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IMMIGRATION ENFORCEMENT

Challenges to Implementing the INS Interior Enforcement Strategy

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Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss selected issues pertaining to the Immigration and Naturalization Service's (INS) enforcement of immigration laws within the interior of the United States.

In the 1990s, INS developed a strategy to control illegal immigration across the U.S. border and a strategy to address enforcement priorities within the country's interior. In 1994, INS's Border Patrol issued a strategy to deter illegal entry. The strategy called for "prevention through deterrence"; that is, to raise the risk of being apprehended for illegal aliens to a point where they would consider it futile to try to enter. The plan called for targeting resources in a phased approach, starting first with the areas of greatest illegal activity. In 1999, the INS issued its interior enforcement strategy designed to deter illegal immigration, preventing immigration-related crimes, and removing those illegally in the United States. Historically, Congress and INS have devoted over five times more resources in terms of staff and budget on border enforcement than on interior enforcement.

In my statement today, I make the following points:

- INS's interior enforcement strategy is designed to address the detention and removal of criminal aliens, the dismantling and diminishing of alien smuggling operations, community complaints about illegal immigration, immigration benefit and document fraud, and employers' access to undocumented workers. INS faces numerous enforcement issues in each area.
- INS could do a better job of using its limited interior enforcement resources. For strategy implementation to be effective, INS needs better data to determine staff needs, reliable information technology, clear and consistent guidelines and procedures for working-level staff, effective collaboration and coordination within INS and with other agencies, and performance measures that help INS assess program results.
- Having an effective interior strategy is an essential complement to having an effective border strategy. Addressing management challenges is important if INS is to achieve their full potential.

My testimony today will be based primarily on the results of work that we have completed in recent years, namely, our February 1999 testimony on INS's efforts to identify and remove criminal aliens,¹ our April 1999 report on INS's worksite enforcement program,² our May 2000 report on alien smuggling,³ our May 2001 report on the processing of immigration benefits,⁴ our January 2002 report on immigration benefit

¹ U.S. General Accounting Office, *Criminal Aliens: INS' Efforts to Identify and Remove Imprisoned Aliens Continue to Need Improvement*, GAO/T-GGD-99-47 (Washington, D.C.: Feb. 25, 1999).

² U.S. General Accounting Office, *Illegal Aliens: Significant Obstacles to Reducing Unauthorized Alien Employment Exist*, GAO/GGD-99-33 (Washington, D.C.: Apr. 2, 1999).

³ U.S. General Accounting Office, *Alien Smuggling: Management and Operational Improvements Needed to Address Growing Problem*, GAO/GGD-00-103 (Washington, D.C.: May 1, 2000).

⁴ U.S. General Accounting Office, *Immigration Benefits: Several Factors Impede the Timeliness of Application Processing*, GAO-01-488 (Washington, D.C.: May 4, 2001).

fraud,⁵ and our March 2002 report on INS' Forensic Document Laboratory.⁶ In these reports we made many recommendations to improve INS operations. INS has implemented or is in the process of implementing some of these recommendations. We plan to follow up on INS's plans to improve the various programs.

Components of the Interior Enforcement Strategy

In January 1999, INS issued its Interior Enforcement Strategy. This strategy focuses resources on areas that would have the greatest impact on reducing the size and annual growth of the illegal resident population. Certain criteria were used to develop the priorities and activities of the strategy. The criteria focused on potential risks to U.S. communities and persons, costs, capacity to be effective, impact on communities, potential impact on reducing the size of the problem, and potential value for prevention and deterrence. The strategy established the following five areas in priority order:

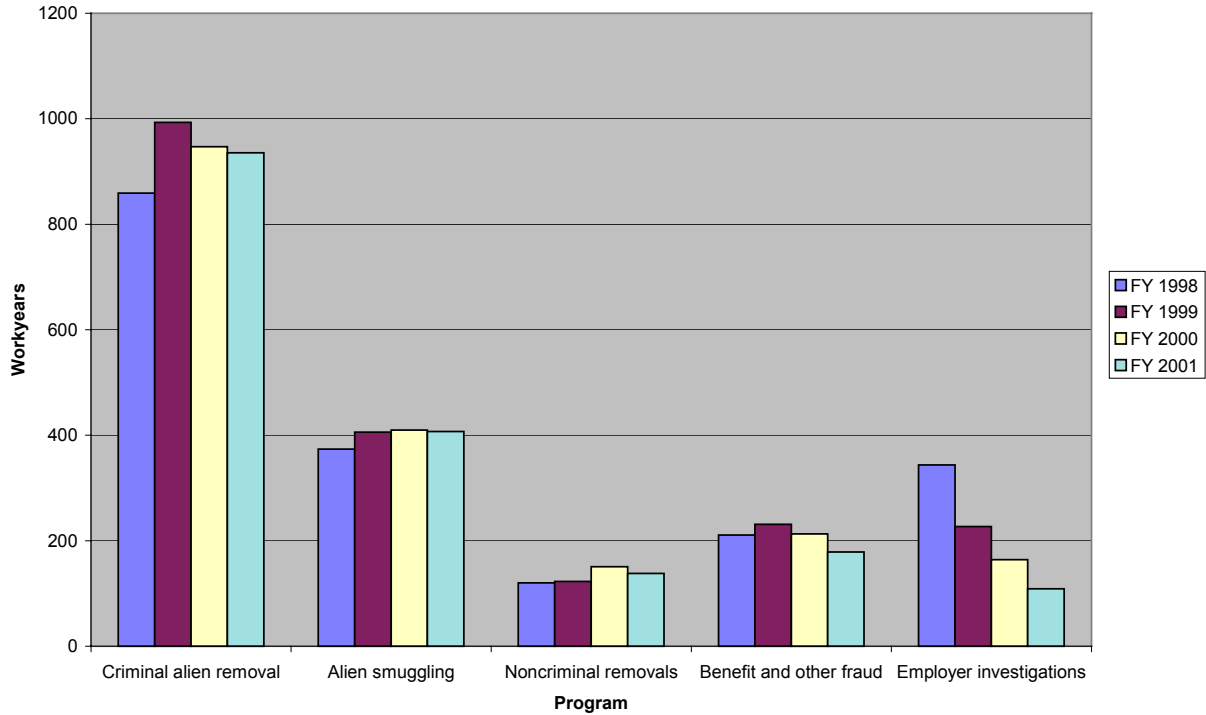
1. Identify and remove criminal aliens and minimize recidivism. Under this strategic priority, INS is to identify and remove criminal aliens as they come out of the federal and state prison systems and those convicted of aggravated felonies currently in probation and parole status.
2. Deter, dismantle, and diminish smuggling or trafficking of aliens. This strategic priority calls for INS to disrupt and dismantle the criminal infrastructure that encourages and benefits from illegal migration. INS efforts are to start in source and transit countries and continue inside the United States, focusing on smugglers, counterfeit document producers, transporters, and employers who exploit and benefit from illegal migration.
3. Respond to community reports and complaints about illegal immigration. In addition to responding to local law enforcement issues and needs, this strategic priority emphasizes working with local communities to identify and address problems that arise from the impact of illegal immigration, based on local threat assessments.
4. Minimize immigration benefit fraud and other document abuse. Under this strategic priority, INS is to aggressively investigate and prosecute benefit fraud and document abuse to promote integrity of the legal immigration system.
5. Block and remove employers' access to undocumented workers. The strategy emphasizes denying employers access to unauthorized workers by checking their compliance with the employment verification requirements in the Immigration Reform and Control Act of 1986. Coupled with its efforts to control smuggling activity, this effort could have a multiplier effect on access of employers to illegal workers and on the overall number of illegal residents in the country.

⁵ U.S. General Accounting Office, *Immigration Benefit Fraud: Focused Approach Is Needed to Address Problems*, GAO-02-66 (Washington, D.C.: Jan. 31, 2002).

⁶ U.S. General Accounting Office, *INS Forensic Document Laboratory: Several Factors Impeded Timeliness of Case Processing*, GAO-02-410 (Washington, D.C.: Mar. 13, 2002).

Figure 1 shows that INS has generally allocated its interior enforcement resources consistent with these priorities and that the workyears devoted to several of INS's interior enforcement efforts have either declined or stayed about the same between fiscal years 1998 and 2001.

Figure 1: INS Investigations Workyears



Note: Workyear totals do not include administrative time.

Source: GAO's analysis of INS's data.

Challenges Exist in Implementing Interior Enforcement Programs

Our work has shown that INS faces numerous daunting enforcement issues. For example, the potential pool of removable criminal aliens and fugitives numbers in the hundreds of thousands. Many are incarcerated in hundreds of federal, state, and local facilities, while others are fugitives at large across the country. The number of individuals smuggled into the United States has increased dramatically, and alien smuggling has become more sophisticated, complex, organized, and flexible. Thousands of aliens annually illegally seek immigration benefits, such as work authorization and change of status, and some of these aliens use these benefits to enable them to conduct criminal activities. Hundreds of thousands of aliens unauthorized to work in the United States have used fraudulent documents to circumvent the process designed to prevent employers from hiring them. In many instances, employers are complicit in this activity.

Given the nature, scope, and magnitude of these activities, INS needs to ensure that it is making the best use of its limited enforcement resources. We found that fundamental management challenges exist in several of INS's interior enforcement programs and that INS could do a better job using its limited resources.

Need for Better Staff Levels and Allocations

In several reports we noted that INS did not believe it had sufficient staff to reach its program goals. Having data on how to effectively allocate staff and placing sufficient staff in the right locations is important if INS is to achieve program goals.

Staff shortages have contributed to INS's inability to promptly remove the majority of criminal aliens after they have completed their prison sentences. In 1995, INS did not place into removal proceedings 57 percent of potentially deportable criminal aliens who were released from federal prisons and state prisons from 5 states. In 1997, INS did not place about 50 percent of these aliens. We reported that, although the removal of criminal aliens was an INS management priority, INS was facing the same staff shortage issues in 1997 as it had in 1995. In particular, agent attrition – about 30 percent in 1995, and about 32 percent in 1997- continued to impede INS's ability to meet its program goals. INS has told us that since 1997, the attrition rates of agents in this program has stabilized and that, in fiscal year 2003, the agents from this program would be reclassified as detention removal officers, which INS believes should further help reduce attrition.

INS's Forensic Document Laboratory (FDL) has been beset with staff shortages for years. According to FDL officials, staff shortages have made it difficult for the FDL to stay current with its workload and produce timely responses to requests for forensic document examination. Congress's January 2002 supplemental appropriation will nearly double FDL's current staff of 35.

Even if INS had additional staff working in these program areas, it lacked good management information to determine how many staff it needed to meet its program goals and how best to allocate staff given the limited resources it did have. With respect to its program for removing incarcerated criminal aliens, INS told us that beginning in fiscal year 2002, the agency implemented our recommendation to use a workload analysis model to help identify the resources the agency needs for its criminal alien program in order to achieve overall program goals and support its funding and staffing requests. We have not reviewed this new model to ascertain its usefulness.

With respect to alien smuggling, INS lacked field intelligence staff to collect and analyze information. Both 1998 and 1999 INS Annual Performance Plan reports stated that the lack of intelligence personnel hampered the collection, reporting, and analysis of intelligence information. Although INS's Intelligence Program proposed that each district office have an intelligence unit, as of January 2000, 21 of INS's 33 districts did not have anyone assigned full-time to intelligence-related duties.

The worksite enforcement program received a relatively small portion of INS's staffing and budget. In fiscal year 1998, INS completed a total of 6,500 worksite investigations, which equated to about 3 percent of the estimated number of employers of unauthorized aliens. Many immigration experts have said that as long as opportunities for employment exist, the incentive to enter the United States illegally or overstay visas will persist, and efforts at the U.S. borders to prevent illegal entry will be undermined.

Need for Better Information Technology

INS has had long-standing difficulty developing and fielding information systems to support its program operations. In 1990, we reported that INS managers and field officials did not have adequate, reliable, and timely information to effectively carry out the agency's mission. We also reported that INS had not conducted a comprehensive agencywide information needs assessment. As a result, program and management data were kept in a loose collection of automated systems, as well as a number of ad hoc labor-intensive manual systems.

Effectively using information technology continues to remain a challenge for INS. For example, benefit fraud investigations have been hampered by a lack of integrated information systems. The operations units at the four INS service centers that investigate benefit fraud operate different information systems that do not interface with each other or with the units that investigate benefit fraud at INS district offices. As a result, sharing information about benefit applicants is difficult. The INS staff who adjudicate applications did not have routine access to INS's National Automated Immigration Lookout System (NAIIS). Not having access to or not using NAIIS essentially means that officers may be making decisions without access to or using significant information and that benefits may be granted to individuals not entitled to receive them. Thus, INS is not in the best position to review numerous applications and detect patterns, trends, and potential schemes for benefit fraud.

FDL's database, the Forensic Automated Case and Evidence Tracking System (FACETS), did not contain sufficient data for managers to know the exact size and status of the laboratory's pending workload or how much time is spent on each forensic case by priority category. As a result, FDL managers were not in the best position to make fact-based decisions about case priorities, staffing, and budgetary resource needs.

With respect to the criminal alien program, INS lacked a nationwide data system containing the universe of foreign-born inmates for tracking the hearing status of each inmate. In response to our recommendation, INS developed a nationwide automated tracking system for the Bureau of Prisons and deployed the system to all federal institutional hearing program sites. INS said that it was working with the Florida Department of Corrections to integrate that state's system with INS's automated tracking system. INS also said that it planned to begin working with New York, New Jersey, and Texas to integrate their systems and then work with California, Illinois, and Massachusetts. INS projected that this entire project will be completed by the end of fiscal year 2002. We have not examined these new systems to ascertain their effectiveness.

INS lacked an agencywide automated case tracking and management system that prevented antismuggling program managers from being able to monitor their ongoing investigations, determine if other antismuggling units were investigating the same target, or know if previous investigations had been conducted on a particular target. In response to our recommendation, INS deployed an automated case tracking and management system for its alien smuggling investigations to many of its antismuggling units by August 2001 and planned to complete deployment by the end of fiscal year 2002. Again, we have not examined the new system to ascertain its effectiveness.

Need for Better Guidance to Program Staff

Our review of the various program components of the interior enforcement strategy found that working-level guidance was sometimes lacking or nonexistent. INS had not established guidance for opening benefit fraud investigations or for prioritizing investigative leads. Without such criteria, INS cannot be ensured that the highest-priority cases are investigated and resources are used optimally.

INS's interior enforcement strategy did not define the criteria for opening investigations of employers suspected of criminal activities. In response to our recommendation, INS clarified the types of employer-related criminal activities that should be the focus of INS investigations.

INS's alien smuggling intelligence program had been impeded by a lack of understanding among field staff about how to report intelligence information. Staff were unclear about guidelines, procedures, and effective techniques for gathering, analyzing, and disseminating intelligence information. They said that training in this area was critically needed.

Need for Better Program Collaboration/Coordination

Over the years, we have issued a number of reports identifying program coordination and cooperation both within INS and between INS and other agencies as problematic. This was verified as an issue in a 1995 GAO survey of INS managers and in our reviews of individual program components. For example, although both the Border Patrol and INS's Office of Investigations have antismuggling units that conduct alien smuggling investigations, these units operate through different chains of command with different reporting structures. INS's antismuggling program lacked coordination, resulting in multiple antismuggling units overlapping in their jurisdictions, making inconsistent decisions about which cases to open, and functioning autonomously and without a single chain of command. INS investigation officials told us that the autonomy of individual units and the lack of a single chain of command were major obstacles to building a more effective antismuggling program.

INS's approach to addressing benefit fraud is fragmented and unfocused. INS's interior enforcement strategy does not address how the different INS components that conduct

benefit fraud investigations are to coordinate their investigations. Also, INS had not established guidance to ensure the highest-priority cases are investigated.

With respect to collaboration with other agencies, some of our reports have noted the importance of INS working with other governmental entities to achieve program objectives.⁷ For example, with respect to worksite enforcement, we recommended that INS seek assistance from federal and state agencies, such as the Department of Labor and state labor agencies, in disseminating information to employers about INS's pilot programs for verifying employees' eligibility to work. INS has implemented our recommendation with respect to state labor agencies, but coordinating with the Labor Department is problematic because of the different interests of the two agencies. That is, Labor officials will not delve into worksite immigration matters if it would have a detrimental effect on Labor's primary mission of enforcing worker protection laws. If employees perceived that Labor investigators were trying to determine their immigration status and possibly report those who may be unauthorized to INS, it would have a "chilling effect" on employees' willingness to report workplace violations. With respect to criminal aliens, INS needed to work with states to make enhancements to the removal process, such as reducing the number of state prison facilities that served as intake, hearing, and release sites for foreign-born inmates. At the time our work was completed, INS had variable success with getting states to agree to make such reductions.

Need for Better Performance Measures

INS does not have established outcome-based performance measures in place that would help it assess the results of its interior enforcement strategy. We have found this to be an issue in both border enforcement and interior enforcement areas. For example, we have issued several reports pertaining to INS's border strategy and have noted that INS has not evaluated the strategy's overall effects on illegal entry and has not analyzed key performance data.

While INS had met its numeric goals for its antismuggling program, it had not yet developed outcome-based measures that would indicate progress toward the strategy's objective of identifying, deterring, disrupting, and dismantling alien smuggling. This was also the case for the INS intelligence program. INS had not developed outcome-based performance measures to gauge the success of the intelligence program to optimize the collection, analysis, and dissemination of intelligence information.

INS had not yet established outcome-based performance measures that would help it assess the results of its benefit fraud investigations. Additionally, INS had not established goals or measurement criteria for the service center operations units that conduct fraud investigation activities.

INS's interior enforcement strategy did not clearly describe the specific measures INS would use to gauge its performance in worksite enforcement. For example, the strategy states that INS will evaluate its performance on the basis of such things as changes in the

⁷ GAO/T-GGD-99-47, GGD-99-33, GGD-00-103, GAO-02-66.

behavior or business practices of persons and organizations. Although INS indicated that it would gauge effectiveness in the worksite area by measuring change in the wage scales of certain targeted industries, it left unclear a number of questions related to how it would do this. For example, INS did not specify how wage scales would be measured; what constituted a targeted industry; and how it would relate any changes found to its enforcement efforts or other immigration-related causes. The strategy stated that specific performance measurements would be developed in the annual performance plans required by the Government Performance and Results Act.

According to INS's fiscal year 2003 budget submission, the events of September 11th have required INS to reexamine strategies and approaches to ensure that INS efforts fully address threats to the United States by organizations engaging in national security crime. As a result, with regard to investigating employers who may be hiring undocumented workers, INS plans targeted investigations of industries and businesses where there is a threat of harm to the public interest. However, INS had not set any performance measures for these types of worksite investigations.

Concluding Observations

Having an effective interior enforcement strategy is an essential complement to having an effective border strategy. To be sure, INS's tasks with regard to interior enforcement are considerable given the nature, scope, and magnitude of illegal activity. Nevertheless, in reviewing our work, we find that INS is an agency that faces significant challenges in appropriately staffing program areas, providing reliable information for program management, establishing clear and consistent guidance for working-level staff to do their jobs consistent with the goals of the program, promoting collaboration and coordination within INS and with other agencies, and developing outcome-based measures that would indicate progress toward the strategy's objectives. Addressing these issues is important if INS is to achieve full program potential.

Mr. Chairman, this concludes my prepared statement, I would be pleased to answer any questions that you or other members of the subcommittees may have.

Contacts and Acknowledgments

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