

GAO

Briefing Report to the Honorable
Alfonse M. D'Amato,
United States Senate

March 1987

CRIMINAL ALIENS

Majority Deported From the New York City Area Not Listed in INS' Information Systems



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The Honorable Alfonso M. D'Amato
United States Senate

Dear Senator D'Amato:

This is the third and final report in response to your request of July 25, 1985, and subsequent discussions with your office, in which you asked us to obtain information about the Immigration and Naturalization Service's (INS) activities to investigate, apprehend, detain, and deport criminal aliens in the New York City area and prevent their reentering the country.

Our first report, issued on March 10, 1986,¹ disclosed that INS was not investigating or deporting all criminal aliens in the New York City area. Some of the aliens who remained in the country committed additional crimes. Our second report, issued on December 3, 1986,² disclosed that security was inadequate at INS' center in New York City for detaining criminal aliens. Criminal aliens have escaped from the center and at least one subsequently has been charged with a crime.

In this report, we note that in many cases INS has not entered information on deported aliens with criminal convictions into the two computer systems used by INS inspectors at New York City's John F. Kennedy International Airport to detect deported aliens trying to reenter the country. Also, we describe the process and techniques used by INS to identify previously deported aliens and give the criminal backgrounds of aliens who were deported more than once.

We briefed your office on the preliminary results of this review on October 24, 1986. This report summarizes and supplements the information presented at the briefing.

Our review was performed between April 27 and October 10, 1986, and was conducted in accordance with generally accepted government auditing standards. The results are summarized below and discussed in detail in the appendix, as are

¹Criminal Aliens: INS' Investigative Efforts in the New York City Area (GAO/GGD-86-58BR, Mar. 10, 1986).

²Criminal Aliens: INS' Detention and Deportation Activities in the New York City Area (GAO/GGD-87-19BR, Dec. 3, 1986).

additional details concerning our objectives, scope, and methodology.

Aliens (noncitizens) can be deported for a number of reasons. For example, INS regards deportable criminal aliens as those aliens who are convicted of a crime of moral turpitude, such as larceny, rape, or manslaughter and who are sentenced to confinement for 1 or more years within 5 years of entry into the country, or who are convicted of two such crimes anytime after entry regardless of whether confined. Aliens are also deportable as criminal aliens if they are narcotic addicts or if they are convicted of a drug offense, certain firearms offenses, or prostitution or related activities. In addition, aliens regardless of whether they have a criminal conviction can be deported for illegally entering the country without inspection. Aliens can also be deported if they violate the conditions under which they were allowed to enter the United States, such as staying in the country beyond the permitted time.

After being deported, 8 C.F.R. provides that aliens can apply for admission into the United States but must present proof that they have been out of the country for 5 successive years following the last deportation. To enforce this provision, INS procedures require that the names of all deported aliens, along with information on their deportation, be entered into two computer systems used by INS inspectors at ports-of-entry to screen persons attempting to enter the country: (1) the National Automated Immigration Lookout System (NAIIS) which should contain information on deported aliens such as the date and reason for deportation and (2) the Central Index System (CIS) which should contain not only deportation data but also information on the immigration status of aliens.

As used in this report, the term criminal alien applies to any aliens convicted of a crime, not just of those crimes that are deportable offenses. To determine if information on criminal aliens was being entered into NAIIS and CIS, we took random samples of the names of deported criminal aliens and queried each system. The random samples were selected from a universe of 891 aliens designated by INS as having a criminal record and having been deported from New York between January 1, 1983 and December 31, 1985. Those aliens were deported for a variety of reasons. Some that were convicted of deportable offenses were deported on those convictions; others were not. They, along with those aliens convicted of nondeportable crimes, were deported for such reasons as entering the country without inspection.

On the basis of the results from a random sample of 87 out of 891 cases, we estimate that about 94 percent of the criminal aliens deported from the New York City area are not listed in NAIIS. Further, based on a random sample of 249 cases, we

estimate that CIS does not contain deportation information on about 63 percent of the deported aliens.

The Assistant District Director for Detention and Deportation in INS' New York District Office (NYDO) said that his office did not routinely complete the forms used to enter the names of deported aliens into NAILS. The INS deportation officers on his staff said they did not do so because the office was understaffed and they were not aware of the importance of NAILS in preventing deported aliens from reentering the country. In a memorandum dated September 22, 1986, the Deputy Assistant District Director instructed the staff to conform with the INS requirement to complete the necessary NAILS input forms for all deported aliens. However, NYDO has no procedure to verify the extent of compliance with the requirement.

