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House Judiciary Committee
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Introduction

The staff and citizen network of NumbersUSA.com thank the chairman and the committee for this opportunity to address issues of general oversight of the INS.

NumbersUSA.com was founded as a non-profit, nonpartisan organization in 1997 to advocate for key recommendations of the national, bi-partisan Commission on Immigration Reform. Those recommendations were set aside by Congress in 1996 to be addressed at a later date. As they have yet to be addressed, we are hopeful that this committee this year will renew the important work of the Commission and its chairman, the late Barbara Jordan.

Service for communities outside the rule of law

We would like to use this occasion to stress the importance of re-establishing the "service" in the Immigration and Naturalization Service. American citizens of all races and walks of life, native-born and foreign-born, in communities in every region of this country are failing to receive even the most rudimentary of service when they call on the INS to deal with the rising tide of illegal immigrants.

In preparation for this testimony, we communicated with citizens in more than two dozen communities where immigration laws are violated openly and without apparent consequence.

The general mood and feeling of helplessness we found is perhaps best described in a May 7, 2001, Newsday article by Bob Weimer, a columnist for the Long Island Newspaper. He was specifically writing about the Long Island community of Farmingville where citizens have organized and met repeatedly with the INS and every other level of government--to no avail. Weimer describes the current scene in Farmingville, but he could easily be describing a hundred other communities:

"The [INS] service's well-documented inability to do anything about the rising influx of undocumented aliens on Long Island demonstrates a complete bureaucratic breakdown. It has failed to perform its mission.

"The word goes south; the aliens come north, and anarchy spreads and becomes routine. Every day in a thousand ways laws are broken. Congress made it a crime to aid, abet, conceal or induce an alien to enter and/or reside in the United States illegally.

"Farmingville teems with undocumented aliens, but Suffolk police, state officials and the hopeless INS manage consistently to look elsewhere while immigration law, tax law, labor law and local housing and sanitary codes are flouted. Landlords pack the aliens into hazardous and substandard housing. Contractors work them off the books, thereby avoiding all the nasty little charges and levies associated with legal labor transactions.

"Federal and state laws are broken in a thousand different ways every day at hiring sites on Long Island. [After all the efforts of citizens to persuade the INS to enforce the law] nothing has changed. The influx continues. The burden on the town's worn-out housing stock mounts. Local officials, state officials and federal officials continue to avoid the issue.

"The people of Farmingville feel they have been abandoned. They feel the cold wind of anarchy."

INS abandonment of American communities

The evidence is strong that, except for deporting those who have committed aggravated felonies, the INS indeed has abandoned most American communities and left them outside the rule of law as far as immigration laws are concerned. Citizens cannot understand how illegal immigrants are allowed to openly gather in large numbers without any attempt by the INS to apprehend them, or at least disrupt their lawbreaking. To most citizens, the INS need never do any special investigating or tracking to apprehend scores of illegal aliens every day in most cities. They merely have to go where major numbers of illegal immigrants are well known to gather.

From Houston, a landlord described to me how the apartment complex she and her husband owned--as well as other neighboring complexes--began to be filled by illegal aliens. The owners called the INS with the information. "We got help only when there were murders," she said. Eventually, most of the residents were illegal aliens, living openly in a sanctuary where the federal law apparently refused to reach.

In Frankfort, Indiana, the newspaper last month reported that the head of a local immigrant services group said that, of 3,500 foreign-born residents of the area, about 70 percent are illegal. The uninitiated, upon seeing so much lawbreaking openly acknowledged in an easy-to-control rural area, might expect to see federal vans arriving the next day to start loading up the lawbreakers. But nothing happened. Illegal aliens are so sure that INS will never make them leave the country that they stage parades and rallies calling attention to their illegal status as they push for government benefits and U.S. citizenship.

Perhaps the greatest outrage to American citizens is the open congregating of illegal workers on their communities' streets. Although there are some legal foreign workers mixed in, the undocumented status of many or most is widely known by all in the community. Said one citizen: "In every job I have ever had, I have always been asked to prove my citizenship/legal residency. Can you tell me why the hundreds of day laborers that converge each day at the West Los Angeles site three blocks from my apartment do not have to do the same? The INS deliberately ignores this blatant, daily lawbreaking."

Refusal of the INS to cooperate with local law enforcement agencies is another source of bitterness. I spent six months in 1996 on a book tour for my immigration book published by W.W. Norton & Company. On nearly every call-in radio show, a local policeman, sheriff's deputy or highway patrol would call and tell me a story about apprehending a van-load or a worksite-full of illegal aliens, calling INS and then being told to release them if they hadn't committed a major felony. The problem seemed especially pronounced in states like Pennsylvania not known for high illegal alien traffic.

