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# REPORT TO THE CONGRESS



BY THE COMPTROLLER GENERAL  
OF THE UNITED STATES

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## Smugglers, Illicit Documents, And Schemes Are Undermining U.S. Controls Over Immigration

Departments of Justice and State

By employing professional smugglers or using illicit documents, numerous aliens are able to successfully enter and/or remain illegally in the United States. Many illegal aliens are also engaging in schemes to obtain legal resident status. These activities are expected to increase seriously as it becomes more difficult to enter and/or remain in the United States illegally.

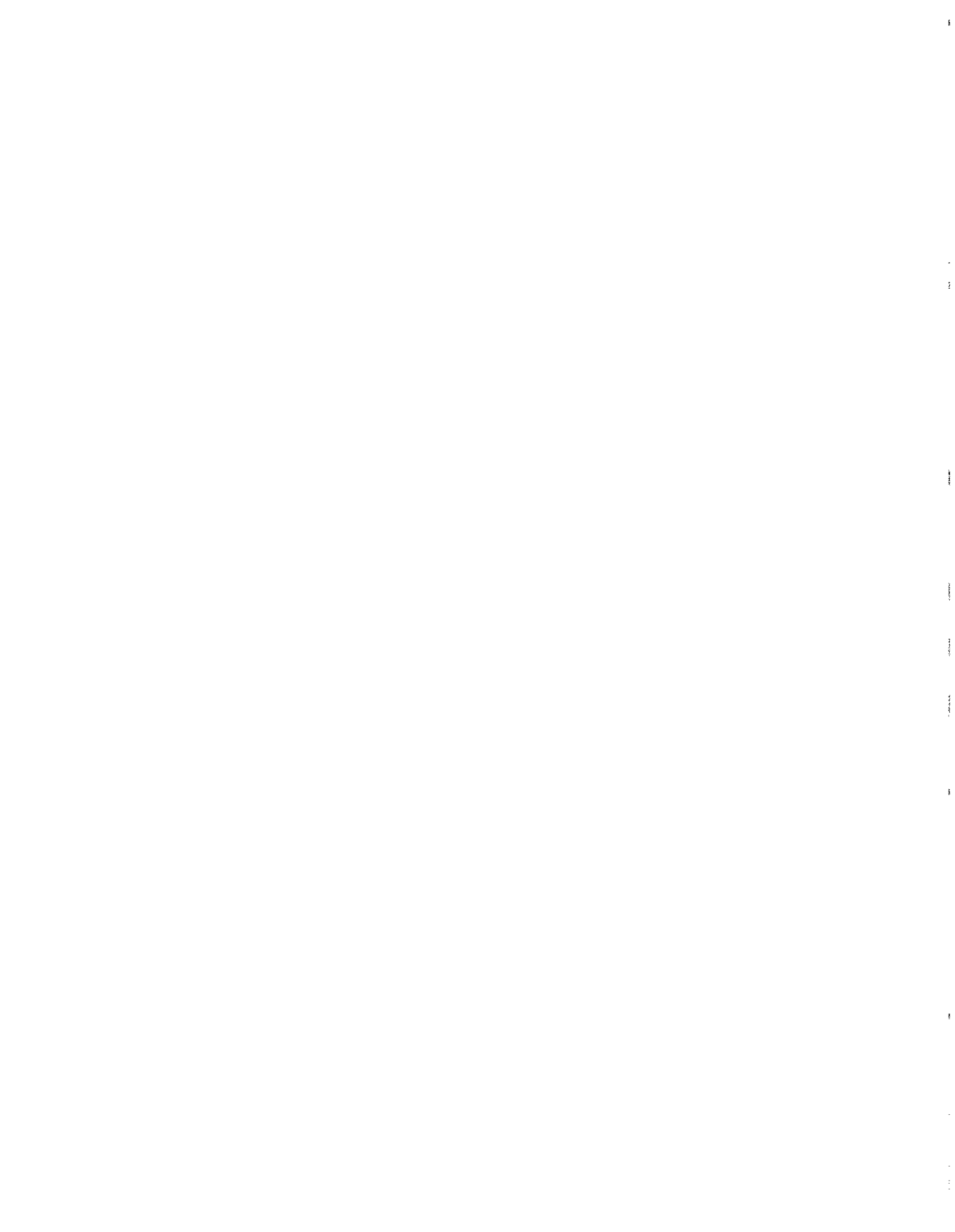
Several problems restrict U.S. controls. GAO is making legislative and administrative recommendations in this report to strengthen the Immigration and Naturalization Service's capability.

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AUG. 30, 1976

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COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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(1) To the President of the Senate and the  
Speaker of the House of Representatives

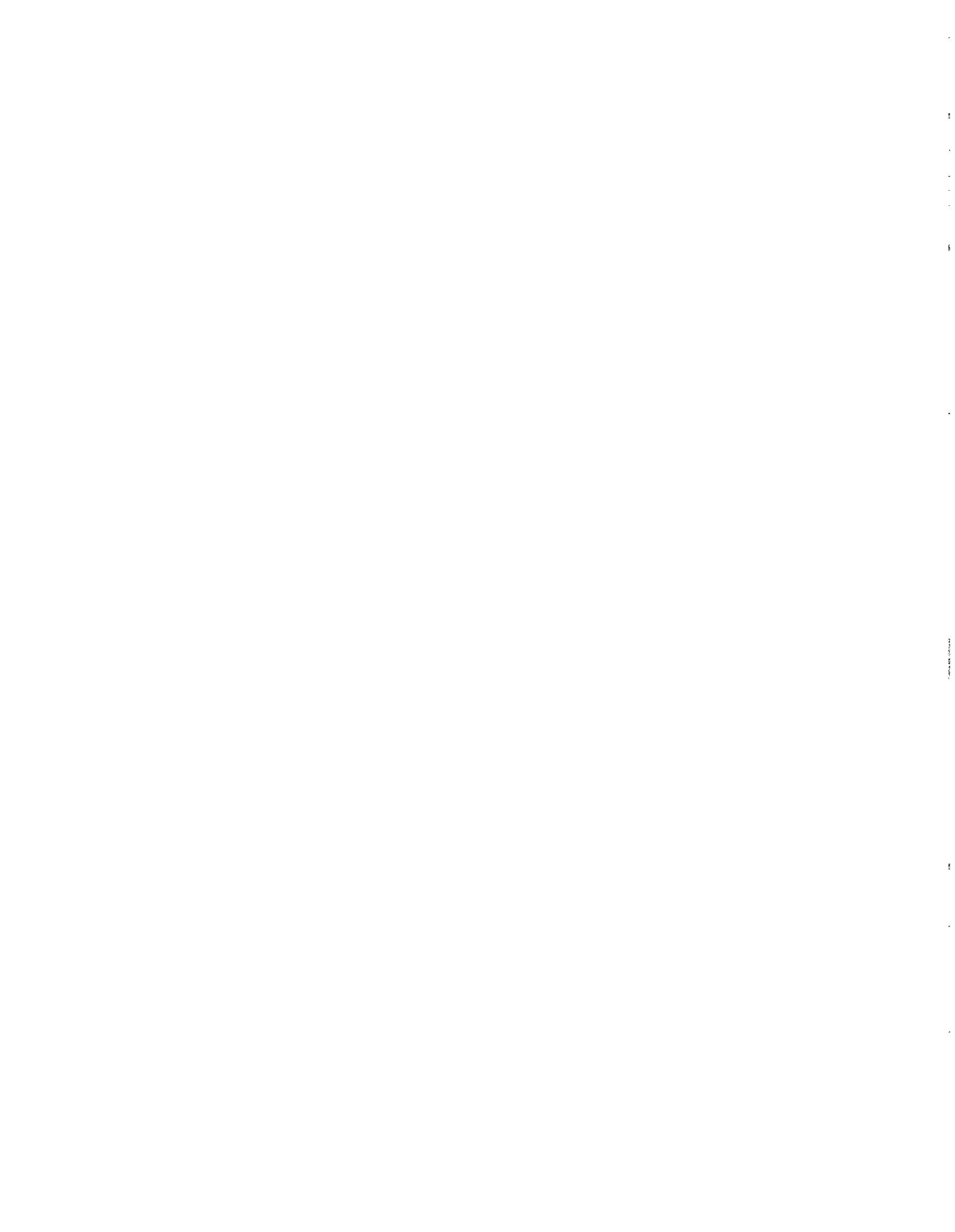
1 2 Today there is growing concern within the administration,  
the Congress, and the Departments of Justice and State over 3/1/52  
U.S. immigration problems. This report discusses organized  
methods to evade immigration laws and suggests ways to improve  
the Federal Government's efforts to control these activities.

We made this review to evaluate how professional smug-  
glers, illicit documents, and schemes to obtain legal resi-  
dent status were contributing to U.S. immigration problems  
and how the Federal Government was combating these organized  
methods.

Our review was made pursuant to the Budget and Accounting  
Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act  
of 1950 (31 U.S.C. 67).

Copies of the report are being sent to the Director, Of-  
fice of Management and Budget; the Attorney General; and the  
Secretary of State.

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ACTING Comptroller General  
of the United States



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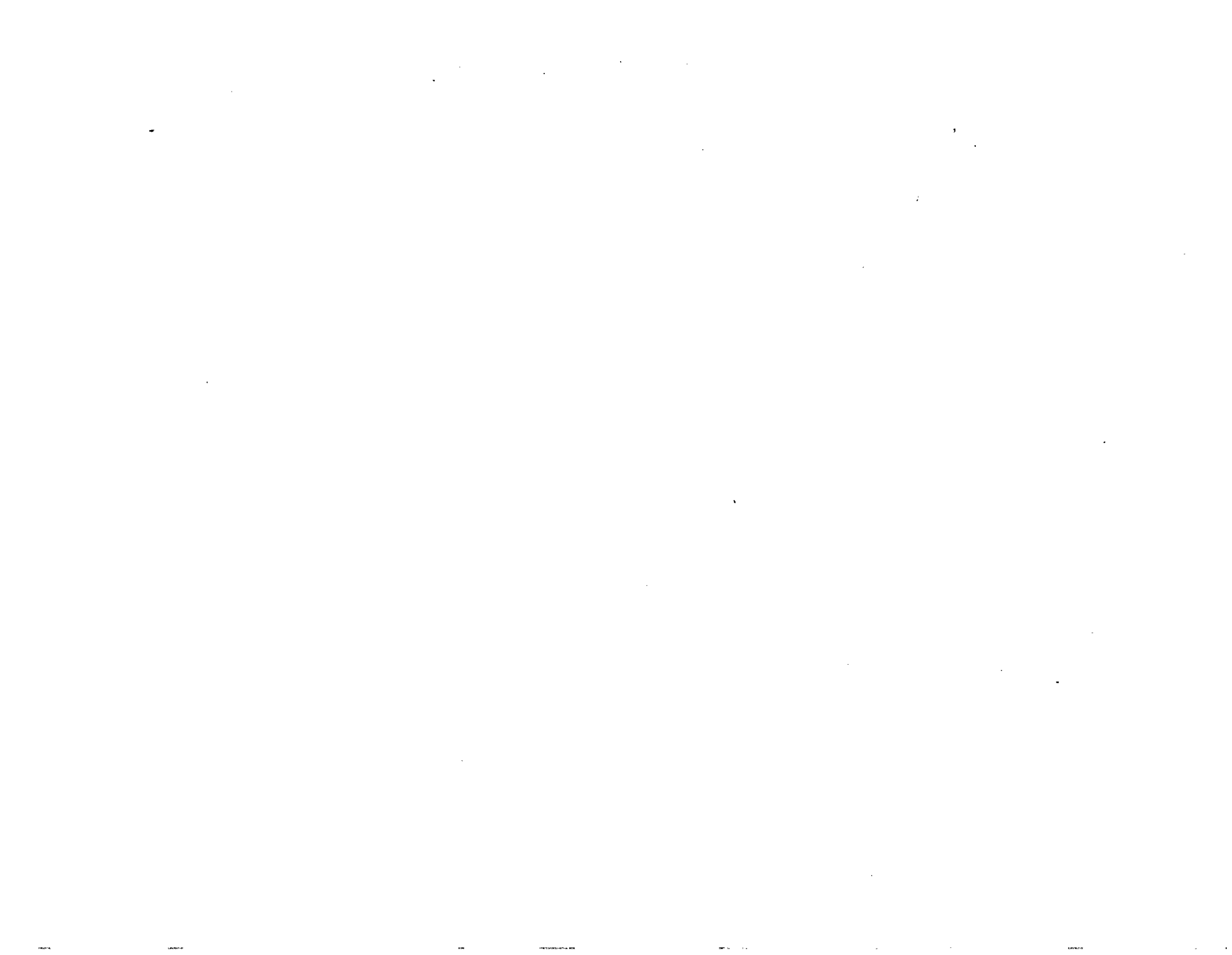
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ABBREVIATIONS

ADIT	Alien Documentation, Identification and Telecommunication System
DEA	Drug Enforcement Administration
GAO	General Accounting Office
INS	Immigration and Naturalization Service
LRA	legal resident alien





COMPTROLLER GENERAL'S  
REPORT TO THE CONGRESS

SMUGGLERS, ILLICIT DOCUMENTS,  
AND SCHEMES ARE UNDERMINING U.S.  
CONTROLS OVER IMMIGRATION  
Departments of Justice and State

D I G E S T

Two prominent proposals to solve U.S. immigration problems are (1) legislation to prohibit employment of illegal aliens and (2) issuance of a new alien identification card. This report deals with immigration problems which will increase, even if such legislation is passed and the new card issued.

U.S. controls over immigration are being undermined by numerous aliens who employ professional smugglers or use illicit documents to enter and/or remain illegally in this country. Many engage in schemes to obtain legal resident status. (See ch. 4.) These activities are expected to increase seriously as it becomes more difficult to enter and/or remain illegally in the United States. (See p. 1.)

The Congress should establish deterrents (1) to curb professional smuggling of aliens, including legal resident aliens who are involved and (2) to prevent aliens in the United States on temporary stays (nonimmigrants) who violate conditions of their entry from obtaining legal resident status by enacting legislation to:

- Permit deportation of legal resident aliens based on criminal convictions for smuggling offenses. (See pp. 23 and 28.)
- Give the Immigration and Naturalization Service discretionary authority to seize vehicles used in smuggling aliens. (See pp. 22 and 28.)
- Prohibit the adjustment of nonimmigrants to legal resident status if grounds for such status were acquired while nonimmigrants were in an illegal status. (See pp. 44 and 53.)

The Department of Justice agreed with these recommendations.

### SMUGGLING

Professional smuggling of aliens is growing in size and complexity. It is a lucrative criminal activity for many persons, often members of large organized rings. Less than half of the smugglers caught were prosecuted; the majority on a misdemeanor charge.