Regarding CIS, however, the Assistant District Director said that his office does complete the necessary forms and they are sent to INS headquarters for entry into CIS. As a result, he did not know why CIS did not contain deportation information for many of the deported aliens in our sample.

We asked officials at INS headquarters why the forms sent from New York were apparently not used for entering the names and other information about deported aliens into CIS. These officials told us they could not determine whether the fault lies with NYDO or headquarters because no procedures exist to reconcile the data sent by NYDO with the CIS output.

RECOMMENDATION

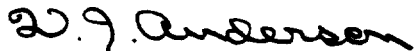
We agree with NYDO's decision to reemphasize the necessity for deportation officers to complete the forms needed to enter the names of deported aliens into NAILS. However, since compliance with the system requirements has been a problem in the past, we believe NYDO needs to periodically monitor the accuracy and completeness of the information being entered into NAILS. This should make the system more useful to INS in screening aliens for entry into the country. Therefore, we recommend that the Commissioner of INS direct NYDO to periodically determine whether the appropriate forms are being completed and entered into NAILS for all aliens deported from New York.

Reasons for the absence of information in CIS were not readily determinable. The procedures NYDO and INS headquarters follow for inputting data into CIS do not require that documentation be maintained which could be used to verify the completeness and accuracy of information entered into CIS. Therefore, we also recommend that the Commissioner of INS determine why CIS does not contain information on all deported aliens and take the appropriate action to ensure that the system is kept current.

B-222060

As requested by your office, we did not obtain official agency comments on this report. However, the contents of the report were discussed with INS officials, who generally agreed with its contents and whose comments were considered in preparing the final report. As arranged with your office, unless you publicly announce the contents of the report earlier, we plan no further distribution until 7 days after the report date. At that time, we will send copies to interested parties and make copies available to others upon request. If there are any questions on the contents of this briefing report, please call Arnold P. Jones, Senior Associate Director, at (202) 275-8389.

Sincerely yours,



William J. Anderson
Assistant Comptroller General

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ABBREVIATIONS

| | |
|-------|---|
| CIS | Central Index System |
| DACS | Deportable Alien Control System |
| INS | Immigration and Naturalization Service |
| NAILS | National Automated Immigration Lookout System |
| NYDO | New York District Office |

CRIMINAL ALIENS: INS INFORMATION
SYSTEMS DO NOT LIST MAJORITY OF ALIENS
DEPORTED FROM THE NEW YORK CITY AREA

BACKGROUND

Aliens can be deported for a number of reasons. Legal aliens can be deported and excluded from reentering the country if (1) convicted of a crime involving moral turpitude committed within 5 years of entry and sentenced to confinement for a year or more; or (2) convicted of two or more crimes involving moral turpitude, not arising from a single action, at any time after entry regardless of whether confined. Crimes of moral turpitude include murder, manslaughter, rape, and sodomy. Legal aliens can also be deported if they are narcotic addicts or have been convicted of a drug offense. Aliens who enter the country illegally, or violate a condition of admission into the country, can be deported and excluded from reentering regardless of whether they are convicted of a crime. Once deported, aliens generally may not reenter the country for 5 years.

Preventing deported aliens from reentering the country at John F. Kennedy International Airport (JFK airport) is the responsibility of the INS New York District Office (NYDO) examination group. INS has two automated systems which can be used in detecting deported aliens trying to reenter the country. The National Automated Immigration Lookout System (NAIIS) contains information on deported aliens such as the date of and reasons for deportation. The other system, the Central Index System (CIS), contains not only deportation information but also data on the immigration status of all aliens who have come into contact with INS.

JFK airport is one of the busiest international airports in the United States. International flights arrive at six locations at the airport. One arrival area is operated 24 hours a day. The other five locations are in operation 8 hours a day. Immigration inspectors are assigned to each location. As of July 3, 1986, INS had 100 permanent and 70 temporary inspectors assigned to the airport. Inspectors are rotated to different locations depending on the expected volume of passenger traffic for the day. During the 16-month period ending in April 1986, INS examiners inspected about 4 million aliens at the airport.

