich