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The INS Investigations Division: A Neglected Contributor to Immigration Control

By Wayne Lutton

Immigration-related stories captured many of the headlines throughout 1993. Highlighting the year's events were three extraordinary incidents:

- The assassination of CIA employees at the entrance gate of the Agency's headquarters in Langley, Virginia, by an alien who had asked for "asylum";
- The bombing of the World Trade Center by Islamic terrorists who had likewise been permitted to stay in this country after petitioning for "asylum";
- The arrival in U.S. waters of five large freighters packed with illegal Chinese aliens, including one ship called the *Golden Venture* which ran aground off the coast of Long Island. This particular episode helped publicize the extensive smuggling trade controlled by foreign criminal organizations.

By the end of the year over 170 bills had been introduced in the U.S. House and Senate by members of Congress scrambling to impress their angry constituents with just how "realistic" and "tough" they are when it comes to immigration policy. Although this new concern over the topic was welcome, little effort was being directed toward enhancing the capability of one of the law enforcement components most directly responsible for dealing with the sort of persons responsible for the acts which had attracted the public's attention, namely the INS Investigations Division.

The Investigations Division is the INS' main enforcement unit in the interior of the United States. This relatively unknown part of the INS is responsible for the following broad categories: criminal aliens (including criminal organizations and terrorist deportation cases); fraud (including false or fraudulently-obtained documents, as well as visa, asylum and marriage fraud); anti-smuggling activities; maintenance of the INS Violent Gang Task Force, which cooperates with other law enforcement agencies dealing with ethnic gang-related problems in major metropolitan areas; participation in the federal Organized Crime Drug Enforcement Task Forces; and enforcement of employer sanctions.

With only 1,650 employees, called "special agents," the Investigations Division is the only INS law enforcement presence in large interior, non-border, urban areas, such as New York, Boston, Baltimore,

Washington, D.C., Atlanta, St. Louis, and Chicago. They have to contend with the 2 million or more aliens who elude the Border Patrol and the hundreds of thousands who engage in violent criminal activities.¹ By contrast, there are approximately 1,200 Capitol Police to patrol an area measured in city blocks.

During the 1980s, the Investigations Division's responsibilities were vastly expanded. The 1986 Immigration Reform and Control Act (IRCA) required Investigations to conduct on-site inspections of businesses to determine if they are in compliance with the Act, which prohibits the intentional hiring of illegal aliens. IRCA also called for expeditious deportation proceedings for aliens convicted of deportable offenses.

The Anti-Drug Abuse Act of 1986 revised U.S. immigration statutes to facilitate the deportation of aliens convicted of narcotics violations. It called on the INS to quickly respond to all law enforcement referrals of alien drug violators and to improve its computer capability to be able to respond to law enforcement agency enquiries concerning the identification and removal of alien narcotics violators.

In December, 1986, President Reagan included the INS in the Justice Department's Organized Crime and Drug Enforcement Task Force (OCDETF). This is a multi-agency effort to combat drug trafficking networks.

The Anti-Drug Abuse Act of 1988 created a special criminal alien category: Aliens Convicted of Aggravated Felonies. ACAFs are alien felons convicted of homicide, weapons law violations, or narcotics trafficking. The Act established a presumption of deportability for ACAFs, provided a "no bond" clause for ACAFs in INS custody, and mandated their prompt deportation.

While the INS Investigations Division has become a much more important member of the law enforcement community, it has not been given the resources to keep up with the three major areas of responsibility: criminal aliens, employer sanctions, and fraud. Yet the need for effective "interior enforcement" seems clear and self-evident, especially when viewed within the context of recent terrorist acts, the steady influx of people requesting asylum,² and the increasing activity of international organized crime syndicates.

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The Clinton Administration and various members of Congress have called for adding personnel to the INS Refugee and Parole Program as well as increasing the Border Patrol. With most of its resources located in close proximity to the northern and southern borders, the INS Border Patrol performs a critically important interdiction and border control function. There is no doubt that doubling its size (i.e. up to 9,900 as called for in Senator Harry Reid's Immigration Stabilization Act) would go far toward reducing the number of illegal aliens who steal across our land borders.³

However, it needs to be remembered that many of the aliens who engage in criminal activity do not simply slip over the border, risking interception by the Border Patrol. Rather, they walk right in through our ports and air terminals, often sporting tourist or student visas, or claim to be refugees seeking asylum. More attention and resources must be devoted to employing investigative techniques (informants, electronic monitoring, etc.) to apprehend those criminal aliens who succeed in entering the United States.

In an article in *Government Executive* magazine, author Dick Kirschten reports that John F. Shaw, INS Assistant Commissioner for Investigations

...has a force of 1,600 trained investigators to cover all 50 states but says he needs at least 1,100 more to really do his job.

He understandably recoils when politicians rush to beef up the ranks of the Border Patrol, which already has nearly 5,000 employees, while ignoring his division, which is charged with ferreting out fraud, providing agents for federal crime task forces, starting deportation proceedings against convicted aliens, and enforcing sanctions against illegal immigrants.

Kirschten's article goes on to quote Shaw as pointing out that

It's myopic to think we can draw a line around the country, reinforce it and call that border control

and to argue for a multi-track approach that includes

*border interdiction, internal investigations, and an effort to create a body of inspectors at airports who can really come to grips with fraudulent documents.*⁴

To be effective, immigration control must be comprehensive and balanced. Border security and interior enforcement are complementary functions. It is critical that both be enhanced. ■

NOTES

¹ Approximately 25 percent of the federal prison population is foreign-born, according to the Department of Justice. For example, during 1990, federal, state and local authorities arrested 226,080 foreign-born individuals for "aggravated felonies."

² In 1993, there were 147,200 new applications for asylum and the backlog grew by about 50 percent to 329,069.

³ During 1993, the Border Patrol apprehended 1.25 million illegal aliens, an increase of about 4.4 percent over 1992.

⁴ Kirschten, Dick, "Tempest-Tossed Task," *Government Executive*, October 1993, pp. 34-38.