OBJECTIVES, SCOPE, AND METHODOLOGY

At the request of Senator D'Amato, we reviewed INS' investigations of criminal aliens in the New York City area; their detention and deportation; and INS' controls to prevent previously deported criminal aliens from reentering the country through JFK airport. This report responds to the latter review. We agreed with the Senator's office to provide information on:

- the process and techniques used by INS inspectors at JFK airport to identify previously deported criminal aliens attempting to reenter the country,
- the adequacy of the computer systems INS uses to assist the inspectors, and
- the criminal backgrounds of aliens who were deported more than once.

In order to obtain information on the adequacy of INS controls to detect and preclude previously deported aliens from reentering the country through JFK airport, we held discussions with INS managerial and supervisory inspection personnel at the airport, with examination and deportation officials at INS' New York District Office, Eastern Regional Office, and headquarters; and reviewed policies, procedures, records, and other documents relating to the inspection process.

We tested the two data bases maintained by INS to detect and prevent deported aliens from reentering the country. We tested NAILS using a random sample of 87 out of 891 aliens. We also tested CIS by using a random sample of 249 of the same 891 aliens. These aliens were designated by INS as having criminal convictions and having been processed for deportation through NYDO during the period January 1, 1983, to December 31, 1985. A larger sample was selected for testing CIS because we found a very small number of deported aliens listed in NAILS.

Based on these random samples, we estimated the number of criminal aliens deported from the New York City area who were not included in INS information systems and the number of aliens deported more than once. Our estimates, with resulting upper and lower limits, are calculated at the 95-percent confidence level. That is, we are 95 percent certain that if all cases had been examined, the true number of aliens would have been within these upper and lower limits.

INSPECTION PROCESS TO DETECT EXCLUDABLE ALIENS ENTERING THE UNITED STATES

To determine whether aliens attempting to enter the country at JFK airport meet admission conditions, INS inspectors refer to two data bases, NAILS and CIS. These data bases are among a variety of inspection tools and investigative techniques used in a two-stage process. A brief inspection of all alien passengers is made during a primary stage. If inspectors identify an individual as potentially excludable from entering the United States, a more in-depth inspection is made in a secondary stage. Aliens who pass inspection are admitted into the country. Aliens who fail can be incarcerated pending a hearing or can voluntarily leave the country.

Primary stage of inspection

Aliens arriving at JFK airport proceed directly to INS booths for primary inspection while U.S. citizens with U.S. passports go to the Customs area to collect their baggage. INS inspectors check each alien's passport and visa for validity and ask questions aimed at determining such information as whether the alien is likely to overstay, plans to work in the country, and has sufficient money to support his or her stay.

The inspector also looks for the name of all aliens over 14 years old in the Service Lookout Book, a printout of certain data in NAILS. The book contains the names of about 40,000 individuals, about 6,100 of whom were previously deported. The other names are there for various other law enforcement purposes. Located in each inspection booth, this book is intended to help identify potentially excludable aliens requiring a more in-depth inspection. INS inspectors told us that because of the heavy alien traffic, primary inspections are to be completed within 1 minute.

During the 16-month period ending April 1986, INS inspectors at JFK airport inspected about 4 million aliens and identified during the primary inspection stage 37 previously deported and excludable criminal aliens attempting to reenter the United States. However, INS officials told us that, based on their experience as inspectors, they believe deported aliens are more likely to reenter the United States illegally between ports-of-entry.

Secondary stage of inspection

In the secondary inspection areas at JFK airport inspectors use automated data bases, where available, and other investigative techniques to verify that aliens are excludable. For a criminal alien who has been detected in the Service Lookout Book in the primary stage of inspection, an inspector in the secondary stage might consult NAILS and CIS, which provide additional data such as the alien's criminal record, and record of previous deportation.

MANY DEPORTED ALIENS NOT LISTED
IN THE NATIONAL AUTOMATED IMMIGRATION
LOOKOUT SYSTEM

The Service Lookout Book and its expanded automated version, NAILS, do not contain the names of many deported aliens, thereby limiting the effectiveness of these tools to detect those aliens attempting to reenter the United States at ports-of-entry. INS instructions for maintaining the lookout system specify that the names of deported aliens be listed in the system data base. The alien's conviction of a deportable offense, if any, is also to be listed. INS records identified 891 aliens with criminal

backgrounds who were deported through NYDO's detention and deportation center during the 3-year period ending December 31, 1985. On the basis of a random sample of 87 of the 891, we estimate that approximately 94 percent of the criminal aliens were not listed in NAILS.