Increasingly, local law enforcement won't even bother paying attention to the illegality of residents or call the INS because of years of neglect by that agency. This breeds even more contempt among the citizenry for the idea that they live in a society of laws. A TV

photographer in Georgia told me that he has gone on enough INS operations that he believes he can accurately spot cars filled with illegal aliens rather than legal foreign workers. He said, **"I once followed a conversion van that was an obvious load of illegal aliens. I followed the van for 65 miles and called at least five law enforcement agencies, but not one would respond. I passed three patrol cars along the Interstate and called their dispatcher who would not dispatch them. I have tried to report the same at other times and had the same reaction."**

Rebuffed citizen assistance

When citizens first encounter the widespread breaking of immigration laws in their community, they tend to assume that the federal government has an agency that will want to know. But the INS seems to make no effort to enlist the help of the citizenry in its duties. A Minnesota citizen commented to me: **"Did you know there is no number in the phone book for reporting lawbreaking to the INS? All the listed numbers are for 'benefits.' None of them are for law enforcement."** A North Carolina citizen said every time he calls the INS main phone number, he gets a recording. He has yet to find a way to talk to even an operator.

Not surprisingly, many citizens don't even try to get help; they just assume that nothing will happen. "Illegal aliens have taken over our neighborhood," said a resident near downtown Washington DC. "We know these people are illegal. It is obvious. They have turned our area into a drug war zone and taken over. We've lost everything, and nobody does anything." But she admitted that she had never even thought of calling the INS for help.

Citizens and local law enforcement agencies all over the country would help the INS to identify the immigration lawbreakers if they were only given a chance and a little encouragement. Instead, citizens are either rebuffed or told by sympathetic INS officers that the "orders from above" won't allow them to enforce the law. From Las Vegas, Raleigh, Prescott, Los Angeles, Minneapolis and many points in between, we were told by citizens that INS agents had told them variously: "Not permitted to bother any alien at their domicile, any recreation play ground or place of worship." "Not permitted to make vehicle stops when reasonably sure that the occupants might be illegal aliens, based on many years of experience and training." "No illegal alien discovered at highly publicized companies has been terminated, deported nor the firm fined because the INS is working on other arrangements."

An Arizona woman living 35 miles from the Mexican border told me she witnesses,

"[daily] hordes of illegal aliens heading north, both in vehicles and on foot, sometimes in groups of more than a hundred. The border Patrol agents in the field, at least for the most part, are doing the best they can. The problem lies with our governmental hierarchy that won't let them do their job because of policies fueled by payoffs from businesses that want the cheap labor. The border Patrol "grunts" out here are many times told to "not see" groups of illegals, which as a result, continue unhindered into the land of milk and honey to take jobs from American citizens.

"The message we are sending into Mexico is insanely contradictory; on the one hand we put an armed force on the border to stop anyone from illegally entering the country and on the other hand, we have hundreds of businesses actively recruiting these same people. I spoke only last week to a friend who does business in Mexico who told me he sees representatives from American companies openly recruiting."

One exasperated citizen remarked after being repeatedly told that his local INS office would not be levying fines or deporting apprehended illegal aliens, "It appears that the local INS has metamorphosed from an agency enforcing U.S. borders or employment related immigration laws into an illegal-immigrant service agency. Clearly, the local INS is deeply involved in wide-scale harboring of illegal aliens."

The view from inside the INS

The citizens' words about the INS in general were often very harsh, perhaps unfairly so. But we do not overstate by saying that the INS has become a truly reviled agency among citizens seeking a sense of order in their communities.

To better understand why the INS leaves these citizens feeling like they live outside the reach of the rule of law, we solicited the views of people inside the INS. Our open request resulted in our receiving comments from more than two dozen INS officials and people who have retired both from on-the-ground jobs and from high INS echelons. As with the citizens we have quoted, we will do our best to help you talk directly with any of these human resources. The experience of talking with so many INS officials and citizens in impacted communities has been enlightening and sobering and one we recommend to the committee. We encourage the committee regularly to give a ready ear to both constituencies.

The description of the work of the INS by the INS agents and officials is barely less harsh than that of the citizens who live daily with the results of the INS non-enforcement policies. The overwhelming message that we draw from our interviews with INS people (and with most citizens who have had direct contact with INS agents) is that the INS is filled substantially with dedicated public servants who not only are willing to enforce our nation's immigration laws but are exceedingly disconcerted and disillusioned by their lack of authorization to do so.

Here are some of the comments from our INS sources:

"Current regional and headquarters politically motivated policies prohibit us from enforcing immigration law in the interior for fear of offending a group or generating negative media attention. This includes joint operations with local law enforcement, the ability to work leads and tips without completing and forwarding a detailed 'operation plan' through a maze-like chain of management to pick apart and review."

An agent who is popular in his community for aggressive apprehensions of illegal immigrants reports that when his numbers get too high, he is sent away for a few weeks to another city outside his region to supposedly help with office work there.

