

# Effective Enforcement of Immigration Law

*It doesn't begin and end at the border*

by Robert A. McGraw

To say that immigration law enforcement was merely neglected in the years prior to the Clinton Administration would be a gross understatement. For all intents and purposes each administration before 1992 applied band-aids to the most gaping holes and ignored the rest.

Clinton, to his everlasting credit, realized the "Curad plastic strip" approach would not contain the incredible surge of illegal aliens crossing the Southwest border and coming up through the Florida Strait, and bolstered the Border Patrol, a component of the Immigration and Naturalization Service, in an unprecedented fashion. We, in

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law enforcement, applaud his effort to address the front third of the illegal alien problem and encourage him to move forward in his second term and address

While attention is focused on stopping illegal immigration at the borders, Congress is failing to fund enforcement procedures in the U.S. interior.

the less visible two-thirds of the illegal alien problem.

Immigration and Naturalization, by its own estimates, projects that two illegal immigrants make it into the U.S. for every one caught. The more sophisticated illegals avoid risky border crossing by entering the United States through ports and air terminals using tourist or student visas or simply disappear into American society. A recent *USA Today* editorial, citing the INS, pointed out the net number of aliens who enter legally with a visa but overstay to become "illegal" is roughly two million, and this accounts for 52 percent of illegal aliens in the U.S. versus 48 percent who cross land borders illegally.

The job of going after the two-thirds who make it into the United States belongs to the Investigations Division of the

INS, and therein lies the problem.

The special agents of INS are responsible for apprehending criminal aliens and visa overstayers, conducting immigration and document fraud investigations, combating alien smugglers, and enforcing employer sanctions. But unlike the Border Patrol, their numbers have not risen in keeping with the alien problem.

The INS Investigations Division

From 1993 to the present, there has been a 51 percent increase in INS "border control" staffing. That percentage consists primarily of uniformed INS Border Patrol agents who have jumped from 3,991 in 1993, to roughly 5,878 at present, and uniformed INS Immigration Inspectors whose numbers increased from 1,241 in 1993 to 3,887 in 1996.

The recently passed Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) of 1996 provided that the Border Patrol be increased by another 1,000 Border Patrol agents in each fiscal year until the year 2001. This is commendable. It is desperately needed. But in so doing, Congress and the administration, to use a

metaphor, "...remembered the policemen and forgot the detectives."

Neglect of INS Investigations — the interior enforcement and anti-smuggling investigative arm of the INS — continues, and this means little or nothing is likely to improve within the following broad enforcement 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 — with an estimated 50 percent of suspected immigration fraud cases unaddressed due to resource limitations);

- **Anti-smuggling activities;**

- **Status Violator/Visa Overstayers;**

- **Maintenance of the INS Violent Gang Task Force,** which cooperates with other law enforcement agencies in dealing with alien gang-related problems in major metropolitan areas;

- **Federal Organized Crime Drug Enforcement Task Force (OCDETF)** participation; and

- **Enforcement of Employer Sanctions.**

With only 1,741 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. (Consider this: the FBI employs 1,061 Special Agents in the Greater New York City area

alone, and the Capitol Police employ 1,200 persons to patrol a small area of Washington, D.C., that is measured in city blocks.)

While the increase in INS Border Patrol positions was appropriated and paid for by the Congress, the same was not true for increases for the INS Investigations Division. The addition of 1,200 special agents under the IIRAIRA of 1996, (300 visa overstayer special agents/ investigators in FY 1997; 300 anti-smuggling and employer sanctions special agents/ investigators in FY 1997, FY 1998 and FY 1999) was authorized but *not*, I repeat *not* funded by the Congress. In short, no agents at all.

The Work Load is  
Front Page News

In 1996, a host of front page stories confirmed the fact that the INS criminal investigator's role was continuing to grow.

- INS and FBI agents arrested Basheer Nafi in Northern Virginia. Nafi is a 43-year-old Palestinian with alleged ties to the leadership of the Islamic Jihad terrorist organization. Nafi was promptly removed from the U.S. under a provision of the immigration law.

- In February [1996] the crash of a rental truck crammed with Mexican and Guatemalan aliens, in Maryland, led to the discovery of an alien-smuggling operation that had also

delivered human cargo to Atlanta. Required detention of the smuggled aliens, in anticipation of prosecuting the smugglers, cost the Baltimore District of the INS roughly \$120,000. Several such

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smuggling loads in any given fiscal year would literally deplete all current detention funds and inevitably lead to the automatic release of arrested aliens.