The Service's antismuggling efforts have had some good results, including immobilizing several large rings; however, problems exist which limit its effectiveness. (See p. 27.) The Attorney General should direct the Service to:

- Use established procedures to identify multijurisdictional smugglers quickly.
- Classify known smugglers by the size of their operation and put into place a system for evaluating the progress being made in immobilizing smuggling rings.
- Determine if additional manpower should be assigned to antismuggling units.
- Study the informant program to assess and improve its effectiveness in identifying and apprehending smugglers.
- Begin efforts to obtain suitable surveillance vehicles.
- Seek assistance from U.S. Embassy officials in obtaining cooperation from Mexican officials.

### ILLICIT DOCUMENTS

Illegal aliens gain entry to and/or remain in the United States posing as citizens or legal resident aliens by using illicit documents. These are obtained easily and are difficult to discover. False identification crimes by illegal aliens are

estimated by the Federal Advisory Committee on False Identification to cost \$3.6 billion each year. (See p. 35.)

The Service's work to cut down the use of these documents may have a limited result. (See p. 42.) Accordingly, the Attorney General should direct the Service to:

- Increase personnel attendance at illicit document seminars.
- Determine if it is practical to periodically reissue or revalidate previously issued alien registration documents to help prevent illicit use of genuine documents.
- Establish an index of alien registration documents lost or stolen to tighten controls over the reissuance of those documents.
- Develop a system to provide quick verification of an alien's status for employers.
- Expand investigative efforts, such as investigating sellers and makers of illicit documents.
- Seek more cooperation from State and local agencies issuing birth certificates by increasing its scope of agreements with them and extending such agreements to all other appropriate birth certificate-issuing agencies.

SCHEMES TO OBTAIN  
LEGAL RESIDENT STATUS

Nonimmigrants violate conditions of their temporary entry. Aliens also enter into sham marriages or take advantage of weak investor exemption regulations to become legal residents.

Proposed changes by the Service and the Department of State to investor exemption regulations, if put into effect, would be

a big step toward assuring only bona fide investors will be admitted. (See p. 50.)

The Service recognizes sham marriages as one of the most serious schemes encountered. To maximize Service resources, and to achieve a better and more consistent nationwide detection effort, the Attorney General should direct the Service to:

- Determine statistically those characteristics of marriages indicative of fraud. (See pp. 48 and 52.)
- Provide the Department of State with more information on the Service's actions to determine the validity of marriage relationships. (See pp. 49 and 52.)

#### AGENCY COMMENTS AND GAO EVALUATION

The Department of Justice concurred with GAO's legislative recommendations and agreed with the desirability of implementing GAO's other recommendations, but observed that its ability to do so was affected by the Service's limited resources. GAO recognizes the constraints imposed by resource limitations. It believes, however, that more can be done with existing resources, and its recommendations are presented with this in mind. (For details see pp. 22, 28, 43, and 52.)

## CHAPTER 1

### INTRODUCTION

The United States seeks to limit the number of aliens entering the country and to restrict entry only to aliens who can meet certain qualifications. These efforts are being seriously undermined by numerous aliens who illegally enter the country and/or remain in the United States posing as citizens or legal resident aliens (LRAs) by employing professional smugglers or using illicit documents. Additionally, many aliens are engaging in schemes to obtain legal resident status.

Such acts are expected to increase greatly even if legislation is passed and greater resources devoted to discourage unassisted aliens from illegally entering and remaining in the United States.

### IMMIGRATION INCENTIVE IS ECONOMIC

The primary motivation for most aliens to immigrate is economic. While lowpaying by U.S. standards, the wage rates of most alien-held jobs far exceed the wages available in the alien's home country. For example, in 1973 it was estimated that the per capita income of the poorest 40 percent of Mexican population was less than \$150 a year. About 72 percent of the 140,700 employed illegal aliens apprehended by the Immigration and Naturalization Service (INS) from January to September 1975 earned \$2.50 or less an hour. Also, once aliens are in the United States they can take advantage of other economic benefits, such as welfare payments and free medical care.

### SOLUTIONS TO THE PROBLEM

The most common proposed solutions to the illegal alien problem seek to reduce incentives for illegal entry or to increase the resources allocated to prevent illegal entry.

Legislation has been introduced in recent years to restrain employers from hiring illegal aliens by making it unlawful to knowingly employ such aliens. The House of Representatives approved such bills in 1972 and 1973, but they were not acted upon by the Senate.

In a previous report GAO recommended that the Senate give favorable consideration to aspects of House bill 982

which make it unlawful to hire illegal aliens. <sup>1/</sup> The current version of this House bill, 8713, was submitted to the House in September 1975 by the Committee on the Judiciary. On March 4, 1976, bill 3074 was introduced in the Senate which would make it unlawful to knowingly employ illegal aliens. The bill was referred to the Subcommittee on Immigration and Naturalization, Committee on the Judiciary.

A February 1976 Supreme Court ruling stated that the absence of Congressional action did not preclude the States from outlawing the hiring of illegal aliens within their respective jurisdictions.

The Social Security Administration in March 1974 carried out legislation to prevent aliens from obtaining Social Security cards without proof of legal status. The Department of Health, Education, and Welfare issued regulations that prohibited the payment of certain federally funded welfare benefits to illegal aliens.

Increasing INS resources to prevent illegal entry has been widely recommended. In the last 5 years INS' apprehensions of illegal aliens has increased 97 percent while its authorized manpower has increased 12 percent. For fiscal year 1976 INS has been granted resource increases of 750 personnel and \$30 million over the fiscal year 1975 authorization of 8,082 personnel and \$180 million. INS had requested an additional 3,080 personnel and \$64 million. The INS Commissioner stated that the additional resources granted will enable them to close off many avenues of illegal entry, open up many thousands of jobs held by illegal aliens, and take thousands of illegal aliens off welfare rolls.

Actions taken, plus the issuance of the new alien identification card (see p. 38), will make it more difficult for an alien to illegally enter and/or remain in the United States unassisted. Passage of the proposed legislation to prohibit employing illegal aliens will also put increased pressure on such aliens to seek assistance.

#### ADMINISTRATION OF IMMIGRATION LAWS

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) prescribes the conditions for admission and stay of immigrant and nonimmigrant aliens. The act authorizes the

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<sup>1/</sup>"More Needs to Be Done to Reduce the Number and Adverse Impact of Illegal Aliens in the United States," B-125051, July 31, 1973.

Attorney General and the Secretary of State to administer and enforce the immigration laws. This is primarily carried out by INS and the Visa Office, Bureau of Security and Consular Affairs, Department of State.

INS administers and enforces the laws for admitting, excluding, deporting, and naturalizing aliens. The enforcement and examinations operating groups are principally concerned with identifying and investigating aliens who violate immigration laws.

The Visa Office administers and enforces the law for issuing or refusing visas to foreigners desiring to come either permanently or temporarily to the United States. The overseas U.S. consulate offices screen foreigners about their qualifications and eligibility to enter the United States.

#### SCOPE OF REVIEW

Previous GAO reports (see app. I) have discussed several aspects of the immigration problems facing the United States. This report evaluates INS' success in (1) immobilizing professional smugglers who aid aliens in violating immigration laws and (2) detecting illicit documents and schemes to obtain immigration benefits. We also evaluated the Visa Office's role in detecting fraudulent visa applications presented by Mexican citizens desiring permanent residence in the United States.

We reviewed the laws prescribing the conditions for entry of immigrants and nonimmigrants into the United States and examined INS policies, procedures, and practices for preventing the smuggling of aliens and for detecting illicit documents or schemes to obtain immigration benefits. At American consulates in Mexico, we reviewed the policies, procedures, and practices for detecting sham marriages.

#### Locations visited

We made our review at:

--INS central office, Washington, D.C.

--INS regional offices in Burlington, Vermont, and San Pedro, California.

--INS district offices in Boston, Massachusetts; Chicago, Illinois; El Paso and San Antonio, Texas; Los Angeles, California; and New York, New York.

--Border Patrol sectors in Chula Vista and El Centro, California; Del Rio and El Paso, Texas; Swanton, Vermont; and Yuma, Arizona.

--American consulates in Guadalajara, Mexico City, and Tijuana, Mexico.



## CHAPTER 2

### PROFESSIONAL SMUGGLERS

#### OF ALIENS

While INS border defenses are often successful at preventing illegal entries, foreigners assisted by professional smugglers have a greater chance of eluding detection than those attempting to enter unassisted. Less than half of all known smuggling violations are prosecuted. Even when prosecuted, smugglers are generally only punished by light fines and/or short sentences. The smuggling of aliens has become an extremely lucrative illegal venture and is one of the major problems confronting INS.

Aliens' chances of successfully entering the United States illegally and reaching desired locations are greatly increased by professional smugglers who are often aware of INS defenses and use special methods to evade them.

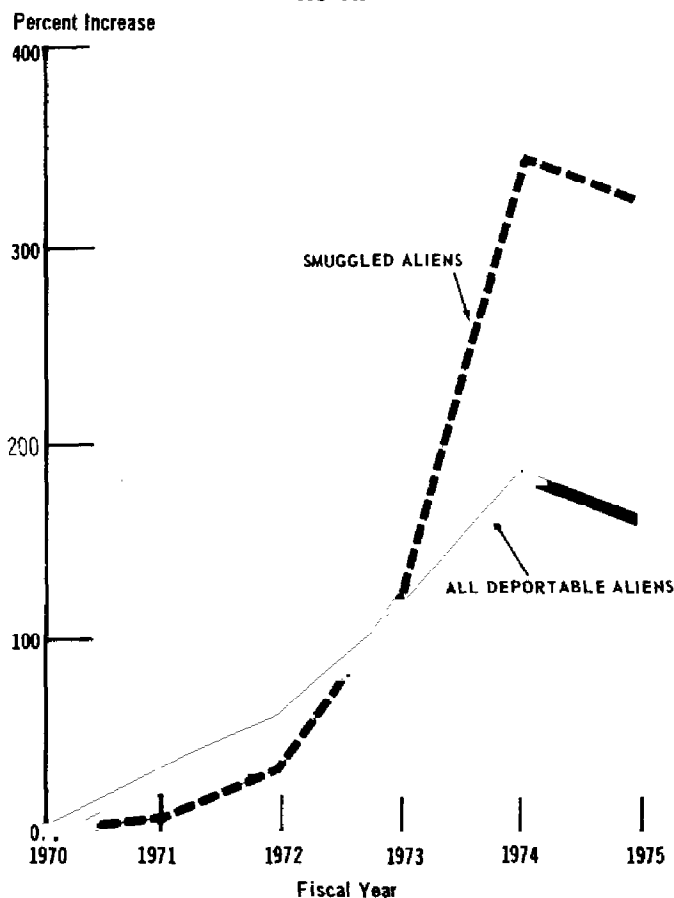
- Guides lead aliens around Border Patrol agents or through normally inaccessible areas.
- Small groups of aliens are used as decoys to divert the attention of Border Patrol agents so larger groups can enter undetected.
- Scout cars with two-way radios warn vehicles smuggling aliens of the location of Border Patrol agents.
- Aliens are hidden in special compartments of vehicles.
- Illicit documents are furnished to aliens to enable them to enter the United States through ports-of-entry.
- Aliens are transported by airplanes or boats that bypass ports-of-entry.

Apprehension of illegal aliens has increased tremendously. Increasing numbers admit having been assisted by smugglers. In fiscal year 1970 only 8.4 percent, or 18,286, of the 218,676 illegal aliens apprehended by the Southwest

Region Border Patrol 1/ had been smuggled. In fiscal year 1975, 13.5 percent, or 76,862, of the 568,550 illegal aliens apprehended had been smuggled. The following graph, based on INS data, demonstrates the increasing prominence of smuggling.

### SMUGGLING ON THE RISE

**A COMPARISON OF SOUTHWEST REGION BORDER PATROL APPREHENSIONS, FOR 5 YEARS, WITH 1970 AS THE BASE YEAR**



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1/Included the following States: California, Nevada, Utah, Arizona, Wyoming, Colorado, New Mexico, Oklahoma, Texas, and Hawaii. In January 1976, INS realigned its four regional boundaries and redesignated them as the Eastern, Northern, Southern, and Western Regions.

Border Patrol officials said that apprehension statistics understated the smuggling problem. Many smuggled aliens are not apprehended. Those apprehended are not always thoroughly interrogated after apprehension due to time constraints or they may be warned by smugglers not to tell their entry arrangements.

Several cases encountered by INS in fiscal years 1974 and 1975 suggest how proficient smugglers are.

--Apprehended smugglers said their ring was successful in transporting groups of 6, 37, 39, 49, 74, and 128 Mexican aliens to the Chicago area.

--A member of a Texas smuggling ring said he had successfully smuggled about 175 aliens and received \$150 an alien, or a total of about \$26,000.

--Near Laredo, Texas, Border Patrol agents stopped a pickup truck and two motor homes carrying 124 illegal aliens. One smuggler had \$18,000 in his possession.

--Arkansas Transportation Commission authorities turned over to INS a trailer van with 52 illegal aliens.

#### GROWING IN SIZE AND COMPLEXITY

There has been a significant increase in the number of large, organized smuggling rings identified by INS. The rings are particularly difficult to immobilize because the leaders often stay removed from the actual smuggling act. The following are examples of large rings which have been penetrated by INS.

--In 1973 the Las Huercas ring was broken up after a 3-year probe by INS officers; 25 persons were indicted. The ring was smuggling up to 50 aliens a day into the Los Angeles area from Tijuana.

--In 1974 a ring was broken up which involved the smuggling of illegal aliens by Marines and former Marines of Camp Pendleton, California. Twenty-eight persons were involved in smuggling over 1,000 aliens a month.

--In 1975 two rings in Texas with 16 and 14 members, respectively, were disrupted by the arrests and convictions of 16 members. Both rings are believed to be active, each smuggling 75 to 100 aliens a month.

### Smugglers boost entry of illegals

Professional smugglers increase the illegal alien problem by soliciting clients in other countries and deep in the interior of Mexico. These aliens generally do not have the knowledge and experience necessary to illegally enter and travel in the United States. Professional smugglers provide this assistance and, in some cases, furnish inducements such as entry guarantees, credit terms, and job placement.

INS is encountering growing numbers of aliens coming from certain Central and South American countries, particularly Guatemala and El Salvador. (During fiscal year 1974 the Southwest Region spent about \$1.6 million on plane fares alone to remove aliens from the United States, which is about 83 percent of its total removal expenditures.)

### Smugglers spread the problem in the United States

The illegal alien population, estimated by INS to be about 6 million as of March 1976, is being dispersed throughout the United States, at least in part, by professional smugglers of aliens.

In Chicago where the illegal alien population is estimated to exceed 250,000, INS officials estimated that up to 50 percent of them were assisted by organized smuggling rings. In the Livermore Border Patrol sector near San Francisco, about 25 percent of the 56,000 illegal aliens apprehended in fiscal year 1975 had been smuggled. In Texas, several professional smugglers have been identified who recruit clients from among illegal aliens working in Texas agricultural fields to go to Chicago, New York, and other interior destinations.