Recently in the Southeast, INS agents checked 20 suspects while looking for a fugitive illegal alien felon. They discovered that only two of them were legal residents. But they let all 18 illegal aliens go because their orders were that they didn't have the resources to detain them.

"We need the ability to immediately be able to respond to citizen complaints and take action on day laborers, without fear of media attention or criticism, and accomplish these things at our own district level, without headquarters interference, backpedaling or second-guessing."

Another source comments,

"Twenty or thirty years ago, responding to local calls was a priority."

"Local law enforcement agencies are disgusted with us and don't even bother calling any more since they know we won't or can't respond," says another.

An experienced INS officer says: "We need an employer sanctions program back--without a maze of 'operational plans' before entering a business, notifying businesses before we arrive, more warrants served on scofflaw businesses and serious response to citizen complaints."

Finally, a source tells us, "The enforcement people in INS would really like to start doing our jobs like we did before we were castrated by the policies of the last decade."

Although many of our INS sources did not know each other, their descriptions of what is wrong with the system were remarkably similar. And their suggestions for how to turn around the agency were also similar. I offer you my distillation of the principles the INS officials stated to give you some benchmarks to test on your own. We encourage this committee to probe the wisdom in the ranks of the retired and agents on the beat and see if you find the same thing.

Principles for turning the tide on illegal immigration

I believe that if you seriously probe to find the views of the rank and file in the INS and of retired INS officers, you will discover them suggesting a set of principles very much like the following ones that emerged from our interviews. Some of these require congressional participation and are flagged by a notation at the end of the item.

1. Nothing will turn the tide on illegal immigration without the re-instatement of interior enforcement. Over the last decade, interior enforcement has been systematically dismantled until virtually all that is left is the deportation of people who commit felonies other than breaking immigration laws. In neighborhoods all over America, citizens are seething because they can so easily see this dismantling. "Interior enforcement" means detecting, detaining and deporting illegal aliens from America's communities in all regions, not just along the borders. "Any alien that makes it in now is almost guaranteed a life without interruption by INS or the Border Patrol."

2. Putting more people on the border won't do much good unless people in other countries think they could be sent back if they succeed in getting past the Border Patrol. "Throwing more agents at the border won't stop the flow without interior enforcement." Even people whose primary career focus has been the border said the best immediate help for controlling the border would be beefing up interior enforcement. It is the lack of interior enforcement that entices so many to risk their lives to illegally enter the country across deserts, in unsafe trucks and train cars, and welded inside ship cargo units.

3. Interior enforcement relies on creating credible fear among all illegal aliens that they could get caught and, if caught, could be deported. Swift, firm enforcement on just a few can cause many to decide to return home if the enforcement appears possible on every kind of illegal alien. Today, only illegal aliens who break other laws have any significant fear. One officer said: "You have to reduce the comfort level of being an illegal immigrant. Right now, you can bring your family here and live like Americans. We have to make it so they are always looking over their shoulder." The INS needs more money to

ensure swift processing and deportation for a credible number of illegal aliens out of each community. When the illegal aliens in those communities see people disappear and not come back, they will begin to think seriously about whether they want to live with that kind of uncertainty. This requires resources to ensure that a certain random percentage of illegal aliens who are apprehended will be personally escorted through every stage of the process until they are out of the country.

CONGRESSIONAL ACTION NEEDED: Ensure sufficient funding.

4. For the most part, new laws are not needed to solve the problem. "There has been too much reinventing of the wheel instead of concentrating on putting the resources behind laws already in place." Let the agents use the tools they had in the 1980s, and especially in the 1950s and 1960s, and they can make an incredible dent in the millions of illegal alien population. Most of the tools still exist under law but have been taken away by administrative decision.

5. Invest in an identification system that will allow every agent to get prints on all apprehended aliens and to check the prints before considering letting them loose with a ticket to appear in court later. Since there isn't enough jail space to detain every illegal alien until a hearing date, it is imperative that agents be able to jail the ones who are repeat offenders and who have a record of having failed to show up at a previous hearing. Reliance on the FBI print system currently forces agents to wait a couple of weeks for prints to be processed. Agents need something that will report back in an hour or two. The INS has such a system in limited use primarily on the border but it already has exceeded capacity. The INS needs to determine the fastest, most efficient way to resolve this problem and move forward with the extra funding provided by Congress.

CONGRESSIONAL ACTION NEEDED: Request proposals and sufficiently fund a system once satisfied.

6. Encourage the apprehension and finger-printing of every possible illegal alien, even if there aren't enough resources to deport most of them. This not only will be disruptive to their communities - especially if people are randomly pulled from the pool to go through the swift deportation system - but it will kick in the 10-year exclusion rule on them, preventing them from benefiting from any legal access to the United States. Widely publicizing this can start to act as a real deterrent.

