

Report for Congress

Received through the CRS Web

Immigration and Naturalization Service: Restructuring Proposals in the 107th Congress

Updated December 30, 2002

Lisa M. Seghetti
Analyst in Social Legislation
Domestic Social Policy Division

Immigration and Naturalization Service: Restructuring Proposals in the 107th Congress

Summary

The events of September 11, 2001 brought the former Immigration and Naturalization Service (INS) to the forefront of the nation's attention. Although all 19 hijackers entered the country legally, three overstayed their visas. And, on March 11, 2002, the then-INS sent student visa notifications for two of the (now deceased) 19 hijackers to the aviation school they attended, provoking an intensification of long-standing criticism of the former INS for weak management controls, among other things. An underlying theme of criticism concerned what many believed were overlapping and unclear chains of command with respect to the former INS's service and enforcement functions. There appeared to be a consensus among the Administration, Congress, and commentators that the immigration system, primarily INS, was in need of restructuring. There also appeared to be a consensus among interested parties that the former INS's two main functions — service and enforcement — needed to be separated.

Proposals in the 107th Congress to restructure the former INS centered on separating the service and enforcement functions either by keeping INS intact and creating two separate bureaus to carry out the functions, or by dismantling INS and reassigning the functions to DOJ and other agencies or a newly created department of homeland security. While separating the two main functions would create a clear chain of command and increase accountability, several questions are raised. Are these functions operationally separable or interdependent? Will both functions receive equal attention and resources? How will separating the main functions address the fragmentation of immigrant-related functions across INS and other federal agencies? How will the separate entities expeditiously share information?

There has also been some discussion of merging the agencies responsible for border patrol and inspections under one agency. Homeland Security Director Tom Ridge had proposed merging at least three agencies that are responsible for providing border security into a "super agency." Several pieces of legislation were introduced that would have consolidated several agencies that have border security-related functions into a newly created agency. All of these proposals would have addressed concerns of overlap in functions, and related duplication of efforts; lack of communication and coordination of efforts; and the rivalry that reportedly exists between INS and agencies with similar responsibilities. The proposals, however, did not address concerns about the need for greater information sharing between the immigrant service and immigration enforcement functions.

The *Homeland Security Act of 2002* (P.L. 107-296) was signed into law on November 25, 2002. The Act transfers INS' immigration service and enforcement functions to a new DHS into two separate Bureaus. The visa issuance function remains at DOS' Consular Affairs, however, the Secretary of DHS will have authority over visa issuance regulations. Other immigration functions are either transferred to the Department of Health and Human Service or remain in DOJ.

Contents

Latest Legislative Developments	1
Introduction	1
Background	3
Immigration Functions	4
DOJ Immigration Functions	6
DOS Immigration Functions	7
DOL Immigration Functions	7
U.S. Customs Service Immigration Functions	8
Other Federal Agencies' Immigrant-Related Functions	8
Past INS Reorganizations	9
INS Restructuring Proposals in the 105 th Congress	9
INS Restructuring Proposals in the 106 th Congress	10
The Administration's Proposals	10
June 6, 2002 Proposal	10
November 14, 2001 INS Restructuring Plan	11
Restructuring Legislation in the 107 th Congress	12
The Barbara Jordan Immigration Reform and Accountability Act of 2002 (H.R. 3231)	12
The Immigration Reform, Accountability, Security, and Enforcement Act of 2002 (S. 2444)	14
The Immigration Restructuring and Accountability Act of 2001 (H.R. 1562)	15
The Immigration and Naturalization Service Reorganization Act of 2002 (H.R. 4108)	15
Analysis of Selected Options to Restructure INS	16
Option I: Keep INS Intact, While Separating the Service and Enforcement Functions	17
Option II: Dismantle INS and Create Two Separate Bureaus Within DOJ	17
Option III: Dismantle INS and Disperse Its Functions to Other Agencies	18
Border Consolidation Proposals	18
The Department of National Border Security Act of 2002 (S. 2020)	19
National Border Security Agency Act (H.R. 3600)	19
Analysis of Border Consolidation Proposals	19

Appendix A 21
 Chronology of Selected INS Reorganization Proposals 21

Appendix B 23
 Chronology of Implemented INS Reorganizations 23

List of Tables

Table 1. Selected Immigration Functions by Departments 6

Immigration and Naturalization Service: Restructuring Proposals in the 107th Congress

Latest Legislative Developments

The Homeland Security Act of 2002 (P.L. 107-296) was signed into law on November 25, 2002. The Act transfers INS' immigration service and enforcement functions to a new DHS into two separate Bureaus. The visa issuance function remains at DOS' Consular Affairs, however, the Secretary of DHS will have authority over visa issuance regulations. Other immigration functions are either transferred to the Department of Health and Human Service or remain in DOJ. The Homeland Security Act of 2002 was prompted by the June 6, 2002, proposal made by President Bush to create a new homeland security department that would have included INS under its border and transportation security division. Preceding the legislation and the President's proposal, efforts were already underway to restructure the Immigration and Naturalization Service.

Introduction

The events of September 11, 2001 brought the then-Immigration and Naturalization Service (INS) to the forefront of the nation's attention. Although all 19 hijackers entered the country legally, three overstayed their visas. And, on March 11, 2002, the former INS sent student visa notifications for two of the (now deceased) 19 hijackers to the aviation school they attended, provoking an intensification of long-standing criticism of the then-INS for not fully enforcing the immigration law, having a backlog of immigrant visa and naturalization applications, having poor management practices, lacking accountability, and providing poor customer service, among other things. Under its organizational structure, INS struggled with carrying out its many tasks. The underlying theme of most of the criticism hinged on what many believed were overlapping and unclear chains of command with respect to INS's service and enforcement functions.¹ There appeared to be a consensus among the Administration, Congress, and commentators that the immigration system, primarily INS, was in need of restructuring. There also appeared to be a consensus among interested parties that the former INS's two main functions — service and enforcement — needed to be separated.

¹ The former INS's service functions included the processing of immigrant visa and naturalization applications. Its enforcement functions included enforcing U.S. immigration laws along the borders and within the interior.

This report examines immigration functions within the former INS and across other federal agencies. The report also provides background information on past and current proposals to reorganize INS as well as proposals to consolidate border security functions, and it analyzes these proposals. The appendices detail the history of the immigration agency, proposals to reorganize the agency, and actual reorganizations.

INS had been internally restructured many times since its inception in 1891.² In addition to internally initiated measures, numerous proposals had been advanced by administrations, Congress, and commissions to reorganize INS since the early 1900s.³ These proposals generally gave expression to concerns about the efficiency and effectiveness of the former INS in performing its responsibilities; perceived inefficiencies resulting from overlap and fragmentation of functions performed by various agencies; and border-related activities related to drug trafficking. Previous proposals sought to accomplish one or more of the following:⁴

- ! Transfer the responsibility for issuing visas from the Department of State (DOS) to INS;
- ! Combine the INS immigration inspection and border patrol functions with Customs Service inspection in a single agency, either within the Customs Service (in the Department of Treasury) or in a newly created agency;
- ! Combine all immigration functions in a single, independent agency.

