The original documents are located in Box 9, folder "Illegal Aliens - Domestic Council Committee, (2)" of the Richard D. Parsons Files at the Gerald R. Ford Presidential Library.

Original to Jim C. fr: for Parsons

Office of the Attorney General
Washington, D. C. 20530

January 6, 1976

MEMORANDUM

To: James M. Cannon
Assistant to the President for Domestic Affairs

From: Edward H. Levi
Attorney General

Subject: Domestic Council Committee on Illegal Aliens

In response to your memorandum of December 10, 1975 regarding the status of the Domestic Council Committee on Illegal Aliens you should know that after discussing this matter with the President, I had several meetings with Secretary Dunlop to review the Administration position regarding H.R. 8713, the "Rodino bill," and the desirability of seeking a bilateral agreement with Mexico to regulate the admission to the United States of temporary Mexican workers and discourage unauthorized entry. Secretary Dunlop and I have each discussed the illegal alien problem with our Mexican counterparts.

A meeting of all of the Cabinet members of the Committee will be held this month. The agenda will include a discussion of the pending legislation affecting the illegal alien issue and a plan for organizing task forces to report by June 1, 1976.

As you know, we believe it is premature for the President to make a major statement on the illegal alien issue at this time. However, pursuant to your conversations last week with the Deputy Attorney General, attached is a brief statement on this issue suitable for the President's use.

Domestic Council Committee on Illegal Aliens

The United States has, throughout its history, been the most hospitable nation in the world for immigrants. We continue to accept more immigrants each year than any other country. Immigration to the United States is intended to be governed by the Immigration and Nationality Act which has, as a primary goal, the reunification of families. In addition, it offers asylum to certain refugees and admission of some workers whose skills are in short supply domestically.

Yet immigration into the United States today is primarily characterized by large numbers of people, probably numbering in the millions, who enter the country illegally each year. They come in a variety of ways, but their purpose in coming is that which has historically motivated many immigrants -- a search for economic opportunity.

This influx of unauthorized immigrants has important implications. Many compete for jobs which are of interest to American workers. Many others, however, seem to accept employment for which Americans are unavailable and in this way contribute to our economy and country. Nevertheless, because of their illegal status, all must live in fear of apprehension and subject to economic exploitation or abuse. Thus, we share an interest with the countries from which they come, notably Mexico, in assuring adequate opportunities for authorized immigration and discouraging illegal entry.

At my direction a Domestic Council committee, composed of the heads of agencies with a clear interest in illegal immigration, has initiated an in-depth examination of the many interrelated issues involved in the illegal alien problem. Its work will result in a full-range of recommendations directed at dealing more effectively with the unauthorized flow of people into this country. The Congress has also been concerned about the illegal alien problem and presently has under consideration two measures directed at ameliorating it. The first, H.R. 8713 would prohibit the knowing employment of illegal aliens. It is intended to greatly reduce the opportunities for work which attract most unauthorized immigrants. The second, H.R. 981, would create a preference system for the Western Hemisphere identical to that now applicable to the Eastern Hemisphere, establish Western Hemisphere country quotas, and improve the current provisions for admittance of needed temporary and permanent workers. These changes would create an orderly system for Western Hemisphere immigration, reduce for eligible individuals the now lengthy delay in obtaining visas, and facilitate the authorized admission of those whose skills are determined to be required in the United States. Their cumulative effect should be to diminish the incentives for illegal immigration without unacceptable costs or compromise of fundamental values. I support the principles embodied in these measures and urge their speedy passage.

We must continue to try to assure that our immigration policies are both fair and enforceable, realistically sensitive to economic limitations, but faithful to our tradition as a nation of immigrants.

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Richard Parsons, Associate Director, Domestic Council

DATE: Jan. 14, 1976

FROM : Mark L. Wolf, Special Assistant to the Attorney General

SUBJECT: Meeting of the Domestic Council Committee on Illegal Aliens

As we discussed, attached are the materials distributed in connection with next week's Cabinet level meeting of the Domestic Council Committee on Illegal Aliens. Please let me know if you, Mr. Cannon, or someone else from your office will be attending.

Thank you.

5010-110

Office of the Attorney General
Washington, D. C. 20530

To: Secretary of Agriculture
Secretary of Commerce
Secretary of Health, Education and Welfare
Secretary of Labor
Secretary of State
Secretary of the Treasury
Director, Office of Management and Budget
Special Assistant to the President Baroody

From: Edward H. Levi
Attorney General

Subject: Meeting of the Domestic Council Committee on Illegal Aliens

As Chairman of the Domestic Council Committee on Illegal Aliens, I wish to confirm the Cabinet level meeting of the Committee to which you have been invited on Wednesday, January 21, 1976 at 1:00 p.m. in Suite 5111 of the Department of Justice.

The purpose of the meeting is two-fold. First, it should provide opportunity to discuss current programs, pending legislation, and other possible proposals relating to the illegal alien problem. It would be appreciated if you would be prepared to speak briefly on the programs of your Department which bear upon this issue. Second, it will be an occasion to consider an organization plan for the Committee's work. A short background paper, proposed plan, and description of the relevant pending legislation are attached.

I have appointed Doris Meissner of the Department of Justice as Executive Director of the Committee and hope you will contact her if you have any questions about the meeting. We look forward to seeing you on January 21st.

DOMESTIC COUNCIL COMMITTEE ON ILLEGAL ALIENS

Background and Proposed Organization Plan

The Committee

In January 1975, President Ford established the Domestic Council Committee on Illegal Aliens, chaired by the Attorney General, "to develop, co-ordinate and present policy issues that cut across agency lines to provide better programs for dealing with this national problem." Surveys of agency attitudes and approaches to various aspects of the illegal alien problem were prepared and certain possible legislative proposals were explored. Subsequently, the President refined the Committee's mandate, requesting development of a legislative strategy, initiation and evaluation of long range studies on key questions regarding the impact of illegal aliens, and review of the U.S. immigration laws to assess whether they should be modified in light of the influx of illegal aliens. A task force approach to discharging these responsibilities was suggested.

The Illegal Alien Problem

Immigration to the United States is intended to be governed by the Immigration and Nationality Act of 1965, under which approximately 400,000 aliens are admitted annually. Actual immigration, however, bears little relation to the program prescribed by law. In 1974, 788,000 deportable aliens were located, about twice the number authorized admission that year. Latest estimates indicate that there are now 8 million illegal aliens in the United States.

Historically, illegal aliens have been Mexicans, concentrated upon our Southwest border, performing agricultural work. Today, however, only about 60% of illegal aliens are Mexican and there are increasing concentrations of illegal aliens in urban, industrialized areas throughout the country. There are, for example, estimated to be 1 million in the New York City metropolitan area alone. While most Mexicans seem to enter the United States surreptitiously and illegally, the majority of others enter legally in a temporary status and become illegal aliens when their visas expire.

Illegal aliens come to the United States seeking economic opportunity. Population trends in the countries from which they primarily come suggest that the incentive to emigrate in search of jobs should be expected to increase in the foreseeable future.

The influx of unauthorized immigrants has important, but somewhat unclear, implications for the United States. Many compete for jobs which are of interest to American workers. Many others, however, seem to accept employment for which Americans are unavailable. Nevertheless, because of their illegal status, all live in fear of apprehension and are subject to economic exploitation or abuse. The question of how illegal immigration and the proposals to deal with it affect the needs and interests of the United States is of central importance.

Immigration should be controlled by a system of laws which are fair and effective. The Committee's goal should be to develop an improved immigration policy, sensitive to economic realities, reflecting democratic values and faithful to our tradition as a nation of immigrants.

Organization of the Committee

The Committee consists of the Attorney General, the Secretaries of Agriculture; Commerce; Health, Education, and Welfare; Labor; Treasury; and State; the Director, Office of Management and Budget; and Special Assistant to the President Baroody.

It is proposed the Committee be organized into 5 task forces:

Economic and labor market impact
Immigration law and policy
Enforcement
Social and community impact
Foreign Relations *

The task forces are intended to be working committees whose members are available to commit a substantial percentage of time and agency resources, including travel if necessary, to this effort. Task force chairmen should be senior officials of their departments selected by their respective Secretaries. The task force chairmen will comprise a steering committee for coordination and immediate

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* Note: This subject will be handled by a previously constituted group, the Interagency Committee on Mexican Migration to the U.S. The Committee is chaired by the Department of State and was established pursuant to meetings between President Ford and President Scheverria of Mexico in 1972. The scope of its activities as originally defined will be broadened for purposes of the Domestic Council Committee.

response purposes. A modest level of staff support, located in the Department of Justice, will be available.

It is proposed that task force reports to the Committee be made by June 1, 1976. Task force efforts should include recommendations on pending legislation and other proposals, development of studies and pilot programs, identification of new areas for interagency cooperation, new contracts or use of existing resources to develop needed data, and contacts with affected constituencies within and outside government. The advice of interests and experts from outside the federal government should be considered particularly important. The task force reports should provide a basis for a full range of recommendations from the Committee to the President.

The membership and responsibilities of the proposed task forces are as follows:

1. Economic and Labor Market Impact Task Force

   Chair: Labor

   Members: Agriculture
   Commerce (Bureau of Economic Analysis-Balance of Payments)
   Treasury (Internal Revenue Service)
   Office of Management and Budget

As indicated earlier, most illegal aliens enter the U. S. in search of jobs. Many believe they take agricultural and industrial jobs normally filled by American workers, compete as low-skilled laborers most directly with unskilled ethnic or minority

groups, depress wages of American workers, adversely affect the balance of payments by sending money out of the U. S., and impose costs on American taxpayers by using public services and directly or indirectly contributing to the cost of welfare. There are indications, however, that illegal aliens perform economically essential functions for which Americans are unavailable, thus contributing to our economy and country. Analysis and consensus on the economic impact of illegal aliens are critical. This task force would analyze the economic impact of illegal aliens from two vantage points: (a) the labor-market economic sector and geographical distribution of illegal workers, their behavior and movement in the labor market, and their effects on native workers; and (b) the fiscal effect of illegal aliens on public expenditures, tax revenues and the balance of payments.

2. Immigration Law and Policy

Chair: Justice (Immigration and Naturalization Service)

Members: State (Security and Consular Affairs)
Labor
Office of Management and Budget

The goals of the Immigration and Nationality Act are the reuniting of families and the admission of needed workers and certain refugees. However, the Act has had several unforeseen effects, contributing to the long backlog in obtaining admittance from the Western Hemisphere which is itself an inducement to illegal immi-

gration. This task force would evaluate the basic premises of the Act and how it might be improved. This would include consideration of the approaches to immigration of other countries, the numerical limits on authorized U. S. immigration, the possibility of a preference system and country quotas for the Western Hemisphere, and means of improving the process for admitting needed workers on a permanent or temporary basis, including the possibility of bilateral arrangements to control the flow of what is now illegal immigration.

3. Enforcement Task Force

Chair: Justice (Immigration and Naturalization Service)

Members: State (Security and Consular Affairs)
HEW (Social Security Administration)
Treasury (Internal Revenue Service)
Special Assistant to the President for Hispanic Affairs.

Law enforcement resources appear to be inadequate to meet the demands posed by present levels of illegal immigration. This task force would examine ways to organize and utilize these resources more effectively. This would include consideration of means of preventing visa abuse and use of fraudulent documents, compliance with and enforcement of FICA and withholding tax requirements, INS enforcement programs, and present practices in issuing social security numbers. The task force would also evaluate the resource implications of other possible law enforcement techniques. In the case of both present and possible law enforcement programs, explicit consideration should be given to their impact on U. S. citizens and authorized aliens.

4. Social and Community Impact

Chair: Health, Education and Welfare

Members: Commerce (Bureau of the Census)
Assistant to the President
Agriculture (Food and Nutrition Service)
Justice (Community Relations Service)

The influx of large numbers of immigrants has traditionally created community tensions, animosity from those who feel most threatened and sympathy from many others. It has also imposed additional public responsibilities on the communities in which they settle. These factors are complicated by the secret, illegal status of much of the current generation of immigrants. This task force would also be a vehicle for communication and cooperation between the Committee and the many ethnic, immigrant and state and local groups intensely interested in this area. This task force would assess the social ramifications of illegal immigration, including its effect on federal, state and local tax-supported services and programs, its population growth and distribution implications, and its consequences for legal resident aliens and minority groups.

5. Foreign Relations

Existing Interagency Committee on Mexican Migration chaired by the Department of State.

This task force would be responsible for co-ordination and communication with those countries from which illegal aliens primarily come. In conjunction with the other task forces it would also develop short-run proposals which might be adopted by foreign

countries to discourage emigration and long range recommendations for assisting in the alleviation of conditions which cause aliens to emigrate. The primary emphasis of this task force would be on Mexico.

Pending Legislation Relating to the Illegal Alien Issue

H.R. 8713 - The "Rodino Bill"

H.R. 8713 would prohibit the knowing employment of illegal aliens. It is intended to eliminate the opportunities for employment which attract illegal aliens. H.R. 8713 would not require an applicant to show proof of citizenship or eligibility to work in order to obtain a job and would not require that an employer inquire as to his status. The bill proposes a three-step penalty structure, with a warning for a first offense, a civil fine for a second offense and criminal penalties for subsequent offenses. It would also provide for legalization of status for most illegal aliens who have been in the United States since 1968.

H.R. 8713 has been criticized for conflicting reasons. Some have asserted that a requirement that an applicant show proof of citizenship or eligibility to work is necessary if the prohibition is to be effective. Others argue that it is inappropriate to involve employers in enforcing the immigration laws. Strong concern has been expressed, by the U. S. Commission on Civil Rights among others, that the bill would encourage illegal discrimination against members of minority groups seeking employment.

The Administration has supported H.R. 8713 in the belief that a prohibition against the knowing employment of illegal aliens would be widely complied with voluntarily and that the many compromises reflected in the bill adequately meet the various criticisms of it. The bill has passed the House of Representatives in each of the last

two Congresses, but has not been acted upon by the Senate. In this session it has been favorably acted upon by the House Judiciary Committee, but is unlikely to be reported for floor action soon.

H.R. 981

H.R. 981 would amend the Immigration and Nationality Act to create for the first time a preference system and annual country quotas for Western Hemisphere immigration, for which visas are now issued on a first come - first serve basis. The preference system and annual 20,000 per country quota now applicable to the Eastern Hemisphere would be applied to Western Hemisphere, except for Mexico and Canada which would receive annual quotas of 35,000 each. In addition, the bill would simplify and expedite the labor certification process for the admission of needed workers.

The bill would serve to create more orderly Western Hemisphere immigration. It would reduce for those entitled to preferences the current two to three year waiting period for obtaining a visa and make the labor certification process a more viable means of obtaining needed labor legally. In these ways it whould alleviate some of the incentive for illegal immigration. Altering its prior position, the Administration now supports applying the 20,000 quota to Mexico and Canada. Providing for immigration subject to the quotas of either 35,000 or 20,000 would, however,

reduce authorized immigration from Mexico, although it could increase immigration from Canada. Thus, it might exacerbate the pressures for illegal immigration from Mexico.

With the exception noted, the Administration supports H.R. 981. There is a general consensus among the interested parties that H.R. 981 is a desirable effort to improve the system of Western Hemisphere immigration, but would not alone substantially reduce illegal immigration. It is still being considered by the House Judiciary Committee and, absent a strong effort, its enactment in this Congress is not anticipated.

DRAFT

3-1-76

DOMESTIC COUNCIL COMMITTEE ON ILLEGAL ALIENS
Social and Community Impact Task Force

The Social and Community Impact Task Force in its first meeting held on March 1, 1976 discussed the issues and problems [redacted] surrounding these issues and decided to approach [redacted] its goals through the following activities:

1. Develop a review of the literature to determine what information is available which bears on the problem and how it can be used to address the social and community perspectives.
2. Develop an assessment of descriptive data on ethnic communities which can be used in determining extent of use of domestic programs and services by illegal entrants. The task force anticipates developing a rationale which would permit generalization to the illegal alien segment from the descriptive portrait developed for the like domestic minority community.
3. Examine the effects of enforcement activities on the domestic minority communities to determine what their impact is on the social activities of these communities and their illegal alien members.
4. Assess the social impact of current and proposed immigration policies on the domestic minority communities, as well as upon the broader domestic scene.

5. Identify data gaps and develop research ideas which can be presented to the Domestic Council Committee on Illegal Aliens with recommendations for further development and eventual funding.