CONGRESSIONAL ACTION NEEDED: Congress must resist constantly violating its own laws by giving illegal aliens loopholes around the 10-year exclusion rule.

7. Make sure that aliens who enter illegally after being deported are treated as felons as the law allows, earning them guaranteed jail time. Most illegal aliens break immigration laws to make money. They can't make money in jail. A better fingerprint system will begin finding these "repeaters" in large quantities. It won't take long for the word to get out that "repeating" bears risk of serious inconvenience to the business plan.

8. The INS must try for the first time to enforce the 1986 employer sanctions law. Everybody agrees that pressures from those who economically benefit from trafficking in illegal workers has kept the INS from ever seriously attempting to carry out the law. Disrupt the economic gain from illegal immigration and there won't be much reason to break the law. A relentless presence at street-hiring sites is bound to disburse the illegal aliens and leave the jobs for those at the sites who have a legal right to be here.

9. Not much will happen unless the top echelon and middle management of INS believe in enforcing immigration laws. "The reason for the problems is that the INS force has been handcuffed by its leaders." The overwhelming opinion among the rank and file is that the leadership of the INS has been filled with people who favor illegal immigration or who are politically afraid of those groups in American society who gain money and power off illegal immigration. The mission of the INS has been corrupted and cannot be restored to provide service to the American people again unless there is a wholesale change in the top echelons of the agency. As in other parts of the Justice Department, people should not be allowed to hold jobs if they believe they can pick and choose which laws to enforce.

10. Congress must stop making the INS job impossible by enticing millions more illegal aliens through amnesties and incremental amnesties. "The amnesty programs have devastated our enforcement efforts." The various kinds of amnesties approved in 1997, 1998 and 2000 - in addition to the memory of the giant one in 1986 - have sent a message to the rest of the world that the Border Patrol and INS agents are merely for show, that the United States actually wants people to come here illegally. "I have talked to many illegal migrants coming back after deportation or voluntary departure. They will tell you that they are saving all their papers that show they have been here and are waiting for the next amnesty program."

CONGRESSIONAL ACTION NEEDED: Members of Congress need to publicly take the no-amnesty pledge to send a signal to the rest of the world.

11. Congress should provide the funding so that the INS can pledge 100% service to those communities that are calling for help in removing illegal immigrants. Quick Response Teams (QRTs) have been tried but not properly funded. Their presence will inspire more local authorities to identify illegal aliens. The first INS interview can often be conducted over the phone. If the INS agent determines probability, the alien will stay in local custody for no more than a few days until QRT arrives. "We have a lot of older experienced retired agents who can return to work on a one-year contract to work the cities that have large numbers of known illegal migrants. This approach will give a wakeup call that illegal migration will have consequences." Never again should a local law enforcement agency be told to release a suspected illegal immigrant into the public.

CONGRESSIONAL ACTION NEEDED: Sufficient funding for a credible QRT effort, with a pledge to expand funding as long as Americans in local communities still are reporting INS abandonment.

Conclusion

The chairman of the Commission on Immigration Reform, the late Barbara Jordan, testified before this committee on Feb. 24, 1995. She said:

"Credibility in immigration policy can be summed up in one sentence: Those who should get in, get in; those who should be kept out, are kept out; and those who should not be here will be required to leave."

This committee's oversight task is an incredibly important and challenging one because the INS currently is making virtually no effort to ensure that "those who should not be here are required to leave."

And because of that lack of interior enforcement, our amplified efforts on the border to ensure that "those who should be kept out, are kept out" are failing. Around the world, the word is out: if you can succeed in evading the U.S. Border Patrol on your way in, and if you do not commit an aggravated felony once you travel a few miles into this country, you have virtually no chance of ever being forced to leave. With that kind of incentive, would-be illegal aliens around the world will do almost anything--including risking dying in the desert--to outmaneuver our Border Patrol.

The general spirit of lawlessness in which so many communities find themselves tends to create a cycle of behavior that only moves the communities further toward anarchy. A leader of one group of citizens lamented that quiet homeowners after repeated frustration with the INS turned to the streets in public demonstrations outside their general experience: "Citizens are forced to the streets to protest their own government because of its constructive abandonment of its duties to its citizens. Citizens are arrested while illegal aliens go about their business freely and act contrary to the law, with impunity."

On the border, citizens have drawn national news coverage for taking up arms and taking the law into their own hands as they defend their property from an invasion of sometimes a hundred illegal immigrants a day. These developments presage darker impulses that could be stirred. The abandonment of the enforcement of the law by the INS fans the embers of vigilantism that seem never to be fully extinguished in the spirits of human beings seeking a society of order over disorder.

If this committee does not find a way to help the INS re-institute credible interior enforcement, the amount of money provided in the INS budget is of no particular consequence--except for the amount of the taxpayers' dollars that are being wasted.