Several proposals to restructure INS had been advanced and included: (1) separating the service and enforcement functions, but keeping INS intact; (2) dismantling INS and creating two new agencies within the Department of Justice (DOJ) that would report to a newly created position of an Associate Attorney General for immigration affairs; (3) dismantling INS and creating a new immigration agency within DOJ; and (4) creating an enforcement bureau within DOJ to carry out INS's enforcement functions, but transferring the issuance of visa functions to DOS, and the immigrant labor-related functions to the Department of Labor (DOL). More recently, Congress passed legislation that creates a Department of Homeland Security. The Homeland Security Act of 2002 (P.L. 107-296) abolishes INS and transfers its immigration service and enforcement functions to a new Department of Homeland Security (DHS), see below.

There has also been some discussion of merging the border patrol and inspections functions of the former INS and other primary agencies responsible for these functions under one agency.⁵ Homeland Security Director Tom Ridge had

² Immigration functions were first centralized under the Bureau of Immigration in the Department of Treasury.

³ See **Appendix A** for a chronology of proposals to reorganize INS.

⁴ U.S. Congress. Senate. Committee on the Judiciary. *History of the Immigration and Naturalization Service*. Committee Print, 96th Cong., 2d sess.

⁵ The primary agencies that have border security-related responsibilities are INS, U.S. (continued...)

proposed merging the then-INS's border patrol and inspection functions, U.S. Customs Service inspection functions, and the Coast Guard under one "super agency." Another proposal by Ridge included merging only INS and the U.S. Customs Service under one agency.⁶ Legislation had been introduced that would have merged the then-INS's border patrol and inspection functions, U.S. Customs Service inspection functions, and the Coast Guard under one independent agency.⁷

Background

The Attorney General is responsible for administering and enforcing the Immigration and Nationality Act of 1952, as amended (INA; 8 U.S.C. 1101 et. Seq.), and all other laws pertaining to the immigration and naturalization of aliens.⁸ INS was the main agency responsible for administering and enforcing immigration laws.⁹ INS's responsibilities were split into two generally broad functions: (1) the processing of services and adjudication of benefits provided by immigration law, and (2) the enforcement of restrictions and limitations in immigration law.

INS's dual mission of providing immigration benefits (what is commonly referred to as its service mission) and enforcing immigration law was at the center of reorganization discussions. Some commentators contended that INS's dual mission was inherently conflicting in that the two roles had created two different cultures that often competed for the same resources. Additionally, commentators contended that increasing demands placed on INS (i.e., congressional mandates and administrative directives) had created mission overload, which made it very difficult for INS to effectively carry out its functions.

While INS was responsible for several database systems designed to carry out its service and enforcement functions, several studies conducted by the Government Accounting Office (GAO) criticized INS for having antiquated databases and failing to integrate its systems.¹⁰ The reports were critical of the then-INS's field and

⁵ (...continued)

Treasury's Custom's Service, and the Department of Transportation's Coast Guard. INS has border patrol responsibilities along the U.S. border. INS and the Customs Service both have inspections responsibilities; INS inspects people as they present themselves for entry into the country and the Customs Service inspects goods. The Coast Guard protects the country's coast lines and ports. It also enforces U.S. laws in the water and high seas, including interdicting illegal immigrants.

⁶ McLaughlin, Abraham. Bush Plans Super-Agency to Improve US-Border Control. *The Christian Science Monitor*, March 25, 2002. p. 2.

⁷ See, for example, H.R. 1158, S. 1534, and H.R. 3600.

⁸ The Homeland Security Act of 2002 did not amend the INA to transfer certain responsibilities from the Attorney General to the Secretary of DHS or his designee.

⁹ The Homeland Security Act of 2002 abolishes INS and transfers most of its functions to the new DHS.

¹⁰ See for example a series of GAO reports on INS management issues: U.S. General (continued...)

regional offices due to an absence of communication between the various offices. The reports were also critical of INS's continued use of paper for tracking most of its data functions. Other reviews conducted by DOJ's Office of Inspector General (OIG) had questioned the reliability of INS's information systems and the accuracy of the information.¹¹ According to DOJ's Inspector General, Glenn A. Fine, "two OIG audits of the INS's automation initiatives found lengthy delays in completing many automation programs, unnecessary cost increases, and a significant risk that finished projects would fail to meet the agency's needs."¹²

Other issues surrounding the debate included reported lack of coordination and cooperation among the various divisions within the then-INS, and an emphasis placed on enforcement functions rather than service functions. With regard to separating the service and enforcement functions, proponents contended that under the then-organizational structure, the two functions were blurred with no clear chain of command. Historically, INS enforcement functions had received more resources than INS service functions.¹³ INS's officials, as well as some members of Congress and some commentators, believed that if the two functions were separated, each function would receive equal attention and resources.

Immigration Functions

Although several federal agencies have important immigration responsibilities,¹⁴ the most recent proposals to restructure the immigration system focused on the former INS and not on immigration-related responsibilities of other agencies (with the exception of some bills that address border security functions, discussed below). Some past proposals have considered a complete overhaul of the immigration system; for example, in 1990, the Asencio Commission called for a new Agency for Migration that would be responsible for all refugee and migration issues.¹⁵

¹⁰ (...continued)

Accounting Office. *INS: Overview of Recurring Management Challenges*, GAO report 02-168T; *October 17, 2001: Overview of Management and Program Challenges*, GAO Report T-GGD-99-148, July 29, 1999; *INS: Management Problems and Program Issues*, GAO Report T-GGD-95-11, October 5, 1994; and *Information Management: INS Lacks Ready Access to Essential Data*, GAO Report IMTEC-90-75, September 27, 1990.

¹¹ U.S. Congress. House. Subcommittee on Immigration and Claims. *INS Enforcement and Service Performance Issues*. 107th Cong., 1st Sess., October 17, 2001 Washington, Govt. Print. Off., 2001.

¹² *Ibid.*

¹³ See CRS Report RS20908, *Immigration and Naturalization Service's FY2002 Budget*, by William J. Krouse.

¹⁴ These agencies include DOJ, DOS, Department of Treasury, Department of Agriculture, Department of Health and Human Services, Department of Labor, and Department of Education.

¹⁵ The Asencio Commission. *Report of the Commission for the Study of International Migration and Cooperative Economic Development*. Washington, Govt. Print. Off., 1990.

(continued...)