In general, the Task Force was painfully aware not only of the lack of data on social impact issues, but also of the apparent lack of mechanisms for obtaining this information. The members felt that [redacted] ways for obtaining the needed information would have to be found and that some empirical data base would have to be developed before any meaningful discussion of the issues could be held. It was with this perspective in mind that the Task Force identified the following activities to be completed prior to their next meeting scheduled for March 15, 1976:

1. develop and circulate a "mini" review of the available literature
2. circulate copies of key studies to Task Force members
3. prepare an outline of data available which may be useful in developing a descriptive profile of minority communities for use in assessing utilization of programs and services by their illegal alien status members. (Bureau of the Census)
4. develop for presentation at next meeting an outline of available program data which may be useful in determining extent of service delivery to illegal aliens. (each member agency)

Enforcement Task Force

I. History of Immigration Enforcement

A. Traditional U.S./Mexico Border problem

1. Past experience with importation of Mexican workers

2. Concept of an "open" border policy.

B. Public's increasing sensitivity to immigration enforcement during difficult economic periods

C. Illegal alien problems defined to some extent by allocation of resources

1. Geographical deployment of resources

2. Inherent nature of system geared to keeping persons out -- ill equipped to deal with persons once they are here

D. Court decisions

1. Individual aliens rights

2. Impact on enforcement techniques

II. Present Enforcement System

A. Department of Justice: Immigration and Naturalization Service

1. Basic authorities

2. Enforcement techniques

3. Resources

4. Priority of programs

B. Department of State: Bureau of Security and Consular Affairs

1. Basic authorities

2. Screening mechanisms

3. Resources

4. Priority of function

C. Indirect Involvement

1. Department of Labor

2. Department of Treasury (Customs and IRS)

3. State and local law enforcement

III. Further Interagency Cooperation

A. Test case: 1972 Social Security Act Amendments

1. Administrative difficulties

2. Extent of INS/SSC cooperation

3. What has been the impact?

4. What experience tells us about future interagency cooperation efforts

B. Administrative improvements in INS/Visa Office cooperation

1. Greater exchange of currency

2. Additional information needed

3. Pilot programs

C. Department of Labor

1. Laws that affect illegal aliens

2. Extent of current enforcement

3. Pilot programs

D. IRS

1. Studies

2. Experience of pilot projects

IV. Dilemmas for Future Enforcement

A. The relative priority assigned to immigration enforcement within total criminal justice system

1. Ratio of immigration violations to prosecution as compared to other violations

2. Incompatibility of system for immigration enforcement, e.g., U.S. Attorney's policy and penal system

B. Inadequacy of System's Controls

1. Fradulent documentation and problems of identification

2. Lack of departure controls

3. Records keeping

C. What level of compliance are we aiming for?

V. Disincentives

A. Aimed at individual

1. Deprive from economic benefits

2. Deprive from benefits under ITNACT

3. Increased sanctions

B. Aimed at employer

1. Sanctions, e.g., criminal and civil

2. Eliminate tax benefits

C. Narrow benefits that can be obtained

1. Develop consistent federal guidelines

2. Work to insure consistency of state and local regulations

D. Other

1. Harsher punishment for smuggling

2. Greater restrictions on travel and stay.

Foreign Relations Task Force

Work Outline

I. Meeting with Mexican government officials -- scheduled for early April

Agenda

A. Overview of problem of undocumented aliens - advance exchange of papers

B. Exchange of basic research documents and information

C. Legislation

1. Review of current and proposed U.S. and Mexico legislation dealing with undocumented migration

2. Review of obligations and commitments assumed by each country in the light of international law and opinions rendered by international bodies.

D. Suggestions for ameliorating the problem of the migratory flow of Mexican laborers to the U.S.

E. International coordination or cooperative measures which might result in slowing the flow.

F. Proposals for regularizing the status of undocumented Mexicans in the U.S.

G. Protection of undocumented migratory workers in U.S.

II. Migration causal factors

A. Push forces: Unavailability of economic opportunity -- rural to urban migration -- political oppression -- uneven economic development -- population pressures

B. Pull forces: International economic disparity -- U.S. demand for cheap labor -- cultural and family ties -- lack of penalties.

III. Major illegal alien sending countries

A. Identify characteristics

B. Analysis of U.S.-sending country relations

IV. Foreign policy implications of changes in U.S. immigration policy or illegal alien constraints

V. Competing foreign policy actions

A. Foreign student and foreign visitor travel policies

B. Foreign aid priorities

Domestic Council Committee on Illegal Aliens
June 1, 1976 Task Forces Report

Preliminary Outline

Task Forces - key

TF#1 - Immigration Law and Policy
TF#2 - Economic and Labor Impact
TF#3 - Social and Community Impact
TF#4 - Enforcement
TF#5 - Foreign Relations

A. Introduction - staff

1. Domestic Council committee - description

2. Illegal Aliens - nature of the issue, definitions

B. U.S. immigration - TF#1

1. Early laws and their effects

2. 1965 I&N Act amendments

- theoretical premises, i.e. numerical limitations, preference system, family reunification

- administrative and substantive impact of current law, i.e. problems, who has come, unintended effects of the law.

C. Research - TF#2 and TF#3

1. State of the art and knowledge about illegal aliens

2. Discussion of research underway

3. Proposal for necessary research and data with realistic plan for obtaining it.

D. Law enforcement - TF#4

1. Current authorities and their effectiveness

- I&N Act

- Social security amendments of 1974

- Labor laws

- Tax laws

- Tax supported services

- Other

2. Areas for improvements in coordination and cooperation, e.g. State-INS

3. New enforcement strategies

4. Proposals for legislative change
Analysis of current proposed legislation

E. Domestic impact of illegal aliens - TF#2 and TF#3

1. Demographic dimension - population growth and distribution, ethnic composition of the society.

2. The job issue

3. The use of services issue

4. The macro-economic questions: balance of payments, gross revenues and expenditures

5. Control and the discrimination issue

6. Experiences of other nations

F. International aspects of illegal aliens - TF#1 and TF#5

1. Migration of people - causal factors

2. Immigration policies of other nations

3. Major illegal alien sending countries

- characteristics
- U.S.-sending country relations
- policies which affect illegal immigration

4. Mexico

5. Foreign policy considerations of changes in U.S. behavior regarding illegal aliens

G. Conclusions and recommendations - to be determined

EXTRA EDITION NO. 2
Supreme Court
Opinions

The United States
LAW WEEK

February 24, 1976 • THE BUREAU OF NATIONAL AFFAIRS, INC., WASHINGTON, D.C. • Volume 44, No. 33

OPINIONS ANNOUNCED FEBRUARY 25, 1976

The Supreme Court decided:

ALIENS AND CITIZENSHIP—Employment

California statute that bars knowing employment of aliens not entitled to lawful residence in U.S. if such employment would adversely affect lawful resident workers is not unconstitutional attempt to regulate immigration and is not, if construed as consistent with federal Immigration and Nationality Act, preempted under Supremacy Clause. (DeCanas v. Bica, No. 74-882) ..... page 4235

STATES—Business Regulation

Mississippi health regulation, which prohibits sale in Mississippi of milk and milk products from another state unless such state permits sale of Mississippi milk and milk products on reciprocal basis, unduly burdens interstate commerce in violation of Commerce Clause and cannot be justified as permissible exercise of any state power. (Great Atlantic & Pacific Tea Co., Inc. v. Cottrell, No. 74-1148) ..... page 4240

Full Text of Opinions

No. 74–882

Leonor Alberti DeCanas and Miguel Canas, Petitioners, *v.* Anthony G. Bica and Juan Silva.

On Writ of Certiorari to the Court of Appeal of California for the Second Appellate District.

[February 25, 1976]

Syllabus

Section 2805 (a) of the California Labor Code, which prohibits an employer from knowingly employing an alien who is not entitled to lawful residence in the United States if such employment would have an adverse effect on lawful resident workers, *held* not to be unconstitutional as a regulation of immigration or as being pre-empted under the Supremacy Clause by the Immigration and Nationality Act (INA).

(a) Standing alone, the fact that aliens are the subject of a state statute does not render it a regulation of immigration. Even if such local regulation has some purely speculative and indirect impact on immigration, it does not thereby become a constitutionally proscribed regulation of immigration that Congress itself would be powerless to authorize or approve.

(b) Pre-emption on the basis of congressional intent to "occupy the field" and thereby invalidate even harmonious state regulation is not required in this case either because "the nature of the regulated subject matter permits no other conclusion" or because "Congress has unmistakably so ordained" that result. *Florida Lime & Avocado Growers* v. *Paul*, 373 U. S. 132, 142. Section 2805 (a) is clearly within a State's police power to regulate the employment relationship so as to protect workers within the State, and it will not be presumed that Congress, in enacting the INA, intended to oust state authority to regulate the employment relationship covered by § 2805 (a) in a manner consistent with pertinent federal laws, absent any showing of such intent either in the INA's wording or legislative history or in its comprehensive scheme for regulating immigration and naturalization. Rather than there being evidence that Congress "has unmistakably . . . ordained" exclusivity of federal regulation in the field of employment of illegal aliens, the Farm Labor Contractor Registration Act, whose provisions prohibiting farm labor contractors from employing illegal aliens were enacted to supplement state action, is persuasive evidence that the INA should not be taken as legislation expressing Congress' judgment to have uniform federal regulations in matters affecting employment of illegal aliens, and therefore barring state legislation such as § 2805 (a). *Hines* v. *Davidowitz*, 312 U. S. 52; *Pennsylvania* v. *Nelson*, 350 U. S. 497, distinguished.

(c) It is for the California courts to construe § 2805 (a), and then to decide in the first instance whether and to what extent § 2805 (a), as construed, is unconstitutional as conflicting with the INA or other federal laws or regulations.

40 Cal. App. 3d 976, 115 Cal. Rptr. 444, reversed and remanded.

BRENNAN, J., delivered the opinion of the Court, in which all Members joined except STEVENS, J., who took no part in the consideration or decision of the case.

MR. JUSTICE BRENNAN delivered the opinion of the Court.

California Labor Code § 2805 (a) provides that "No employer shall knowingly employ an alien who is not

NOTICE: These opinions are subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

NOTE: Where it is deemed desirable, a syllabus (headnote) will be released * * * at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U.S. 321, 337.

entitled to lawful residence in the United States if such employment would have an adverse effect on lawful resident workers." [1] The question presented in this case is whether § 2805 (a) is unconstitutional either because it is an attempt to regulate immigration and naturalization or because it is pre-empted under the Supremacy Clause, Art. VI, cl. 2, of the Constitution, by the Immigration and Nationality Act, 8 U. S. C. § 1101 *et seq.* (INA), the comprehensive federal statutory scheme for regulation of immigration and naturalization.

Petitioners, who are immigrant migrant farmworkers, brought this action pursuant to § 2805 (c) against respondent farm labor contractors in California Superior Court. The complaint alleged that respondents had refused petitioners continued employment due to a surplus of labor resulting from respondents' knowing employment, in violation of § 2805 (a), of aliens not lawfully admitted to residence in the United States. Petitioners sought reinstatement and a permanent injunction against respondents' wilful employment of illegal aliens.[2] The Superior Court, in an unreported opinion, dismissed the complaint, holding "that Labor Code 2805 is unconstitutional . . . [because] [i]t encroaches upon, and interferes with, a comprehensive regulatory scheme enacted by Congress in the exercise of its exclusive power over immigration . . . ." The California Court of Appeal, Second Appellate District, affirmed, 40 Cal. App. 3d 976, 115 Cal. Rptr. 444 (1974). The Court of Appeal held that § 2805 (a) is an attempt to regulate the conditions for admission of foreign nationals, and therefore unconstitutional because, "in the area of immigration and naturalization, congressional power is exclusive." *Id.*, at 979, 115 Cal. Rptr., at 446.[3] The Court of Appeal further indicated that state regulatory power over this subject matter was foreclosed when Congress, "as an incident of national sovereignty," enacted the INA as a comprehensive scheme governing all aspects of immigration and naturalization, including the employment of aliens, and "specifically and intentionally declined to add sanctions on employers to its control mechanism." *Ibid.*[4] The Supreme Court of California denied review. We granted certiorari, 422 U. S. 1040 (1975). We reverse.

I

Power to regulate immigration is unquestionably exclusively a federal power. See, *e. g., Passenger Cases,* 7 How. 283 (1849); *Henderson* v. *Mayor of New York,* 92 U. S. 259 (1876); *Chy Lung* v. *Freeman,* 92 U. S. 275 (1876); *Fong Yue Ting* v. *United States,* 149 U. S. 698 (1893). But the Court has never held that every state enactment which in any way deals with aliens is a regulation of immigration and thus *per se* pre-empted by this constitutional power, whether latent or exercised. For example, *Takahashi* v. *Fish & Game Comm'n,* 334 U. S. 410, 415–422 (1948), and *Graham* v. *Richardson,* 403 U. S. 365, 372–373 (1971), cited a line of cases that upheld certain discriminatory state treatment of aliens lawfully within the United States. Although the "doctrinal foundations" of the cited cases, which generally arose under the Equal Protection Clause, *e. g., Clarke* v. *Deckebach,* 274 U. S. 392 (1927), "were undermined in *Takahashi,*" see *In re Griffiths,* 413 U. S. 717, 718–722 (1973), *Graham* v. *Richardson, supra,* at 372–375, they remain authority that, standing alone, the fact that aliens are the subject of a state statute does not render it a regulation of immigration, which is essentially a determination of who should or should not be admitted into the country, and the conditions under which a legal entrant may remain. Indeed, there would have been no need, in cases such as *Graham, Takahashi,* or *Hines* v. *Davidowitz,* 312 U. S. 52 (1941), even to discuss the relevant congressional enactments in

[1] Section 2805 of the California Labor Code reads in full text as follows:

"(a) No employer shall knowingly employ an alien who is not entitled to lawful residence in the United States if such employment would have an adverse effect on lawful resident workers.

"(b) A person found guilty of violation of subdivision (a) is punishable by a fine of not less than two hundred dollars ($200.00) nor more than five hundred dollars ($500.00) for each offense.

"(c) The foregoing provisions shall not be a bar to civil action against the employer based upon a violation of subdivision (a)."

[2] We assume *arguendo* in this opinion, in referring to "illegal aliens," that the prohibition of § 2805 (a) only applies to aliens who would not be permitted to work in the United States under pertinent federal laws and regulations. Whether that is the correct construction of the statute is an issue that will remain open for determination by the state courts on remand. See Part III, *infra.*

[3] Insofar as the determination of § 2805's objective is a matter of state law, the Court of Appeal's view that § 2805 (a) is an attempt to regulate the conditions for admission of foreign nationals may be questioned. Another division of the Court of Appeal has said that "the section is not aimed at immigration control or regulation but seeks to aid California residents in obtaining jobs . . . ." *Dolores Canning Co.* v. *Howard,* 40 Cal. App. 3d 673, 686, 115 Cal. Rptr. 435, 442 (1974). *Dolores Canning* also invalidated § 2805 (a), however, relying, *inter alia,* on *Guss* v. *Utah Labor Board,* 353 U. S. 1 (1957), and *San Diego Unions* v. *Garmon,* 359 U. S. 236 (1959), and stating that the statute "does or could affect immigration in several ways." 40 Cal. App. 3d, at 686, 115 Cal. Rptr., at 442–443.

It is also uncertain that the Court of Appeal viewed § 2805 as a constitutionally proscribed state regulation of immigration that would be invalid even absent federal legislation; the court's discussion of the INA seems to imply that the court assumed that Congress could clearly authorize state legislation such as § 2805, even if it had not yet done so.

[4] H. R. 982, now pending in Congress, would amend 8 U. S. C. § 1324 (a) to provide a penalty for knowingly employing an alien not lawfully admitted to the United States.

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finding pre-emption of state regulation if all state regulation of aliens was *ipso facto* regulation of immigration, for the existence *vel non* of federal regulation is wholly irrelevant if the Constitution of its own force requires pre-emption of such state regulation. In this case, California has sought to strengthen its economy by adopting federal standards in imposing criminal sanctions against state employers who knowingly employ aliens who have no federal right to employment within the country; even if such local regulation has some purely speculative and indirect impact on immigration, it does not thereby become a constitutionally proscribed regulation of immigration that Congress itself would be powerless to authorize or approve. Thus, absent congressional action, § 2805 would not be an invalid state incursion on federal power.

II

Even when the Constitution does not itself commit exclusive power to regulate a particular field to the Federal Government, there are situations in which state regulation, although harmonious with federal regulation, must nevertheless be invalidated under the Supremacy Clause. As we stated in *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U. S. 132, 142 (1963):

> "federal regulation . . . should not be deemed pre-emptive of state regulatory power in the absence of persuasive reasons—either that the nature of the regulated subject matter permits no other conclusion, or that Congress has unmistakably so ordained."