### Mistreatment of illegal aliens by smugglers

Although they pay fees of \$300 and more to smugglers, aliens have been treated inhumanely and even killed. A smuggler was arrested in San Diego for raping a female he smuggled in from Mexico. Another smuggler instructed his cohorts to dump aliens in a ditch and continue on if aliens should become sick or die. A group of 24 aliens apprehended in Los Angeles had been held in a large truck for 2 days without food or water.

## IMPROVEMENTS NEEDED TO COMBAT SMUGGLERS

INS has recognized the serious impacts of professional smugglers and, since 1973, has initiated several steps to improve its antismuggling efforts. These efforts have had good results, including the immobilization of several large smuggling rings during fiscal year 1975. However, problems exist in the following areas:

- The system designed to promptly identify multijurisdictional smugglers has been ineffective.
- An adequate system has not been established to evaluate progress made by antismuggling units or to concentrate resources on major violators.
- Persons assigned antismuggling responsibilities are generally saddled with other responsibilities which take much, if not most, of their time.
- Insufficient management emphasis has been placed on developing an effective informant system.
- Few vehicles suitable for undercover surveillance have been given to antismuggling units.

INS Border Patrol forces are concentrated primarily in its Southwest Region due to the proportion of aliens (90 percent) entering illegally from Mexico.

### Selected Fiscal Year 1975 Border Patrol Apprehension Statistics

	<u>Total apprehensions</u>	<u>Located by</u>	
		<u>Southwest Region</u>	<u>Other regions</u>
		(percent)	
Deportable aliens	596,796	95	5
Smugglers of aliens	6,859	92	8
Smuggled aliens	80,203	96	4

The three other INS regions have had an increase in alien smuggling activity in recent years. Smuggling from Canada into the United States of aliens of various nationalities, particularly Jamaican, Chinese, and Italian, is a problem, but in terms of numbers, smuggling from Mexico is by far the most serious problem.

The responsibility for apprehending smugglers is shared by two separate groups within INS: the Border Patrol sectors and district office investigation units. In the Southwest Region, there are about 1,500 Border Patrol agents distributed among 10 geographical sectors, 9 along the Mexican border and 1 in central California. About 50 of the agents, at least one in each sector, are antismuggling specialists.

The seven continental U.S. district offices in the Southwest Region geographically overlap the sectors and extend further into the interior. These districts have a total of about 300 investigators. Only two district offices have established antismuggling units. The Los Angeles district office has a unit of four investigators and San Antonio has two. In other districts, smuggling cases are assigned to investigators who primarily work other types of cases.

Primarily because of its proximity to the border, the Border Patrol accounts for about 80 percent of the smugglers apprehended.

Coordination of antismuggling efforts can be strengthened

INS has not established an effective data bank to quickly identify professional smugglers operating in several geographical areas.

Professional smugglers often operate in several INS geographical areas of responsibility. The Southwest Region believes that there are three major centers of organized smuggling in which the rings operate, covering several field offices. About 18 percent of the 371 smugglers listed in the INS Smugglers Index have been apprehended in more than one sector or district. One smuggler changed his base of operations from Texas to Arizona.

The field offices are responsible for developing information regarding the scope of a smuggling ring. Each office is expected to notify other offices about a ring operating in its area, and to coordinate strategy and manpower.

To assist its field offices in determining if a smuggler is operating in other areas, the Southwest Region in May 1974 directed its Antismuggling Information Center 1/

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1/The Mexican Antismuggling Information Center was maintained by the Chief Patrol Agent at Yuma, Arizona. All appropriate INS offices submit information on known, apprehended smugglers and the Center maintains an index of this information.

to establish an index of smugglers suspected of belonging to organized rings. The Center had not previously pinpointed the involvement of organized rings.

The organized-ring index has been of little value in accomplishing its objective because field offices have not fully cooperated and the Center has not fully analyzed the information it has. After 11 months, the index consisted of 310 inputs, most gathered from reports not specifically directed to the Center. One Border Patrol sector was responsible for 42 percent of the inputs, while the sector with the greatest amount of smuggling activity was responsible for 7 percent.

The Supervisor of the Center said that the indexed data is not analyzed for patterns or trends and information is disseminated only when requested. In fiscal year 1974 the Center received 8,700 requests for information. It had information in its files for about 11 percent of the requests received.

In March 1976 INS moved its Mexican Antismuggling Information Center, Air Detail Office and Fraudulent Document Center (see p. 34) to the El Paso Intelligence Center. The Center is a joint Drug Enforcement Administration (DEA) and INS intelligence center designed to serve those agencies having law enforcement responsibilities in the U.S.-Mexican Border area. INS plans to use the Center's analytical staff to obtain special studies and analyses. Increased cooperation from field offices is needed, however, to obtain and maintain an adequate organized-ring data base.

Progress measured by number of  
smugglers apprehended, not importance

Although the Southwest Region directed its field offices to concentrate on disrupting the operations of major violators, the only measurement of progress is the number of smugglers apprehended. All persons connected with a smuggling operation, from the most important ringleader to the least consequential transporter, are termed smugglers.

INS has been criticized in the past by its own personnel and by U.S. attorneys for doing little to immobilize major violators. Regional officials indicated that until May 1974, when emphasis was placed on disrupting rings, the only smugglers apprehended were generally transporters.

In May 1975 the Border Patrol sectors were told to list all rings identified during fiscal year 1975, including the ring size and its estimated impact (aliens smuggled each month). The results showed a large variance in the size of rings and apparent confusion concerning what constituted a ring. A Border Patrol official said that he hoped antismuggling personnel considered rings to be continuous, profit-making operations involving several participants. However, analysis of the information submitted by the sectors indicated that many "rings" were not ongoing operations but one-time affairs. For example, one sector submitted information on 131 of the 229 rings that were reported. Of these

- 28 had 1 member,
- 72 had 2 members,
- 21 had 3 members, and
- 10 had 4 or more members.

Information on 44 rings submitted by another sector ranged from 2 to 24 known members per ring.

DEA faced a similar problem in evaluating the impact of its efforts to disrupt major drug traffickers before July 1972. At that time, DEA established a classification system based on the relative importance of drug traffickers. For example, class I consisted of violators who are major illicit laboratory operators, heads of criminal organizations, drug smuggling heads, or dealers in volume quantities. DEA believes this system has enabled it to effectively evaluate progress and allocate resources more efficiently.

#### Efforts weakened by too few personnel and sporadic emphasis

INS has not had a consistent antismuggling effort. Border Patrol antismuggling agents are assigned other duties which take much, if not most, of their time. District office investigation units have had radical shifts in the number of personnel assigned to antismuggling.

Border Patrol antismuggling agents have little time for their primary duties: informant development, active pursuit of smugglers, and liaison with Mexican officials and local police agencies. Most of their time is spent preparing paperwork, including clerical duties, for presenting the Government's case before U.S. magistrates.

As a consequence, the antismuggling agents have insufficient time to pursue investigation of major violators, which often requires prolonged, detailed work. The agents



said that most smugglers apprehended are lower echelon violators.

We recognize that it is not feasible to relieve anti-smuggling agents of related functions in favor of full time devotion to liaison and informant development and concur with INS that the most knowledgeable agent should be available to present the case for prosecution. We believe, however, that INS should consider relieving these agents of some of their duties, particularly with regard to clerical functions, so they can devote more time to their primary duties.

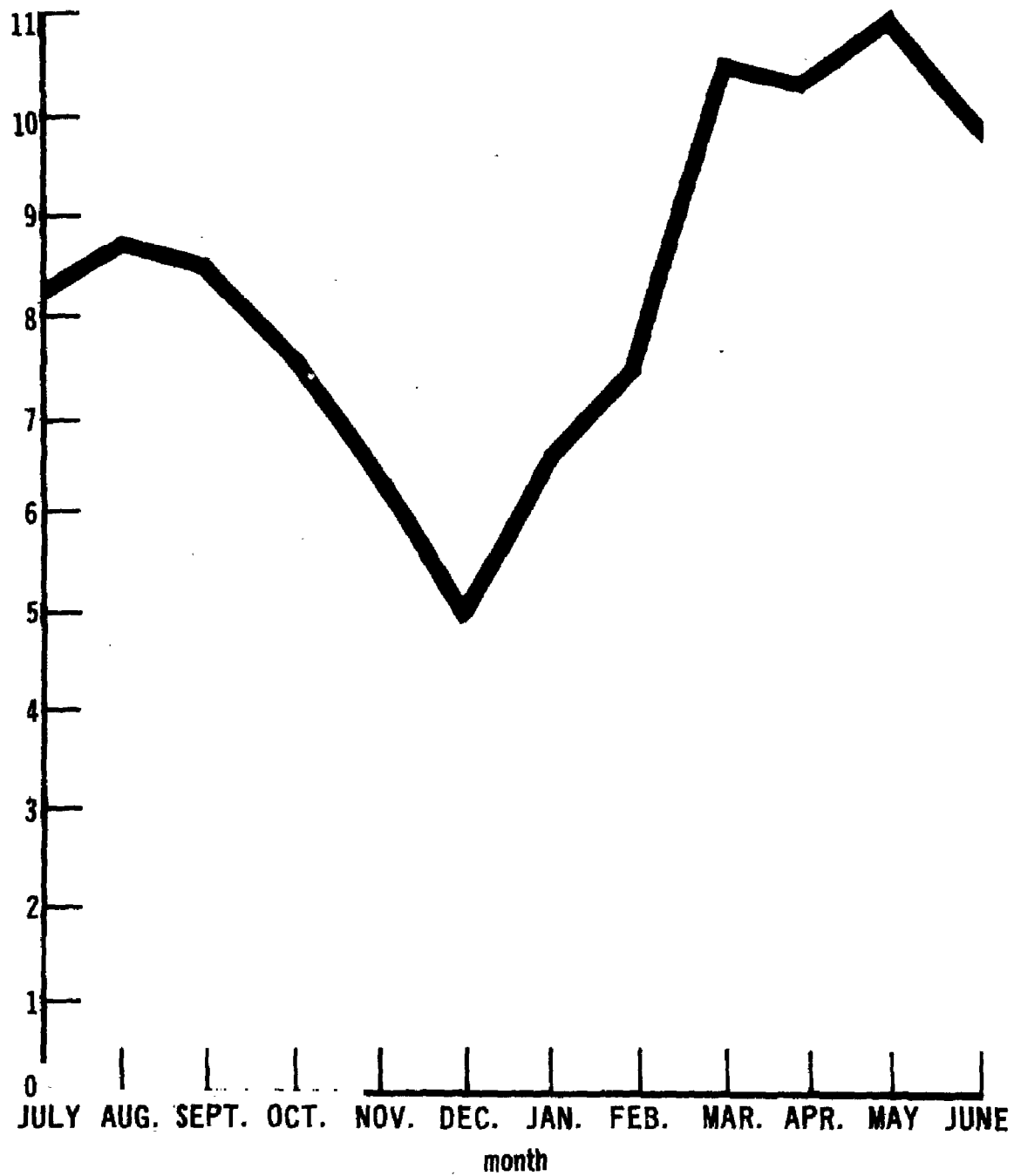
The Southwest Region has requested additional antismuggling agent positions but has received only 1 since April 1974, when it requested 32. The region will receive an additional 188 Border Patrol agent positions during fiscal year 1976, but none will be antismuggling agent positions because of central office emphasis on linewatch activities (which for the most part involve establishing a visible presence of enforcement manpower at the border).

In March 1973 the region suggested that each sector detail journeyman agents to prepare cases for prosecution, thereby relieving antismuggling agents for their primary duties.

Assignment of journeyman agents to antismuggling units appears to be particularly feasible during certain months of the year, because, as the following graph shows, the workload of the Border Patrol is highly seasonal. Journeyman agents might be so assigned without disrupting other operations.

# SEASONAL BORDER PATROL APPREHENSIONS (FISCAL YEARS 1970-74)

Percent Of Annual Apprehensions



The Del Rio sector supplements its antismuggling unit with journeyman agents. Normally, the unit is assisted by 4 journeyman agents; as many as 11 have been assigned for limited periods of time. The Chief Patrol Agent said that the journeyman agents have been essential to the unit's success. Regional officials believe that Del Rio has one of the most effective antismuggling programs in the Southwest Region.

Since the central office strengthened central control of program priorities in October 1974, district office anti-smuggling activities have shifted radically. For example, before October 1974, two or three investigators in the Chicago district office spent about 15 percent of their time on antismuggling activities. After the October emphasis on these activities, the Chicago antismuggling staff expanded to 13 full-time investigators. However, in response to revised priorities from the central office, as of March 1975, only one investigator was assigned to the antismuggling unit. As a consequence, 60 pending leads developed by the enlarged antismuggling unit were not followed up.

We believe that INS should evaluate its resources to determine if additional manpower should be assigned to anti-smuggling units.

Use of informants  
should be expanded

INS' use of informants varies widely in the Southwest Region. It is constrained by insufficient emphasis provided by higher officials, limited reward funds, and hesitation by antismuggling agents to use informants.

The importance of informers is indicated by a saying common among law enforcement officers: "An officer is just as good as his informers." INS believes that the success of an antismuggling operation often depends totally on developing reliable informants.

However, since October 1974 the central office has placed low priority on the Border Patrol's developing informants. In addition, central office internal inspectors have made extensive probes into the relationships between INS personnel and informants for possible criminal violations. As a consequence, antismuggling agents have become reluctant to enter into these relationships.

The most effective INS informants are Mexican aliens who are part of the scene where smugglers operate and who are willing, for some form of compensation, to provide information. INS can grant parole status, 1/ pay cash rewards, or do both. Parole status allows aliens the opportunity to visit the United States. One type of parolee may work and live here, while the other type may only enter for periods less than 24 hours. Informants are not compensated unless their information proves to be reliable and has results. The antismuggling agents stated that paid informants provide the most reliable information, not only because of a monetary interest but also because of their greater knowledge.

INS also receives information regarding smuggling from persons without a monetary interest but who are interested in reducing the illegal alien problem. The agents said that it has become increasingly common for people to report a smuggling offense when there is no evidence of smuggling involved, just to insure that INS will take action to remove illegal aliens.

As of July 1975 the Southwest Region had a total of 235 paroled informants as follows:

	<u>In the United States in parole status</u>	<u>Residing in Mexico-- authorized parole for less than 24 hours for multiple entries</u>
Border Patrol	111	107
District offices	<u>2</u>	<u>15</u>
	<u>113</u>	<u>122</u>

The number of paroled informants per Border Patrol sector varied considerably. For example, one sector with nine anti-smuggling agents had only six informants. Another sector with 4 antismuggling agents had 59 informants. A regional official said that the use of informants is often wholly dependent on the attitude of the Chief Patrol Agent.

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1/Section 212(d)(5) of the Immigration and Nationality Act states: "The Attorney General may in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States \* \* \*."

Antismuggling agents said that they were limited in developing informants because of the inadequate compensation available. INS spent \$41,000 for reward payments during fiscal year 1975.

Reward payment information was obtained at two sectors. INS policy is that rewards may not exceed \$100 without authorization from the central office. Payments for information by the Chula Vista and Del Rio sectors show how little money is available for rewards and the disparity in its use between sectors.