Subsequent commissions and reports echoed similar calls for consolidating border patrol and inspection functions, as well as consolidating the visa functions of the former INS and DOS.¹⁶

In its 1997 final report to Congress, the U.S. Commission on Immigration Reform (headed by former Congresswoman Barbara Jordan)¹⁷ noted that “fragmentation of responsibility leads to conflicting messages from the various agencies [and] unnecessary delays in adjudication” Moreover, when more than one agency is involved in similar functions, redundancies in actual implementation and inconsistent results could occur. Additionally, such duplication could lead to waste of resources (i.e., personnel, funds, equipment, etc.).

Some agencies perform broad immigrant-related functions, but they have distinct responsibilities. For example:

- ! DOL, INS, and DOS make determinations on skill-based immigrant and limited duration admissions applications.
- ! INS and DOL provide some form of worksite enforcement and conduct investigations pertaining to employer compliance with immigration-related labor standards and violations of the employment eligibility verification requirement.
- ! INS and DOS adjudicate immigrant visas and conduct background checks on visa applicants.
- ! INS and U.S. Customs both perform inspections at ports of entries.

The following table is a description of selected agencies’ immigration functions.

¹⁵ (...continued)

The Asencio Commission was established as a result of a congressional mandate, the Immigration Reform and Control Act of 1986.

¹⁶ The 1937 Byrd Committee Report, the 1940 Bureau of the Budget Report, the 1948 Customs’ Management Improvement Study, the 1949 Commission on the Organization of the Executive Branch of the Government (the Hoover Commission), the 1950 Senate Committee on the Judiciary Report No. 1515, and the 1957 Commission on Government Security (the Wright Commission). U.S. Congress. Senate. Committee on the Judiciary. *History of the Immigration and Naturalization Service*. Committee print, 96th Cong., 2d Sess. Washington, Govt. Print. Off., 1980. p.81; U.S. Commission on Immigration Reform. *1997 Report to Congress, Becoming an American: Immigration and Immigrant Policy*. Washington, Govt. Print. Off., 1997.

¹⁷ The Commission was established as a result of a mandate by the Immigration Act of 1990 (P.L. 101-649). It was charged with examining the implementation and impact of U.S. immigration policy.

Table 1. Selected Immigration Functions by Departments

Agency/immigration function	INS DOJ	DOS	U.S. Treasury	DOL	DHHS ^a
Issuance of Non-immigrant Visas	X	X	—	—	—
Naturalization Adjudication	X	—	—	—	—
Legal Permanent Residents Adjudications	X	X	—	—	—
Asylum Processing	X	—	—	—	—
Refugee Admissions and Resettlement	—	X	—	—	X
Other adjudications	X	X	—	—	—
Immigration Inspections	X	—	X	—	—
Border Patrol	X	—	—	—	—
Investigation	X	—	—	—	—
Apprehension/Removal	X	—	—	—	—
Detention	X	—	—	—	—
Employment Verification	X	—	—	X	—
Medical Inspections	—	—	—	—	X

Source: Table prepared by the Congressional Research Service.

^a Department of Health and Human Services.

DOJ Immigration Functions¹⁸

Section 103 of the INA gives primary responsibility for the administration and enforcement of immigration law to the Attorney General.¹⁹ There are several agencies and offices within DOJ that have responsibility for some immigration functions: the *Executive Office for Immigration Review (EOIR)*, and the Civil

¹⁸ Some of the information in this section was obtained from CRS Report RL30257, *Proposals to Restructure the Immigration and Naturalization Service*, by William J. Krouse.

¹⁹ As stated previously, the Homeland Security Act of 2002 transfers the former INS' service and enforcement functions to DHS. The Act, however, did not amend the INA to transfer certain responsibilities from the Attorney General to the Secretary of DHS or his designee.

Division of DOJ. The former INS was in DOJ, however, the Homeland Security Act of 2002 transferred most of its functions to DHS, see below.

INS was responsible for administering immigrant services, such as the adjudication of naturalization petitions, review of asylum claims, and the issuing of immigrant visas for aliens who seek to adjust their immigrant status. It also was responsible for patrolling the borders, inspecting all persons arriving at U.S. ports of entry, and investigating violations of immigration law. INS also performed worksite enforcement along with DOL.

EOIR is an independent agency within DOJ that was initially established by regulation in 1983. The Homeland Security Act of 2002, however, formally authorized EOIR. EOIR has jurisdiction over the immigration court system, the Board of Immigration Appeals (BIA), and the Office of the Chief Administrative Hearing Officer (OCAHO). Immigration judges preside over removal hearings and their decisions are appealable before the BIA. BIA is the highest administrative body for interpreting and applying immigration laws. OCAHO was created to hear administrative cases related to employment discrimination, document fraud, and employer sanctions.

In addition to EOIR, DOJ has other components that have some immigration functions, such as the Office of Litigation, and the Office of Special Counsel for Immigration-Related Unfair Employment Practices. Both of these offices are located within the Civil Division of DOJ.

DOS Immigration Functions²⁰

The Homeland Security Act of 2002 gives the DHS Secretary exclusive authority to issue regulations with respect to visa issuance, while maintaining the responsibility for implementation of visa issuance in DOS. DOS has several bureaus and offices that have immigration-related functions: the Bureau of Consular Affairs, the Bureau of Democracy, Refugee and Migration Affairs, and the Office of the Legal Adviser.

The *Bureau of Consular Affairs* is responsible for the adjudication of visas overseas for foreign nationals wishing to come temporarily to the United States. It also manages the issuance of passports to citizens. The *Bureau of Population, Refugee and Migration* has responsibility for migration issues and oversees refugee admissions. The *Office of Legal Adviser* serves as the counsel for the State Department on migration issues.

DOL Immigration Functions

Several agencies within DOL have responsibility for some immigration functions. The *Employment and Training Administration* processes the applications that are filed by employers seeking to hire foreign workers. It also has responsibility

²⁰ See CRS Report RL31512, *Visa Issuances: Policy, Issues, and Legislation*, by Ruth Ellen Wasem.

for making sure U.S. workers are not adversely affected by the hiring of foreign workers. The function is carried out in its *Division of Foreign Labor Certification*.

The Employment Standards Administration is responsible for enforcing immigration-related labor issues. Within the Employment Standards Administration is the *Wage and Hour Division*, which has responsibility for investigating possible violations of regulations, contract requirements or attestations under the H-2A, H-1C, H-1B, D-visa and F-visa programs.²¹ It is also responsible for reviewing employment eligibility verification requirements under INA.

Three bureaus and offices, *International Labor Affairs Bureau*, the *Office of the Assistant Secretary for Policy*, and the *Office of the Solicitor*, direct DOL's immigration policy and research, and provide legal support for all of DOL's immigration programs and functions.