In this case, we cannot conclude that pre-emption is required either because "the nature of the subject matter [regulation of employment of illegal aliens] permits no other conclusion," or because "Congress has unmistakably so ordained" that result.

States possess broad authority under their police powers to regulate the employment relationship to protect workers within the State. Child labor laws, minimum and other wages laws, laws affecting occupational health and safety, and workmen's compensation laws are only a few examples. California's attempt in § 2805 (a) to prohibit the knowing employment by California employers of persons not entitled to lawful residence in the United States, let alone to work here, is certainly within the mainstream of such police power regulation. Employment of illegal aliens in times of high unemployment deprives citizens and legally admitted aliens of jobs; acceptance by illegal aliens of jobs on sub-standard terms as to wages and working conditions can seriously depress wage scales and working conditions of citizens and legally admitted aliens; and employment of illegal aliens under such conditions can diminish the effectiveness of labor unions. These local problems are particularly acute in California in light of the significant influx into that State of illegal aliens from neighboring Mexico. In attempting to protect California's fiscal interests and lawfully resident labor force from the deleterious effects on its economy resulting from the employment of illegal aliens, § 2805 (a) focuses directly upon these essentially local problems and is tailored to combat effectively the perceived evils.

Of course, even state regulation designed to protect vital state interests must give way to paramount federal legislation. But we will not presume that Congress, in enacting the INA, intended to oust state authority to regulate the employment relationship covered by § 2805 (a) in a manner consistent with pertinent federal laws. Only a demonstration that complete ouster of state power—including state power to promulgate laws not in conflict with federal laws—was "the clear and manifest purpose of Congress" would justify that conclusion. *Florida Lime & Avocado Growers, Inc.* v. *Paul, supra*, at 146, quoting *Rice* v. *Santa Fe Elevator Corp.*, 331 U. S. 218, 230 (1947).[5] Respondents have not made that demonstration. They fail to point out, and an independent review does not reveal, any specific indication in either the wording or the legislative history of the INA that Congress intended to preclude even harmonious state regulation touching on aliens in general, or the employment of illegal aliens in particular.[6]

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[5] See also, *e. g.*, *New York Department of Social Services* v. *Dublino*, 413 U. S. 405, 413–414 (1973); *Schwartz* v. *Texas*, 344 U. S. 199, 202–203 (1952); *California* v. *Zook*, 336 U. S. 725, 732–733 (1949).

Of course, even absent such a manifestation of congressional intent to "occupy the field," the Supremacy Clause requires the invalidation of any state legislation that burdens or conflicts in any manner with any federal laws or treaties. See Part III, *infra*. However, "conflicting law, absent repealing or exclusivity provisions, should be pre-empted . . . 'only to the extent necessary to protect the achievement of the aims of'" the federal law, since "the proper approach is to reconcile 'the operation of both statutory schemes with one another rather than holding [the state scheme] completely ousted.'" *Merrill Lynch, Pierce, Fenner & Smith* v. *Ware*, 414 U. S. 117, 127 (1973), quoting *Silver* v. *New York Stock Exchange*, 373 U. S. 341, 361, 357 (1963).

[6] Of course, state regulation not congressionally sanctioned that discriminates against aliens lawfully admitted to the country is impermissible if it imposes additional burdens not contemplated by Congress:

"The Federal Government has broad constitutional powers in determining what aliens shall be admitted to the United States, the period they may remain, regulation of their conduct before naturalization, and the terms and conditions of their naturalization. See *Hines* v. *Davidowitz*, 312 U. S. 52, 66. Under the Constitution the states are granted no such powers; *they can neither add to nor take from the conditions lawfully imposed by Congress upon admission, naturalization and residence* of aliens in the United States or the several states. State laws which impose discriminatory burdens upon the entrance or residence of *aliens lawfully within* the United States conflict with this constitutionally derived federal power to regulate immigration, and have accordingly been held invalid." *Takahashi* v. *Fish & Game Commission*, 334 U. S. 410, 419 (1948) (emphasis supplied).

See also, *e. g.*, *Graham* v. *Richardson*, 403 U. S. 365, 376–380 (1971); *Truax* v. *Raich*, 239 U. S. 33, 41–42 (1915); cf. also *Sugarman* v. *Dougall*, 413 U. S. 634, 641–646 (1973); *In re Griffiths*, 413 U. S. 717 (1973). But California Code § 2805 appears to be designed to protect the opportunities of lawfully admitted aliens for obtaining and holding jobs, rather than to add to their burdens. The question whether § 2805 (a) nevertheless in fact imposes burdens bringing it into conflict with the INA is open for inquiry on remand. See Part III, *infra*.

Nor can such intent be derived from the scope and detail of the INA. The central concern of the INA is with the terms and conditions of admission to the country and the subsequent treatment of aliens lawfully in the country. The comprehensiveness of the INA scheme for regulation of immigration and naturalization, without more, cannot be said to draw in the employment of illegal aliens as "plainly within . . . [that] central aim of federal regulation." *San Diego Unions* v. *Garmon*, 359 U. S. 236, 244 (1959).[7] This conclusion is buttressed by the fact that comprehensiveness of legislation governing entry and stay of aliens was to be expected in light of the nature and complexity of the subject. "Given the complexity of the matter addressed by Congress in . . . [the INA], a detailed statutory scheme was both likely and appropriate, completely apart from any questions of pre-emptive intent." *New York Department of Social Services* v. *Dublino*, 413 U. S. 405, 415 (1973).[8]

It is true that a proviso to 8 U. S. C. § 1324, making it a felony to harbor illegal entrants, provides that "employment (including the usual and normal practices incident to employment) shall not be deemed to constitute harboring." But this is at best evidence of a peripheral concern with employment of illegal entrants,[9] and *San Diego Unions* v. *Garmon*, 359 U. S., at 243, admonished that "due regard for the presuppositions of our embracing federal system, including the principle of diffusion of power not as a matter of doctrinaire localism but as a promoter of democracy, has required us not to find withdrawal from the States of power to regulate where the activity regulated was a merely peripheral concern of the [federal regulation] . . . ."

Finally, rather than evidence that Congress "has unmistakably . . . ordained" exclusivity of federal regulation in this field, there is evidence in the form of the 1974 amendments to the Farm Labor Contractor Registration Act, 7 U. S. C. § 2041 *et seq.*, that Congress intends that States may, to the extent consistent with federal law, regulate the employment of illegal aliens. Section 2044 (b) authorizes revocation of the certificate of registration of any farm labor contractor found to have employed "an alien not lawfully admitted for permanent residence, or who has not been authorized by the Attorney General to accept employment." Section 2045 prohibits farm labor contractors from employing "an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment." [10] Of particular significance to our inquiry is the further provision that "This chapter and the provisions contained herein are *intended to supplement State action* and compliance with this chapter shall not excuse anyone from compliance with *appropriate State law and regulation.*" *Id.*, § 2051 (emphasis supplied). Although concerned only with agricultural employment, the Farm Labor Contractor Registration Act is thus persuasive evidence that the INA should not be

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[7] In finding § 2805 pre-empted by the INA, the Court of Appeal cited *Guss* v. *Utah Labor Board*, 353 U. S. 1 (1957), and *San Diego Unions* v. *Garmon*, 353 U. S. 26 (1957), and 359 U. S. 236 (1959) as controlling authority. Reliance upon those decisions was misplaced. Those decisions involved labor management disputes over conduct expressly committed to the National Labor Relations Board to regulate, but concerning which the Board had declined to assert jurisdiction; the Board had not ceded jurisdiction of such regulation to the States, as it was empowered to do. 353 U. S., at 6–9. This Court rejected the argument that the inaction of the NLRB left the States free to regulate the conduct. Section 10 (a) of the National Labor Relations Act, 29 U. S. C. § 160 (a) expressly excluded state regulation of the disputed conduct unless the Board entered into an agreement with the state ceding regulatory authority. The Court held in that circumstance that "To leave the States free to regulate conduct so plainly within the central aim of federal regulation involves too great a danger of conflict between power asserted by Congress and requirements imposed by state law." *San Diego Unions* v. *Garmon*, 359 U. S., at 244. *Guss* and *Garmon* recognize, therefore, that in areas that Congress decides require national uniformity of regulation, Congress may exercise power to exclude *any* state regulation, even if harmonious. But nothing remotely resembling the NLRA scheme is to be found in the INA.

[8] "Little aid can be derived from the vague and illusory but often repeated formula that Congress 'by occupying the field' had excluded from it all state legislation. Every Act of Congress occupies some field, but we must know the boundaries of that field before we can say that it has precluded a state from the exercise of any power reserved to it by the Constitution. To discover the boundaries we look to the federal statute itself, read in the light of its constitutional setting and its legislative history." *Hines* v. *Davidowitz*, 312 U. S. 52, 78–79 (1941) (Stone, J., dissenting).

[9] A construction of the proviso as not immunizing an employer who knowingly employs illegal aliens may be possible, and we imply no view upon the question. As will appear *infra*, other federal law that criminalizes knowing employment of illegal aliens in the agricultural field sanctions "appropriate" state laws criminalizing the same conduct. Accordingly, neither the proviso to 8 U. S. C. § 1324 (a) nor Congress' failure to enact general laws criminalizing knowing employment of illegal aliens justifies an inference of congressional intent to pre-empt all state regulation in the employment area. Indeed, Congress' failure to enact such general sanctions reinforces the inference that may be drawn from other congressional action that Congress believes this problem does not yet require uniform national rules and is appropriately addressed by the States as a local matter. The cited statutory provisions would, in any event, be relevant on remand in the analysis of actual or potential conflicts between § 2805 and federal law. See also 8 U. S. C. §§ 1101 (a)(15)(H), 1182 (a)(14), 1321–1330.

[10] Section 2044 (b) provides:

"Upon notice and hearing in accordance with regulations prescribed by him, the Secretary may refuse to issue, and may suspend, revoke, or refuse to renew a certificate of registration to any farm labor contractor if he finds that such contractor—

. . . . . .

"(6) has recruited, employed, or utilized, with knowledge, the services of any person, who is an alien not lawfully admitted for permanent residence, or who has not been authorized by the Attorney General to accept employment;"

Section 2045 provides:

"Every farm labor contractor shall—

. . . . . .

"(f) refrain from recruiting, employing, or utilizing, with knowledge, the services of any person, who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment;"

Violations of the Act are made criminal, and aggrieved persons are accorded the right to civil relief.

taken as legislation by Congress expressing its judgment to have uniform federal regulations in matters affecting employment of illegal aliens, and therefore barring state legislation such as § 2805 (a).[11]

Hines v. *Davidowitz*, 312 U. S. 52 (1941), and *Pennsylvania* v. *Nelson*, 350 U. S. 497 (1956), upon which respondents rely, are fully consistent with this conclusion. *Hines* held that Pennsylvania's Alien Registration Act was pre-empted by the federal Alien Registration Act. *Nelson* held that the Pennsylvania Sedition Act was pre-empted by the federal Smith Act. Although both cases relied on the comprehensiveness of the federal regulatory schemes in finding pre-emptive intent, both federal statutes were in the specific field which the States were attempting to regulate, while here there is no indication that Congress intended to preclude state law in the area of employment regulation. And *Nelson* stated that even in the face of the general immigration laws, States would have the right "to enforce their sedition laws at times when the Federal Government has not occupied the field and is not protecting the entire country from seditious conduct." 350 U. S., at 500. Moreover, in neither *Hines* nor *Nelson* was there affirmative evidence, as here, that Congress sanctioned concurrent state legislation on the subject covered by the challenged state law. Furthermore, to the extent those cases were based on the predominance of federal interest in the fields of immigration and foreign affairs, there would not appear to be a similar federal interest in a situation in which the state law is fashioned to remedy local problems, and operates only on local employers, and only with respect to individuals whom the Federal Government has already declared cannot work in this country. Finally, the Pennsylvania statutes in *Hines* and *Nelson* imposed burdens on aliens lawfully within the country that created conflicts with various federal laws.

III

There remains the question whether, although the INA contemplates some room for state legislation, § 2805 (a) is nevertheless unconstitutional because it "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress" in enacting the INA. *Hines* v. *Davidowitz*, *supra*, at 67; *Florida Lime & Avocado Growers, Inc.* v. *Paul*, *supra*, 373 U. S., at 141. We do not think that we can address that inquiry upon the record before us. The Court of Appeal did not reach the question in light of its decision, today reversed, that Congress had completely barred state action in the field of employment of illegal aliens. Accordingly, there are questions of construction of § 2805 (a) to be settled by the California courts before a determination is appropriate whether, as construed, § 2805 (a) "can be enforced without impairing the federal superintendence of the field" covered by the INA. *Id.*, at 142.

For example, § 2805 (a) requires that to be employed an alien must be "entitled to lawful residence." In its application, does the statute prevent employment of aliens who, although "not entitled to lawful residence in the United States," may under federal law be permitted to work here? Petitioners conceded at oral argument that, on its face, § 2805 (a) would apply to such aliens and thus unconstitutionally conflict with federal law. They point, however, to the limiting construction given § 2805 (a) in Administrative Regulations promulgated by the California Director of Industrial Relations. California Administrative Code, Title 8, part 1, c. 8, art. 1, § 16209 defines an alien "entitled to lawful residence" as follows: "An alien entitled to lawful residence shall mean any non-citizen of the United States who is in possession of a Form I–151, Alien Registration Receipt Card, or any other document issued by the United States Immigration and Naturalization Service which authorizes him to work." *Dolores Canning Co.* v. *Howard*, 40 Cal. App. 3d 673, 677 n. 3, 115 Cal. Rptr. 435, 436 n. 3 (1974). Whether these regulations were before the Superior Court in this case does not appear, and the Court of Appeal found § 2805 (a) unconstitutional without addressing whether it conflicts with federal law.[12] Obviously it is for the California courts to decide the effect of these administrative regulations in construing § 2805 (a), and thus to decide in the first instance whether and to what extent, see n. 5, *supra*, § 2805 as construed would conflict with the INA or other federal laws or regulations. It suffices that this Court decide at this time that the Court of Appeal erred in holding that Congress in the INA precluded any state authority to regulate the employment of illegal aliens.

The judgment of the Court of Appeal is reversed and the case is remanded for further proceedings not inconsistent with this opinion.

It is so ordered.

MR. JUSTICE STEVENS took no part in the consideration or decision of this case.

ROBERT S. CATZ, Washington, D.C. (RALPH SANTIAGO, HOWARD S. SCHER, BURTON D. FRETZ, MICHAEL L. STERN and ROBERT B. JOHNSTONE, with him on the brief) for petitioners; WILLIAM S. MARRS, Berkeley, Calif. (ROBERT L. TRAPP, JR., with him on the brief) for respondents.

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[11] The Solicitor General, in his Memorandum for the United States as *Amicus Curiae*, concedes that the "Act contemplates some limited room for state law," but argues that § 2805 is not "appropriate" in light of various alleged conflicts with federal regulation.

[12] It would appear the regulations were not before the Superior Court since that court held § 2805 (a) to be in conflict with federal immigration laws, stating:

"[T]he statute forbids hiring of an 'alien who is not entitled to lawful residence in the United States,' and under the U. S. Immigration laws, there are many such aliens who may work in the United States, under certain classifications, and Labor Code 2805 is in direct conflict with Federal law."

Dolores Canning Co. v. *Howard* quotes the definition in a footnote, 40 Cal. App. 3d, at 677 n. 3, 115 Cal. Rptr., at 436 n. 3, but the opinion states nothing respecting its significance in construing § 2805 (a).