Reward Payments  
May 1, 1974 to April 30, 1975

	<u>Chula Vista</u>	<u>Del Rio</u>
Antismuggling agents	14	4
Number of informants	19	59
Monthly reward fund	\$ 300	\$ 500
Total rewards paid out	\$2,018	\$4,725
Number of rewards	38	164
Average reward	\$ 53	\$ 29

At two sectors, antismuggling agents said many persons were usually not recruited as informants if they would not accept parole status as their reward.

The agents said that without more reward funds it would be extremely difficult to obtain informants capable of implicating higher echelon smugglers. Informants have to be compensated for the risks they take.

Inadequate and insufficient vehicles  
available for surveillance

Most vehicles available for surveillance are easily identified as enforcement vehicles. Though unmarked, they are late-model, one-tone, four-door sedans, usually with tires marked "POLICE SPECIAL."

Although adequate for general use, these vehicles are too conspicuous to be used for surveillance. According to several antismuggling agents, any late-model vehicle would be ineffective in the areas often surveyed. They believe that older vehicles, particularly vans and pickups would be better for surveillance.

The Chula Vista and Los Angeles antismuggling units share an old van for surveillance. The agents thought that the van was a perfect cover, but were concerned that using it too much would expose its purpose. Agents in one sector said they had used their personal vehicles for surveillance.

The Customs Service and DEA often seize vehicles that would meet INS' needs. When forfeited, these vehicles can be transferred to Government agencies in accordance with the appropriate procedures. The Attorney General can retain forfeited vehicles seized by DEA for the use of INS.

Southwest Region officials agreed that their surveillance vehicles are inadequate. However, they had not tried to obtain forfeited vehicles.

#### MORE DETERRENTS ARE NEEDED TO CURB SMUGGLING

Criminal prosecution efforts are limited as an effective deterrent to smuggling because

- less than half of all violations are prosecuted,
- many cases are reduced to misdemeanors for expediency,  
and
- punishments are generally minimal.

INS needs more deterrents such as the authority to confiscate smuggling vehicles and legislation to facilitate deportation of legal resident aliens involved in smuggling.

Alien smuggling is a felony punishable by a fine, not to exceed \$2,000, or imprisonment, not to exceed 5 years, or both, for each smuggled alien. However, as shown by the following chart, less than half of the smugglers caught were prosecuted; the majority on a misdemeanor charge.

Smuggling Offenses--Fiscal Years 1973-75

	<u>1973</u>	<u>1974</u>	<u>1975</u>
Total violations	8,389	10,814	7,671
Prosecuted as a felony	1,279	1,172	1,006
Prosecuted as a misdemeanor	<u>2,785</u>	<u>3,808</u>	<u>2,615</u>
Total	4,064	4,980	3,621
Percent prosecuted	48	46	47
Number of convictions	3,472	4,366	2,932
Percent convicted	85	88	81
Average net fine imposed (note a)	\$78	\$89	\$99
Average net sentence imposed (days) (note a)	89	95	95

a/Sentence or fine imposed, less any suspended portions.

The decision to prosecute rests with the cognizant U.S. attorney. In some districts INS has been told not to seek prosecution of some violations under certain conditions. In other districts, the U.S. attorney determines whether INS may seek prosecution on a case-by-case basis. Representatives of U.S. attorneys indicated that prosecution of immigration violations was limited due to higher priorities of other offenses.

Because of the constraints on prosecution, the San Diego U.S. attorney has restricted the prosecution of smugglers to those who

- have committed a previous violation,
- are members of an organized ring, or
- aggravated their offense, for example, by assaulting an INS officer.

Other U.S. attorneys will not seek prosecution unless it can be proven that the smugglers had a monetary gain.

The attitudes of judges and magistrates in certain districts toward immigration violations is also a factor limiting prosecutions. U.S. attorneys in New York and Massachusetts generally stated that district court judges are not receptive to trying immigration cases.

The chart below shows how prosecution policies vary in the Southwest Region. It also demonstrates the vast disparity in sentencing, apparently caused, in part, by differing judicial attitudes toward the smuggling offense.



Smuggling Violations  
Selected Districts and Sectors  
Southwest Region  
Fiscal Year 1974

	<u>District</u>		<u>Sector</u>	
	<u>Los Angeles</u>	<u>San Antonio</u>	<u>Del Rio</u>	<u>El Centro</u>
Total violations	1,777	173	558	614
Authorized for prosecution by the U.S. attorney (percent) (note a)	13	82	62	62
Prosecuted as a felony (per- cent)	3	30	7	4
Number of felon convictions	34	18	15	20
Average net sentence (months)	14	9	25	3
Average net fine	\$207	\$150	\$-	\$228

a/ Most of these cases were prosecuted as misdemeanors before U.S. magistrates. INS officials believe that prosecuting cases as misdemeanors has expedited the handling of cases and resulted in relatively higher sentences and fines.

### Need authority to confiscate vehicles

INS should be given discretionary authority to confiscate vehicles used in smuggling aliens. Confiscation of vehicles would serve as an economic deterrent by raising the smugglers' costs and discouraging aliens who cannot afford the higher costs.

Many vehicles are used to smuggle aliens. For example, during fiscal year 1974 the Chula Vista and El Centro sectors stopped 2,700 vehicles smuggling aliens. In 1973 the San Clemente, California, interior checkpoint stopped 22 vehicles with smuggled aliens in just over an hour.

Smugglers use a variety of models and types of vehicles. Our analysis of 1,537 vehicles apprehended by the Chula Vista sector during the period January through September 1974 showed that

--79 percent were pre-1971 models and

--18 percent were pickup trucks, small vans, and motor homes.

When vehicles are stopped and aliens removed, the vehicles are left where found or towed to impound lots to be claimed by their owners. According to officials of one sector, most vehicles are reclaimed soon after being stored and, as a consequence, some are used over and over again by smugglers. For example, a 1972 Pontiac was caught five times over a 2-year period. A 1974 truck was caught four times; the first on December 28, 1974, and the second on January 13, 1975.

DEA and the Customs Service may confiscate vehicles used to transport narcotic drugs or contraband. The Congress supported vehicle seizure authority when it concluded that vehicle seizure was necessary to incapacitate and penalize criminal offenders.

In commenting on our report, the Department of Justice concurred that INS should be given discretionary authority to confiscate vehicles used in smuggling aliens. The Department stated that such authority would substantially increase the penalty in many cases, and would discourage other aliens who could only marginally afford the price for participation. In addition, the Department commented that vehicle seizure authority would significantly improve the morale of Border

Patrol employees who see the need for some positive action to be taken to immobilize and penalize smugglers of aliens.

### Deportation is rarely used

Though legal resident aliens (LRAs) are frequently involved in alien smuggling, we found that very few are deported. Section 241(a)(13) of the Immigration and Nationality Act makes subject to deportation any LRA who knowingly and for gain, encourages, induces, or aids any other alien to enter or try to enter the United States in violation of law. The offense may occur before or at the time of any entry or at any time within 5 years after the LRA's entry into the United States.

Although the law provides for deportation, the "for gain" element of the statute considerably limits the number of deportation cases because of the need for alien witnesses. The testimony of smuggled aliens is needed to establish the grounds for deportation. Smugglers often warn aliens not to testify or INS cannot hold the aliens long enough to appear at the deportation hearing. Affidavits of aliens are rarely acceptable because defense attorneys do not have the opportunity to cross-examine.

The "for gain" element of the deportation statute need not be proven for a criminal conviction of a smuggling offense. According to two immigration judges, the "for gain" element was probably included to prevent deportation of LRAs for smuggling their immediate families, which was predominant at the time the law was enacted.

Over one-fourth of the smugglers apprehended by INS are legal resident aliens. The following table shows the citizenship status of smugglers apprehended by INS from July 1969 through December 1973, as reported to the Antismuggling Information Center.

<u>Status</u>	<u>Number</u>	<u>Percent</u>
U.S. citizen	8,635	39
LRA	6,186	28
Illegal alien	4,059	18
Border crossing card holder (note a)	683	3
Unknown	<u>2,823</u>	<u>12</u>
Total	<u>22,386</u>	<u>100</u>

a/Mexican citizens granted the right to visit the United States within 25 miles of the border for periods up to 72 hours.

LRAs have been identified as leaders of major organized rings. For example, several leaders of the Las Huercas ring (see p. 7) were LRAs. LRAs played major roles in many of the organized rings identified by the Chula Vista sector.

The number of LRAs deported for violating section 241(a)(13) is not maintained separately by INS but is included in a miscellaneous category. The number of miscellaneous deportations averaged 23 a year from 1961 through 1974.

INS officials said that deportation would be a more effective deterrent for some LRAs than criminal prosecution. One immigration judge said legal resident status is an alien's most valuable possession.

The Los Angeles district director, a former regional counsel, indicated in a memorandum to the Southwest Region that a new ground should be established for deportation based on criminal convictions for alien smuggling. Deportation could then be accomplished by presenting records of convictions.

INS considers various humanitarian factors before instituting deportation proceedings against a LRA, such as the impact on society if he be deported and not be able to support his family remaining in the United States. LRAs smuggling in members of their immediate family is another factor which is considered by INS before deportation is requested.

Because of the many LRAs involved in the smuggling of aliens and the relatively few who are deported, the law should be changed to permit the deportation of LRAs based on criminal convictions for smuggling offenses. If this change in the law is enacted deportation would be a viable deterrent to LRAs involved in smuggling.

#### COOPERATION FROM MEXICO MIGHT BE IMPROVED

Though the Government of Mexico probably will not take substantial enforcement action to prevent illegal migration of Mexican nationals into the United States, it is interested in preventing mistreatment of its citizens.

The Special Study Group on Illegal Immigrants from Mexico 1/ reported in 1973 that increased enforcement efforts to prevent illegal migration were unattractive to Mexican officials because it would put them into a position of making "a 'police crackdown' on their own citizens who are, after all, only trying to find employment." In addition, the study group concluded that Mexico realizes certain economic benefits from illegal migration through

--the earnings sent by employed illegal aliens to relatives in Mexico 2/ and

--the alleviation of its critical unemployment problem through transfer of willing workers to the United States.

Embassy officials in Mexico City thought that elimination of the illegal migration "safety valve" could have serious social and economic consequences for Mexico.

Mexico passed laws in 1974 that provide penalties up to 10 years imprisonment and/or fines up to \$4,000 for aiding the illegal migration of Mexican workers. INS officials in Mexico City stated that Mexican Federal authorities have also urged border enforcement officials to cooperate with INS in immobilizing alien smugglers.

Liaison with Mexican officials is generally a function of the Border Patrol sectors. Informal agreements usually provide for an exchange of information and in some cases have resulted in joint efforts against certain smugglers. According to sector officials, obtaining good cooperation is difficult because:

--Drugs or other violations often are higher priorities for Mexican authorities.

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1/The study group comprised of Representatives from the Departments of Agriculture; Health, Education and Welfare; Justice; Labor; and State, was established in August 1972 at the direction of the President to undertake a comprehensive exploration of the problems relating to illegal immigration from Mexico.

2/Estimated at tens of millions of dollars annually.

--Agreements reached generally are dependent upon the attitude and reliability of Mexican officials who change office frequently.

Effective liaison can be rewarding. Liaison efforts of the Del Rio sector resulted in prosecuting 14 members of organized smuggling rings by Mexican authorities during fiscal year 1975. Of the 14 members, 8 were convicted, 1 released, and final dispositions of 5 were not known. Seven persons received prison terms averaging 5.7 years. One other was fined \$2,400.

Across from the Chula Vista sector, Mexican authorities apprehended and prosecuted a notorious smuggler who had been operating for 15 years. He was sentenced to imprisonment for 6 to 10 years. Mexican officials also raided three known vendors of illicit U.S. immigration documents and confiscated approximately 850 documents.

Such results, however, are not typical along the border. In April 1974 El Paso sector officials reached an agreement with Juarez, Mexico, officials to facilitate Mexican prosecution of professional smugglers with witnesses supplied by the Border Patrol. As of May 1975, El Paso officials told us that the agreement had little effect; three cases presented to Mexican officials according to the agreement were not prosecuted.

Del Rio sector officials said they received excellent cooperation from Mexican officials in one border city but little cooperation from officials in another city nearby.

INS policies encourage sectors to seek local Mexican prosecution of smugglers living in Mexico. The INS district director in Mexico City is also available to assist in obtaining prosecution through higher Mexican authority. However, this option is apparently rarely pursued by the field office. The district director in Mexico City said that he rarely received information about border enforcement problems with Mexican authorities. He also said liaison to obtain better enforcement cooperation from Mexican authorities had generally not been carried on since 1971 because of his understanding that this was an Embassy function.

Embassy political affairs officials in Mexico City said that they had not received any information from INS about specific cases where Mexican authorities would not cooperate. They believed that with such information they might be able

to obtain better cooperation with certain Mexican officials.

### CONCLUSIONS

Professional smugglers, attracted by lucrative profits and low risks, are causing serious problems for the United States. Their activities undermine INS' effectiveness in preventing the illegal entry of aliens.

Though professional smugglers are difficult to stop, INS' antismuggling efforts have had good results, including immobilizing several large smuggling rings. However, several problems exist which limit INS' effectiveness:

- System designed to promptly identify multijurisdictional smugglers has been neglected.
- Adequate systems are not available to evaluate progress or concentrate resources on major violators.
- Border Patrol antismuggling agents are burdened with other duties which significantly reduce their available time for antismuggling activities.
- District office efforts are inconsistent due to changing central office priorities.
- Insufficient emphasis is placed on developing a reliable informant system.
- Surveillance vehicles are too conspicuous to be effective.

Cooperation from Mexican authorities in immobilizing smugglers living in Mexico has been obtained in certain areas. Local cooperation could be improved if INS would refer specific cases to Embassy representatives in Mexico City.

### RECOMMENDATIONS

- We recommend that the Attorney General direct INS to:
- Use established procedures to identify multijurisdictional smugglers quickly.
  - Classify known smugglers by the size of their operations and put into place a system for evaluating the progress being made in immobilizing smuggling rings.

- Determine if additional manpower should be assigned to antismuggling units.
- Study the informant program to assess and improve its effectiveness in identifying and apprehending smugglers.
- Begin efforts to obtain suitable surveillance vehicles (possibly from vehicles seized by other agencies).
- Seek assistance from U.S. Embassy officials in obtaining cooperation from Mexican officials.

#### AGENCY COMMENTS AND OUR EVALUATION

The Department of Justice said it was in general agreement with most of the recommendations contained in this chapter as well as chapters 3 and 4, particularly those advocating new or revised legislation. (See app. III.)

The Department further stated that to carry out GAO's recommendations would either require sufficient additional resources to accomplish INS' mission or a de-emphasis of its highest priority actions. The Department concluded that, in view of INS' limited resources, continuation of its priority plan appears to be the most defensible solution.