U.S. Customs Service Immigration Functions

The U.S. Customs Service is under the jurisdiction of the U.S. Treasury Department. The Customs Service's primary function is inspecting and clearing goods entering the United States. Customs Service and INS inspectors are cross-designated to enforce both agencies' areas of law. (Customs officers are cross-designated to inspect persons seeking entry into the country, and INS inspectors are cross-designated to inspect goods during primary inspection.) When a question of an alien's admissibility arises, the Customs inspector refers the alien to INS for secondary inspection and a final determination of admissibility.²²

Other Federal Agencies' Immigrant-Related Functions

The *Public Health Service* of the *Department of Health and Human Services* (DHHS) determines health-related grounds for inadmissibility and provides health inspections for certain aliens who present themselves at a port of entry. Also, the *Office of Refugee Resettlement* within DHHS provides assistance to refugees.

Other federal agencies that perform immigration-related functions include the Department of Agriculture and the Department of Education. The Department of Agriculture performs inspections on food (i.e., fruit), and the Department of Education administers educational assistance programs for immigrant children.

²¹ The following non-immigrant visas are categorized as follows: H-2A, agriculture guest workers; H-1C, nurses; H-1B, professional speciality workers; D-visa, vessel or aircraft crewman; and F-visa, student visa for an educational institution.

²² For information on the U.S. Customs Service see: CRS Report RL31230, *U.S. Customs Service Authorization, FY2002 Budget, and Related Border Management Issues*, by William J. Krouse.

Past INS Reorganizations²³

In 1891 immigration functions were centralized under the Bureau of Immigration in the Department of Treasury. In 1913, Congress mandated that the then Bureau of Immigration and Naturalization be divided into two Bureaus, immigration and naturalization.²⁴ During the time period from 1903 to 1940, the immigration agency was delegated additional responsibilities and was transferred to a variety of different Departments. Each move reflected a perceived change in the agency's focus as expressed in underlying immigration law. As Congress gave the agency additional responsibilities, it responded by making internal adjustments.²⁵ No reorganization legislation has been enacted since 1913.

INS Restructuring Proposals in the 105th Congress²⁶

Congress turned its attention to restructuring INS in the 105th Congress when the report that accompanied the FY1998 Commerce, Justice, State, the Judiciary and the Related Agencies Appropriations Act directed the Attorney General to review recommendations made by the U.S. Commission on Immigration Reform (Commission) and submit a plan to Congress to restructure INS and the federal immigration system (P.L. 105-119; H.Rept. 105-207). In addition to specific language in the House report directing the Attorney General to submit a plan to restructure INS, several bills were introduced that would have separated INS's service and enforcement functions.²⁷

After submitting several reports to Congress, in 1997 the Commission submitted its final report with recommendations that INS's immigration functions be transferred to other federal agencies. The Commission recommended that the processing of legal immigration and naturalization claims be transferred to DOS, while the enforcement functions remain at DOJ as an elevated enforcement bureau, with the exception of worksite enforcement, which would be transferred to the DOL. The Commission recommended the transfer of INS detention functions to the U.S. Marshall's Service or the Bureau of Prisons. It also recommended the creation of an independent appeals board to handle all administrative appeals of immigration-related determinations made by DOS, DOJ and DOL.

²³ See **Appendices A and B** for a chronology of proposals to restructure INS and INS reorganizations.

²⁴ 37 Statute 737.

²⁵ For example, from 1909 to 1917, numerous internal changes were made including the creation of 23 districts responsible for general immigration services and enforcement in 1910. In 1921, the Bureau organized into three general areas: general administration, quasi-judicial agencies, and the field service. See **Appendix B** for a chronology of past INS reorganizations.

²⁶ Information in this section was obtained from CRS Report RL30257, *Proposals to Restructure the Immigration and Naturalization Service*, by William J. Krouse.

²⁷ See, for example, H.R. 2588 and H.R. 4264.

In 1998, the Administration submitted to Congress its proposal to restructure INS. The report, *A Framework for Change: The Immigration and Naturalization Service*, established a plan to separate the service and enforcement functions, and increase managerial accountability, among other things. While acknowledging some of the Commission's recommendations,²⁸ the Administration's plan failed to address them, according to some critics, notably the dispersal of functions to other agencies. The plan was never fully implemented.

INS Restructuring Proposals in the 106th Congress²⁹

There were several legislative proposals to restructure INS in the 106th Congress. Two pieces of legislation would have expanded and elevated the immigration service (S. 1563 and H.R. 2680), while two other bills (H.R. 2528 and H.R. 3918) would have dismantled INS, creating two new bureaus (service and enforcement) within DOJ.

The Administration's Proposals

The Administration has made several proposals to restructure INS. The most recent proposal that was adopted by Congress, in part, transfers INS' service and enforcement functions to a newly created Department of Homeland Security (DHS). Preceding the Administration's June 6, 2002 proposal to transfer INS to DHS, the Administration carried forward a restructuring plan to split the agency's service and enforcement functions within INS.

June 6, 2002 Proposal³⁰

The Administration had proposed to transfer INS to a new homeland security department. The goal of the Administration's proposal was to consolidate into a single federal agency under one cabinet-level person many of the homeland security functions performed by units within various federal agencies and departments. To this end, the Administration plan would have placed all of the functions of INS in two separate bureaus under the *Border and Transportation Security Division* of the proposed department. It appeared in the June 6, 2002 plan that DOS would have retained its visa issuance responsibilities.

Homeland Security Act of 2002 (P.L. 107-296). The Homeland Security Act of 2002 (P.L. 107-296) was signed into law on November 25, 2002. The Act

²⁸ The Administration acknowledged that the Commission on Immigration Reform correctly identified many longstanding issues within INS such as insufficient accountability between field offices and headquarters, competing priorities within field offices, lack of consistency in application of the law, a need for greater professionalism, overlapping organizational relationships, and significant management weaknesses.

²⁹ Information in this section was obtained from CRS Report RL30257, *Proposals to Restructure the Immigration and Naturalization Service*, by William J. Krouse.

³⁰ See CRS Report RL31560, *Homeland Security Proposals: Issues Regarding Transfer of Immigration Agencies and Functions*, by Lisa M. Seghetti and Ruth Ellen Wasem.

abolishes INS and transfers its immigration enforcement function to a newly created Bureau of Border Security under a Directorate of Border and Transportation Security in DHS. The Act creates an Assistant Secretary position that will be in charge of the Bureau of Border Security and will report directly to the Under Secretary for Border and Transportation Security. It transfers INS' immigration service function to DHS in a Bureau of Citizenship and Immigration Services. The Act creates a Director position that will be in charge of the Bureau of Citizenship and Immigration Services and will report directly to the Deputy Director of DHS. The Act allows the President to reorganize functions or organizational units within both Bureaus but explicitly prohibits the President to join or consolidate the functions or organizational units of these bureaus into a single agency.