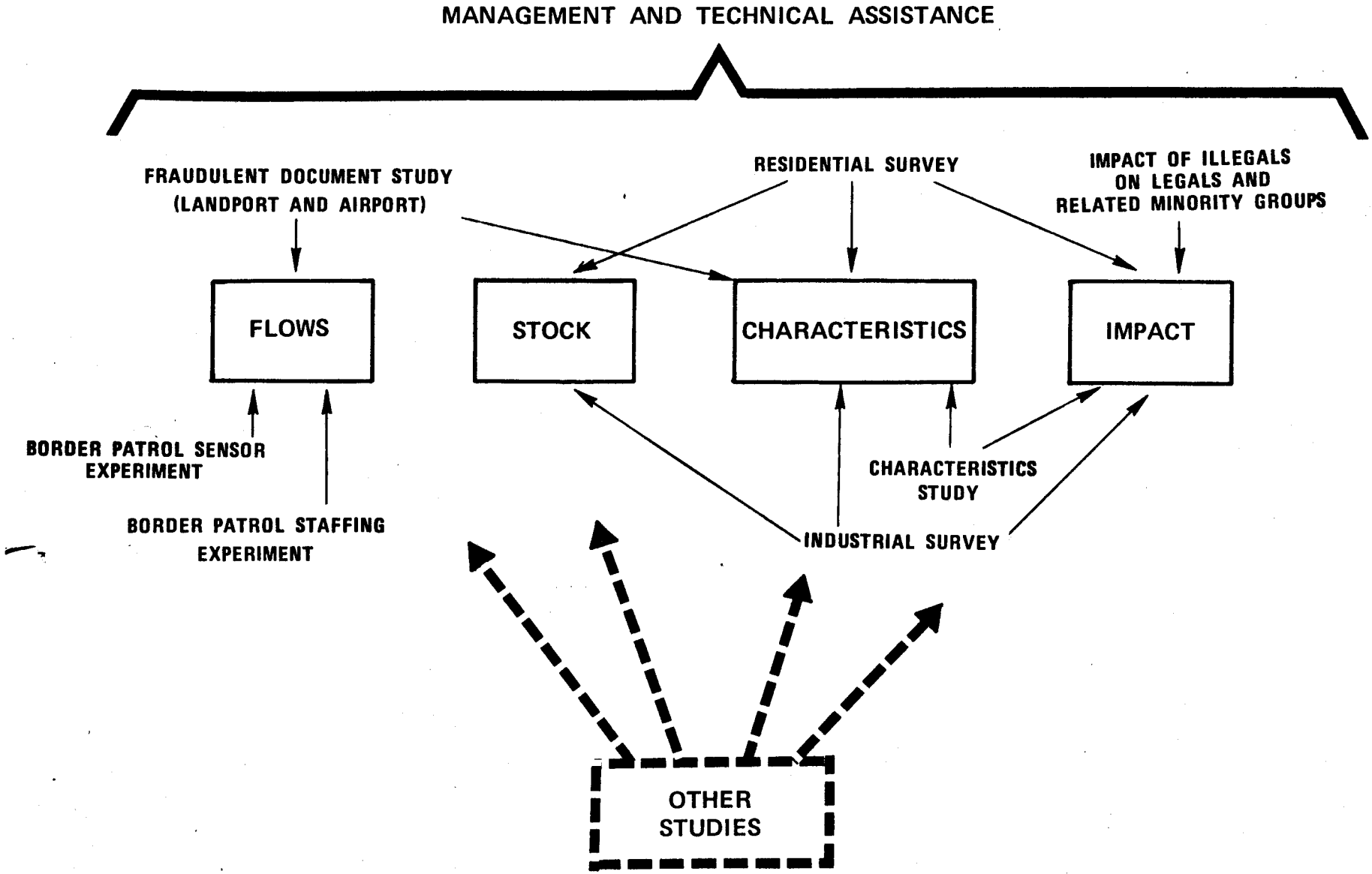
United States Immigration and Naturalization Service

ILLEGAL ALIEN STUDY

PRESENTATION TO
DOMESTIC COUNCIL COMMITTEE
ON ILLEGAL ALIENS

MARCH 4, 1976

IMMIGRATION AND NATURALIZATION SERVICE
$1 MILLION RESEARCH EFFORT ON ILLEGAL ALIENS



$1 MILLION RESEARCH EFFORT ON ILLEGAL ALIENS

STOCK

- Nationwide and state estimates of resident illegal aliens
- Nationwide and state estimates of illegal aliens in labor market

CHARACTERISTICS

- Age, sex, nationality, etc.
- Education
- Occupation
- Salary
- Family
- Assimilation
- Mode of entry

FLOWS

- Estimate of malafide "get-throughs"- air and land ports
- Estimate of EWI's
  - Repeaters
  - Get-aways

IMPACT

- Estimate of illegals in welfare and amount
- Estimate of illegals that pay taxes and amount
- Estimate of illegals sending money out of the country and amount
- Estimate of illegals holding jobs over minimum wage
- Estimate of crimes related to illegals
- Estimate of illegals participating in health and school systems

AREAS NOT COVERED BY $1 MILLION RESEARCH EFFORT

STOCK

- Detailed data by neighborhood, city, county

CHARACTERISTICS

- Upward mobility of each nationality
- Geographic mobility of illegal aliens
- Progeny of illegal aliens
  - occupation
  - salary
  - assimilation
  - education

FLOWS

- Outflow of illegal aliens

IMPACT

- Impact on specific programs at Federal, State and local levels
- Burden displaced citizens contribute to welfare programs, unemployment compensation, etc.
- Impact of second generation illegals on labor market
- Impact of pockets of illegals on particular schools, health systems, etc.
- Population impact of illegals and their progeny
  - fertility rate
  - mortality rate

FURTHER STUDIES ON THE ILLEGAL ALIEN POPULATION

The Illegal Alien Study to be conducted by the Immigration and Naturalization Service in 1976 is designed to provide information on the stock, flows, characteristics and impacts of the illegal alien population in the United States. While the I&NS research effort will provide preliminary data on the impact of the illegal alien on the U.S. health, welfare, school, criminal justice and tax systems, the agencies responsible for each program need to conduct indepth studies, some of which might include:

- *The Illegal Aliens' Movement within the U.S. Labor Market.* Although some work has been done in this area no information is available on the upward mobility of the illegal alien. Data is also absent on the geographical movement within the labor market, the persons the illegals are displacing, the displacement effect, the variances from nationality to nationality and the labor market characteristics of the second generation of the illegal aliens.

- *The Impact of Illegal Aliens on the Criminal Justice System.* Data will become available on the number of arrests of the sample groups of illegal aliens to be interviewed in the I&NS Study. No basic data is currently available on the extent to which illegals are a problem, on a national level nor in localities of particular interest such as New York and Los Angeles.

- *The Relationships between Illegal Aliens and the Social Security Administration.* As the illegal alien regards a Social Security Card as a meal ticket, more information on the participation and contributions of illegal aliens and their employers needs examining. No information is available on how much money illegal aliens are receiving in benefits either here or back in their country of origin.

- *Impact of Illegal Aliens on the Tax Collection Systems.* Although the recent Department of Labor Study reports that illegals do pay their fare share of taxes, this data is preliminary and not representative of the total illegal alien population. The I&NS Study will provide preliminary representative data of the amount of taxes paid by illegal aliens. There is no information on State and local taxes nor on the variance of these payments by nationality. No information is available on the employer's participation in deducting taxes.

- *Impact of Illegal Aliens on the Welfare Systems.* Only gross figures of participation in the welfare system will be available from the I&NS Study. No data will be collected on State and local welfare systems. The geographic areas of the United States where the problems are most prevalent have not been identified.

- *Impact of Illegal Aliens on U.S. Balance of Payments.* No firm data is available from a representative group of illegal aliens on how much money is sent home. The Department of Labor study has provided some information on this subject. However, "unofficial" channels through which the wages of illegals are being transferred across American borders have not been identified. Reliable data on the amount of wages earned by illegal aliens which are sent out of the country is imperative.

- *Impact of Illegal Aliens on the School System.* Although data will be gathered on the numbers of illegal aliens and legal alien children of illegal aliens in the school systems nationwide, no data will be gathered on the impact in specific locations. Information is needed on the specific locations where the ratio of illegal alien students to legal alien and citizen students is necessary to calculate to what extent the illegals are receiving a totally "free" education.

In summary, the Illegal Alien Study conducted by I&NS this year will produce gross figures but will not address extensively the impact of the illegal alien on a specific government program or service. Geographical and nationality variance of the impact of the total illegal alien population on government programs is an all-important variable in determining how to solve the challenging problem of an ever increasing illegal alien population.

OTHER ITEMS OF INTEREST FOR FEDERAL AGENCIES

Department of Labor

- Unemployment issuance impacts caused by
  - Depression of wage levels

Department of Agriculture

- Food Stamp program impacts

Department of Commerce

- Census Bureau - Revenue sharing disbursements are based on population - cities like New York are feeling the pinch because of unaccounted for population

Department of Housing and Urban Development

- Impacts on housing

PRELIMINARY DATA

DETECTION OF ALIEN DOCUMENT ABUSE AT MAJOR AIRPORTS, FRAUDULENT DOCUMENT STUDY

SEPTEMBER 1975 - FEBRUARY 1976

Airport	Entrants Inspected	Nonadmissions	Team Hit Ratio	Port Hit Ratio FY 1975	"Better-Than" Ratio
Kennedy (NY)	14,868	85	175/1	3,593/1	1/21
San Juan	2,672	18	148/1	2,310/1	1/16
Miami	6,460	35	185/1	2,032/1	1/11
Honolulu	5,699	0	NA	5,259/1	NA
Los Angeles	3,692	15	246/1	5,974/1	1/24
O'Hare (Chi)	1,410	14	101/1	1,073/1	1/11
Logan (Bos)	954	9	106/1	65,667/1	1/620
San Francisco	973	1	973/1	13,744/1	1/14
Houston	1,594	2	797/1	5,573/1	1/7
Seattle	670	1	670/1	2,209/1	1/3
TOTALS	38,990	180	217/1	3,001/1	1/14

PRELIMINARY DATA

DETECTION OF COUNTERFEIT AND ALTERED DOCUMENTS AND IMPOSTERS AT LAND PORTS

FRAUDULENT DOCUMENT STUDY -- SEPTEMBER 1975-FEBRUARY 1976

Port of Entry	Aliens Inspected (col 1)	Counterfeit & Altered Documents and Imposters Detected (col 2)	Team Hit Ratio (col 3)	Port Hit Ratio FY 1975 (col 4)	"Better-Than" Ratio (col4/col 3)
Brownsville	10,063	21	479/1	22,067/1	1/46
Hidalgo	9,219	28	329/1	5,199/1	1/16
Roma	1,293	2	646/1	160,313/1	1/248
Laredo	11,038	37	298/1	18,814/1	1/63
Eagle Pass	5,848	11	532/1	20,355/1	1/38
Del Rio	1,504	5	301/1	15,015/1	1/50
El Paso	26,879	30	896/1	21,930/1	1/24
Douglas	3,210	11	292/1	34,214/1	1/117
Nogales	11,066	10	1,111/1	22,967/1	1/21
San Luis	4,189	4	1,047/1	21,594/1	1/21
Calexico	27,549	17	1,618/1	11,574/1	1/7
San Ysidro	32,345	65	497/1	3,038/1	1/6
TOTALS	143,129	241	594/1	7,936/1	1/13

NOTE: Data does not include 352 aliens apprehended who were misusing legitimate documents and 123 false claims to US citizenship.

Landports: Borderwide Distribution of Fraudulent Entrants Intercepted by Special INS Team, by Sex and Age Groups

(as percent of those with known ages)

AGE GROUP	TOTAL		MEN		WOMEN	
	No. of Fraudulent Entrants	Percent of Column Subtotal	No. of Fraudulent Entrants	Percent of Column Subtotal	No. of Fraudulent Entrants	Percent of Column Subtotal
Under 20	163	23.5	78	25.3	85	22.2
20 - 24	180	26.0	83	26.9	97	25.3
25 - 29	105	15.2	47	15.3	58	15.1
30 - 34	74	10.7	31	10.1	43	11.2
35 - 39	60	8.7	25	8.1	35	9.1
40 - 44	42	6.1	18	5.8	24	6.3
45 - 49	34	4.9	11	3.6	23	6.0
50 - 54	19	2.7	10	3.2	9	2.3
55 - 59	5	0.7	2	0.6	3	0.8
60 & Over	9	1.3	3	1.0	6	0.6
No. of Intercepted Fraudulent Entrants With Known Ages	691		308		383	
SUBTOTAL[1]		99.8		99.9		99.9
Age Unknown	25	3.2	15	4.6	10	2.5
Total No. of Intercepted Fraudulent Entrants	716		323		393	

[1]Percentages may not add to 100 due to roundoff.

Source: INS Fraudulent Document Study, 1975

Domestic Council Committee
Steering Committee Meeting
March 4, 1976

Agenda

A. Opening remarks

B. Reports on work of task forces

1. - Immigration Law and Policy - INS, Gen. Chapman

- Economic and Labor Market Impact - DOL, Abraham Weiss

- Social and Community Impact - HEW, Wm. Morrill

- Enforcement - INS, James Greene

- Foreign Relations - State, Wm. Luers

2. Clarify areas of overlap; identify issues overlooked

C. Information and data needs

1. Presentation of INS research plans - Edward Guss, Director, Office of Planning and Evaluation, INS

2. Additional data needs; how to meet them

D. June report

E. DeCanas v. Bica - February 25, 1976 Supreme Court decision - Sam Bernsen, General Counsel, INS

F. Other

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

OFFICE OF
POLICY AND PLANNING

March 3, 1976

MEMORANDUM

To: Steering Committee Members
Domestic Council Committee on Illegal Aliens

From: Doris M. Meissner
Executive Director
Domestic Council Committee on Illegal Aliens

Subj: Attached

Attached please find background materials for the first meeting of the Steering Committee of the Domestic Council Committee on Illegal Aliens. The meeting will be held on Thursday, March 4, 1976, room 5111, Department of Justice. Attorney General Levi will chair the meeting.

The purpose of the Steering Committee meeting is to review the work plans for each of the five task forces and eliminate any unnecessary overlap or add areas which may have been overlooked. An outline of each task force's work plan is attached. Task force chairmen will be asked to discuss their outlines.

Each task force has conveyed a degree of confusion about the nature of the June report. A preliminary outline of the report is also attached and will be discussed by the Steering Committee in order to aid in developing a common view of what can or should be accomplished by the committee.

Attachments

DOMESTIC COUNCIL
STEERING COMMITTEE MEETING, 9:30 a.m.
MARCH 4, 1976

TENTATIVE AGENDA

A. Introductory remarks

B. Reports on task forces work
-- Clarify areas of overlap
-- Identify areas overlooked

C. June report - see preliminary outline

D. Information and data needs
-- INS presentation of its research plans
-- Technical panel

E. DeCanas v. Bica - recent Supreme Court decision on statute prohibiting employment of illegal aliens.

F. Other.

IMMIGRATION LAW AND POLICY TASK FORCE

Work Outline

1. Brief historical run-down on U.S. immigration. (For INS)

   A. Early laws.

   B. Who came (nationalities, workers, relatives) when and why?

2. Theoretical premises of 1965 amendments of Immigration and Nationality Act. (For State)

   A. Exclusion of undesirables and unneeded workers.

   B. Numerical limitation on immigration with preferences for relatives, workers and refugees.

   C. Control of non-immigrants.

3. Impact of the 1965 amendments and their administration.

   A. Who came since 1965? (For INS)

      1. Immigrants

      2. Non-immigrants.

      3. Illegal aliens and workers.

   B. Who wants to come? (For State)

      1. Documented demand

      2. "Invisible" demand factors

   C. How are we administering the present law. (For State, INS and DOL).

4. Relevant immigration policies of other countries.

   A. Canadian and Australian immigration systems. (For State)

   B. Western Europe's guest worker system. (For DOL)

5. Conclusions and recommendations including options for revising basic immigration system and administration -- to be considered later.

Need to examine validity of premise. Are these objectives still valid.

DOMESTIC COUNCIL COMMITTEE ON ILLEGAL ALIENS

Economic and Labor Market Impact Task Force

Work Outline

The initial charge to the task force was to analyze the economic impact of illegal aliens from two vantage points: (a) the labor-market economic sector and geographical distribution of illegal workers, their behavior and movement in the labor market, and their effects on native workers; and (b) the fiscal effect of illegal aliens on public expenditures, tax revenues and the balance of payments. (Organization Plan adopted January 21, 1976)

In view of time and staff constraints, it has been agreed by the chair and the Executive Director of the committee that this task force would outline the state of the art within the purview of the task force and propose a plan to find some solutions to any knowledge gap deemed critical in determining the economic impact of illegal aliens.

Below is the work outline for this task force:

1. Demographic Profile (Basic data collection-INS)
   a) Definition: distinction between nonimmigrants who overstay, those who enter illegally, and nonimmigrants who engage in work.
   b) Description: Size, composition, marital status, sex, age, education level, place of origin, current location, and length of stay.

c) Labor market status: earnings, industry, occupation.

d) Economic objectives of illegal aliens (acquisition of low-skill, labor occupation and/or higher status?)

e) Is illegal immigration largely a rural phenomenon, an urban phenomenon, or both?

f) Frequency of illegal entry in a year. Any previous apprehensions? If so, this year? other years? Frequency of apprehensions.