- In March, an INS crackdown, "Operation Mountain Passes," intercepted more than 1,200 illegal aliens who were being smuggled through Colorado.

- In May, INS agents found 34 illegal Mexicans locked in a horse trailer in a motel parking lot near Atlanta and arrested the American driver. The Mexicans, packed shoulder to shoulder, in the 8 x 20-foot trailer for three days without food or water, were being smuggled to jobs in North Georgia by an Arizona-based ring.

As is often the case with organized criminal activity, patterns of crime shift to avoid intensified enforcement efforts. As the Border Patrol intensified its efforts on the Southwest

border, alien smuggling operations grew more sophisticated and unprecedented numbers of smuggling loads are now being intercepted each week in the nation's interior. Smuggling of human beings into the nation's heartland has become so widespread, in fact, that the mayor of Sioux City, Iowa, recently demanded the federal government take responsibility for controlling illegal immigration. Despite this, a field office like the Atlanta office of INS has only 52 agents to cover Georgia, Alabama, North Carolina and South Carolina.

#### Violence and Suffering Accompany the Illegal Alien Problem at Every Level

With this influx has come immigrant-based, gang-related violence. This, too, has penetrated the heartland and the fabric of American society.

- Illegal alien Armando Perez was sentenced in Sioux City for the premeditated fatal shooting of a fellow foreigner, Manuel Vallegas, despite his defense that he was intoxicated on drugs and alcohol at the time. Most of the trial witnesses were illegal aliens.

- Sioux City immigrant Wilfredo Diaz was convicted in the murder of Iowan Terry Ogden as part of a drug deal gone sour. Although charged with murder, Diaz plea-bargained the charge down to manslaughter.

- Jose Rodrigo Hernandez was shot to death in apparent retaliation for two earlier incidents: the stabbing of Clemente Reyna and a drive-by shooting in South Sioux City. All nine of those

arrested in the case were members of ethnic street gangs.

After the Sioux City mayor called on the federal government to do its job, he asked INS to open a field office in Sioux City. At present INS has no enforcement presence in the entire state. According to newspaper reports, INS might find a grand total of *two* special agents in the state in early 1997.

On at least four occasions in the last two months, Campbell County [Tennessee] sheriff's deputies pulled over loads of smuggled aliens, only to be told by the nearest INS office in Memphis that there was insufficient detention money and/or agent personnel to respond.

And even with a 25 percent increase which brought the

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number of special agents in INS Omaha District up to 14, that staff has been unable to respond to calls from Nebraska State Patrol officers who stop illegal immigrants along the interstate. When asked about this, the District Director admitted to the *Wall Street Journal* that the State Patrol has stopped calling out of frustration. INS figures indicate that only about one-third of the illegal aliens stopped by Nebraska police since February have been

taken into INS custody. Similarly, INS was unable to respond to reports of 367 smuggled aliens carried in 20 truck loads over a two-month period in Colorado.

#### Beyond the Border

Georgetown, Delaware, is a small town which lies far from the high profile illegal invasion of Southern California. Yet the effects of that illegal immigration are being felt thousands of miles away in that Mid-Atlantic town where life-long residents are outraged over what they believe to be an overwhelming illegal alien population. INS has no enforcement presence in the state of Delaware.

In June, the *Wall Street Journal* wrote that "...immigration is becoming an issue deep in America's heartland, as legal and illegal immigrants are pulled well beyond the border areas in search of employment." The article illustrated one of the most frequently traveled routes used by alien smugglers — I-80 from the California coast through the Midwest and on to Chicago. An analysis of that route reveals the shortage of INS criminal investigators in the interior states through which that route passes. The number of special agents assigned to those states is: Nevada- 11; Utah- 6; Wyoming- 1; Nebraska- 14; and Indiana- 4.

While it is true that California and Illinois have relatively large contingents of INS special agents, even those numbers are insufficient to cope with a problem of this magnitude. The

latest Census Bureau figures list 1,875,000 illegals in California or 4,630 per agent. As evidenced by the above, once you get away from the major metropolitan areas the agent numbers dwindle to a token few.

#### States with No INS Coverage at All

In fact, as of this writing, seven states have absolutely no INS enforcement presence within their borders: Delaware, Iowa, Mississippi, New Hampshire, South Carolina, South Dakota and West Virginia.

Section 134 of IIRAIRA of

1996 requires that INS will allocate a minimum of 10 full-time active duty agents in each of the 50 states. Considering that seven states have no INS Investigations presence and many other states have only a very limited interior enforcement presence, the INS should consider the needs of obviously "undeserved" states when fulfilling this congressional mandate.