P.L. 107-296 retains the visa issuance function with DOS but gives the Secretary of DHS authority to issue regulations on visa policy.³¹ The Act gives statutory authority to EOIR and keeps it under the Attorney General, and transfers INS' unaccompanied alien children function to DHHS' ORR.

November 14, 2001 INS Restructuring Plan

On November 14, 2001, Attorney General John Ashcroft and the former INS Commissioner James W. Ziglar unveiled a plan to restructure the then-INS. The plan would have maintained the INS Commissioner's position to oversee all of INS functions. One of its main features was splitting the service and enforcement functions into two separate bureaus. Each bureau would have had its own chain of command and executive commissioner who would have headed the bureau.

The plan would have maintained some of the offices and positions under the then-organizational structure, and it would have created several new offices and positions within each bureau, including a customer relations office in the newly created Bureau of Immigration Services and an ombudsman office in the newly created Bureau of Immigration Enforcement; and an Office of Quality Assurance. The plan also would have created a Director of Service Center Operations; an Office of Asylum and Refugees within the service bureau; a Director for the International Division; a Director for detention and removal; a Chief of the Border Patrol and Interior Enforcement; Area Port Directors; and Special Agents in Charge within the enforcement bureau.

In addition to the two bureaus, the plan would have created three new positions that would have reported directly to the commissioner (a Chief Information Officer, a Chief Financial Officer, and a Chief Administrative Officer). It also would have created a new Office for Juvenile Affairs whose director would have reported directly to the commissioner.³²

³¹ See CRS Report RL31512, *Visa Issuances: Policy, Issues, and Legislation*, by Ruth Ellen Wasem.

³² The proposed newly created Office of Juvenile Affairs would oversee INS-related matters pertaining to unaccompanied minors.

On April 17, 2002, Attorney General John Ashcroft announced action on his first steps to reorganize the then-INS.³³ The Attorney General stated that INS's border patrol and detention facilities would have a "... more direct chain of command ..."³⁴ Instead of reporting to Sector Chiefs, who report to Regional Directors, the Chief Patrol Agents of the 21 border patrol sectors would report directly to the Chief of Border Patrol, located at the former INS headquarters. The positions of Sector Chiefs and Regional Directors were eliminated under the new organizational structure.

The directors in charge of the then-INS's eight Service Processing Centers³⁵ would have also reported directly to INS headquarters, instead of to the District and Regional Directors whose positions would have been eliminated under the new restructuring plan.

The Attorney General also announced the launching of a search for a Chief Financial Officer and a Chief Information Officer position to be located directly under the former INS Commissioner. Also, an Office of Juvenile Affairs was being established.

The Attorney General also established a "Field Advisory Board" to act as a liaison between INS's headquarters and the field offices during the restructuring period. The Field Advisory Board was not included in the Administration's November 14, 2001 INS restructuring plan.

Restructuring Legislation in the 107th Congress

Prior to the President's announcement about placing INS in a new homeland security department, Congress and the Administration were moving forward with efforts to restructure INS. Several pieces of legislation that were before the 107th Congress would have abolished INS and would have done one of the following: (1) created separate bureaus within DOJ to carry out INS's current immigration services and enforcement functions that would report to a newly created Associate Attorney General; (2) created a new integrated immigration agency within DOJ; and (3) dispersed INS's service functions among a number of different agencies and create a new enforcement agency within DOJ.

The Barbara Jordan Immigration Reform and Accountability Act of 2002 (H.R. 3231)

The "Barbara Jordan Immigration Reform and Accountability Act of 2002" (H.R. 3231) would have abolished INS and created an Office of Associate Attorney General for Immigrant Affairs within the DOJ. Under the newly created Office, two new bureaus would have been established, the Bureau of Citizenship and

³³ U.S. Department of Justice. News Release. *INS Announces First Major Structural Changes in Restructuring*. Washington, April 17, 2002.

³⁴ *Ibid.*

³⁵ The INS Processing Centers are detention facilities.

Immigration Services and the Bureau of Immigration Enforcement. Each bureau would have been headed by a director who would have reported to the Associate Attorney General for Immigration Affairs. Within each Bureau would have been the following newly created offices and positions: (1) Office of Policy and Strategy, (2) Legal Advisor, (3) Chief Budget Officer, and (4) Office of Congressional Intergovernmental and Public Affairs. The *Bureau of Citizenship and Immigration Services* would also have a newly created Office of Citizenship.

Under the act, the newly created *Immigration Services Bureau* would have processed immigration, refugee, asylum, and naturalization-related applications. The Office of Special Counsel for Immigration Related Unfair Employment Practices and the immigration functions of the Office of Immigration Litigation from DOJ's Civil Rights Division would have been transferred to the Bureau.

The newly created *Immigration Enforcement Bureau* would have been responsible for all border patrol, inspections, detention, removal, investigation, and intelligence functions. The act would have also transferred the enforcement functions of the Office of Special Investigations from DOJ's Criminal Division and the enforcement functions of the Office of Immigration Litigation from DOJ's Civil Division to the newly created bureau.

H.R. 3231 would have created several new positions and offices within the Office of Associate Attorney General for Immigrant Affairs: (1) Policy Advisor; (2) General Counsel; (3) Chief Financial Officer; (4) Director of Shared Services; (5) Office of the Ombudsman; (6) Office of Professional Responsibility and Quality Review; and (7) Office of Children's Affairs.

The act would have also created an Office of Immigration Statistics within the Bureau of Justice Statistics. The Office would have been responsible for maintaining all immigration-related statistics of the agency and EOIR, among other things. This activity was under INS's Office of Policy and Planning.

The act would have required the Attorney General to develop an internet-based system that would have allowed customers to access online information pertaining to the status of their immigration applications. It would have also required the integration of databases used by both the service and enforcement bureaus with the databases used by EOIR. The act would have authorized the Associate Attorney General to terminate employment of any employee who willfully deceives the agency or Congress.

The act would have transferred certain functions, personnel, and resources to the newly created agency, authorized appropriations for the newly created agency, and established a separate account for adjudication services' fees collected. The act would have authorized appropriations for the Bureau of Citizenship and Immigration Services and for the Immigration Enforcement Bureau. The act would have also established a separate account for restructuring activities.