NAILS is a more useful tool than the manual Service Lookout Book which provides information by name only. NAILS can be accessed in various ways such as by alien name, passport number, or alien identification number. NAILS also provides more information than the Service Lookout Book including details on why a name is listed, the types of crimes committed, dates of convictions, and aliases used by the deportee. When we started our work at JFK airport, three of the six locations for international arrival flights had NAILS terminals in secondary inspection sites. As of September 1986, eight NAILS terminals were being installed in the primary inspection area of one passenger arrival area. There were plans to install an additional 20 terminals in other primary inspection areas at the airport by January 1987.

To determine the criminal backgrounds of the 87 deported aliens, we asked INS for the appropriate files. INS could locate only 70 files. An analysis of these 70 aliens' records disclosed that 55 had been convicted of crimes involving moral turpitude and/or trafficking in or possession of drugs. Four of these aliens were listed in NAILS. Ten of the 15 other aliens were arrested and convicted of crimes not involving moral turpitude and/or trafficking in or possession of drugs. INS records did not show any criminal involvement for the remaining five aliens. All 70 of the aliens had been transferred to INS from New York state and city law enforcement institutions.

Table I.1 lists the types and number of convictions of the 51 deported aliens that were not in NAILS.

Table I.1
Types and Number of Convictions for 51
Deported Aliens not in NAILS

| <u>Types of crimes</u> | <u>Total number of convictions^a</u> |
|--|--|
| <u>Moral turpitude</u> | |
| Aggravated assault | 8 |
| Larceny/theft | 12 |
| Robbery | 6 |
| Voluntary manslaughter | 2 |
| Perjury | 1 |
| Possession of a dangerous concealed weapon | 6 |
| Arson | 1 |
| Fraud | 3 |
| Possession and transportation of stolen property | 4 |
| Other ^b | <u>1</u> |
| Subtotal | 44 |
| <u>Drug related</u> | <u>27</u> |
| Total | <u>71</u> |

^aSome aliens convicted more than once.

^bType of crime involving moral turpitude not specified.

A further analysis of the records of these 51 aliens disclosed that 82 percent were from Central or South America, and 94 percent were male. Thirty-seven percent entered the United States as visitors, 25 percent entered the country without inspection, 12 percent were in the country as legal permanent residents, 10 percent were students, 6 percent were admitted into the United States under special conditions, and 6 percent were stowaways. We were unable to determine how 4 percent of the aliens entered the country. The following are examples of the criminal activities carried out by some of the aliens not in NAILS.

- A Jamaican entered the country in 1979 as a visitor. He was arrested by the New York City Police Department and convicted of voluntary manslaughter in September 1984. He was deported in March 1985.
- Between 1978 and 1981, a Colombian was convicted of grand larceny and criminal possession of a drug. He was later convicted of attempted murder and was sentenced to a term of from 2 to 6 years. He was deported in July 1985.

- An Argentinean entered the country in 1970 as a visitor, overstayed his visitor's visa, was granted voluntary departure, but never left the country. His criminal record began in 1975. In 1978 he was arrested for criminal sale of drugs and first degree assault. He was sentenced to a maximum term of 10 years on each charge. He was paroled in 1983 but violated the conditions under which he was paroled. He was deported to Argentina in November 1983.

- A Honduran entered the country illegally through California in 1970. He was deported the following year, but reentered the country illegally through California in 1973. In 1976, the alien was convicted of criminal possession of stolen property and was permitted to leave the country voluntarily. In 1977, he entered the United States illegally through Arizona, and between 1981 and 1984 he was arrested and convicted for the criminal sale of drugs and possession of weapons. He was deported in March 1985.

Action taken to initiate lookouts
on all deported aliens

The NYDO Assistant District Director for Detention and Deportation agreed with us that his office did not routinely complete the forms used to enter the names of deported criminal aliens into NAILS. We interviewed three of the four INS deportation officers (one not being available) on his staff. They told us they did not routinely complete the forms because the office was understaffed and they were not aware of the importance of NAILS in preventing deported aliens from reentering the country.

We informed NYDO officials that not inputting the data was contrary to INS operating instructions which require that all deported aliens be included in NAILS. In addition, if the alien was convicted of a crime which was a deportable offense, INS requires that information to be included in NAILS. Subsequently, in a September 22, 1986, memorandum to the Assistant District Director, the NYDO Deputy Assistant District Director for Detention and Deportation said that she had instructed district deportation officers to initiate a NAILS input form, Lookout Notice Worksheet, G-143, for all deported aliens. The Assistant District Director told us that he had instructed the staff to review the files of all of the deported aliens used in our sample and to complete a Lookout Notice Worksheet. However, he also told us that NYDO has no procedures for determining whether the appropriate forms are completed and entered into NAILS for all aliens deported from New York.