We believe, however, the recommendations discussed in this report warrant consideration by the Congress and the Department of Justice because of the seriousness and magnitude of professional smuggling of aliens, the use of illicit documents (see ch. 3), and schemes to obtain legal status (see ch. 4) and the expected rise in these activities. Our recommendations pertain to sound management practices that would enable INS to more effectively control these activities and minimize the resources it needs within its priority plan. We recognize the constraints imposed by resource limitations; however, we believe that more can be done with existing resources, and our recommendations are presented with this in mind.

#### MATTERS FOR CONSIDERATION BY THE CONGRESS

We recommend that the Congress amend laws regarding deportation of legal resident aliens for smuggling aliens to permit deportation of legal resident aliens based on criminal convictions for smuggling offenses. We also recommend that INS be given discretionary authority, similar to that given to DEA and Customs Service, to seize vehicles used in smuggling aliens.



## CHAPTER 3

### ILLICIT DOCUMENTS

Illicit documents allow illegal aliens to obtain all the rights and privileges reserved for U.S. citizens and legal resident aliens. An illicit document is any document used illegally by an alien to assert that he has a legal right to enter or remain in the United States. The document may be counterfeit, an altered genuine document, or a genuine document used by an imposter.

Such documents are easy to obtain and their illegal use is difficult to discover. Although other documents are sometimes used, the strongest evidence of citizenship, or LRA status, is a birth certificate or an INS-issued alien registration receipt card.

### INCREASED PRESSURE TO HAVE LEGAL STATUS

Until recently, illegal aliens did not need proof of legal status to obtain benefits such as employment and certain social services. However, these benefits are being increasingly reserved for persons with proof of legal status. For example, several actions have occurred recently which tend to diminish employment opportunities for illegal aliens:

- Since March 1974 proof of legal status has been required for a Social Security Card. (Previously, anyone could obtain a card despite their status.)
- Several major employers have agreed to cooperate with INS by not hiring illegal aliens.
- Legislation has been introduced in the Congress to penalize employers hiring illegal aliens. (See ch. 1.) Several State and local governments have passed, or are considering, similar laws.

In addition, it is becoming more difficult for illegal aliens to obtain education for their children and certain social and health benefits.

Illegal aliens have frequently resorted to illicit documents in the past, primarily to avoid detection by INS. INS officials believe the increased pressures mentioned above will greatly increase the use of illicit documents and, as discussed in chapter 4, other schemes to obtain legal resident status.

## PROBLEMS WITH INS DOCUMENTS

The INS documents most often used illicitly are the border-crossing card and the alien registration receipt card.

The border-crossing card is issued to Mexican citizens and authorizes visits to the United States within 25 miles of the border for periods up to 72 hours. The card does not authorize employment but is valid until revoked. As of July 1972, INS had issued about 1.7 million border-crossing cards.

The primary advantage of the border-crossing card is that it allows easy entry into the United States. After entry, aliens may exceed the mileage limitations and stay as long as they can avoid being caught by INS.

While counterfeit border-crossing cards are available, most aliens impersonate others by using genuine documents. During fiscal year 1975 about 72 percent of the 6,900 illicit border-crossing cards intercepted by INS were genuine documents used by imposters. INS investigators said that documents are easily obtained in Mexico from illicit document vendors and smuggling rings. The cost of the documents is low. Apprehended illegal aliens reported paying an average of \$56 for an altered genuine card, \$55 for a genuine card, and \$63 for a counterfeit card.

The alien registration receipt card is of more value to an illegal alien because he may not only enter the United States but also receive all the privileges of a LRA. A LRA has all the privileges of a citizen, except the right to vote or hold public office.

The alien registration receipt card is easily counterfeited by means of an offset printing press. Although counterfeits have not been detected which overcome all the security devices built into the form, many are of sufficient quality to get by cursory inspections.

INS detected about 8,700 illicit alien registration receipt cards during fiscal year 1975. About 70 percent were counterfeit. The cost of illicit alien registration receipt cards, as reported by apprehended aliens, is considerably higher than border-crossing cards.

<u>Type</u>	<u>Number of cards discovered</u>	<u>Average cost per card</u>
Counterfeit cards	6,120	\$163
Altered genuine cards	1,118	129
Genuine cards used by im- posters	1,472	97

The combined value of the illicit border-crossing cards and alien registration receipt cards intercepted by INS during fiscal year 1975 was about \$1.7 million.

According to INS officials, the illicit document problem is greater than statistics show because aliens are often successful in using illicit documents to obtain employment. Once employed, it is not uncommon for the alien to no longer carry the document. INS reports indicated that illegal aliens had provided proof of legal status to employers when they first went to work.

INS has seized large quantities of counterfeit documents, and many more counterfeits are probably in circulation. For example, 60,000 counterfeit alien registration receipt cards were found in a Los Angeles bus depot locker in 1973. In the same year 11,000 counterfeits were found by Mexican police in a Tijuana shop.

Chicago and Los Angeles investigators estimated that half of the illegal aliens in those areas were using some type of illicit document, primarily counterfeit alien registration receipt cards.

#### Alien registration receipt card abuse

Contributing to the illicit use of alien registration receipt cards are the many genuine documents reported as lost or stolen by their legal owners. These cards are valid indefinitely and INS' primary means of detecting their illicit use is through skilled observation by its personnel.

About 2,600, or 30 percent, of the illicit alien registration receipt cards detected by INS in fiscal year 1975 were genuine cards, either altered through picture substitutions or used by imposters. INS port inspectors stated that a skillfully altered genuine document is the most difficult illicit document to detect.

INS has no indexes of lost or stolen cards reported by their owners. During fiscal years 1972-74, the Southwest Region replaced an average of 51,000 cards each year. Information was not available as to how many replacements resulted from loss, theft, change of name, mutilation, etc.

Our sample of 100 applications for replacing alien registration receipt cards received by the Los Angeles district office during April and May 1975 showed that 85 percent were for loss or theft of a card. About 20 percent had previously requested one or more cards. One alien was seeking his seventh. He had lost cards in 1956, 1968, 1969, 1970, 1971, and 1973.

When genuine cards are discovered being used illicitly, INS does not contact the legal owner or review his file for a pattern of abuse. Investigators said it was extremely difficult to establish a case against the legal owner for selling his document, even when a pattern of abuse is found, unless the alien illicitly using the card can identify the owner. Apprehended aliens generally say they found the document.

Even when INS suspects that a LRA has been selling his documents, it can do very little other than give him a reprimand. In some cases, the issuance of a replacement is delayed, or the alien is issued a form I-94, arrival-departure record, rather than a replacement alien registration receipt card. The I-94 is of little value on the illicit document market because its use is immediately suspect and it must be given up when aliens leave the country.

We believe the illicit use of genuine cards would diminish if the alien registration receipt card expired periodically instead of having an indefinite life. INS believes that the cost and administrative difficulties of periodically reissuing the documents may overshadow the possible benefits, but no studies have been made on this matter.

#### BIRTH CERTIFICATE FRAUD

INS annually encounters thousands of false claims to U.S. citizenship by illegal aliens. Most are oral claims; however, large numbers of false claims supported by documents, particularly genuine birth certificates, are detected.

### Imposters are difficult to detect

From 1965 to 1975 the number of false citizenship claims detected annually that were supported by documentation more than tripled, from 1,295 to 4,632. Since 1958 the Fraudulent Document Center at Yuma has indexed over 51,000 documented false claims to citizenship.

INS officials believe they detect only a small portion of the illegal aliens posing as citizens. They feel that imposters often are successful, and thus do not come to the attention of INS. The following cases illustrate how aliens have successfully posed as citizens:

- From 1943 to 1974 an alien successfully lived and worked in the United States while posing as a citizen. From 1953 to 1971 his wife, also an illegal alien, collected about \$39,000 in survivor benefits from the Social Security Administration by presenting false evidence that her "citizen" husband had died.
- For 8 years a Mexican female posed as a U.S. citizen, using an Indiana birth certificate of a deceased person. While posing as a citizen, she successfully immigrated her husband as the spouse of a U.S. citizen. They were discovered because of allegations that the husband was a bigamist. He had two records of marriage in Mexico--one to his wife under her real name and the other to his wife under the assumed identity.
- A former LRA deported for alien smuggling assumed the identity of a United States citizen, secured a citizen identification card from INS, and successfully had his wife immigrated as the spouse of a U.S. citizen. He was detected while awaiting sentencing after conviction for smuggling aliens.

INS officials indicated that imposters were usually detected because of obvious indications such as nervousness, language difficulty, or insufficient knowledge of the United States. However, the longer an imposter is successful, the more difficult it is to distinguish him from a citizen because his confidence and knowledge increase.

### Why birth certificates?

Birth certificates are inexpensive and easily obtained. Most State and local bureaus of vital statistics require only a small fee (\$3 or less) and sufficient information to identify a birth record, such as name, date, and place of birth.

With U.S. birth certificates, illegal aliens can obtain all the rights and privileges of citizens.

INS established the Fraudulent Document Center in 1958 to index all documented Mexican false claims to U.S. citizenship. A Center study of documents used to support false claims in 1973 showed that 85 percent were genuine birth certificates; only 2 percent were counterfeit birth certificates.

Genuine birth certificates are found to be used many times by a number of imposters. A random sample of 300 birth documents on file showed that 11 percent had been used by more than one imposter. We found examples where the same birth certificates had been used repeatedly by imposters.

--One document had been used by imposters 13 times and another used 14 times.

--Birth certificates of three Mexican-American brothers were used 27 different times by 26 aliens over a 7-year period.

--Another birth certificate was used by 12 aliens over a 4-year period.

A Center study of 4,500 fraudulent claims involving birth certificates detected by INS during 1972 showed that 89 percent were based on California or Texas documents. From September 1974 to April 1975, the Center established liaison with 13 State bureaus of vital statistics and Puerto Rico to help minimize illicit use of birth certificates.

The bureaus and Puerto Rico agreed that, upon notification by INS that a birth certificate had been used illicitly, later requests would be subject to delayed issuance and that INS would be advised. In addition, liaison is maintained with Texas and New Mexico by INS district offices in San Antonio and Albuquerque. Birth certificates from these States and Puerto Rico accounted for 98 percent of the illicit birth certificates detected by INS in 1972.

As of April 24, 1975, excluding Texas and New Mexico, for which information was not available, the Center had sent 144 notifications to the bureaus and, in return, had received 23. The Center has not reported the vast majority of illicit birth certificates detected because (1) the procedure is

relatively new and (2) only birth certificates used illicitly more than once are usually reported.

The liaison agreements may also have limited effectiveness because, in many States, birth certificates can be obtained from county or other local officials with whom INS has not established liaison. In California, Los Angeles County recorder officials believe that many of the 900 birth certificates they issue daily over the counter, particularly during the summer months, may be going to illegal aliens.

Illicit use of birth certificates is a serious problem. INS efforts to obtain cooperation from State bureaus of vital statistics are having dubious results because the agreements reached are narrow in scope and do not include local agencies which also issue birth certificates.

#### FEDERAL ADVISORY COMMITTEE ON FALSE IDENTIFICATION

In October 1974 the Attorney General established the Federal Advisory Committee on False Identification. <sup>1/</sup> This Committee, consisting of 40 representatives from the Federal, State, and local governments; the commercial sector; and the private sector, was formed to (1) determine the scope of the criminal use of false identification and (2) recommend solutions to such criminal use consistent with the individual's right to privacy. The Committee carried out its work through five task forces: Commercial Transactions, Fugitives, Government Payments, Federal Identification Documents (includes representatives from INS), and State and Local Identification Documents.

Committee surveys and investigations indicated that the criminal use of false identification was a multibillion dollar problem affecting all areas of American life.

False identification is used in the commercial sector to pass billions of dollars worth of bad checks; phony credit cards; and lost, stolen, and false securities each year. It is used to defraud taxpayers of billions of dollars worth of government benefits including food stamps, Social Security,

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<sup>1/</sup>The Committee's charter may be found in 39 Federal Register 37515 (1974). The Committee was established pursuant to the Federal Advisory Committee Act (Public Law 92-463), 5 U.S.C., app. 1.

Medicare, and payment for Aid to Families with Dependent Children. An estimated \$3.6 billion worth of direct costs from illegal aliens (including balance of payments and welfare costs, but not including U.S. job losses) and over \$1 billion worth of drug smuggling and fugitive problems directly result from false identification crimes each year.

The Committee had particular interest in how fugitives and other law breakers have obtained certified copies of birth certificates to assume a false identity. States routinely issue such certified copies with minimal safeguards. Once a certified copy of a birth certificate is obtained, this "breeder document" may be used to obtain all other identification documents, such as driver licenses, credit cards, and citizenship documents.

In addition to a full analysis of the scope of the false identification problem and recommended solutions, the Committee's report 1/ includes: an analysis of Federal and State legislation dealing with false identification; proposed Federal and State legislation to combat false identification; proposed guidelines for State plans to control access to vital statistics records and control issuance of birth certifications; standardized forms for birth certificates; a program for the matching of birth and death certificates; and a program for upgrading the security of State driver licenses.

As part of its legislative analysis, the Committee recommends passing Senate bill 2131, pending in the 94th Congress, because it would close most existing loopholes in Federal legislation dealing with false identification.

#### ACTIONS TAKEN BY INS

INS actions to combat illicit documents have concentrated on strengthening its detection capabilities, including developing difficult-to-counterfeit replacements for the alien registration receipt and border-crossing cards. Investigation activities have been limited for several reasons discussed later in this chapter. INS believes stronger issuance controls are needed to deal with birth certificate fraud.

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1/Expected to be released in September 1976.



## Detection capabilities

Despite high quality, illicit documents can be detected by INS personnel familiar with the security devices built into the card. However, INS has issued several versions of both the border-crossing card and the alien registration receipt card with varying characteristics, which makes detection of illicit documents difficult.

The Southwest Region has conducted a number of short seminars for border patrolmen, port-of-entry inspectors, and investigators to increase their awareness of the illicit document problem and to improve their ability to detect counterfeits. By teaching a simplified detection method applicable to all versions of the alien registration receipt card, the specialized training appears to have had some positive results.

--Detection of counterfeit alien registration receipt cards in fiscal year 1975 increased 56 percent over the previous year. INS attributed this, in part, to the increased detection proficiency of personnel who received training.

--One sector increased its detection of counterfeits by 77 percent after its personnel received training.

The regional intelligence officer said the seminars had been provided to only 25 percent of applicable INS personnel due to fiscal limitations on travel and poor attendance by port-of-entry inspectors at certain locations.

Seminars given to INS personnel at three locations in Texas during December 1974 were poorly attended. Only 3 of 39 inspectors appeared for the seminars. These ports-of-entry have a lower illicit document detection rate than other ports along the southwest border. The seminars are only given to outlying districts and sectors about once each year.

At the ports-of-entry the Customs Service is also involved in inspecting incoming persons for proper identification. Customs was inspecting the vast majority of incoming traffic at the ports we visited--El Paso, Texas, and San Ysidro, California. Customs inspectors did not appear to be as proficient in detecting immigration violators as the INS inspectors.