On April 25, 2002, the House passed the act with amendments. The "manager's amendment," among other things, would have: (1) required the directors of both bureaus to develop and implement a plan that would have rotated managers and

supervisors among different functions of the respective bureau; (2) permitted the Attorney General to provide “voluntary separation incentive payments” for certain INS employees to help carry out the restructuring plan; and (3) permitted the Attorney General to conduct a demonstration project for 5 years for the purpose of changing policies and procedures pertaining to methods for disciplining certain employees that would result in improved personnel management. Other amendments would have: (1) required the Attorney General to develop and submit a plan to Congress that would have ensured adequate legal representation for unaccompanied minors; (2) required the Comptroller General to submit a report to Congress on whether the fees collected by the newly created Bureau of Citizenship and Immigration Services were sufficient to carry out the bureau’s functions; (3) required the newly created Office of Immigration Statistics to collect statistics by regions on the number of applications and petitions filed by aliens and denied, including the reason for such denials; and (4) authorized the director of the Bureau of Citizenship and Immigration Services to implement pilot initiatives that would have eliminated the immigration application backlogs and prevent them from recurring.

The Immigration Reform, Accountability, Security, and Enforcement Act of 2002 (S. 2444)

The “Immigration Reform, Accountability, Security, and Enforcement Act of 2002” (S. 2444) was introduced on May 2, 2002 by Senator Kennedy and Senator Brownback. The act would have abolished INS and create a new Immigration Affairs Agency within DOJ, that would have been headed by a Director. The legislation would have created the following new positions: (1) General Counsel, (2) Chief Financial Officer, (3) Chief of Policy and Strategy, and (4) Chief of Congressional, Intergovernmental, and Public Affairs. Two new bureaus would have been created under the act: the Bureau of Immigration Service and Adjudication and the Bureau of Enforcement. Both bureaus would have been headed by a Deputy Director who would have reported to the Director of Immigration Affairs. Within each bureau would have been the following newly created offices and positions: (1) Chief Budget Officer, (2) Office of Quality Assurance, and (3) Office of Professional Responsibility. The act would have placed the INS inspections function directly under the Director of Immigration Affairs.

Under the act, the newly created *Bureau of Immigration Service and Adjudication* would have processed immigration, refugee, asylum, and naturalization-related applications. The bureau would have made determinations pertaining to custody and parole with regard to asylum seekers. It also would have transferred all adjudication functions performed at service centers to the newly created bureau. The newly created *Bureau of Enforcement* would have been responsible for border patrol, detention, removal, intelligence, and investigation functions.

The act would have created an Office of Ombudsman for the Agency and an Office of the Children’s Services within DOJ. The newly created Office of Ombudsman would have assisted individuals in problem resolution, identified systemic problems, proposed changes to mitigate problems, and monitored the local offices. The newly created Office of the Children’s Services would have overseen all functions pertaining to the care and custody of unaccompanied alien children,

including coordinating and implementing law and policy for unaccompanied alien children that came into DOJ's custody.

The act would have created an Office of Immigration Statistics within the Bureau of Justice Statistics. The office would have been responsible for maintaining all immigration-related statistics of the agency and the EOIR, among other things.³⁶

The bill was referred to the Senate Committee on the Judiciary on May 2, 2002 and no further action was taken.

The Immigration Restructuring and Accountability Act of 2001 (H.R. 1562)

The "Immigration Restructuring and Accountability Act of 2001" (H.R. 1562) would have replaced INS with a newly created Office of the Associate Attorney General for Immigration Affairs within DOJ. The Associate Attorney General for Immigration Affairs would have been in charge of two newly created bureaus: the Bureau of Immigration Services, and the Bureau of Immigration Enforcement.

The following offices and positions would have been under the Associate Attorney General for Immigration Affairs: (1) Counsel, (2) Chief Financial Officer, (3) Office of Shared Services, and (4) Office of Immigration Quality Assurance, Professional Responsibility, and Customer Service.

The act would have created a position of the Director and an Office of Children's Affairs in each bureau. It would have charged the Bureau of Immigration Services with those functions that were under immigration services in INS. The Bureau of Immigration Enforcement would have been charged with those functions that were under immigration enforcement in INS, with the exception of INS inspections. The act was silent regarding INS inspections.

The act would have required the Attorney General and the Secretary of Labor to develop an internet-based system that would have allowed customers to access online information pertaining to the status of applications. The act would have transferred certain functions, personnel, and resources to the newly created Office.

The bill was referred to several House committees in April 2001, and no further action was taken.

The Immigration and Naturalization Service Reorganization Act of 2002 (H.R. 4108)

The "Immigration and Naturalization Service Reorganization Act of 2002" (H.R. 4108) would have abolished INS and the position of INS Commissioner. The act would have created a Bureau for Immigration Enforcement within DOJ. The act

³⁶ This activity is currently under INS's Office of Policy and Planning.

would have created a position of Director to head the newly created bureau. The bureau would have performed those functions that were under immigration enforcement at INS, and it would have permitted the detention program to be delegated to the Federal Detention Trustee. The act would have also created a position of General Counsel for the bureau.

The act would have transferred other INS' functions to different agencies. For example, immigration services would have been transferred to DOS, and employment-related immigration functions would have been transferred to DOL. The act would have provided for the appropriate transfer of personnel and resources to the respective agencies.

The bill was introduced and referred to the House Judiciary Committee on April 9, 2002, and no further action was taken.

Analysis of Selected Options to Restructure INS

All of the proposals to restructure INS had one aspect in common: they would have separated INS's two primary functions of providing immigrant services and enforcing the immigration law. Some critics contended, however, that there were problems with this approach. Separating the services and enforcement functions, according to some critics, does not address those immigration activities that have dual functions. In their service function, immigration inspectors are often the first line of contact for all aliens seeking entry into the country, including asylum seekers who may not have proper documents. In their enforcement function, immigration inspectors are on the front line for enforcing immigration law and securing the nation's borders. While these two core functions were clearly delineated at the policy making level, some critics believed that splitting the two functions could exacerbate problems with the front line implementation of the competing service and enforcement policies. For example, the immigration inspector must make an immediate determination that an undocumented alien, or someone who has questionable documents, should be excluded or detained for further processing by an immigration court. Immigration inspectors, moreover, are also expected to facilitate tourism and commerce while enforcing the law.

Another example of a front line function having both service and enforcement components involves the processing of immigrant and naturalization petitions by adjudicators. The adjudicators must be able to do thorough background checks, detect fraudulent or inadmissible claims, and enforce the law when such a claim is present.

Another concern about separating the service and enforcement functions pertained to the functions' budgets. Although the proposals would have created separate budgets and given each function's mission equal attention, historically immigration enforcement function has received more resources than the immigrant service function. The immigrant service function is primarily a fee-driven operation,

and over the years critics charged that there have been few direct appropriations to supplement undercharged or lost fees,³⁷ as well as overhead and administrative costs.

Option I: Keep INS Intact, While Separating the Service and Enforcement Functions

Some proposals would have kept INS intact and created two separate bureaus for the service and enforcement functions.³⁸ Because the Attorney General has broad authority to administer immigration laws, the Administration maintained it could implement this reorganization plan without legislation.