2. Labor Market

a) What is the extent of jobs held by illegals at the expense of those which citizens and legal immigrants would otherwise fill (displacement effect)?

b) What is estimated cost of displacement in lost earnings to American workers and what is increase in tax burden as the result of such displacement (unemployment compensation, welfare, etc.)?

c) How do wages paid illegals, by industry and occupation, compare with average wages paid for comparable jobs in the labor market area?

d) If citizens and/or legal aliens spurn jobs held by illegals, are illegals filling appropriate labor market function and enabling marginal firms to continue to operate? (In absence of illegal

alien labor supply, would firms redesign production function in direction of more capital intensive operation?)

e) Are lower wages paid illegals reflected in lower prices and hence possibly offsetting disemployment of American workers (in broad economic terms)?

f) Proportion of total working population accounted for by illegals.

g) What is the extent of substandard wages and working conditions encountered by illegal aliens and who are the most frequent offenders?

h) Dynamics of occupation and geographical movement.

i) Projections for the future.

3. Balance of Payment/International Income Transfer

If in work status, do illegal aliens send part of savings to country of origin?

a) If so, approximate amount per year?

b) What is aggregate amount of money sent outside U.S. by illegals?

c) What is percent of money sent by illegals to total balance of payments status for that year?

d) What is percent of money sent out to other countries by citizens and legal aliens?

e) What is percent of money sent out to other countries by Federal agencies e.g., social security payments?

f) What is effect of such outflow on economies of foreign countries? (e.g. is this a form of informal foreign aid?)

g) What is effect of such outflow on U.S. economy?

4. Are wages paid to illegal aliens subjected to either Federal or State taxation procedures? What is extent of tax evasion?

5. Critique of current labor certification and FLCRA programs (DOL programs)

a) Effectiveness

b) Cost

c) Labor market impact

d) Court cases

e) Desired legislative changes in program

6. Economic implications of enforcement costs (apprehension, detention, deportation) 1/

7. Domestic and foreign experience with guest and/or imported labor and/or illegals.

1/ The data will be collected by the Enforcement Task Force. However, the economic analysis will be performed by this task force.

FK/pml 3/2/76

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

OFFICE OF
POLICY AND PLANNING

March 16, 1976

MEMORANDUM

To: All Task Force Chairmen and Members
Domestic Council Committee on Illegal Aliens

From: Doris M. Meissner, Executive Director
Domestic Council Committee on Illegal Aliens

Subj: Meeting with Charles B. Keely, March 22, 1976

No Room

Charles B. Keely of Fordham University, New York, will meet with the Economic and Labor Market Impact Task Force at 10:30 a.m., Monday, March 22, 1976, in room S2006, new Department of Labor building. Members of other task forces are invited to attend this session.

Mr. Keely is a professor of sociology and demography and has done extensive research and writing on immigration and population. He works closely with the Center for Migration Studies, New York, and the Population Council. The discussion will concentrate on research and information regarding the impacts of illegal aliens.

Please notify my office (739-4608) by noon Friday, March 19, if you plan to attend.

Q. What should be done about illegal aliens? Do you support the Rodino bill?

A. We have anywhere from 6,000,000 to 8,000,000 illegal aliens in this country, which is, roughly, the total number of unemployed in this country. This is a very serious matter, but let me tell you what we are trying to do about it.

Number one, we are working very closely in a new program with the Mexican Government. There has been a tremendous increase in the flow of illegal aliens from Mexico. The cooperation that we are developing with the Mexican Government will, I think, produce some results in stopping that flow.

When I was in Mexico about nineteen months ago, I personally talked to President Echeverria about this.

Number two, in my budget I have recommended additional employees for the Immigration and Naturalization Service so it can doing a better job of finding illegal aliens and seeking to deport them.

There is one other thing we are trying to do. I have favored legislation that passed the House, last year as I recall, that makes it mandatory for an employer to ask whether a prospective employee is an illegal alien. That would be helpful.

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Richard D. Parsons,
Associate Director, Domestic Council

DATE: March 5, 1976

FROM : Mark L. Wolf, Special Assistant
to the Attorney General MLW

SUBJECT: Illegal Aliens

The Attorney General thought the enclosed paper on illegal aliens might be helpful to you.

5010-110

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : The Attorney General DATE: Sept. 4, 1975

FROM : Mark L. Wolf

SUBJECT: Immigration

Introduction

This paper is an attempt to identify some of the issues raised by existing U.S. immigration law. It is essentially an analysis of existing statutory provisions intended to describe policies, the extent to which they are being achieved, and possible reforms. It should be noted, however, that our immigration policy has symbolic, as well as practical, significance. Immigration policy has historically reflected an ambivalence in the American character which seems to persist today. The official response to these competing pressures may prove to be one measure of these times.

The United States has been the most hospitable nation in the world for immigrants. We still accept more immigrants annually than any other country and although immigration is restricted, humanitarian principles even-handedly applied are intended to guide the selection process.

It is common to approach immigration questions with a view to what the United States can do for those who wish to

come here. It should be noted, however, that immigrants have and still do contribute much to this country, individually and collectively. More than 40% of American Nobel prize winners and 1/4 of the National Academy of Science are foreign-born. In virtually every field of endeavor foreign-born Americans, like Toscanini, Frankfurter, Einstein or Kissinger, have excelled.

Immigration has also contributed to the development of our most essential social and political values. As Oscar Handlin has written:

> A society compelled to tolerate a multitude of significant ethnic differences had to develop in a pluralistic fashion, recognizing the right of each group to operate in its own way and yet to suffer in consequence no discrimination of rights of citizenship. Then, too, such a society had to give wide scope of activity to voluntary as distinguished from governmental organization. The logical corrollary of pluralism in a free society was the absention by government from interference in spheres in which the points of view of the people it served were not uniform or homogeneous.

However, while Americans have generally welcomed immigrants as a group in prosperous, secure times, there has been a latent but persistent nativism -- an intense opposition to an internal minority because of its foreign (i.e., "Un-American") connections -- which has emerged in times of economic distress or conflict. As described and documented by historian John Higham, hard times have historically been accompanied by doubt regarding

our capacity to ecnomically or politically accommodate immigrants, who often become scapegoats for our national insecurity.

There are hard choices to be made in establishing or implementing immigration policy. This is, in a sense, a difficult period to be addressing them. With a relatively poor economy and recent cause to question whether our democratic institutions should continue to command confidence, there is a potential that focusing attention on immigration issues will provide a forum for intensified nativism. Last year passage of the bill to prohibit the knowing employment of illegal aliens was deemed the highest legislative priority of the Department of Justice. This year illegal aliens have been designated top priority by the Ku Klux Klan. Similarly, some Vietnamese refugees and those inclined to assist them have become targets for abuse and this sentiment could grow.

Some of the questions raised by reviewing immigration policy today are familiar. A central question is how much immigration, legal and illegal, can the United States afford. Those opposed to immigration have traditionally been influenced by a pessimistic outlook regarding the future economic growth of the United States. Oscar Handlin has noted that:

> The nation was barely founded before a Congressman rose to say on the floor of the House of Representatives in 1797 that while a liberal immigration policy was satisfactory when the country was new and unsettled, now that the U.S. had reached maturity and was fully populated, further immigration should be stopped.

This does not suggest that concern today for our economic potential is unimportant, but only that it is not new.

Similarly, reviewing our immigration policy today renews the question of our confidence in our capacity to accommodate diversity. The Immigration and Nationality Act of 1965 permitted for the first time in this century large scale immigration from Asia and certain other areas. It is said by some, most notably Daniel Moynihan, that the changing composition of the immigrant population will generate new competing pressures and problems in formulating foreign policy. While it is too early to test this, it should not be surprising if it proves true. But it does raise the question of whether we should welcome or fear this phenomenon.

In addition, our attitudes toward immigration also test our consistency and fidelity to certain ideals. In enacting the Jackson-Vanik amendment, the United States asserted there is a universal human right to emigrate, to not live where one does not want to live. A logical corrollary would be the view that every man has a right to live where he wants. Yet this assertion would be anomolous for a nation which denies entry to many who wish to come here. This need not suggest that U.S. immigration policy and attitudes toward nations which forbid free emigration must be logically consistent, but it does raise the question of whether these policies are substantially influenced by similar concerns and values.

Our immigration law today is based on the assumption that for economic reasons immigration must be limited. In the process of selecting immigrants, top priority is intended to be given to re-uniting families, following which preference is to be given to needed workers and certain refugees.

In many respects, however, the immigration law does not operate as intended. Rather than regulating all entry to the United States, it is accompanied by large scale unauthorized immigration. Instead of giving highest priority to re-uniting families, it often operates to keep them apart for years. In addition, the provisions for authorizing entry of needed workers are inefficient and relatively ineffective.

Furthermore, there is a basic lack of hard data to support some of the fundamental assumptions upon which our immigration is based. There is great debate about whether immigrants, legal or illegal, generally take jobs which Americans are willing and able to perform. Yet there is little more than anecdotal evidence with which to answer this question.

It is desirable to seek an immigration policy, and other policies, that is fair and workable. Limits on immigration, particularly, should reflect a decision on acceptable costs for enforcing them. This cost should not be calculated in dollars alone. Some measures which might be useful in enforcing the law may be more harmful to the quality of life in the United

States than the increment of aliens who would enter in their absence. Yet, if we choose not to adopt these measures, perhaps we should not adopt prohibitions which will not be effective without them, for there is also a cost to having prohibitions which are unobserved and unenforceable. In any event, the lack of reliable evidence on certain central questions (which hopefully will be remedied by the $1 million LEAA-funded INS study now being conducted) suggests a need for caution in proposing sweeping changes in the law or adopting extreme measures to enforce existing provisions which may be based on faulty assumptions.

Statutory Framework

Prior to 1924, the United States permitted virtually unlimited immigration. From 1921 to 1965 U.S. immigration policy was based on the "national origins quota system" under which each foreign country's quota was determined by reference to the composition of the U.S. population. This policy was based on the theory that maintaining the then existing racial and ethnic composition of the United States was important to preserving individual liberty and economic opportunity. It operated to permit the admission of Northern and Western Europeans and exclude all but a few others.

The Immigration and Nationality Act of 1965 (the "INA"), which is now in effect, significantly changed U.S. immigration policy. It replaced the national origins quota system with one intended to end substantially discrimination based on race and national origin. The INA establishes a dual quota system for the Western and Eastern Hemisphere, but immediate relatives of American citizens (parents of citizens over 21, unmarried children and spouses) are exempt from the quotas.

Eastern Hemisphere immigration has been subject to numerical limits since 1924 and for most countries supply regularly exceeded demand. The INA establishes an annual quota of 170,000 for the Eastern Hemisphere, with a maximum of 20,000 from any one country. Anticipating continued excessive demand, the INA includes a seven-point preference system for admission. It gives highest priority to relatives not exempt from the quota system, followed by needed workers and some refugees.

The INA imposed for the first time an annual quota on Western Hemisphere immigration, limiting it to 120,000 per year. Continuation of our policy of permitting unlimited Western Hemisphere immigration was contemplated in the early versions of the INA because significantly increased Western Hemisphere immigration was not anticipated. Attorney General Katzenbach testified that "there is not much pressure to come to the U.S. from

these (Western Hemisphere) countries. . . It is not a practical problem." Accordingly, the House did not include a Western Hemisphere quota in its bill, but did accede to the Senate version which included the 120,000 quota as a precaution. As excessive demand for Western Hemisphere visas was not anticipated, the INA does not include a preference system or per country limitation for the Western Hemisphere. Western Hemisphere visas are granted on a first-come, first-serve basis.

The INA also imposed new restrictions on the entry of persons seeking to work in the United States. Prior to the INA, entry of an applicant was precluded only if the Secretary of Labor certified that his entry would adversely affect the wages and working conditions of American workers. There was, however, no requirement that the Secretary be notified of aliens seeking entry to work and such aliens generally came to his attention only if seeking entry in groups larger than 25 expecting employment in the same area.

Under the INA, no Western Hemisphere immigrant (other than parents, spouses or children of U.S. citizens or permanent resident aliens) or Eastern Hemisphere immigrant seeking an occupational preference on non-preference entry is admitted unless the Secretary of Labor determines that qualified workers are not

available at his intended destination and that his employment will not adversely affect wages or working conditions in the United States. The broader coverage for Western Hemisphere applicants seems to be a vestige of the INA as originally proposed, without a Western Hemisphere quota, in which the labor certification would have been the sole means of regulating Western Hemisphere immigration.

Except for professionals, each applicant for admission subject to the certification requirement must have a specific job offer. While a professional may file his own application for certification, the prospective employer must seek certification for all other applicants who require it. An application by a professional is sent to the appropriate Department of Labor regional office for review. In the case of non-professionals, the application is sent by the Department of Labor to the appropriate State employment service for investigation. All applications are returned to the Department of Labor through its regional office for a decision on certification.

The INA also contains a provision permitting temporary admission of alien workers if the Secretary of Labor certifies that such workers will not adversely affect U.S. workers. This process is initiated by a petition from an employer. If the Secretary of Labor certifies that there is a need for temporary foreign workers, the employer is free to obtain the workers wherever he chooses.

In addition, the INA provides two mechanisms for admitting refugees to the United States. The seventh preference for Eastern Hemisphere applicants authorizes admission of up to 10,200 refugees from Communist or Middle Eastern countries. In addition, the Attorney General may, for emergent reasons or reasons deemed in the public interest, parole refugees, or others, into the United States.

Two other provisions of the INA worthy of note are those which afford an immigrant who is in the United States unlawfully a means of legalizing his status. Any alien here unlawfully and continuously since 1948 is eligible to adjust his status. In addition, an alien unlawfully in this country for 7 or 10 years, depending on the grounds for deportation, may apply to INS for suspension of deportation which might be granted if he can demonstrate that his departure would be a hardship for a close relative who is a citizen or permanent resident alien. This is a cumbersome procedure, however, requiring a favorable recommendation by INS and submission to Congress for two sessions without adverse action.

Authorized Immigration

A. Numerical Limits

While it is generally agreed that there should be some limit on immigration, there is a question of what that limit

should be. The INA authorizes entry of 290,000 immigrants per year, plus an unlimited number of immediate relatives. The total number of immigrants authorized entry in 1973 was about 400,000.

The numerical limits on immigration established by the INA are not based on a formula restricting immigration to a certain percentage of national or international population or population growth, or tied to the rate of unemployment in the United States. The level of immigration authorized by the INA was simply deemed to be the "present absorptive capacity of the U.S." While it is not clear how this conclusion was reached, annual immigration before and since the INA has ranged between 200,000 and 400,000.

In the 1970s, there has been some criticism of the INA, mainly from advocates of zero population growth, because it does not tie immigration to U.S. population growth. It is asserted that authorized levels of immigration are too high. As evidence of this it is noted that immigration represents a growing percentage of total population growth, now approaching one-fourth. Analysis indicates, however, immigration constitutes a significant portion of total population growth not because of an increase in immigration, but because of a decrease

in natural population growth. Thus, the growing proportion of population growth immigration represents may be evidence of the general success of those who advocate zero population growth, rather than cause for alarm.

Legal immigration adds about 1/5 of 1% to the U.S. population each year. At the present rate, by the year 2000 only 6% of the U.S. population will be composed of immigrants admitted between 1970 and 2000 and their dependents. Assuming the legal limits on immigration are observed, the choice posed by zero population growth advocates is between 266 million Americans in 2000 at the present rate of immigration or 250 million without any immigration.

B. Religious Diversity

As expected, the INA has altered the religious and ethnic composition of the immigrant population. In 1965 about one of 14 immigrants was Asian. In 1973, the figure was about one in three. This changing pattern of national origins will result in greater diversity of American religious life. Aside from Filipinos, most Asian immigrants are Buddhists, Hindus, or members of other religions largely unknown in the United States. Increased immigration for the Middle East is also creating a growing Moslem population. The proportion of white Protestants among the immigrants is small.

C. Brain Drain

While the proportion of highly skilled and professional workers in the immigrant population has not been greatly altered by the INA, the pattern of national origins of these workers has been changed. As the preference system is only applicable to the Eastern Hemisphere, immigrants from developing countries are more likely to be highly skilled working or professionals than those from other areas. In 1970 about one-fourth of the Asian immigrants and one-third of the Africans were professionals admitted because of a certified need for their skills and services.

Admission of immigrants who are highly trained is an efficient means of obtaining needed skills, saving the time and money needed to train Americans. It has, for example, been estimated that the United States saved four billion dollars by admitting 100,000 scientists between 1949 and 1967. This policy, however, creates some surprising results. In some recent years more doctors have been admitted as immigrants than graduated from American medical schools. In addition, there are now more Filipino doctors than black doctors in the United States.