San Ysidro port-of-entry officials and the Southwest Region intelligence officer said that although some Customs inspectors were very proficient in detecting immigration violators, overall Customs performance suffered from lack of training and emphasis on immigration matters. On a local basis, San Ysidro officials offered to provide Customs inspectors with specialized training in the detection of illicit documents, but Customs has not participated because of other commitments.

INS believes that Customs personnel concentrate on detecting contraband with less attention given to possible immigration violators. As a result, INS has sought to increase its inspections manpower at ports-of-entry to enable it to make at least 50 percent of all primary inspections. However, a fiscal year 1976 request for additional inspection personnel was turned down by the Department of Justice.

#### Replacement of alien identification cards

INS is developing a replacement for the alien registration receipt card and the border-crossing card which cannot be easily counterfeited or altered. The new card and its supporting system called the Alien Documentation, Identification and Telecommunication System (ADIT) will incorporate several improvements over the current versions.

- The card will be coded and machine readable. This will eventually permit automatic searches of INS "lookout" records and the development of certain operational and management data.
- The card will be made of hard-to-acquire material and constructed in a manner that will make it extremely expensive for a counterfeiter to acquire the necessary equipment and material to produce a forgery.
- The card will contain codes related to the alien's personal background to facilitate detection of imposters by inspectors.

It will take 5 years to replace the approximately 4.5 million cards now in circulation plus the estimated 700,000 new cards issued annually. During this period, both new and old versions of the alien registration receipt card will be valid.

We believe the new card will greatly reduce INS' problems with illicit alien registration receipt cards and border-crossing cards. However, the effectiveness of the new card may be diminished by

--the long implementation period during which both old and new INS documents will be valid and

--the strong possibility that aliens will resort to claiming U.S. citizenship by using birth certificates and other documents. Recommendations being made by the Federal Advisory Committee on False Identification, if enacted, and the passage of Senate bill 2131 would substantially help to reduce this possibility.

Additionally, in a feasibility study, the company which helped design the new document said:

"\* \* \* employers and their staffs will probably not be able to distinguish quality counterfeits or detect reasonably well documented imposters and that ultimate prevention of such fraud requires system features for closing the I.D card verification loop between the employer and INS."

INS plans to detect imposters or aliens using counterfeits by continuing its procedures of making periodic visits to employers' facilities. However, because of limited manpower, INS visits few employers; at most, visits are infrequent. Thus, such aliens may remain undetected a long time.

INS also plans to maintain a lost-card index once the cards begin being issued. In addition, INS hopes to establish an open line for employers to call in and verify an alien's status. These actions, if implemented, will help reduce the illicit use of INS documents.

#### Investigation activities are limited

Despite ample evidence that illicit documents can easily be purchased, investigative activities to identify and apprehend the sellers and counterfeiters have been limited because supervisory investigators believe:

--The problem will be greatly reduced by the new identity card.

--There are too many sellers to put any appreciable dent in the availability of illicit documents.

--The primary violators are the counterfeiters who are generally located in Mexico where INS cannot apprehend them.

--Laws are not available to punish some violators and, even if prosecuted, sentences are too light to serve as a deterrent.

However, we believe that more effort is needed to deter the manufacturing and selling of illicit documents.

A Southwest Region study of 672 counterfeit alien registration forms intercepted during a 1-month period in 1975 showed 144 counterfeit versions. INS officials believe that most counterfeits are printed in Mexico and then sold by many vendors in Mexico and the United States.

Cases developed by INS in the past illustrate that illicit document selling can be a large and profitable business.

--An unclaimed suitcase left at a Chicago airport in December 1974 contained enough illicit documents to establish 65 identities. This evidence enabled INS to break an illicit document ring which had grossed an estimated \$800,000.

--In 1973 a ring uncovered by Los Angeles investigators had five members who were making and selling counterfeit alien registration receipt cards for \$150 to \$300 each. INS seized equipment and enough materials to make over 1,000 cards.

An increasing availability of counterfeit INS documents is indicated by a 10-percent decline in their cost over the past 3 years, as reported by apprehended aliens. During the same period, the number intercepted by INS increased 41 percent.

INS could not tell us how many counterfeiters or vendors of illicit documents were apprehended in recent years. However, since 1971, only seven entries have been added to the Southwest Region's Index of Vendors and Alterers.

INS district offices are conducting few investigations of sellers and makers of illicit documents. We analyzed the caseloads of fraud investigative units in two districts and found very few investigations related to such activities.

- In El Paso as of May 30, 1975, none of the 82 fraud cases under investigation related to selling or making illicit documents.
- In Los Angeles as of March 6, 1975, only 1 case out of a random sample of 122 involved the sale of illicit documents.

The El Paso deputy director for investigations said his office seldom receives any workable information on sellers or makers. Los Angeles investigation officials said they do not investigate information on illicit documents because of manpower limitations.

A file maintained by the Los Angeles fraud investigation section had 47 leads concerning sellers and makers of illicit documents. The leads included:

- A request from a local police department to investigate a seller of illicit alien registration cards. The police department had verified that the documents could be purchased through the use of an undercover officer.
- A 3-page complaint report from the county sheriff describing a seller who had badly beaten a customer.
- Information on persons who had machines and material for making counterfeit INS documents.
- A referral from a Chicago INS investigator on a person who was believed to be making illicit cards in the Los Angeles area and mailing them to aliens in Chicago. Several cards had been intercepted in envelopes bearing the suspect's return address.

The supervisor of the Los Angeles district office fraud section said that the leads will probably never be investigated because illicit document cases require too many investigative staff-hours to make them worthwhile.

During 1972 and 1973 the Los Angeles district office had four investigators following leads on sellers and makers of illicit documents. Though the unit had some success,

district officials said that it was discontinued in late 1973 due to its relatively low productivity (cases closed) for the staff-hours spent.

The Southwest regional office maintains an index of illicit document vendors and alterers. The index is out of date and of little operational value, according to several INS investigators. Over half of the 163 suspects had been entered in the index over 6 years ago. None were added from September 1971 to September 1974. Two suspects were entered after reportedly being killed.

### CONCLUSIONS

Illicit documents are a large problem that hinders INS efforts to locate and remove illegal aliens. The magnitude of the problem is not known, but the relative ease in obtaining illicit documents and the difficulty in detecting their use suggest that it is widespread.

INS efforts to diminish the illicit use of alien registration receipt and border-crossing cards concentrated on improving the detection capability of its personnel and developing a more secure document. These measures may have limited impact because:

- The seminars to improve detection capabilities are sometimes poorly attended.
- The implementation period to issue the new document will be long.
- Controls are lacking over lost or stolen cards.
- A system to verify documents for employers has not been established.

The illicit use of birth certificates is perhaps a more serious problem, because so many different State and local entities are involved. INS efforts to obtain cooperation from State bureaus of vital statistics are having dubious results because the agreements reached are narrow in scope and do not include local agencies which also issue birth certificates.

### RECOMMENDATIONS

We recommend that the Attorney General direct INS to:

- Increase personnel attendance at illicit document seminars.
- Determine if it is practical to periodically reissue or revalidate previously issued alien registration documents to help prevent illicit use of genuine documents.
- Establish an index of alien registration documents lost or stolen to tighten controls over the reissuance of those documents.
- Develop a system to provide quick verification of an alien's status for employers.
- Expand investigative efforts, such as investigating sellers and makers of illicit documents.
- Seek more cooperation from State and local agencies issuing birth certificates by increasing its scope of agreements with them and extending such agreements to all appropriate birth certificate-issuing agencies.

#### AGENCY COMMENTS AND OUR EVALUATION

The Department of Justice generally agreed with the recommendations in this chapter. Additionally, the Department stated it feels the ADIT system will affect recommendations two through five. We believe, however, that implementation of these recommendations will complement the ADIT system and assist INS in controlling the illicit use of documents, especially since it will take 5 years to get the ADIT system fully operational.

## CHAPTER 4

### SCHEMES TO OBTAIN LEGAL RESIDENT STATUS

As discussed in chapters 2 and 3, professional smugglers and illicit documents play a large role in assisting aliens to enter and remain in the United States. However, until aliens obtain LRA status, there is still a possibility that they will be discovered and returned.

By violating conditions of temporary stays in the United States or by entering into sham marriages, many aliens successfully avoid certain immigration restrictions and obtain LRA status. Their status may later serve as the basis for entry of other aliens.

#### ADJUSTMENT OF STATUS: INCENTIVE TO VIOLATE NONIMMIGRANT ENTRY CONDITIONS

Many aliens who legally enter the United States for temporary stays violate conditions of their entry by overstaying or obtaining employment and become illegal aliens. Such aliens often qualify for adjustment of their status to LRAs while still in this country despite their violations.

Although the total number of visa overstays is unknown, indications are that they contribute significantly to this country's illegal alien population. While appearing before the Subcommittee on Immigration, Citizenship, and International Law, House Committee on the Judiciary, the INS Commissioner stated:

"\* \* \* Our records fail to account for the departure of 10 percent of the more than 6 million foreign visitors each year. Allowing for imperfections in the system, we believe that five percent are actually overstays who have remained here to work and live. That amounts to 300,000 per year \* \* \*."

Section 245 of the Immigration and Nationality Act allows nonimmigrants from the Eastern Hemisphere to acquire LRA status while in the United States if they are eligible and visas are immediately available. Nonimmigrants from Western Hemisphere countries may not, under present law, adjust their status while in this country.

In fiscal year 1975, 43,000 aliens adjusted to LRA status under section 245. Many aliens who applied for adjustment violated terms of their temporary entry by overstaying



or taking jobs. Analysis of 200 aliens applying for adjustment in Los Angeles during April, May, and June 1975 showed that 50 percent were overstays and 39 percent had taken jobs, in violation of their entry conditions.

In a previous report <sup>1/</sup> we concluded that temporary entry as a student was used by many aliens to gain the qualifications necessary to obtain LRA status under section 245. INS records showed that about 42 percent of 222,000 foreign students in the United States were in illegal status because they overstayed their period of admission. About 22 percent of the nonimmigrant aliens who legally adjusted their status to permanent residents in fiscal year 1974 had been in student status.

Many aliens conceal their intentions of staying permanently in the United States from consulate officers when applying for temporary visas. Although difficult to prove, such deceit can be used by INS for denying an alien's application for adjustment to LRA status. Los Angeles examiners said that denials for such actions are rare because aliens seldom volunteer such information. In fiscal year 1975, 93 percent of section 245 applications were approved.

Legislation introduced in the 94th Congress (H.R. 8713 and S. 3074), if passed, will allow Western Hemisphere aliens to adjust their temporary status under section 245 in the same manner as Eastern Hemisphere aliens. However, a provision of these bills would prohibit adjustment for any alien (other than an immediate relative) who accepts unauthorized employment before filing the adjustment application.

We believe that section 245 serves, inadvertently, as an incentive for some aliens to gain temporary entry to the United States and to violate the terms of their temporary entry because they are allowed to adjust to LRA status without leaving the country. In our previous report on foreign students, we recommended that the Congress consider imposing a mandatory waiting period for foreign students before allowing them to acquire LRA status, if grounds for such adjustment were acquired while in an illegal status.

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<sup>1/</sup>"Better Controls Needed to Prevent Foreign Students from Violating the Conditions of Their Entry and Stay While in the United States" (GGD-75-9, Feb. 4, 1975).

## SHAM MARRIAGES: A PREVALENT FRAUD

By entering into a sham marriage with a U.S. citizen or LRA, an alien can avoid certain immigration restrictions. Immigration requirements vary for aliens from the Western and Eastern Hemispheres, 1/ and the advantages of sham marriages differ.

In general, aliens who marry U.S. citizens are entitled to immediate relative status, which exempts them from labor certification requirements and allows them to obtain immigrant visas immediately. By marrying a LRA, aliens are exempted from meeting labor certification requirements but must still wait their turn for a visa to become available.

An alien who is not married or closely related to a U.S. citizen or LRA must obtain certification from the Secretary of Labor that

--not enough U.S. workers are able, willing, qualified, and available in the alien's occupational category and

--the alien's employment will not adversely affect the wages and working conditions of similarly situated American workers.

Obtaining labor certifications is difficult for many aliens because they lack skills needed in our economy. Consulate officials in Mexico estimated that few prospective Mexican immigrants can qualify for labor certifications.

If unable to establish an immediate relative relationship, aliens may be subject to long waiting periods before obtaining a visa. For example, as of January 1975, Western Hemisphere aliens had to wait about 24 months.

### Attributes of a sham marriage

Any marriage to evade immigration law and lacking the intent to establish a life together is a sham marriage. Such marriages usually involve fees, favors, or deceit.

For a fee, sham marriage arrangers will find a spouse for an alien and help prepare the necessary immigration documents. Arrangers commonly operate as part of a legitimate business. For example:

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1/See app. II for the major differences.

--A Chicago notary public was convicted of arranging 11 sham marriages for fees of \$1,000 each. He stated in a newspaper interview that he had processed 685 marriages.

--A New York attorney arranged six sham marriages between Africans and U.S. citizens for fees ranging from \$550 to \$650.

The spouses provided to aliens by marriage arrangers are frequently involved in several sham marriages. For example, the Chicago district has identified 199 women who participated in multiple sham marriages. One woman told INS that she participated in 10 to 12 sham marriages, all under different identities. The sham marriage spouses receive up to \$400 for their participation.

Sham marriages to help aliens remain in the United States often involve friends or relatives. In Cincinnati, a citizen married an Asian student because "it seemed like a kind, wonderful, crazy way of being able to help her." In another case, an alien married his half-aunt bigamously. That marriage was the basis for entry of seven other aliens.

In other sham marriages, the alien deceives the spouse into believing the marriage is genuine and not for immigration convenience. These sham marriages are particularly difficult to detect unless a bigamous relationship exists. For example, one alien who already had a wife and four children married a U.S. citizen in February 1972. Soon after receiving legal resident status in June 1973, he applied for a divorce. His sham marriage was discovered when he applied to immigrate his first wife and their four children in January 1975. In another case, a 77-year old U.S. male citizen was tricked into marriage by a 25-year old alien. They lived together 20 months before the alien admitted to INS that she married him only to obtain immigration.

#### Responsibility for detecting sham marriages

INS has primary responsibility for approving the validity of an alien's relationship with a U.S. citizen or LRA. The State Department issues a visa if the alien satisfactorily meets other immigration requirements.

Recognizing that sham marriages have become a major avenue of fraudulent entry for aliens, in April 1974 INS

established a program for detecting their use. A pilot program by the New York district from October 15, 1973 to January 31, 1974, found fraud in 65 percent of the 469 marriages it investigated.

The INS program interviews couples whose relationships are suspect. By interviewing the alien and spouse separately, information is often developed which indicates that the marriage is a sham.

#### Use of vague and untested criteria

INS does not have the manpower necessary to interview all aliens and their spouses. Therefore, it tries to interview only the more suspicious cases. However, because it has not tested the criteria used to select suspicious cases, there is no assurance that its interviewing resources are being properly utilized.