DEPORTATION INFORMATION ON
MANY DEPORTED ALIENS MISSING
FROM THE CENTRAL INDEX SYSTEM

The CIS contains immigration status and other information on over 22 million aliens who have come into contact with INS and for whom a file has been initiated. Included in this data base is information on deported aliens. The system can be accessed by INS secondary area inspectors as an aid in determining whether an alien should be admitted into the United States. We were told by INS inspectors that CIS can be used to detect a previously deported criminal alien if the alien's name is not in the Service Lookout Book but the alien is referred to the secondary inspection area for a reason such as a suspected forged passport.

Our analysis of a random sample of 249 of 891 criminal aliens processed by the NYDO center for deportation over the 3-year period ending December 31, 1985, showed that CIS had no record of a deportation for approximately 63 percent of the cases. Where information was available, we identified 11 aliens who were deported two or more times. However, the number with multiple deportations could have been greater since CIS contained deportation information on only 33 percent of our sample.

Table I.2 shows selected CIS information on the 249 deported aliens in our sample.

Table I.2

Analysis of Information Contained in CIS on
Selected Deported Aliens

| <u>Disposition</u> | <u>Number of aliens in sample</u> | <u>Percentage of total sample</u> | <u>Estimated number of aliens in universe</u> | <u>Lower-Upper limit of estimates at 95-percent confidence level</u> |
|--|---|---|---|--|
| No deportation information | 156 | 63 | 558 | 510-604 |
| Deported once | 72 | 29 | 258 | 216-304 |
| two or more times | 11 | 4 | 39 | 23-65 |
| Alien departed voluntarily ^a | <u>10</u> | <u>4</u> | <u>36</u> | 20-60 |
| Total | <u>249</u> | <u>100</u> | <u>891</u> | |

^aThe Immigration and Nationality Act prohibits INS from granting voluntary departure to those INS regards as criminal aliens. However, an immigration judge can allow this type of departure.

Reasons for the absence of information in CIS were not readily determinable. The procedures NYDO and INS headquarters follow for inputting data into CIS do not require that documentation be maintained which could be used to verify the completeness and accuracy of information inputted into CIS.

When an alien is deported by NYDO the case is forwarded to a docket clerk who prepares a Notice of Deportation, form I-157. Before January 1986, the NYDO clerk manually recorded deportation information from the I-157's onto a coding sheet which contained information such as the year the alien entered the country, nationality, and country to which deported. The alien's name and file number were not recorded. Supervisory clerks checked the number of I-157 forms against the number of entries on the manually prepared coding sheet. According to a NYDO supervisor, verifying information before January 1986 was difficult without the alien's name or file number.

Since January 1986, the alien's name and file number has been entered into the Deportable Alien Control System (DACS) which is used by NYDO for case management control. At the end of each month, a NYDO supervisor verifies the information on the I-157 form against the monthly DACS listing of closed NYDO deportation cases. When the monthly verification process is complete, the listing from DACS along with one copy of the I-157 form for each alien deported is forwarded to INS headquarters for input into CIS. Procedures do not require that a copy of the I-157 form be maintained in the district.

According to INS headquarters officials, no procedures exist to reconcile the number of I-157 forms sent by NYDO to INS headquarters with the CIS output. INS headquarters personnel also told us that data entry personnel are instructed to check that they are entering deportation information for the proper alien by matching names and dates of birth. We were told by INS officials that supervisors at INS headquarters periodically test accuracy of data entry by comparing the information on selected I-157 forms against CIS output. After this review is completed, all I-157 forms are destroyed.

Profiles of aliens deported more than once

INS information for the 11 aliens with multiple deportations show that 10 of these aliens had not reentered the country through a port-of-entry. Thus, these individuals did not go through INS inspection. Some general information on these aliens follows.

- One was deported four times, two were deported three times, and the other eight were deported twice.

- After being deported, ten reentered the country without inspection through Texas, New York, California, or Puerto Rico. INS information on the other alien was not available to indicate how he reentered the country after being deported.
- Seven were arrested at least once for crimes involving moral turpitude, five of which were convicted of such crimes; and three were arrested for and convicted of drug-related crimes. Information on criminal activity was not available on one alien.
- All 11 were males, came primarily from Central or South America, and were aged 26 to 41.

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