Proposals that would have kept INS intact and created two separate bureaus would, in theory, enhance managerial accountability. Both bureaus would report to the same centralized head, the INS Commissioner. The bureaus' roles would be more clearly defined as the functions would be separated, which would provide less opportunity for personnel to perform both functions.³⁹ And, some critics asserted that keeping INS intact but separating its functions, could provide for a better coordination and sharing of efforts between the bureaus. The ease of obtaining information from the opposite bureau would be strengthened under this type of organizational structure. Opponents argued, however, that it is not clear how such a proposal would improve some of INS's longstanding systemic issues such as weak management controls and antiquated database systems as well as the fragmentation of some functions across INS and other agencies.

Option II: Dismantle INS and Create Two Separate Bureaus Within DOJ

Another popular proposal to restructure INS included dismantling INS and creating two new bureaus within DOJ to carry out INS's functions of providing immigrant services and enforcing the immigration law. All of the proposals to dismantle INS and create two separate bureaus would have a person in charge of each bureau. They differed, however, as to who would be responsible for overseeing the heads of the two bureaus and their functioning.

Proposals to dismantle INS, and, in essence, create new bureaus would provide lawmakers and officials a "clean slate." Some asserted, however, that this approach could compound the deficiencies in INS's management controls and weak information systems. In light of the events of September 11, 2001, the need for both functions to share information with one another is paramount in order for U.S.

³⁷ INS charges a fee to process the various types of immigrant applications (i.e., visa and naturalization applications).

³⁸ As mentioned earlier, this is the approach taken by Attorney General Ashcroft in his recent restructuring initiative.

³⁹ Under the current organizational structure, the functions are blurred, creating an atmosphere that reportedly invites personnel to engage in performing both functions. Issues such as personnel not having proper training in the other function and being spread too thin are of concern to some critics.

immigration policy to be effective. Opponents argued that dismantling INS and establishing new entities within DOJ could exacerbate the already existing problem of information sharing between the two functions. All of the proposals, supporters contended, addressed this issue by creating an office of shared support under a newly created position of Associate Attorney General or under the Director's jurisdiction.

Option III: Dismantle INS and Disperse Its Functions to Other Agencies

A final approach that had been advanced in the 107th Congress would have dismantled INS and dispersed its immigrant service functions to other federal agencies that have related functions (while creating a new agency within DOJ to carry out INS's enforcement functions). Transferring INS's service functions to those agencies that already perform related functions would address concerns regarding perceived fragmentation of efforts. Also, by removing INS's service functions from DOJ, primarily a law enforcement agency, some commentators believed that these functions would receive more attention.

On the other hand, opponents contended that such an approach would transfer these functions to agencies that do not view immigration issues as fundamental to their missions. Moreover, INS's two functions are interdependent, in particular regarding their databases, and separating the two functions and placing them in separate agencies with separate heads, critics contended, may further complicate their ability to share information with one another.

Border Consolidation Proposals

The idea of consolidating agencies' border security functions is not a new concept. Proposals to consolidate border security-related functions were advanced as early as 1930.⁴⁰

Several proposals had been advanced in the 107th Congress to consolidate the agencies that have border security-related functions. The Director of Homeland Security, Tom Ridge, had proposed several plans to consolidate INS's border patrol and inspections functions, the U.S. Customs Service inspections function, and the Coast Guard into one "super agency."

Several pieces of legislation were introduced in the 107th Congress that would have merged these functions into a newly created department or agency. All of the proposals would have transferred the following agencies with border security-related functions to a newly created department or agency:⁴¹ (1) the U.S. Customs Service,

⁴⁰ For historical information on proposals to reorganize federal agencies that have border management responsibilities see: CRS report 97-974, *Reorganization Proposals for U.S. Border Management Agencies*, by Frederick M. Kaiser.

⁴¹ Several other agencies' functions would also be transferred to this new department or (continued...)

(2) the INS's border patrol, and (3) the Coast Guard. The U.S. Customs Service and the Coast Guard would have been maintained as distinct entities within the new department or agency. Also, all of the proposals would have charged the new department or agency with coordinating homeland security activities, including border security functions, among other provisions.

The Homeland Security Act of 2002 (P.L. 107-296) consolidates several agencies responsible for border security under a newly created DHS.⁴²

The Department of National Border Security Act of 2002 (S. 2020)

The "Department of National Border Security Act of 2002" (S. 2020) would have established a Department of National Border Security, headed by a cabinet-level Secretary of National Border Security.

The Senate bill was referred to the Senate Committee on Governmental Affairs on March 15, 2002, and no further action was taken.

National Border Security Agency Act (H.R. 3600)

The "National Security Agency Act" (H.R. 3600) would have established a National Border Security Agency, that would have been headed by a Director who would have been appointed by the President and confirmed by the Senate. In addition to coordinating and integrating border security-related activities, the Director would have acted as the "focal point" with respect to enforcing U.S. immigration laws.

The bill was referred to several committees in December 2001, and no further action was taken.

Analysis of Border Consolidation Proposals

All of the proposals to consolidate the border management functions of federal agencies that have such responsibilities concentrated principally on merging three entities: INS' border patrol and inspections functions, U.S. Customs Service inspections function, and the U.S. Coast Guard. The proposals would have created a new cabinet-level agency or department and one such proposal, the Homeland Security Act of 2002 (P.L. 107-296), was signed into law.

⁴¹ (...continued)

agency, including the Federal Emergency Management Agency, the Critical Infrastructure Assurance Office, the Institute of Information Infrastructure Protection (of the Commerce Department), and the National Infrastructure Protection Center and the National Domestic Preparedness Office (of the Federal Bureau of Investigation).

⁴² See "The Administration's Proposals" section above.

These proposals sought to address concerns of duplicative functions that were being performed by several different agencies.⁴³ Duplication of efforts raises concerns such as waste of resources (i.e., funds, personnel, and equipment) that would also be addressed by consolidating the responsible agencies. Also, merging these agencies addresses concerns about rivalry that may have existed between them and their lack of coordination and communication with one another.

According to some opponents, the proposals did not address concerns pertaining to the need for information sharing between the immigrant service and immigration enforcement functions. Moreover, opponents contended that immigrant service and immigration enforcement have overlapping functions, and interagency coordination would be harmed if the two functions are split. Also, they argued, the proposals did not address how the differing missions would be balanced. Examples of the latter concern would be facilitating trade versus maintaining national security and protecting the health and safety of U.S. citizens versus facilitating tourism and cultural exchange.

⁴³ INS inspections and U.S. Customs inspections both perform inspections at ports of entry. Although both have different functions (INS inspects people who present themselves for entry into the country and the U.S. Customs Service inspects goods), some observers have argued that there is a potential for overlap.