If not selected for interview, the validity of an alien's marriage will be determined on the basis of information contained on the written petition (form I-130) 1/ submitted by the alien's spouse and by other supporting information. INS found in many instances that legal documents were not a reliable indication that a marriage was not a sham.

Guidelines issued by the central office to INS districts listed various indicators of a sham marriage; however, INS has not made any analysis of these or any other indicators to determine their correlation with fraud.

From April to December 1974, the percentage of suspicious marriages identified in the Southwest Region by the district offices varied from 9 to 77 percent.

<u>District</u>	<u>I-130's received</u>	<u>Suspicious marriages</u>	
		<u>Number</u>	<u>Percent</u>
El Paso	2,014	185	9
Los Angeles	7,514	5,756	77
Mexico City	461	78	17
San Antonio	1,014	362	36

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1/INS form "Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa."

A Southwest Region official had no explanation for the wide variance but believed that "about 45 percent" was reasonable for identification of suspicious cases.

District office examiners said they also use other indicators to identify fraudulent cases. For example, Chicago examiners believe that church weddings for certain ethnic groups are a positive sign that the marriage is not fraudulent. San Antonio and El Paso examiners believe that marriages involving Mexican males are highly suspicious if the alien reaches his late twenties before marriage or if he marries a woman several years older.

Our analysis of 150 I-130 petitions at the Los Angeles district indicated that a church wedding might be positive evidence of a valid relationship. In a sample of 100 suspect relationships in the Los Angeles district, 38 percent involved church weddings. However, in a separate sample of 50 proven sham marriages, only 10 percent were married in churches. Los Angeles examiners said that they had not considered a church wedding as a factor.

We agree that a certain amount of intuition and experience is useful in identifying a suspicious marriage. If, however, the criteria used are not validated, more couples may be interviewed than necessary or many sham marriages may remain undetected. For example, the Los Angeles district scheduled interviews for about 77 percent of the "relative" petitions received. An INS official told us that due to limited manpower, waiting periods for interviews have been about 11 months, which unreasonably delays legitimate couples from receiving the benefits of legal resident status. The INS processing goal, when interviews are required, is 2 months.

We believe analysis of key variables could provide INS with more accurate indicators of sham marriages, thereby maximizing their interview resources and insuring a consistent detection program.

INS needs to provide more  
information to consulates

Although State Department consulates have the responsibility for issuing immigrant visas to aliens not in the United States, they are not receiving sufficient information from INS to satisfy their questions about the validity of INS-approved marriage relationships.

INS sends approved I-130's to the consulate where the alien plans to apply for immigration. In July 1975, at the Mexico City and Guadalajara consulates, we reviewed 77 approved I-130's which represented available submissions from 17 INS district and subdistrict offices. Generally the I-130's did not indicate the measures taken to validate the relationship. Although 20 of the 77 I-130's were considered suspicious relationships by consulate officers because of discrepancies in ages, etc., only two showed that INS had conducted more than just a review of documents submitted. One consulate assumed that the longer INS took to approve an I-130 the more likely it was that INS investigated the relationship.

The effect of not knowing the steps taken by INS to verify the relationship varies, depending on the consulate officer. In some instances efforts are duplicated; in others efforts are lacking. For example, one consulate officer stated he had interviewed aliens at length about their marital relationship only to discover that they had been similarly interviewed by INS. Another consular officer assumed that INS conducted an interview if there were no notes to the contrary. These assumptions should not have to be made. INS should clearly note the measures it takes to verify a relationship. If INS approves a relationship which it feels is still suspicious, the consulate officer should be alerted. Such information could result in reducing duplication of effort and improving detection of sham marriages.

The Department of State said (see app. IV) that under existing procedures INS has often provided helpful information on which consular officers have formulated inquiries in suspicious cases before issuing immigrant visas to the spouse who is the beneficiary of the petition. The Department further stated that it generally agreed that INS should provide more information to consular officers concerning the action it has taken to determine the validity of marriage relationships when I-130 petitions have been approved, namely, that information relating to the extent of the investigations already made would be extremely helpful to the consular officers.

#### NEED TO REVISE INVESTOR EXEMPTION REGULATIONS

Aliens may avoid labor certification requirements by qualifying as an investor. Although often beneficial for our country, the investor exemption has been abused by some aliens as a means for their entry. INS does not know how many alien

investors receive legal resident status each year. Los Angeles officials said that the number of aliens applying for investor status increased greatly in 1974 and 1975 because of difficulty in obtaining labor certifications. In a 10-week period the Los Angeles district processed at least 187 applications.

To qualify as an investor, an alien must invest, or be in the process of investing, capital totaling \$10,000 or more in a U.S. commercial or agricultural enterprise. In addition, the alien must have at least 1 year of experience or training qualifying him to engage in such enterprise.

Though the intent of allowing alien investments was apparently to create additional job opportunities for citizens and legal resident aliens, many investments have been small businesses which are run solely by the alien and his family. For example, 16 of 26 approved investor applications available for examination at the Los Angeles district involved amounts of less than \$20,000. The investments included service stations, fast-food eating places, and small motels. The common denominator was their small size and ability to be operated by one or two people.

There are also indications that investors do not stay in their enterprises once they receive legal resident status. The New York district investigated 10 aliens who received legal resident status by being investors and found that 6 were no longer connected with the investment activity; 5 of these cases appeared to involve fraud. In Los Angeles, an alien accepted employment with a chemical firm on the same day that he was granted legal residency as an investor.

Additionally, a Department of State official said there were indications that some aliens borrowed the money necessary to qualify as an investor to obtain legal resident status, rather than make a true investment.

INS and the Department of State published identical Notices of Proposed Rulemaking on March 10, 1976, which would change the minimum amount necessary to qualify as an investor to \$50,000. In addition, there would be a requirement that the investor be the principal manager of the company in which he is investing and that he contemplate employing U.S. legal residents and not simply provide a livelihood for himself.

The INS and Department of State changes, if implemented, would provide better assurance that only bona fide investors

are admitted; thereby, creating additional job opportunities for citizens and LRAs.

### CONCLUSIONS

Despite violating conditions of their temporary stays or entering into sham marriages, many aliens successfully qualified for legal resident status. Section 245 of the Immigration and Nationality Act may encourage some aliens to violate conditions of temporary entry because they are allowed to adjust to LRA status without leaving the United States. Legislation being considered in the Congress could reduce this incentive by preventing adjustment of aliens who accept unauthorized employment before filing their applications.

INS has recognized that sham marriages are one of the most serious frauds now encountered. By analyzing key variables, INS might develop accurate indicators of sham marriages which would help it maximize resources and insure a consistent nationwide detection effort. Providing more information to the Department of State consulates would reduce duplication of effort and improve efforts to detect sham marriages.

The investor exemption regulations need revision to better assure that only bona fide investors are admitted. INS and the Department of State have published proposed changes to the regulations to provide this assurance.

### RECOMMENDATIONS

We recommend that the Attorney General direct INS to:

- Determine statistically those characteristics of marriages indicative of fraud.
- Provide the Department of State with more information on INS actions to determine the validity of marriage relationships.

### AGENCY COMMENTS AND OUR EVALUATION

The Department of Justice generally agreed with the recommendations in this chapter but stated that to implement GAO's recommendations would require either additional resources to accomplish INS' mission or a de-emphasis of its highest priority actions. We believe our recommendations would enable INS, within available resources, to better manage the work in this area. We think it is important that



INS provide managers (including Department of State personnel) with the information necessary to enable them to do a better job.

The Department of State said it generally agreed that INS should provide more information to consular officers, particularly information relating to the extent of investigations already made concerning the validity of marriage relationships.

MATTER FOR CONSIDERATION  
BY THE CONGRESS

In view of the large numbers of nonimmigrants who violate the conditions of their temporary entry, the Congress may wish to eliminate any incentive for such violations by enacting legislation that prohibits the adjustment of nonimmigrants to legal resident status if grounds for such status were acquired while in violation of the conditions of their temporary entry.

We will be glad to work with the appropriate congressional committees in drafting the specific legislation on this matter, as well as the matters for consideration by the Congress discussed in chapter 2.

GAO REPORTS CONCERNING ASPECTS  
OF THE IMMIGRATION PROBLEM

	<u>Date</u>
Comptroller General's Report to the Congress-- A Single Agency Needed to Manage Port-of-Entry Inspections--Particularly at U.S. Airports	5/30/73
Comptroller General's Report to the Congress-- More Needs to Be Done to Reduce the Number and Adverse Impact of Illegal Aliens in the United States	7/31/73
Comptroller General's Report--Need for Improve- ments in Management Activities of the Immigration and Naturalization Service	8/14/73
Comptroller General's Report to the Congress-- Better Controls Needed to Prevent Foreign Students from Violating the Conditions of Their Entry and Stay While in the United States	2/ 4/75
Comptroller General's Report to the Congress-- Premium Pay for Federal Inspectors at U.S. Ports-of-Entry	2/14/75
Comptroller General's Report--Administration of the Alien Labor Certification Program Should Be Strengthened	5/16/75
Comptroller General's Report to the Congress-- Need to Reduce Public Expenditures for Newly Arrived Immigrants and Correct Inequity in Current Immigration Law	7/15/75
Report to the Attorney General--Aliens Are Illegally Entering the U.S. Mainland Through Puerto Rico and the U.S. Virgin Islands	9/ 8/75

DIFFERENCES IN THE IMMIGRATION AND NATIONALITY ACT  
RELATING TO IMMIGRATION FROM THE EASTERN  
HEMISPHERE AND THE WESTERN HEMISPHERE

Eastern Hemisphere

Western Hemisphere

- |  |   |
|--|---|
| <p>1. Numerical limitations: 170,000 per annum; not more than 20,000 per foreign state.</p>  | <p>1. Numerical limitations: 120,000 per annum limitation became effective July 1, 1968; no foreign state limitation. (This limitation is imposed by the 1965 act, not by the Immigration and Nationality Act.)</p> |
| <p>2. As a selective mechanism to enable distribution of the numbers to the immigrants desired, a system of seven preference classes exists: Four (1, 2, 4, and 5) based on relationship to U.S. citizens or resident aliens, two (3 and 6) based on need for labor, and one (7) for refugees.</p> | <p>2. No provision has been made for a preference system.</p>   |
| <p>3. Applicability of section 212 (a)(14) is explicitly restricted to applicants within the 3d, 6th, and nonpreference categories, thus exempting sons and daughters (married or unmarried) and brothers and sisters of U.S. citizens.</p>  | <p>3. Section 212(a)(14) expressly applies to all applicants from the Western Hemisphere other than parents, spouses, or children of U.S. citizens and resident aliens.</p>   |
| <p>4. Adjustment of status in the United States from nonimmigrant to that of a permanent resident may be obtained.</p>   | <p>4. Adjustment of status in the United States from nonimmigrant to that of a permanent resident is not permitted, although the Act of November 2, 1966, permits the adjustment of Cuban refugees.</p>             |
| <p>5. Parents of resident aliens (not being entitled to a preference) are subject to section 212(a)(14).</p>   | <p>5. Parents of resident aliens are exempt from the provisions of section 212(a)(14).</p>  |
| <p>6. Immigrants may not enter from contiguous territory without first residing therein for 2 years unless they have arrived there on a transportation line which has an appropriate contract with the Attorney General for this purpose.</p>  | <p>6. No prohibition on entry from contiguous territory.</p>  |

Source: Report of the Visa Office, 1973, Bureau of Security and Consular Affairs, Department of State.



## UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the  
Division Indicated  
and Refer to Initials and Number

July 7, 1976

Mr. Victor L. Lowe  
Director  
General Government Division  
United States General Accounting Office  
Washington, D.C. 20548

Dear Mr. Lowe:

This letter is in response to your request for comments on the draft report titled "Professional Smugglers, Illicit Documents, and Schemes to Obtain Legal Resident Status are Undermining United States Efforts to Control Immigration."

We are in general agreement with most of the recommendations contained in the report, particularly those advocating new or revised legislation. Our major concern is that throughout the report there exists a general tone that the Immigration and Naturalization Service (INS) is not using its officers to the fullest extent possible. Faced with enormous responsibilities, and with inadequate manpower to fulfill these responsibilities, INS has prioritized its activities for the past 2 years. In this way, INS has been able to best use its resources in those programs and functions judged to be of utmost importance. This approach, however, has necessitated a reduction or suspension of activity in some programs and functions.

In general, the GAO recommendations would require de-emphasis of our present highest priority actions in favor of GAO's proposals. An alternative solution to this dilemma would be for INS to be provided sufficient resources to accomplish its mission. However, in view of our limited resources, continuation of our priority plan appears to be the most defensible solution.

We would like to emphasize that our Border Patrol anti-smuggling staffs were left intact under the priority program. Decreases effected in the liaison and informant development program were related principally to contacts with local law

enforcement officers and others who had been calling INS to take custody of illegal aliens that were located by local officers. Decreases in the program were not made in the smuggling area.

The report suggests that anti-smuggling agents be relieved of related functions in favor of full-time devotion to liaison and informant development activities. Experience has shown that this recommendation is not feasible. The success of prosecuting violators is seriously diminished if a case is presented by an officer who does not have complete knowledge of all aspects of the case.

Pages 21 and 22 of the report comment on the prosecution of cases as misdemeanors. We would like to point out that prosecuting cases as misdemeanors before U.S. Magistrates has expedited the handling of cases and resulted in relatively higher sentences and fines.

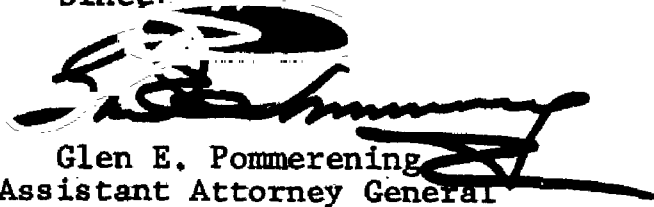
Page 24 refers to the fact that INS does not have forfeiture power in regard to vehicles seized in alien smuggling cases and that, as a result, some vehicles are used over and over again by smugglers who recover them from INS after temporary impounding. As the report points out, DEA and Customs do have the authority to confiscate vehicles they seize in relation to drug trafficking as a result of legislation which was intended to incapacitate and penalize drug traffickers. With respect to DEA, it is our experience that drug traffickers are frequently inconvenienced and penalized by the forfeiture of their seized vehicles to the Government. We concur that INS should be given similar discretionary authority to confiscate vehicles used in smuggling aliens. Such authority would substantially increase the penalty in many cases, and would discourage other aliens who can only marginally afford the price for participation. In addition, seizure vehicle authority would significantly improve the morale of Border Patrol sector employees who see the need for some positive action to be taken to immobilize and penalize smugglers of aliens.

The conclusions in Chapter 3 should mention the expected impact of the Alien Documentation, Identification, and Telecommunications (ADIT) System. Although page 43 discusses ADIT in general terms without specifically mentioning the system, it will impact upon recommendations 2, 3, 4 and 5.

[See GAO note 1]

We trust these comments will be helpful in finalizing your report. Should you have any further questions, please feel free to contact us.

