

Reflections of an INS Special Agent

by Mike Cutler

A milestone in our nation's efforts to enforce and administer the immigration laws of our country was reached on April 25, 2002. The House of Representatives passed a bill that would abolish the Immigration and Naturalization Service (INS) and create two new agencies to take its place. These new agencies would rise up, like the mythical Phoenix, from the ashes of the INS. It is hoped that these two new agencies will possess the leadership, support and commitment to conduct the business of enforcing and administering the immigration statutes in a far more efficient and effective fashion than did the old INS. This dream of creating new agencies has been around for quite some time. That the INS has failed to do what it was being paid to do has not been a secret. The INS has been a disaster for decades but nothing of substantive value was done to truly bring about the needed reform. Sadly, the catalyst that finally sounded the death knell for this agency was the terrorist attacks of September 11 and the further public demonstration of incompetence and ineptitude of the agency. This incompetence was demonstrated in a very public and embarrassing way, when two of the dead terrorists were sent letters from the INS notifying them that they had been approved to attend flight school in the United States six months after they carried out their deadly attack on our country!

On September 11, over 3,000 innocent people lost their lives in a horrific instant. Certainly the nature of the attack and the brutality in which those lives were snuffed out served notice to us that we are vulnerable. However, we should have realized how vulnerable we have been for decades when you consider that this was not the first time that our country was attacked by terrorists. Additionally, our nation has been victimized by many

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criminal aliens from all over the world. I want to make it clear: I believe that only a small proportion of the aliens in our country are involved in serious criminal activities, however, a significant proportion of our criminal population is comprised of aliens.

Until February of this year I was employed by the Immigration and Naturalization Service as a Senior Special Agent assigned to the New York District Office's Organized Crime, Drug Enforcement Task Force (OCDETF). I began my career with the INS in October, 1971, as an Immigration Inspector assigned to John F. Kennedy International Airport. I spent four years as an inspector, and for one of those years, 1974, I was detailed to the I-130 Examinations Unit at the New York Office of the INS. This unit was given that name because of the I-130 Petitions that the examiners in that unit adjudicated. The I-130 Petition is an application that a family member who is either a United States citizen or a resident alien files on behalf of an alien relative whom they wish to have reside permanently as a Lawfully Admitted, Permanent Resident Alien (LPR). My assignment required that I conduct interviews with aliens and their spouses who had filed petitions in their behalf to attempt to determine if the aliens and their spouses were truly married and living together, or were engaged in committing marriage fraud in an attempt to circumvent the immigration laws.

In August, 1975, I became a Criminal Investigator with the INS (this position was ultimately renamed Special Agent). As a Special Agent, I rotated through virtually every section within the Investigations Branch. In 1988, I was assigned to represent the INS at the Unified Intelligence Division (UID) of the New York Office of the Drug Enforcement Administration. I spent nearly four years in this assignment working with representatives from a wide array of other law enforcement organizations. It was during this assignment that I commissioned a study of DEA arrest records in an effort to identify the involvement of aliens in narcotics trafficking and related crimes. I determined that roughly

60 percent of the individuals arrested by the DEA in the New York area were identified as being foreign born, while nationwide approximately 30 percent were identified as foreign born. Can you imagine the impact that all of these narcotics traffickers have had on our nation and our people? How many people were directly or indirectly killed because of the activities of these drug traffickers? What has the impact been on the quality of life of those whose families have been affected by the narcotics addicts who are part of their families and by the crimes that the addicts commit? How much money has our country lost as a result of these issues?

We need to also consider the impact of other criminals who have come to the United States to ply their trades as criminals. Think of all of the various ethnic organized crime groups which have come to America because they still see our nation as the "Land of Opportunity." We have attracted criminals from virtually every corner of the globe, ranging from members of Russian organized crime to Jamaican gang members to the Chinese triads. These criminals often prey on people who come from the same country they originate from. Can you imagine the impact that this has? People lawfully come to the United States to share the "American Dream" only to find that the criminals who made their lives miserable in their home countries have come here to continue to torment and victimize them. When these criminals find few obstacles to preying on their compatriots, they often move on to victimize everyone they can in our country. The INS is in a unique position to help lead the charge against these predators, yet with fewer than 2,000 Special Agents and a growing list of responsibilities being thrust upon them, who will do the job?

The INS has consistently failed to live up to its potential. When I first began to work for the INS, the perception was that most of the aliens who were illegally in the United States were simply coming here to work and send money home. All too many people felt a certain empathy with those who would come here to seek their fortune because, after all, we are a country of immigrants. We all read Emma Lazarus' famous words, "Give me your tired, your poor, your huddled masses yearning to breathe free..." INS was seen as that nasty organization which sought to handcuff all of those huddled masses. We are, after all, a generous country, populated by compassionate citizens. We are also a

nation which has had a voracious appetite for the cheap and compliant labor furnished by illegal aliens, which is needed by factories and farms to turn out the products and food that we all count on.