This practice has been criticized by some, including the President's Commission on Population Growth which stated:

> A readily available source of trained professionals from other countries may slow the development of domestic talents and the expansion of training facilities. While this importation of talent may be economical to the U.S., it is not fair either

to foreign countries which educate professionals or to our own citizens -- particularly those minority groups and women whose access to professional training and economic advancement has been limited.

D. Western Hemisphere Immigration

Contrary to what was generally anticipated when the INA was enacted, the demand for Western Hemisphere visas now far exceeds the supply. An applicant for admission from the Western Hemisphere must wait two to three years to obtain a visa. By contrast, for the Eastern Hemisphere, visas are current for relative preferences for all countries except the Phillipines.

The increase in demand for visas has been particularly great in the Caribbean countries, South America and Latin America. There seems to be no single explanation for this. It is due in part to the emergence of new Caribbean nations which as colonies were allotted only 200 visas per year. It may be that higher educational levels and increased urbanization make the United States more familiar and attractive, while increased affluence makes a trip to the United States more affordable. Certainly the explosive population growth in these countries and the related high rates of unemployment and underemployment contribute significantly to the increased demand for visas. Finally, there are indications that natives of these countries are directly or indirectly recruited for jobs in the

United States which might previously not have been available to them.

The lack of a preference system for Western Hemisphere immigrants and the delay in obtaining visas they experience frustrates the purposes of the INA. While the primary goal of the INA is to permit reunification of families, protracted delay serves to keep family members not exempt from the quotas apart.

Similarly, the unavailability of visas undermines the operation of those provisions of the INA intended to make the INA responsive to conditions of the economy. Employers are unlikely to offer a job and participate in the certification process on behalf of an alien who will not be permitted to come here for two or three years. This problem has become particularly acute with regard to Canada. Many Canadians could qualify for a labor certification, but cannot receive a job offer because of the anticipated subsequent delay in obtaining a visa. As a result, annual immigration from Canada has dropped from about 40,000 to about 10,000 and this is a matter of concern to the Government of Canada. The delay in obtaining visas is injurious to the United States, as well as potential immigrants, because it is probably most discouraging to skilled workers and professionals who are most successful at home and best able to contribute to the United States.

E. Labor Certification for Permanent Admission

The labor certification provisions of the INA appear to be intended to protect American workers from the potentially adverse effects of immigration. They do not, however, seem to serve this purpose well. Highest priority is given by the INA to reuniting families and many immigrants with relatives in the United States are exempt from the labor certification requirement. Therefore, the vast majority of immigrants are not subject to the labor certification requirement. Only ten to fifteen percent of the immigrants each year, representing only one-fourth to one-third of those expected to work here, have a labor certification. In addition, an immigrant is not obligated to stay on the job or in the area for which he was certified. One study indicates that 57 percent of those with labor certification change occupations shortly after entry.

Although the labor certification program has little impact in terms of the national labor market, it probably does discourage employers in certain areas from seeking groups of alien laborers when Americans would perform the same jobs for a reasonable price, thus protecting some local markets. However, it is questionable whether this benefit justifies the program.

The individual scrutiny of alien admission and standards in a labor market is expensive and time consuming. Nevertheless, the process does not actually indicate whether there are Americans

willing and able to do the jobs sought by aliens. The Department of Labor seems to concentrate its investigations on the availability of similar workers, ignoring their willingness to actually accept the employment in question. The Congressional hearings and newspaper articles are replete with embarrassing cases of small businessmen who cannot find Americans to work for them, although the Federal government has determined that there are many who are willing and able to do so. The inadequacy of the Department of Labor efforts to determine whether U.S. citizens are truly willing to accept the position being offered has been recognized by the courts which have been requiring increasing evidence of actual availability of Americans to support a denial of certification. In addition, they have been requiring more elaborate administrative procedures in the determination process.

The combination of the delay in obtaining a Western Hemisphere visa and the cumbersome labor certification process creates some undesirable results. Principle among these is the incentive they create for immigrants to enter or remain in the United States unlawfully and for employers to hire them. For many immigrants, particularly from the Western Hemisphere, labor certification requires a specific job offer. The difficulty of obtaining such an offer from abroad and the unwillingness of employers to participate in the certification process if the worker will not soon be available, encourage many aliens to enter the United States illegally or on temporary visa without

permission to work and immediately seek work. If U.S. citizens are unobtainable and the labor certification process is not regarded as practical, employers are likely to be tempted to hire an alien without regard to his legal status.

This problem is aggravated by the adjustment of status provisions of the INA applicable to Western Hemisphere natives. A person from the Eastern Hemisphere in the United States on a temporary visa not permitting work may adjust his status while in the United States and become eligible to work. A Western Hemisphere native must return home, however, to adjust his status. The purpose of this provision is to discourage illegal immigration. However, it does not seem to have this effect because some Western Hemisphere immigrants who are here unlawfully merely begin work illegally and return home briefly when their visa is available. Many others, however, accept jobs illegally and simply accept that status indefinitely.

F. Labor Certification for Temporary Employment

Generally, fewer than 20,000 aliens are admitted to the United States annually under the INA provisions permitting the temporary admission of foreign workers. The vast majority are British West Indians with skills like Jamican cane cutters who are imported for the Florida sugar harvest.

The certification process for temporary labor is slow and, therefore, not a viable option for many employers, particularly those seeking agricultural workers. In addition, high levels of unemployment in border areas makes approval of a petition from an employer in these areas rare. Once again, however, employers often claim that while statistics suggest American workers are available, they are unobtainable. To the extent this is true, the lack of viable legal means of importing temporary alien labor probably encourages unlawful immigration and the hiring of illegal aliens.

G. Refugees

While the INA has a provision authorizing admission ot up to 10,200 Eastern Hemisphere refugees annually, the vast majority of refugees authorized entry in the past 15 years have been admitted as exceptions to this provision pursuant to a grant of parole. These include over 600,000 Cubans and 130,000 Indochinese.

The legislative history of the parole provision indicates it was intended to be exercised on a case-by-case basis for individuals or families, rather than for classes of refugees or others. It affords, however, broad discretion to authorize the entry of large classes of people, substantially altering the dimensions of lawful immigration. This is, in theory, subject

to abuse. Parole was granted for what surprisingly amounted to 600,000 Cubans without any participation by Congress. Arguably, it is anomalous to have an elaborate statutory scheme which can be significantly changed by the Executive Branch alone. While the present practice is to consult Congress before authorizing parole, one might question whether this offers Congress a meaningful opportunity to participate or provides adequate guidance to the Attorney General contemplating an exercise of his broad, discretionary authority.

Illegal Aliens

Although it is U.S. policy to admit a limited number of aliens meeting certain criteria annually, total immigration bears little relation to this policy. In 1974, INS located 788,000 deportable aliens, about twice the number admitted legally. INS estimates that this represents only one-half to one-fourth of those who entered illegally in 1974. Although all of the estimates are highly speculative, INS believes there are now about 8 million illegal aliens in the United States. To put this in perspective, if these figures are reliable, the illegal alien population is about one-third as large as the black population and three-fourths the size of the black labor force.

The pace of illegal immigration appears to be accelerating. The number of illegal aliens apprehended by INS has risen steadily

from 110,000 in 1965 to 788,000 in 1974. While this increase reflects, in part, the greater resources being devoted to the illegal alien problem, it also indicates dramatic growth in the rate of illegal immigration.

In addition, the profile of the illegal alien is changing somewhat. Historically, illegal aliens have been concentrated along the Mexican border and performed agriculture work. There are still substantial and probably growing numbers who fit this description. There is today, however, an increasing concentration of illegal aliens in industrial areas throughout the country. Even in the Southwest, the greatest growth seems to have occurred in the urban areas of California. Mexican illegal aliens now often migrate to urban, non-border areas where they are harder to detect than along the border.

It is also now apparent that there are substantial numbers of non-Mexican illegal aliens in the United States, particularly in the Northeast. In each of the last five years about 75,000 non-Mexican illegal aliens have been found in the United States. They are predominently from Caribbean and Latin American countries. About 90% of them were authorized entry to the United States on a temporary basis and have extended their stay unlawfully. There are an estimated one million illegal aliens in the New York metropolitan area and 90% of those deported found there entered the country legally.

In view of these facts, it may be misleading to discuss "the illegal alien problem"as if it was one-dimensional. Today, we have large numbers of unauthorized Mexican agricultural workers in border areas and many Mexican and non-Mexican illegal aliens in urban areas. The proper response to each of these problems may be different.

Virtually every illegal alien comes to the United States in search of economic opportunity. The disparity in standards of living between their homes and the United States make this motive understandable. Mexico, for example, has substantial unemployment and underemployment. In 1972, the per capita income of the poorest 40% of the Mexican population was less than $150 per year. The short-term prospects for improvement of this situation is poor, particularly in Mexico. Mexico has been experiencing explosive population growth which should accelerate because there is now an inordinately large percentage of the population approaching the child-bearing years.

As a practical matter the only official penalty for illegal entry to the United States is expulsion, known as "voluntary departure." Deportation or criminal proceedings are too time-consuming and cumbersome to be used for the vast majority of unauthorized immigrants, particularly those apprehended near the border.

There are, however, unofficial penalties paid by illegal aliens. Their desire to avoid detection makes them reluctant to register with any legal authority. Thus, they frequently are afraid to send their children to school or use emergency rooms at hospitals. In addition, they are susceptible to being exploited by employers who know they cannot complain to officials about substandard working conditions or wages. An extreme example of this are employers who reportedly hire illegal aliens for low wages and then refuse to pay them. However, the extent of these abuses is not clear and INS attempts to minimize them by assisting illegal aliens to collect wages earned before they are expelled.

Fear of detection is not limited to those who have recently entered the United States illegally. There are many illegal aliens who entered the country when lower priority was given to enforcing the immigration laws. However, they now face expulsion if identified by the recently increased effort to apprehend those here unlawfully.

The opposition to illegal aliens is usually stated in economic terms. Illegal aliens are widely believed to take jobs normally filled by American workers, not only agricultural jobs in the Southwest, but high-paying jobs in metropolitan areas; compete as low-skilled laborers most directly with unskilled

ethnic or minority groups, many of whom are Mexican Americans or lawfully admitted permanent resident aliens; depress wages of American workers; adversely affect the balance of payments by sending money out of the United States; and impose costs on the American taxpayer by using public services and taking jobs which would otherwise be performed by individuals on welfare.

The view that illegal aliens adversely affect the American labor force is widely held. It has been asserted by the President's Commission on Population Growth, the House Judiciary Committee, the Department of Justice and numerous prominent private groups. The leading spokesman for this view today is General Chapman who has often said that enactment of the Rodino bill would make available 1 million jobs for American workers.

This view seems logical and there are striking examples of illegal aliens holding well-paying jobs that Americans would gladly accept. However, nothing more than economic theory and examples seem to exist to support the position that illegal aliens are generally taking jobs which Americans could and would accept or are adversely affecting wages and working conditions.

There are some who believe that illegal aliens are not generally injuring American workers. As evidence that illegal

aliens are not taking jobs from competing Americans, they cite the fact that aliens, legal or illegal, do not seem to have special difficulty in finding jobs, despite high rates of unemployment and their language problem. They suggest that illegal aliens work at jobs which Americans are able, but unwilling to perform, like domestics and dishwashers.

One recent study supports this view with respect to urban areas. In a paper furnished by John Dunlop, Michael Piore of M.I.T. reports the findings of his study of Puerto Rican migration to Boston and his preliminary study of illegal aliens on the East Coast.

Piore believes that it is significant that massive illegal immigration, particularly to urban areas, has started relatively recently rather than a decade or two earlier when the income disparity between the United States and neighboring nations was even greater. He attributes this to the new availability of jobs for illegal aliens. Illegal aliens in urban areas are concentrated in the "secondary labor market," jobs which are characterized by low wages, poor working conditions, instability, lack of advancement opportunities, and slight skill requirements. These are jobs which have been traditionally filled by immigrants, blacks and youth. Piore found that there is now a shortage at the bottom of the labor market which "newcomers", legal or illegal, are being recruited to fill.

Piore believes this labor shortage is largely due to the reluctance today of black workers to accept or keep these types of jobs. He attributes this change in attitude to a shift in the black urban population from a first generation recently arrived from the rural South to a second generation which has grown up in urban areas. His basic hypothesis is that:

> This shift in generations is a systematic characteristic in the process of industrial societies. Adult native workers in any industrial society tend regularly to reject secondary jobs because of low social status and the instability and lack of career opportunity which they carry. These jobs, however, tend to carry much higher relative status in the social structures of rural agricultural communities. That and the fact that rural workers who migrate to urban areas generally expect to stay only temporarily and are therefore less interested in career opportunity and work stability, make migrants an attractive source of labor for the secondary sector and they are recruited for that purpose. Whatever their original intentions, however, many migrants do remain in urban areas and raise their children there. The children share the attitudes of the native population -- indeed, whatever their place of birth, they <u>are</u> in this sense native. This intergenerational shift thus requires the continual generation of new migration streams to maintain a labor force for secondary jobs.

In Piore's view, certain jobs will be filled only by newcomers and youth. With a diminishing youthful population and the depletion of labor reserves in the rural South, legal and illegal aliens are recruited, largely by friends and relatives who preceded them, to fill the available jobs in urban areas.

Piore notes that his findings challenge an important assumption upon which national manpower policy has recently been based. According to Piore, in the past decade the focus of this policy has shifted from unemployment to the quality of jobs. The assumption has been that a labor shortage, natural or created by radical improvement of the legally acceptable terms and conditions of employment, would cause elimination of secondary market jobs or an upgrading to them. Piore believes the shortage has occurred, but the anticipated result has not. The job structure and associated wages have proved rigid. Rather than jobs and wages adjusting to the characteristics of the labor supply, the labor supply appears to adjust to the characteristics of demand, even if this entails drawing in a whole new labor force from abroad.

If the existence and characteristics of a secondary market are largely fixed, our immigration policy may be combatting a force which is economically inexorable. Increased enforcement efforts are essential, however, if wages and conditions of employ-

ment for illegal aliens are below the lawful minimum for then their employment does adversely affect U.S. workers. However, because there are not now penalties for employing illegal aliens, but penalties do exist for failing to employ them on terms meeting legal standards, Piore believes that in urban areas most illegal aliens are employed on terms and under conditions which are deemed acceptable for natives. If this is the case, illegal aliens in urban areas are being hired to do jobs which Americans will not do at an acceptable wage rate, or at least because they do them better. This suggests to Piore that the United States should not increase its efforts to enforce existing restrictions on immigration, but rather regularize and control a process which has become inevitable.

Many questions can be raised regarding Piore's thesis. The increase in illegal immigration may be primarily attributable to the end of the Bracero program in 1965, rather than new job availability for aliens in urban areas. The increased concentration of illegal aliens in urban areas may be explained by their desire to escape apprehension, which is easiest in cities, or simply a new preference for urban life. In addition, illegal aliens may be adversely affecting domestic workers even if they are employed on legally acceptable terms by depressing wages and conditions to the legal minimum for certain jobs which domestic workers would accept on better terms. Nevertheless,

Piore's findings seem to merit serious consideration and further testing.

However, if Piore's thesis regarding illegal aliens in urban areas is correct, it does not necessarily assist in evaluating the impact of illegal aliens in agricultural areas. Apparently, no study similar to Piore's has been done regarding illegal aliens in rural areas. However, despite the apparent absence of data, the Department of Agriculture believes illegal aliens do adversely affect American farm workers. It is their view that the supply of native workers is responsive to wage rates, which the availability of illegal alien workers depress. Demand for farm labor, however, is deemed to be relatively wage inelastic, suggesting farm jobs would be upgraded if illegal aliens were not part of the labor force.

Both Piore and the Department of Agriculture could be correct, suggesting that illegal aliens do not generally harm Americans in urban areas, but do adversely affect them in agricultural areas. Virtually all discussion about admitting foreign temporary workers concerns Mexican agricultural workers. If both Piore and the Department of Agriculture are correct, however, this focus is misplaced and increased consideration should be given to a possible program to meet the needs in urban areas.

Statutory Reform

Although the policies embodied in the INA are basically sound, it does not in significant respects achieve its goals. A primary goal should be to improve its efficacy in reuniting families, permitting entry of needed workers and accommodating refugees.

A. Numerical Limits

While advocates of zero population growth are distressed by the dimensions of authorized immigration, this concern seems misplaced, or at least understated, when the magnitude of illegal immigration is recognized. Illegal aliens should be included in any equation to determine appropriate, or tolerable, levels of immigration. If approximately 400,000 immigrants per year is to be deemed the "absorptive capacity" of the United States, then authorized immigration should be sharply curtailed because unlawful entrants alone already exceed this amount. If, however, it is recognized that there is flexibility in the number of immigrants the United States can afford and certain economic factors make a measure of what is now illegal immigration inevitable, or at least too costly to control, at least part of that immigration might be regularized.