Appendix A

Chronology of Selected INS Reorganization Proposals⁴⁴

The following chronology highlights selected proposals set forth by administrative or congressional studies, as well as administration-advanced proposals to reorganize INS.

- ! 1930 — President Hoover proposed to unify the border patrol functions of the INS, the U.S. Customs Service, and the Coast Guard and place them under the Coast Guard in the Department of Treasury (President Hoover made the same proposal in 1932). Also, the House Interstate and Foreign Commerce Committee proposed consolidating the border patrol and inspections functions of INS and the Customs Service inspections function under the Treasury Department.
- ! 1931 — The Wickersham Commission Report recommended separating the service and enforcement functions.
- ! 1932 — The Bureau of Efficiency recommended consolidating the Immigration Bureau's border patrol functions with the Coast Guard in the Department of Treasury.
- ! 1937 — The Byrd Committee Report recommended consolidating the inspections and border patrol functions of INS and the Customs Service.
- ! 1940 — The Bureau of the Budget recommended consolidating the inspections and border patrol functions of INS and the Customs Service.
- ! 1948 — Customs' Management Improvement Study suggested the creation of a federal border enforcement agency.
- ! 1949 — The Commission on the Organization of the Executive Branch of the Government (the Hoover Commission) recommended the creation of a new independent agency to perform immigration functions.
- ! 1950 — The Senate Committee on the Judiciary Report No. 1515 recommended consolidating the functions of INS and Customs Service only where such consolidations would not impair enforcement or immigration laws.
- ! 1953 — The President's Commission on Immigration and Naturalization (the Perlman Commission) recommended the creation of a new independent agency to perform immigration functions. 1957 — The Commission on Government Security (the Wright

⁴⁴ Information in the chronology was obtained, in part, from the following sources: U.S. Congress. Senate. Committee on the Judiciary. *History of the Immigration and Naturalization Service*. Committee print, 96th Cong., 2d Sess.; and The Carnegie Endowment for International Peace. *Reorganizing the Immigration Function: Toward a New Framework for Accountability*, by Demetrios Papademetriou, Alexander Aleinikoff, and Deborah W. Meyers. Washington 1998.

Commission) recommended the transfer of the Visa Division of DOS to DOJ.

- ! 1966 — the Government Accounting Office recommended consolidating the inspections functions of INS and the Customs Service to achieve a “one-stop inspections process. Similar recommendations were made in 1962 by a *Customs’ Citizens Task Force Report* and in a 1968 *Bureau of the Budget Interagency Report*.
- ! 1973 — Nixon’s Reorganization Plan No. 2 recommended transferring the inspection functions of INS to the Customs Service in the Department of Treasury.
- ! 1974 — An Office of Management and Budget Report (House Government Operations Committee Report on Border Law Enforcement and Problems of Customs-INS Coordination) recommended a single-agency management strategy for the border.
- ! 1977 — The Office of Drug Abuse Policy report recommended a single agency, to include INS and the Customs Service, to perform port-of-entry inspections and border patrol.
- ! 1978 — The President’s Reorganization Project recommended transferring the visa functions of DOS to DOJ, and also recommended consolidating INS inspections and border patrol functions with the Customs Service in a border management agency in the Treasury Department.
- ! 1981— The Report of the Select Commission on Immigration and Refugee Policy recommended separating the service and enforcement functions, while keeping INS intact.
- ! 1983 — The Grace Commission Task Forces on the Department of Treasury and Justice recommended consolidating INS border patrol and inspections with Customs Service inspections.
- ! 1990 — The Report of the Commission for the Study of International Migration and Cooperative Economic Development recommended centralizing the immigration and refugee-related functions by creating a new immigration agency.
- ! 1997 — Report of the U.S. Commission on Immigration Reform recommended dismantling INS and creating a new independent bureau for INS’s enforcement function, placing INS’s service function under the Department of State, and its immigrant labor-related functions under the Department of Labor.

Appendix B

Chronology of Implemented INS Reorganizations⁴⁵

The following chronology highlights significant agency reorganizations. The reorganization mandated by legislation is italicized.

- ! 1891 — The Bureau of Immigration was established in the Department of Treasury to ensure federal control over immigration. Its original function was to provide for the exclusion of certain categories of aliens.
- ! 1903 — The Bureau of Immigration was transferred from the Department of Treasury to the newly created Department of Commerce and Labor. During this period, regulating foreign labor was seen as an important immigration function.
- ! 1906 — Naturalization functions were added to the Bureau to form the Bureau of Immigration and Naturalization.
- ! *1913 — Congress passed an Act that abolished the Department of Commerce and Labor and created two separate Departments: the Department of Commerce and the Department of Labor (DOL).⁴⁶ The Act also provided for the transfer of the Bureau of Immigration and Naturalization to the newly created Department of Labor, and it divided the Bureau into two sections: the Bureau of Immigration and the Bureau of Naturalization, headed by two commissioners.*
- ! 1924 — As a result of increased illegal border crossings, Congress recognized the need for enforcement measures to stem illegal entries in the 1924 Immigration Act (4. Stat. 153), and a subsequent appropriations act (43 Stat. 240) led to the creation of an expanded border patrol.⁴⁷ Prior to the formal creation of a border patrol, the Bureau had maintained a small force of mounted guards on the U.S.-Mexico border. The new border patrol extended to the U.S.-Canada border.
- ! 1933 — The Bureau of Immigration and the Bureau of Naturalization were combined to form the Immigration and Naturalization Service (INS).
- ! 1940 — INS was transferred from DOL to the Department of Justice (DOJ). During this war time period, national security was a primary concern, prompting an emphasis on providing more effective control over aliens. Many organizational changes occurred as a result of the

⁴⁵ Information in the chronology was obtained from the following source: U.S. Congress. Senate. Committee on the Judiciary. *History of the Immigration and Naturalization Service*. Committee Print, 96th Cong., 2d Sess.

⁴⁶ 37 Stat. 737.

⁴⁷ Congress recognized the need to enforce the immigration laws with regards to preventing illegal aliens from entering the country in the 1924 Immigration Act; and in the appropriations act, Congress created the border patrol.

transfer to the DOJ, including growth in personnel, and the establishment of additional divisions.

- ! 1952 — There was an administrative reorganization of the central office that was prompted by the passage of the Immigration and Naturalization Act of 1952.
- ! 1955 — There was a service-wide reorganization that included the creation of regional offices to oversee field activities, realignment and reduction of field offices, and the establishment of a field inspection and security division. The 1955 reorganization also included a reduction in personnel.
- ! 1979 — There was an administrative reorganization of the central office.
- ! 1991 — There was an administrative reorganization of the central office.
- ! 1994 — There was an administrative reorganization that included the creation of four Executive Associate Commissioners for programs, policy and planning, management, and field operations.