

INS 'Enforcement' and Immigrant-Borne Diseases

by Jim Dorcy

Diseases we thought we had eradicated are coming back in force. I have retired from a thirty-year career in the INS and the Department of Justice, spending fourteen of those years in the Border Patrol at various stations and in my opinion the fault lies with our immigration policies. As infections increase among us we are experiencing the consequences of a failure to properly enforce the exclusion provision against persons who are afflicted with dangerous contagious diseases. The current resurrection of tuberculosis, I believe, can be traced to a lack of public health concern about the immigration of infected individuals going back to the 1970s.

When I was going to college in the 1950s, I worked as a medical photographer in a dental school. To augment my income during that time, I occasionally took on some free-lance work. One of those jobs was done for a physician who worked for the local county health department. He was in charge of the county's TB program and hired me to do a documentary slide series to help him promote and defend his program to the county's budget people. At that time, the county's TB program was very aggressive. There was a fleet of mobile chest x-ray vans that constantly toured the county. In addition, the health department targeted three or four grades in public and private schools through which periodic skin tests were administered and all children were tested several times throughout their school careers. The emphasis was early detection and immediate, aggressive treatment that included removal from the community in cases where the disease had

Jim Dorcy is an immigration policy consultant for the Federation for American Immigration Reform (FAIR). A retired special agent, he served fourteen years in the Border Patrol, then five years adjudicating visa petitions in the San Francisco area, finally moving on to be Supervisory Criminal Investigator in Washington.

reached its more contagious stages. I became intimately aware of an active and successful TB public health program through my work on this project.

In 1973, I transferred from the Border Patrol to the San Francisco INS office as an immigration examiner. A part of my duties was to hear cases for adjustment of status to permanent residence. During the more than five years I spent in San Francisco, I heard many cases from the Philippines, China, Viet Nam, and other Pacific Rim countries in which the applicants were found to be infected with tuberculosis. Since they were infected with a dangerous contagious disease, they could not receive adjustment of status unless they were granted a waiver of excludability (which is provided for in the law). In order to get the waiver, the applicant aliens had to present evidence that they were undergoing treatment for the TB. They would furnish what amounted to a letter from a physician stating that the alien was under his/her care.

Since I knew a little about the disease, I would take my examination a step further. I would ask when they last saw the doctor and what was the nature of the treatment they were getting. Almost invariably they would respond that they only saw the doctor once, received a prescription for antibiotics, and had no follow-up. Most never had the prescription refilled after the first course ran out. Some, especially the Chinese, went to herbalists in Chinatown for their treatment. Public health authorities seemed totally apathetic to the problem.

When I wrote denials of the waivers – as well as for the adjustment of status – in these cases, I was overruled by my superiors. Their reasoning was that immigration officers are not medical authorities, and, as long as we received the physician's certification of treatment, we had to approve both the waiver and the adjustment unless there was another ground of excludability. Thousands, probably tens of thousands, of immigrants were admitted infected with TB. Many went untreated or, even worse, under-treated, spawning antibiotic resistant strains of the disease. If some analytical research were done into the root cause of

today's resurgence of TB, and the cause for development of antibiotic-resistant strains, I believe the problem would be traced directly back to our immigration policies as they relate to public health.

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