B. Western Hemisphere

The provisions of the INA concerning Western Hemisphere natives are an obvious starting point for reform. Since demand

for visas in the Western Hemisphere now exceeds the supply, at a minimum the preference system for the Eastern Hemisphere should be applied to the Western Hemisphere as well. This change would promote achievement of the INA's primary purpose, reuniting families. A bill presently pending before the House Judiciary Committee, H.R. 981, would make this change. The Department of Justice has supported this aspect of the bill in the past, but has not expressed a view on it in this session.

Expanding the applicability of the preference system also suggests making the 20,000 annual country quota applicable to the Western Hemisphere. H.R. 981 adopts this approach, which would substantially reduce authorized immigration from Mexico, which was in 1973 over 70,000, of whom about 45,000 would have been subject to the quota if then in effect. The Department of Justice has never endorsed this aspect of H.R. 981. While the equal treatment it would offer all countries appears fair, it is questionable whether this is either desirable or practical.

Arguably, any reform of the INA regarding Western Hemisphere natives should go beyond parity with the Eastern Hemisphere provisions. Such changes would be consistent with the original intent of the INA. Although a Western Hemisphere quota was adopted as a precaution, it was widely expected that all Western Hemisphere applicants would be admitted each year. In

addition, there were no Western Hemisphere country quotas. Thus, Western Hemisphere applicants, particularly those in countries with large numbers potentially interested in coming here, were originally expected to be treated more favorably than applicants from the Eastern Hemisphere. Authorizing increased Western Hemisphere immigration now could be justified as acknowledging that we have a special relationship with certain countries like Mexico, Canada and those in Latin America, or by recognizing that many natives of these countries will come here illegally if not authorized entry. Increased authorization of Western Hemisphere immigration should reduce to some degree the need for unlawful immigration.

Authorizing increased admission of our neighbors would require either raising the total limit on immigration or reducing Eastern Hemisphere immigration. If the latter option were chosen, the preference system would operate to exclude many Eastern Hemisphere skilled workers and professionals who are now admitted. Their admission, however, is not now entirely advantageous to this country or those from which they come. Furthermore, some, and perhaps all, of them would be replaced by similarly skilled Western Hemisphere natives.

C. Labor Certification for Permanent Admission

Increased authorization of Western Hemisphere immigration could serve to alleviate the incentive for illegal immigration.

Reform of the labor certification process for permanent and temporary employment is also desirable. Improvement of this process should reduce the economic opportunities available to illegal aliens. If penalties are to be imposed on employers for hiring illegal aliens, it is particularly important that they be able to obtain essential alien workers legally.

There are several options for altering the labor certification requirement. The requirement could be abolished completely. This would recognize that the INA is geared to family reunification rather than protection of the labor market, which is to be protected by quotas. It would further acknowledge that in a free movement labor force, efforts to channel aliens into work Americans will not do are not effective and the cost of trying is far out of proportion with the results.

If the labor certification process is retained, it could be simplified and expedited. This could be accomplished by establishing a quota for immigrant workers, perhaps 30,000, to be issued on a first-come, first-serve basis regardless of occupation, or limited to certain occupations. To protect local markets where the increased availability of alien labor might be abused, the number who could be hired by a single employer could be limited unless the Secretary of Labor made a finding similar to the one now required.

Another means of simplifying the labor certification process would be to condition certification for all jobs on area shortages

in particular types of labor, rather than upon case-by-case determinations of the availability of American workers now used for non-professionals. The right of a worker to move anywhere would, however, undermine the efficacy of this approach. While this right could be restricted, such a limitation might engender a form of indentured servitude we would not deem tolerable today. Alternatively, determinations by the Secretary of Labor could be made more discretionary and be based on national labor market information.

Increased reliance on statistics to determine availability of American workers, however, would enhance the importance of the question of whether there are many positions which Americans are able, but unwilling to fill. The Department of Labor's tacit assumption that "able" and "willing" are synomous should be empirically tested. If, as Piore suggests, this is not a valid assumption, at least in certain areas, devices to compel Americans to accept and keep the jobs in question could be refined or immigration policy could be revised to recognize this.

If reforms are not adopted to expedite the availability of Western Hemisphere visas and facilitate obtaining labor certifications from abroad, there are likely to continue to be many Western Hemisphere natives who have already qualified for or are exempt from a labor certification working in the United

States illegally while waiting for their visa. Authorizing them to remain here and work until their visas are issued would seem to be in the interest of American citizens as relatives and employers. In addition, it would eliminate those in transitional status from the ranks of the "illegal aliens." A corrollary to this would permit Western Hemisphere natives to adjust their status in the United States, rather than requiring their return home to do so. H.R. 982, (the "Rodino bill") provides for these reforms.

Facilitating adjustment of status for temporary immigrants not authorized to work could provide an added incentive for aliens to misrepresent their intentions in seeking temporary visas. Stricter screening and higher standards, including perhaps requiring a bond, could be used in granting visas for students, tourists and others who are not eligible to work. Some measures in this direction would be desirable because in terms of efficiency and fairness it is best to deal with a potential illegal alien before he enters the United States.

D. Labor Certification for Temporary Admission

If alien workers are needed, revisions in the certification process for temporary employment might be particularly appropriate. If this process is to be viable, the need to expedite decisions is particularly acute. Last year the proposed Senate version of the Rodino bill, endorsed by the Department of Jus-

tice, would have altered present practice by requiring action on an employer's request for certification within 60 days generally and 20 days for farm workers.

Furthermore, expanded opportunities for temporary employment of illegal aliens could be expanded. Piore's theory that "newcomers" are needed to perform some jobs in urban areas suggests the possibility of an "urban Bracero program," permitting the entry of aliens for a fixed period, perhaps several years, without a prospect for citizenship. To a certain extent, this would regularize and subject to control what is occurring now. It is believed that most Latin American immigrants, legal and illegal, come here only to earn enough money to enable them to return home and live decently. The fact that legally admitted Mexicans have the lowest rate of naturalization of any nationality is evidence of this.

Authorizing the temporary admission of urban workers would create a pool of "newcomers" while limiting the number of second generation individuals who are able, but unwilling to work in jobs held by their parents. However, if this approach were adopted, many who came "temporarily" might stay unlawfully or develop relationships which would, under current law, permit them to adjust their status. In addition, their children born here would be U.S. citizens, a second generation entitled to live here which might resent their parents status.

Although greater public attention has been focused on the temporary admission of increased numbers of farm workers, this question remains particularly difficult because of the absence of well developed evidence to challenge the presumption that Americans are available to perform agricultural work under reasonable conditions and that Americans are adversely affected by the importation of agricultural labor.

If desirable, however, the admission of temporary farm workers could be increased unilaterally, by facilitating certifications under the existing provisions, or bilaterally pursuant to a renewed Bracero program. Under the Bracero program which operated from 1951 to 1964, up to 500,000 Mexican nationals were admitted to this country pursuant to agreements between the United States and Mexico which, among other things, guaranteed them free transportation, an opportunity to work at least a specified number of days, free housing meeting certain standards, insurance and payment of the prevailing wage.

Renewal of the Bracero program is highly valued by Mexico. The exodus of large numbers of Mexican citizens, their illegal status in the United States and highly publicized accounts of exploitation of Mexican nationals in the United States are offensive to Mexico. Yet the United States is a potential safety valve for their own problems of unemployment and underemployment. The question of facilitating temporary emigration

to the United States is often characterized as the principle Mexican concern in its dealings with the United States.*/

A renewed Bracero program could have several favorable effects. Since it is so desirable to Mexico, it could prove effective in stimulating improvement of their efforts to secure the border and discourage unauthorized emigration. It might also assist INS which believes it was better able to control the border when the Bracero program was in effect. A renewed Bracero program would, to some extent, only legitimate existing migration, with the favorable effect of making temporary workers less vulnerable to abuse and improving our ability to enforce government regulations intended to protect all workers.

Apart from the important question of whether temporary admission of farm labor is needed, a renewed Bracero program would have some undesirable effects. It would be viewed, and could be used, to break emerging farm unions, primarily injuring struggling minority groups. In addition, there is no assurance that such a program would significantly reduce illegal entry because any feasible program would only satisfy a small part of the demand for work in Mexico. Further, many who come to work temporarily might develop equities to remain, by marrying U.S.

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*/ An interagency task force, chaired by the State Department, with a counterpart in Mexico, was established last year, to work on this and associated issues. James Greene and Leon Ulman of OLC represent the Department of Justice on the Committee. To date it has done relatively little, but this committee should be consolidated or closely coordinated with the Domestic Council Committee on Illegal Aliens.

citizens or having children, resulting in an increased pool of unskilled labor. Finally, it must be questioned whether, in a rural or urban context, what has been characterized as a form of "coolie labor" is appropriate in this country today.

E. Refugees

The provisions of the INA concerning admission of refugees could be revised to reduce the need to rely on the parole authority and to legitimate the use of that authority in appropriate cases. The former could be accomplished by extending the preference for Eastern Hemisphere refugees to Western Hemisphere natives as well. In addition, the requirement that refugees be fleeing a Communist or Middle Eastern nation could be eliminated to provide for those, like the Chilean refugees, who present compelling cases which do not meet current criteria.

In any event, it is desirable to retain the speed and flexibility for dealing with emergencies and extraordinary cases afforded by the parole provision. Parole for classes does alter the level of immigration anticipated by Congress and it is appropriate, as well as politically necessary, to consult Congress when admission of a class of refugees is being considered. This process could be legitimized by legislation defining consultation and removing doubt about situations in which it required, including emergency exceptions to the requirements.

Reducing the Economic Incentive for Illegal Aliens

A. The Rodino Bill

As the primary incentive for illegal immigration is economic, it is desirable to reduce economic opportunities available to illegal aliens. If potential illegal aliens are discouraged from seeking entry to the United States, the expense of enforcement and the perceived need to adopt offensive means of apprehending them should be reduced.

The Rodino bill seeks to reduce economic opportunity for illegal aliens by prohibiting the knowing employment of them. Piore suggests, however, that the Rodino bill could promote rather than prevent illegal immigration and create a large "underground" labor market. He feels that although there is now an underground market in transport of alien labor, the existing penalties on employers for paying illegal aliens less than the minimum wage or evading payment of social security and income taxes impels most of them to employ illegal aliens on minimally acceptable terms. Piore believes that if employers are also penalized for employing illegal aliens, the balance of risk will shift. In his view, they will continue to hire illegal aliens and, having violated one law, violate the other applicable statutes.

Piore believes that the Rodino bill would generate an underground labor market which would be larger than the current labor

market because the legislative and social sanctions, which create a floor on conditions in the secondary sector, will be removed. In his view, the possibility of paying bargain wages and producing goods and services cheaply will swell the demand for underground labor in the secondary market.

However, as indicated earlier, if the availability of authorized alien labor is increased, the legitimate economic incentive for an employer to hire an illegal alien should be reduced, altering Piore's equation and perhaps changing his conclusion. In any event, the Rodino bill in its present form reflects many compromises designed to promote voluntary compliance with its prohibition. It eschews certain measures which would make it more enforceable, but also more onerous for employers and intrusive for job applicants.

The Rodino bill would not require an employer to ask an applicant if he is a U.S. citizen or alien authorized to work and the unknowing employment of an illegal alien would not be a violation. Some have suggested that if the Rodino bill is to be effective, each applicant should be required to show proof of citizenship or eligibility to work when applying for a job. They note that Social Security cards are now available only to citizens and aliens eligible to work and that satisfying the proposed requirement would eventually be no more burdnesome than displaying a Social Security card. This proposal, however, has

received little support because of a reluctance to impose an affirmative duty on employers or to take another step toward what might become a domestic passport system.

The Rodino bill has been criticized on several other, related grounds. Some fear that a prohibition on the knowing employment of illegal aliens would abet job discrimination against Spanish speaking or surnamed citizens or aliens eligible to work by employers who do not want to run the risk of hiring an illegal alien. There is concern that the Civil Rights statutes prohibiting such discrimination are not adequate protection. Others claim that the prohibition would unfairly expose employers who inadvertently hire illegal aliens to prosecution.

The Rodino bill as passed by the House of Representatives last year addressed these concerns. It provided that an employer would not be deemed to have violated the prohibition if he had made a bona fide inquiry to determine whether an applicant was a citizen or alien entitled to work. Obtaining a signed statement from the applicant would have constituted a prima facie case of a bona fide inquiry.

This provision was criticized, however, for conflicting reasons. Some believed that it would itself promote discrimination since only Spanish speaking or surnamed individuals were likely to be asked to submit a statement. Others suggested

that the provision would complicate enforcement without providing added protection because an alien in the United States unlawfully would not hesitate to sign a false statement regarding his eligibility to work.

In response to this criticism, the House Judiciary Committee has deleted this provision from the version of the Rodino bill it will soon report. The Committee expects the deletion will improve the enforceability of the bill. To deal with the problem of discrimination, however, the Committee has added a provision which authorizes the Attorney General to seek an injunction against employers who are believed to have refused to hire applicants because of their national origin. The Department of Justice did not express a view on this provision, which would be inconsistent with the recent transfer of related authority from the Department to the Equal Employment Opportunity Commission.

The Rodino bill contains a 3-step penalty structure designed to deal mildly with first offenders and to reduce the incentive for discrimination which would exist if criminal penalties were applied to them. A citation would be issued for a first offense. A second violation within two years would permit a civil fine of up to $300 for each alien illegally employed. Any subsequent violation would expose the offender to a criminal conviction with a maximum punishment of a $1000 fine and one year imprisonment for each alien illegally employed.

An alternative or complementary remedy for the knowing employment of illegal aliens would be a private right of action for injunctive or monetary relief by domestic workers and employers who are allegedly injured by competition from illegal alien labor. The private right of action could compensate for any lack of governmental resources or interest in enforcing the new prohibition. However, such a right of action might be susceptible to abuse, particularly by labor organizations. It also could, in certain areas, impose a significant added burden to already crowded courts. In addition, to the extent that illegal aliens would be needed as witnesses in either a civil or criminal case, problems of prolonged custody or supervision, detrimental to the alien, would arise.

It has been proposed that the prohibition against the knowing employment of illegal aliens not apply to employment in domestic service in a household in which one or two persons are employed; other areas which might be exempt could also be identified. This proposal reflects the belief that Americans who may be able to perform domestic services, or certain other jobs, are generally unwilling to do so, that the existing labor certification process is not adequate, and that the federal government should direct its enforcement resources toward employers

in an INA detention center, with attendant cost to the government and hardship to the alien.

Similarly, efforts could be made to recover welfare payments from those illegal aliens who have received them. However, HEW believes limited amounts of money are involved, only about $16 million annually. Thus, the reservations expressed concerning collection of taxes also apply to recovery of welfare payments.

It has been suggested that economic penalties be imposed on illegal aliens who are apprehended in order to punish them and deter others. Such penalties could include civil fines and confiscation of vehicles or other property. However, the procedures which due process probably requires could make imposition of such penalties a time-consuming process. In addition, the fairness of applying harsh economic penalties to those whose crime might be characterized as seeking to work is questionable.

Another means by which the United States may discourage illegal immigration is the promotion of economic development in Mexico and other nations from which illegal immigrants come. Mexico is now engaged in a number of population control and economic development projects. U.S. assistance in these efforts is not simply altruism, but recognition of our interdependence. Support for such projects could receive higher priority in our foreign policy.

C. Enforcement

Any efforts to reduce the economic incentive for illegal immigration must continue to be complemented by efforts to enforce the law. The major thrust of INS' effort has been to try to apprehend at or near the border those attempting illegal entry. This seems to be the easiest and most efficient way to identify and apprehend aliens, achieving maximum deterrence while minimizing the adverse impact on Americans and authorized aliens because the better settled an illegal alien is, the more intrusive the means which may be necessary to identify him or one who might be mistaken for him. The number of illegal aliens apprehended in border areas in each year has risen with the increase in the resources devoted to this effort. INS received for the present fiscal year 750 new positions and an increase of almost $30 million for apprehending and removing illegal aliens. It is likely that continued increased border resources would prove a good investment. However, INS has also identified many illegal aliens in urban areas, but does not have the manpower to apprehend them. Additional resources in these areas could also be effectively utilized.

Increased efforts by the Mexican government to secure the border would also be highly desirable. Preventing illegal immigration from the Mexican side of the border would diminish the opportunity for exploitation of illegal aliens in the United

States and the possibility that enforcement efforts here would constitute harassment of Spanish speaking Americans. U.S. efforts to encourage a foreign country to restrict emigration may seem anomalous, but more effective efforts by Mexico would be of assistance to the United States.