Sincerely,



Glen E. Pommerening  
Assistant Attorney General  
for Administration

- GAO notes:
1. Additional comments were considered in preparing our final report but are not reproduced here.
  2. Page number references in the appendix may not correspond to pages of this report.



## DEPARTMENT OF STATE

Washington, D.C. 20520

May 25, 1976

Mr. J. K. Fasick  
Director  
International Division  
U.S. General Accounting Office  
Washington, D. C. 20548

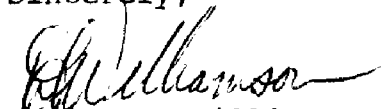
Dear Mr. Fasick:

I am replying to your letter of April 6, 1976, addressed to the Secretary, which forwarded copies of your draft report entitled "Professional Smugglers, Illicit Documents, and Schemes to Obtain Legal Resident Status Are Undermining United States Efforts To Control Immigration".

As you mentioned in your letter the report contains no specific recommendations to the Department. Our attached comments, with one exception, have accordingly been given on the activities of the Department which relate to the recommendations in the report to the Attorney General. The exception pertains to the comments in the final paragraph insofar as they relate to the separate regulation of the Department providing an exemption to labor certification requirements for aliens coming to the United States as investors.

I would like to express the Department's appreciation for the opportunity to review and comment on the draft report and for the extension of time to make such comments.

Sincerely,

  
Daniel L. Williamson  
Deputy Assistant Secretary  
for Budget and Finance

Enclosure: Comments

Department of State Comments on  
GAO DRAFT REPORT: "PROFESSIONAL SMUGGLERS, ILLICIT  
DOCUMENTS, AND SCHEMES TO OBTAIN LEGAL RESIDENT STATUS  
ARE UNDERMINING UNITED STATES EFFORTS TO CONTROL  
IMMIGRATION."

The Department's review of the Draft Report disclosed no findings, conclusions or recommendations which would be affected by actions already taken by the Department with the exceptions mentioned below. While no specific recommendations have been made to the Department the Report does discuss several areas, such as illicit documents, sham marriages, and investor regulations, which involve Department activities.

With regard to Chapter 3 "ILLICIT DOCUMENTS USED TO FAKE LEGAL STATUS", the Department makes a major effort in its consular officer training program to develop a sound awareness by consular officers of the use being made of illicit and fraudulent documents and the skills which are required to detect such documents. The Basic Consular Officers Course, which is required of all officers receiving an initial assignment to a consular position, contains two formal presentations dealing with illicit documents and misrepresentation, including four hours on passport and visa fraud and eight hours of orientation with the Immigration and Naturalization Service (INS) at Dulles Airport. Visa fraud is the subject of another presentation at the mid-career consular course, where experienced consular officers can exchange information and experiences in dealing with fraud.

The Visa Office has set up a fraud unit staffed by four people to coordinate efforts to detect and counteract visa fraud. The unit encourages Foreign Service posts to investigate and report on fraud rings, sham marriages, counterfeit and altered documents, and other aspects of visa fraud. In return, the unit provides information and guidance to the posts on visa fraud. The unit is preparing a visa fraud handbook which incorporates basic guidance on types of fraud, protection of visa equipment, malfeasance, investigations and reports. In addition posts are asked to exchange information on fraud which can be filed by country for quick reference in third country national visa applications. The unit has also done an informal statistical analysis of the incidence of mala fide applicants among visitors and students, and has asked posts with high ratios of mala fide applicants



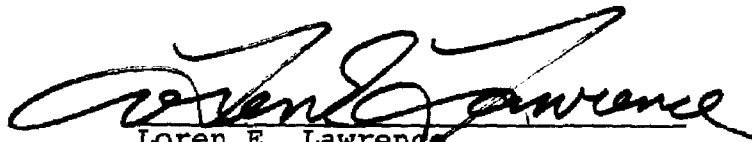
to review their criteria for determining bona fides in light of the reports they receive from INS on deportable or excludable aliens. The unit works closely with INS especially in referring investigations and exchanging intelligence, and is cooperating with INS on a project to have each post characterize the typical mala fide visa applicant. In addition, the unit briefs consular officers on fraudulent practices in their upcoming posts, debriefs those coming from high-fraud posts, and arranges for two or three days' consultation with INS district offices for those officers destined to high-fraud posts.

The Department is in general agreement with the implications which are obvious from the recommendation made in Chapter 4 of the Report that the Immigration and Naturalization Service should provide more information to consular officers concerning the action it has taken to determine the validity of marriage relationships when I-130 petitions have been approved, namely, that information relating to the extent of the investigations already made would be extremely helpful to the consular officers. Under existing procedures the immigration officers who have approved such petitions may provide details of the investigations made by the Service when the approved petitions are forwarded to consular offices. Helpful information is often provided on which consular officers can formulate inquiries in suspicious cases before issuing immigrant visas to the spouse who is the beneficiary of the petition. The approval of an immigrant visa petition to accord "immediate relative" status is prima facie evidence of the beneficiary's entitlement to that status and the consular officer may not revoke a petition approved by the Service. Nevertheless, consular officers frequently develop information through interviews with the beneficiary which results in the return of the approved petition to the Service for reconsideration and possible revocation.

Chapter 4 of the Report points out the need of the Department and the INS to amend the separate companion regulations under which an alien coming to the United States as an investor can be exempted from obtaining a labor certification pursuant to section 212(a)(14) of the Immigration and Nationality Act, as amended. The Administration has included in its immigration bill,

H.R. 10323 and S. 3208, a proposal to define by statute an immigrant investor as an alien who has invested, or is actively in the process of investing, capital totalling at least \$50,000 in an enterprise in the United States of which he will be the principal manager and which will employ persons in the United States other than the alien, his spouse and children. In anticipation of possible delay in enactment of this legislation or its possible failure of enactment, the Department and the Service published on March 10, 1976 separate Notices of Proposed Rulemaking proposing an identical amendment of the currently applicable regulations. The comments, suggestions and recommendations that were received in response to this Rulemaking Notice are presently being studied and evaluated within the Department and the Service in contemplation of the adoption by both agencies of compatible amendments to their regulations which will better serve the purposes for which these exemptions were created.

[See GAO note]



Loren E. Lawrence  
Acting Administrator  
Bureau of Security and  
Consular Affairs

May 19, 1976

GAO note: Additional comments were considered in preparing our final report but are not reported here.

PRINCIPAL OFFICIALS RESPONSIBLE FOR ADMINISTERING  
ACTIVITIES DISCUSSED IN THIS REPORT

Tenure of office  
From                      To

DEPARTMENT OF JUSTICE

ATTORNEY GENERAL:

Edward H. Levi	Feb. 1975	Present
William B. Saxbe	Jan. 1974	Feb. 1975
Robert H. Bork (acting)	Oct. 1973	Jan. 1974
Elliot L. Richardson	May 1973	Oct. 1973
Richard G. Kleindienst	Mar. 1972	May 1973
John N. Mitchell	Jan. 1969	Feb. 1972
Ramsey Clark	Oct. 1966	Jan. 1969

COMMISSIONER, IMMIGRATION AND  
NATURALIZATION SERVICE:

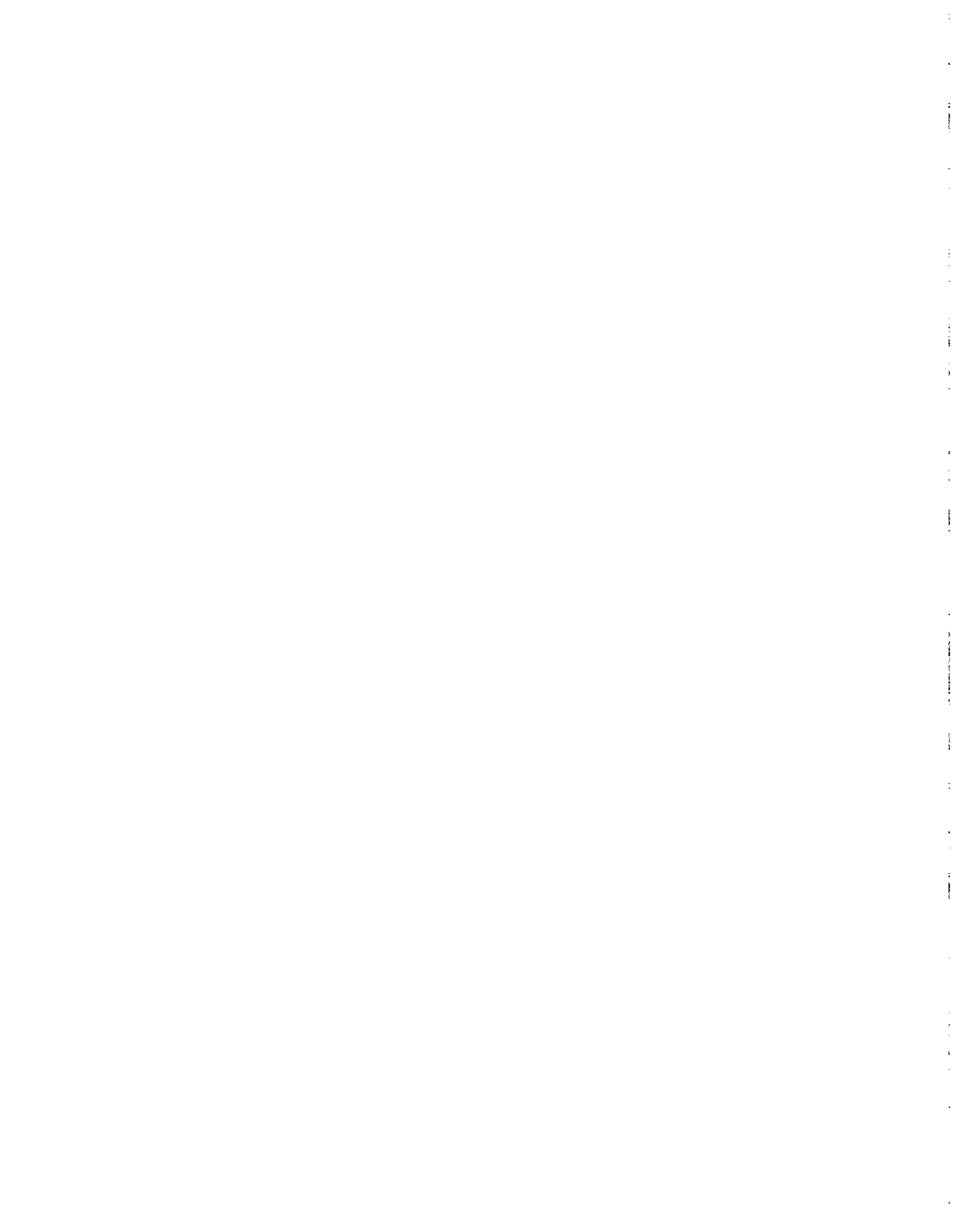
Leonard F. Chapman, Jr.	Nov. 1973	Present
James F. Green (acting)	Apr. 1973	Nov. 1973
Raymond F. Farrell	Jan. 1962	Apr. 1973

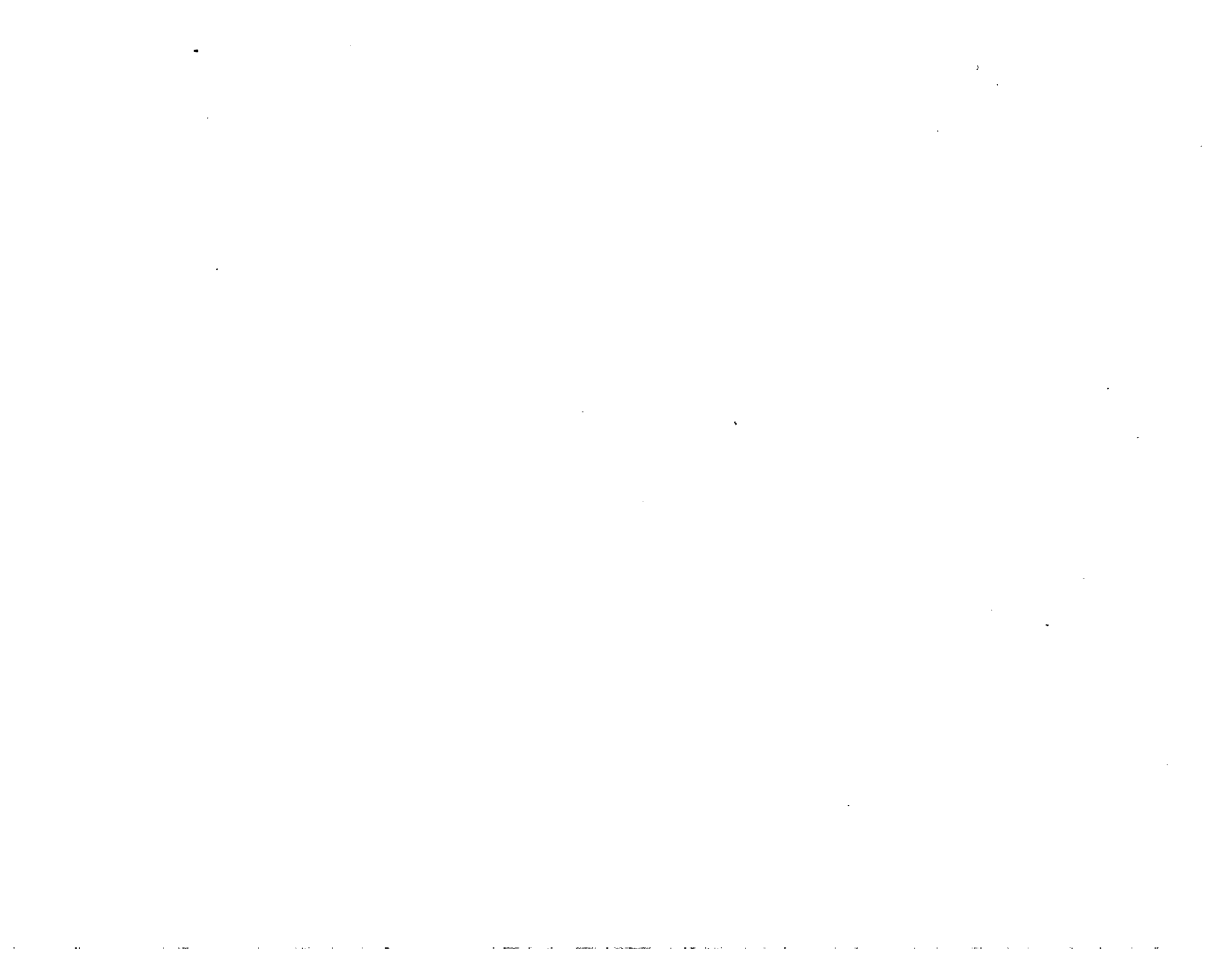
DEPARTMENT OF STATE

SECRETARY OF STATE:

Henry A. Kissinger	Sept. 1973	Present
William P. Rogers	Jan. 1969	Sept. 1973
Dean Rusk	Jan. 1961	Jan. 1969







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