In order to be effective, it is necessary that immigration law enforcement be comprehensive and balanced. Border control and interior enforcement are complementary functions;

therefore, it is critical that both are enhanced. Since it is only possible to do more with less if there is improved command, control and coordination, Congress might also want to give serious thought to better linking of the activities of the Border Patrol with those of the Investigative Division.

INS special agents are encouraged to contact their elected officials in the Senate and House of Representatives so that the 105th Congress will finish what the Clinton administration started.

**TSC**

# Illegal Immigrants in U.S. Now at 5 Million

by William Branigin

**T**he number of illegal immigrants residing permanently in the United States has grown to about 5 million and is rising by 275,000 a year, the Immigration and Naturalization Service said yesterday.

In what federal officials called their most accurate calculation ever of illegal immigration, the INS estimated that this population has increased by 28 percent in the past four years

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*William Branigin is a Washington Post staff writer. This article is reprinted by permission from the February 8, 1997 edition.*

alone. According to the new analysis, illegal immigrants now account for nearly 2 percent of the total U.S. population.

The new figure raised questions about the strategy of Congress and the Clinton administration to throw the great bulk of U.S. resources at the south-western border with Mexico, in efforts to combat illegal immigration.

According to the INS study, 41 percent of the illegal resident population, or 2.1 million people, originally entered the country legally at airports and other entry points but then overstayed their temporary visas. Of the net increase in the illegal population of 275,000 a year, about 125,000 a year are visa overstayers, the INS said.

Yet, while dramatically beefing up the U.S. Border Patrol, Congress did not appropriate funds for a relatively modest addition of 300 investigators to ferret out visa overstayers inside the country.

"Congress and the administration ... remembered the policemen and forgot the detectives," complained INS special agent Robert A. McGraw in a recent article in the Federal Law Enforcement Officers Association journal. "Neglect of INS investigations ... continues, and this means little or nothing is liable to improve."

According to advocates of lower immigration levels, the new estimate of illegal immigrants also represents a failure of the 1986 immigration reform

act in which Congress granted amnesty to nearly 3 million illegal aliens. The act was intended to clamp off future illegal immigration, but it failed to deal effectively with unauthorized employment and to remove the "job magnet" that draws people to this country,

"We have no reason to believe the problem is getting worse. We have every reason to believe we're making significant progress." He cited record expulsions of 68,000 illegal aliens last year and said the INS expects to remove 93,000 more this year.

million people, up nearly 100,000 a year since 1992. Texas accounts for 14.1% of the U.S. illegal population, and New York has 10.8%, the INS reported.

The District of Columbia has 30,000 illegal residents, or 0.6 percent of the national total, a number that has grown by 2,000 a year since 1992. Virginia has 55,000 illegal immigrants, up from 42,000 in 1992 and accounting for 1.1 percent of the U.S. total. Maryland has 44,000, with growth of 3,000 a year.

A majority of the U.S. illegal immigrant population, 2.7 million or 54 percent, came from Mexico, the INS said. The countries with the next highest shares were El Salvador, Guatemala, Canada and Haiti.

The 5 million figure does not reflect the total impact of illegal immigration on the U.S. population, since it does not include children born in the United States to illegal immigrant parents, the INS officials said.

**TSC**

***"The past ten years [of immigration] have virtually canceled out the entire effect of the [1986] amnesty."***

**— Mark Krikorian, Director  
Center for Immigration Studies**

these advocates complain.

"The illegal population had now reached the level that it was before the 1986 amnesty," said Mark Krikorian, director of the Center for Immigration Studies. "The past ten years have essentially canceled out the entire effect of the amnesty."

In announcing the new estimate, Robert Bach, the INS executive associate commissioner for policy and planning, described the illegal immigrant population as a problem largely "inherited" from previous administrations. He said that over the past two decades, "a lack of resources and attention allowed illegal immigration to flourish," but that the administration now has an effective "multi-year strategy" to cope with it.

"It takes awhile to turn an aircraft carrier around," he said.

However, critics said the removals still fall far short of keeping up with the new arrivals of illegal aliens, much less of putting a dent in the 5 million illegal population.

In issuing its new figures, the INS revised upward its estimate of the illegal population in 1992, to 3.9 million from 3.4 million, meaning that the Clinton administration inherited nearly 80 percent of the current total, Bach said.

The illegal immigrant population is heavily concentrated in certain regions of the country, with 83 percent of the residents thought to be living in seven states, the figures show. California tops the list with 40 percent of the total, or about 2