Amnesty

Improved operation and enforcement of the immigration laws will still leave a question of what to do with the many illegal aliens who have been in the United States for prolonged periods. The relevant existing provisions seem inadequate to deal with this problem efficiently and humanely.

It has been suggested that a general amnesty be declared for all aliens unlawfully in this country. There are, however, compelling objections to this approach. Such an amnesty would reward those who entered illegally, encouraging others to do the same with the expectation that amnesty will again be granted in the future.

However, it is desirable to have a fair and efficient means of assisting those with compelling reasons for remaining in the United States and to relieve the anxiety of those who have been here a long time. The present version of the Rodino bill provides for adjustment of status for all illegal immigrants here continuously since 1968 who are closely related to an American

citizen or permanent resident alien and who apply for such an adjustment within one year. INS estimates that 265,000 people would be eligible under this provision.

While the 1968 date is necessarily arbitrary, it does not seem inappropriate. This provision would assist many of those who came here before the United States gave high priority to apprehending illegal aliens. However, it might be preferable to place a statute of limitations on unlawful entry, keeping the possibility of adjustment of status in the future open to those who entered the United States after 1968. Such a provision might, however, offer a greater incentive for illegal immigration than the fixed date approach.

The provision now in the Rodino bill continues the requirement that an illegal alien seeking adjustment of status have a close relationship with a U.S. citizen or permanent resident alien. This requirement would exclude some illegal aliens with compelling equities to support their desire to remain here and might be eliminated for this reason.

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

OFFICE OF
POLICY AND PLANNING

March 23, 1976

MEMORANDUM

To: Domestic Council Committee on Illegal Aliens

From: Doris M. Meissner, Executive Director
Domestic Council Committee on Illegal Aliens

Subj: Steering Committee Meeting Minutes,
March 4, 1976

Attached please find minutes from the Domestic Council Committee on Illegal Aliens Steering Committee meeting of March 4, 1976 and work outline for each task force which were reviewed and adopted at that meeting.

Attachments

DOMESTIC COUNCIL COMMITTEE ON ILLEGAL ALIENS
STEERING COMMITTEE MEETING
March 4, 1976

Attendees:

Edward H. Levi, Chairman
Sam Bernsen, INS
Leonard F. Chapman, INS
Barry Chiswick, CEA and Technical Adviser to Steering Committee
John Dreyfuss, State
Ronald Gainer, DOJ
Ira Goldstein, HEW
James F. Greene, INS
Edward Guss, INS
Fred Kahn, DOL
Norbert Krieg, State
Doris Meissner, DOJ
John Nahan, INS
Richard Parsons, Domestic Council
James Purcell, OMB
Dennis Roth, DOL
Victor Vazquez, HEW
Abraham Weiss, DOL
Michael Wenk, DOJ
Mark Wolf, DOJ

Each of the five task forces established at the January 21, 1976 meeting of the full committee reported its progress and future agenda.

For the Immigration Law and Policy Task Force, General Chapman, chairman, reported that the work of the task force would proceed in two phases: the first, to be completed in March, will recount the history and basis of our present law and will assess its impact; the second will be an attempt to articulate what our law ought to be and will be based on the findings of the other task forces. It will consider the full range of options from no immigration to unrestricted immigration.

Because the other task forces may not report with sufficient information or time prior to the June 1 reporting date, Attorney General Levi urged the Immigration task force to develop some assumptions of what the impact of illegal aliens might be in order to analyze possible policy alternatives.

Abraham Weiss, chairman of the Economic and Labor Market Impact Task Force, reported that his group had developed a broad outline of questions that need to be answered before any definitive statements about illegal alien impacts can be made. The basic data needs on illegals will be supplied by a census-type study which will be funded by INS but is not yet underway. Mr. Weiss offered the technical services of his staff to INS in structuring the study.

The main interest of the Economics task force is in labor-related questions. It will assess experience with the worker certification and farm labor contractor programs and offer modifications as necessary. It sees the June report as a status report outlining the state of the art and does not believe any definitive information can be available by that time. Census and related data on the foreign born were suggested as useful sources of information for comparison group analysis to further the work of this task force.

The Economics task force suggested inviting a resource group of experts to meet with all task forces and lend assistance with the difficulties of learning about illegals. Mr. Levi cautioned against the danger of not giving equal opportunity for interested parties to be heard. It was agreed that individual meetings of task forces with select researchers and academics were appropriate but should not create high visibility or be accompanied by circulation of task force papers.

Victor Vazquez, chairman of the Social and Community Impact Task Force, reported that his group would produce a descriptive portrait of the social impact of illegals to be based on statistics where possible. They will also outline perceptions of illegals and propose research which would serve to validate or disprove these perceptions. Both the Economics and Social task forces propose to consider social services programs in their work. The former will take a cost-benefit approach and the latter will look at program use and impact.

For the Enforcement task force, James Greene, chairman, explained that his group will report on four areas: (1) how to enforce current authorities more effectively; (2) law enforcement priorities; (3) necessary legislation; and (4) disincentive measures to decrease the flow of illegals. Conclusions from other task forces should affect the work product of the Enforcement group and will be incorporated when they become available.

John Dreyfuss, State, reported for the Foreign Relations Task Force in the absence of William Luers, chairman. This task force will meet in April with government of Mexico officials. The U.S. wishes to convey to Mexico our belief that the illegal alien issue is a serious one and that the status quo may change. In addition to the Mexico meeting this task force will develop information for the June 1 report on international migration push-pull forces and foreign policy aspects of changes in immigration policy.

The remainder of the meeting was devoted to a discussion of (a) the proposed INS census survey on the numbers, characteristics and flows of illegal aliens in the U.S. and (b) a recent Supreme Court decision, DeCanas v. Bica, February 25, 1976, which upheld California's right to pass a state law regulating the employment of illegal workers but remanded the statute in question to the California courts for a ruling on whether or not it conflicts with federal immigration laws.

Respectfully submitted,

Doris M. Meissner

Doris M. Meissner
Executive Director
Domestic Council Committee
on Illegal Aliens

Domestic Council Committee
Steering Committee Meeting
March 4, 1976

Agenda

A. Opening remarks

B. Reports on work of task forces

1. - Immigration Law and Policy - INS, Gen. Chapman

   - Economic and Labor Market Impact - DOL, Abraham Weiss

   - Social and Community Impact - HEW, Wm. Morrill

   - Enforcement - INS, James Greene

   - Foreign Relations - State, Wm. Luers

2. Clarify areas of overlap; identify issues overlooked

C. Information and data needs

1. Presentation of INS research plans - Edward Guss, Director, Office of Planning and Evaluation, INS

2. Additional data needs; how to meet them

D. June report

E. DeCanas v. Bica - February 25, 1976 Supreme Court decision - Sam Bernsen, General Counsel, INS

F. Other

IMMIGRATION LAW AND POLICY TASK FORCE

Work Outline

1. Brief historical run-down on U.S. immigration. (For INS)
   - A. Early laws.
   - B. Who came (nationalities, workers, relatives) when and why?
2. Theoretical premises of 1965 amendments of Immigration and Nationality Act. (For State)
   - A. Exclusion of undesirables and unneeded workers.
   - B. Numerical limitation on immigration with preferences for relatives, workers and refugees.
   - C. Control of non-immigrants.
3. Impact of the 1965 amendments and their administration.
   - A. Who came since 1965? (For INS)
     1. Immigrants
     2. Non-immigrants.
     3. Illegal aliens and workers.
   - B. Who wants to come? (For State)
     1. Documented demand
     2. "Invisible" demand factors
   - C. How are we administering the present law. (For State, INS and DOL).
4. Relevant immigration policies of other countries.
   - A. Canadian and Australian immigration systems. (For State)
   - B. Western Europe's guest worker system. (For DOL)
5. Conclusions and recommendations including options for revising basic immigration system and administration -- to be considered later.

DOMESTIC COUNCIL COMMITTEE ON ILLEGAL ALIENS

Economic and Labor Market Impact Task Force

Work Outline

The initial charge to the task force was to analyze the economic impact of illegal aliens from two vantage points: (a) the labor-market economic sector and geographical distribution of illegal workers, their behavior and movement in the labor market, and their effects on native workers; and (b) the fiscal effect of illegal aliens on public expenditures, tax revenues and the balance of payments. (Organization Plan adopted January 21, 1976)

In view of time and staff constraints, it has been agreed by the chair and the Executive Director of the committee that this task force would outline the state of the art within the purview of the task force and propose a plan to find some solutions to any knowledge gap deemed critical in determining the economic impact of illegal aliens.

Below is the work outline for this task force:

1. Demographic Profile (Basic data collection-INS)
   a) Definition: distinction between nonimmigrants who overstay, those who enter illegally, and nonimmigrants who engage in work.
   b) Description: Size, composition, marital status, sex, age, education level, place of origin, current location, and length of stay.

c) Labor market status: earnings, industry, occupation.

d) Economic objectives of illegal aliens (acquisition of low-skill, labor occupation and/or higher status?)

e) Is illegal immigration largely a rural phenomenon, an urban phenomenon, or both?

f) Frequency of illegal entry in a year. Any previous apprehensions? If so, this year? other years? Frequency of apprehensions.

2. Labor Market

a) What is the extent of jobs held by illegals at the expense of those which citizens and legal immigrants would otherwise fill (displacement effect)?

b) What is estimated cost of displacement in lost earnings to American workers and what is increase in tax burden as the result of such displacement (unemployment compensation, welfare, etc.)?

c) How do wages paid illegals, by industry and occupation, compare with average wages paid for comparable jobs in the labor market area?

d) If citizens and/or legal aliens spurn jobs held by illegals, are illegals filling appropriate labor market function and enabling marginal firms to continue to operate? (In absence of illegal

alien labor supply, would firms redesign production function in direction of more capital intensive operation?)

e) Are lower wages paid illegals reflected in lower prices and hence possibly offsetting disemployment of American workers (in broad economic terms)?

f) Proportion of total working population accounted for by illegals.

g) What is the extent of substandard wages and working conditions encountered by illegal aliens and who are the most frequent offenders?

h) Dynamics of occupation and geographical movement.

i) Projections for the future.

3. Balance of Payment/International Income Transfer

If in work status, do illegal aliens send part of savings to country of origin?

a) If so, approximate amount per year?

b) What is aggregate amount of money sent outside U.S. by illegals?

c) What is percent of money sent by illegals to total balance of payments status for that year?

d) What is percent of money sent out to other countries by citizens and legal aliens?

e) What is percent of money sent out to other countries by Federal agencies e.g., social security payments?

f) What is effect of such outflow on economies of foreign countries? (e.g. is this a form of informal foreign aid?)

g) What is effect of such outflow on U.S. economy?

4. Are wages paid to illegal aliens subjected to either Federal or State taxation procedures? What is extent of tax evasion?

5. Critique of current labor certification and FLCRA programs (DOL programs)

a) Effectiveness

b) Cost

c) Labor market impact

d) Court cases

e) Desired legislative changes in program

6. Economic implications of enforcement costs (apprehension, detention, deportation) 1/

7. Domestic and foreign experience with guest and/or imported labor and/or illegals.

1/ The data will be collected by the Enforcement Task Force. However, the economic analysis will be performed by this task force.

FK/pml 3/2/76

3-1-76

DOMESTIC COUNCIL COMMITTEE ON ILLEGAL ALIENS
Social and Community Impact Task Force

The Social and Community Impact Task Force in its first meeting held on March 1, 1976 discussed the issues and problems surrounding these issues and decided to approach its goals through the following activities:

1. Develop a review of the literature to determine what information is available which bears on the problem and how it can be used to address the social and community perspectives.
2. Develop an assessment of descriptive data on ethnic communities which can be used in determining extent of use of domestic programs and services by illegal entrants. The task force anticipates developing a rationale which would permit generalization to the illegal alien segment from the descriptive portrait developed for the like domestic minority community.
3. Examine the effects of enforcement activities on the domestic minority communities to determine what their impact is on the social activities of these communities and their illegal alien members.
4. Assess the social impact of current and proposed immigration policies on the domestic minority communities, as well as upon the broader domestic scene.

5. Identify data gaps and develop research ideas which can be presented to the Domestic Council Committee on Illegal Aliens with recommendations for further development and eventual funding.

In general, the Task Force was painfully aware not only of the lack of data on social impact issues, but also of the apparent lack of mechanisms for obtaining this information. The members felt that [redacted] ways for obtaining the needed information would have to be found and that some empirical data base would have to be developed before any meaningful discussion of the issues could be held. It was with this perspective in mind that the Task Force identified the following activities to be completed prior to their next meeting scheduled for March 15, 1976:

1. develop and circulate a "mini" review of the available literature
2. circulate copies of key studies to Task Force members
3. prepare an outline of data available which may be useful in developing a descriptive profile of minority communities for use in assessing utilization of programs and services by their illegal alien status members. (Bureau of the Census)
4. develop for presentation at next meeting an outline of available program data which may be useful in determining extent of service delivery to illegal aliens. (each member agency)

Enforcement Task Force

I. History of Immigration Enforcement

A. Traditional U.S./Mexico Border problem

1. Past experience with importation of Mexican workers

2. Concept of an "open" border policy.

B. Public's increasing sensitivity to immigration enforcement during difficult economic periods

C. Illegal alien problems defined to some extent by allocation of resources

1. Geographical deployment of resources

2. Inherent nature of system geared to keeping persons out -- ill equipped to deal with persons once they are here

D. Court decisions

1. Individual aliens rights

2. Impact on enforcement techniques

II. Present Enforcement System

A. Department of Justice: Immigration and Naturalization Service

1. Basic authorities

2. Enforcement techniques

3. Resources

4. Priority of programs

B. Department of State: Bureau of Security and Consular Affairs

1. Basic authorities

2. Screening mechanisms

3. Resources

4. Priority of function

C. Indirect Involvement

1. Department of Labor

2. Department of Treasury (Customs and IRS)

3. State and local law enforcement

III. Further Interagency Cooperation

A. Test case: 1972 Social Security Act Amendments

1. Administrative difficulties

2. Extent of INS/SSC cooperation

3. What has been the impact?

4. What experience tells us about future interagency cooperation efforts

B. Administrative improvements in INS/Visa Office cooperation

1. Greater exchange of currency

2. Additional information needed

3. Pilot programs

C. Department of Labor

1. Laws that affect illegal aliens

2. Extent of current enforcement

3. Pilot programs

D. IRS

1. Studies

2. Experience of pilot projects

IV. Dilemmas for Future Enforcement

A. The relative priority assigned to immigration enforcement within total criminal justice system

1. Ratio of immigration violations to prosecution as compared to other violations

2. Incompatibility of system for immigration enforcement, e.g., U.S. Attorney's policy and penal system

B. Inadequacy of System's Controls

1. Fradulent documentation and problems of identification

2. Lack of departure controls

3. Records keeping

C. What level of compliance are we aiming for?

V. Disincentives

A. Aimed at individual

1. Deprive from economic benefits

2. Deprive from benefits under ITNACT

3. Increased sanctions

B. Aimed at employer

1. Sanctions, e.g., criminal and civil

2. Eliminate tax benefits

C. Narrow benefits that can be obtained

1. Develop consistent federal guidelines

2. Work to insure consistency of state and local regulations

D. Other

1. Harsher punishment for smuggling

2. Greater restrictions on travel and stay.

Foreign Relations Task Force

Work Outline

I. Meeting with Mexican government officials -- scheduled for early April

Agenda

A. Overview of problem of undocumented aliens - advance exchange of papers

B. Exchange of basic research documents and information

C. Legislation

1. Review of current and proposed U.S. and Mexico legislation dealing with undocumented migration

2. Review of obligations and commitments assumed by each country in the light of international law and opinions rendered by international bodies.

D. Suggestions for ameliorating the problem of the migratory flow of Mexican laborers to the U.S.

E. International coordination or cooperative measures which might result in slowing the flow.

F. Proposals for regularizing the status of undocumented Mexicans in the U.S.

G. Protection of undocumented migratory workers in U.S.

II. Migration causal factors

A. Push forces: Unavailability of economic opportunity -- rural to urban migration -- political oppression -- uneven economic development -- population pressures

B. Pull forces: International economic disparity -- U.S. demand for cheap labor -- cultural and family ties -- lack of penalties.

III. Major illegal alien sending countries

A. Identify characteristics

B. Analysis of U.S.-sending country relations

IV. Foreign policy implications of changes in U.S. immigration policy or illegal alien constraints

V. Competing foreign policy actions

A. Foreign student and foreign visitor travel policies

B. Foreign aid priorities