In the 1970s I was assigned to a squad known as ACIS (Area Control Illegal Status). This section of the Investigations Branch was responsible for arresting as many illegal aliens as possible. To many of us who were assigned to this unit it became apparent that the easiest way to arrest the most number of aliens in the least amount of time was to arrest women who worked in so-called "sweat shops." If they had minor children who were also illegally in the United States, we could also "scratch" the children (process them) and thereby take credit for not only the mother, but her young children as well. If you arrested a woman who had three children, you could take credit on paper for arresting four people, no matter that the children were all under the age of ten. Many agents found this way of carrying out their duties enhanced their productivity by enabling them to turn in as many arrests as possible. My partners and I, however, tended to buck the system and sought to spend most of our time arresting alien criminals who were involved in serious criminal activities. Please don't misunderstand – I believe that anyone who is in the United States in violation of our laws should never feel complacent about their illegal status, it was just that with the limited resources that the INS had, I believed then, as I do now, that law enforcement must operate on the principle of a triage, you must address the most serious problems before you can address the less serious problems. In an ideal world, no illegal alien should reside in our country.

When I participated on raids on factories, I often found myself being yelled at not only by the owner of the factory we raided, but often by the owner of the competitor's factory, deriding me for arresting the illegal aliens. The INS has been locked into an untenable situation. It is believed that the "magnet" which draws most illegal aliens to the United States is the prospect of getting a job so that they can make far more money than they could even dream of earning in their home countries. The theory is that if you are able to prevent illegal aliens from being gainfully employed in the United States, you will take from them the incentive for coming to the United States in the first place. The problem with this is that there are so many illegal aliens and so few Special Agents. At present, it is believed that there are as many

as eight million illegal aliens living in the United States. We have gotten to the point where we are simply overwhelmed by the sheer number of aliens who are currently living and working in our country in violation of immigration laws. As I noted previously, at present there are fewer than 2,000 Special Agents of the INS to enforce the immigration laws within the interior of the United States who are being given a growing list of missions they need to carry out.

During the time that I was assigned to the Area Control squad, I worked closely with the members of the New York City Police Department (NYPD) in going after aliens who were engaged in such crimes as weapons possession, robbery, rape, murder, and drug trafficking. I remember one operation that I conducted in conjunction with members of the NYPD involving the anti-crime plain clothes officers assigned to the 71st Precinct in Brooklyn many years ago. I worked out a plan with the police officers in which the INS would furnish about ten agents and the police officers would come up with a sufficient number to carry out the plan.

There was a block on Union Street that had many abandoned buildings. The drug dealers in the area would duck into the abandoned buildings and run up to the roof tops if they thought that the police were coming down the block. The plan was relatively simple. I would lead my colleagues and a number of plain-clothes police officers down the block in small numbers and we would gradually infiltrate the block, climbing up the abandoned buildings to the rooftops. We waited a couple of hours to give the drug dealers time to forget that we had been there. From our vantage point on the rooftops, we waited for the drug activities to pick up on the street below. When business was "booming" I grabbed the NYPD walkie-talkie and told the uniformed police to close in. They raced down the block and the drug dealers raced up the stairs or fire escapes depending on whether or not the interior staircases were intact. They raced all the way up to the rooftops, in some cases, leaping from one building to another. To their great disappointment, they found us waiting for them. By the time the operation was over, we had arrested nearly twenty drug dealers, most of whom were aliens. Two of the individuals, as I recall, were fugitives who were wanted for murder. Several of them were aliens who had been previously deported. We seized several handguns and a quantity of narcotics. No one was hurt and all went smoothly and many of my

bosses were happy with the operation, until my bosses notified INS headquarters about the operation. There is a saying that, "No good deed goes unpunished." Nowhere is that expression more relevant than at the INS! We were ordered to never do anything like that again. Purportedly HQ thought that the risk that something could have gone wrong was more important than the success we scored that day.

The not surprisingly cynical INS Special Agents often say that INS management wants us to make an omelet without breaking the eggs. Certainly it is important to minimize risks. However, minimizing risks is one thing, obstructing your people and keeping them from doing an effective job is something quite different.

In order to be a deterrent, a law enforcement organization has to be successful in carrying out its responsibilities. If you fail to do an effective job, you fail to deter crime. The INS has long failed to deter the crime that the agency is supposed to combat, because it doesn't have the manpower for its interior enforcement program, and also because this beleaguered agency has failed to take a strong role in going out and getting the job done. If the Immigration and Naturalization Service served as a deterrent, it did so to its own employees who wanted to do a good job.

Creating a pair of new agencies would go a long way to solving the problems that the old INS had in getting its often conflicting missions accomplished. It is difficult to work for an agency that refuses to support the hard work of its agents. When you work for an agency in which the person at the top of the chain of command in your office is responsible for both providing benefits to aliens as well as seeking to arrest, deport and/or prosecute aliens for violations of laws, the goals often become muddled and confused. In years past, Special Agents were detailed to the Examinations (benefits) side of the operation to supplement the examiners in clearing up voluminous backlogs. Try to imagine what a "head trip" this is. On one day you are supposed to go out and arrest aliens who are in violation of law in the United States, and the next day, you are supposed to come into the office and process aliens, sometimes someone you may have previously arrested, and help to give them a benefit such as political asylum or employment authorization. Talk about an identity conflict!

The best hope that we have to make certain that the

immigration laws will be more effectively enforced is to create these two new agencies, provided that we can effect meaningful changes in management. Poor management has been, in my experience, one of the greatest hurdles that the field agents have had to overcome in order to do an effective job.

The fact that the House of Representatives has voted overwhelmingly to abolish the INS and create two

new agencies in its place should encourage us. Hopefully, that which has passed as “business as usual” will no longer be what we have consistently seen. I hope that the Senate will show similar courage and pass comparable legislation which will lead to the creation of a truly effective law enforcement agency, thereby becoming a true deterrent to those who would violate our nation’s immigration laws. •