

THE WHITE HOUSE
WASHINGTON

March 19, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: INS Structural Reform

In its final report to the Congress last fall, the United States Commission on Immigration Reform (CIR) called for significant reforms to our nation's immigration system, including dismantling the Immigration and Naturalization Service (INS) and reallocating its major functions to other federal agencies. The FY 98 Commerce, Justice, State (CJS) appropriations bill required the Attorney General to report back to the Congress on the CIR proposal by April 1.

At your request, the DPC led an extensive interagency review process of the CIR's recommendations and other immigration reform proposals. We worked especially closely with OMB because of its expertise in managerial issues. We also included OVP, OPL, Counsel's Office, NSC, INS, and the Departments of Justice, State, and Labor. We had many discussions with immigration experts and advocates, as well as with members of the CIR.

Based on this process, we recommend that the Administration (1) reject the CIR proposal to dismantle the INS, but (2) fundamentally restructure the INS to respond to problems that the CIR rightly identified. The principal feature of this restructuring plan would be a clear separation of enforcement and service operations within the INS. All participants in the review process concur with this recommendation, and we propose submitting our plan to Congress in response to the April 1 deadline.

Policy Discussion

The CIR charged that the INS's dual responsibility of welcoming immigrants who enter legally and deterring or punishing those who attempt to enter or stay illegally has resulted in "mission overload." To address this problem, the Commission proposed to move all immigration service functions to the Department of State, while consolidating all immigration enforcement activities into a new federal law enforcement agency within the Justice Department.

Nearly everyone consulted about this proposal raised serious concerns about it. People both inside and outside the Administration noted the disruption involved in reassigning immigration functions, especially to an agency (State) that has a different primary mission. They

also emphasized the inefficiencies created by placing immigration service and enforcement functions in two wholly distinct agencies.

Our review process identified serious risks in transferring authority over immigration service operations to the State Department. Some immigration advocates predicted that such a substantial transfer of authority would require a six or seven-year transition, thereby exacerbating the current long delays in processing basic immigration services. The State Department echoed these concerns, in part because it is already in the process of absorbing two other agencies: the United States Information Agency and the Arms Control and Disarmament Agency. The Department and immigration advocates alike also expressed the view that the domestic focus of many of INS's services conflicts with the Department's foreign policy mission. Finally, immigration advocates fear that Congress will short-change immigration service activities in the appropriations process if they are in a wholly separate agency from enforcement functions.

Our review also found real inefficiencies -- and a potential weakening of both enforcement and service functions -- in a scheme that places these activities in separate departments. Many experts pointed out the variety of ways in which service officials depend on data collected by enforcement officers, and vice versa, to ensure the integrity and effectiveness of both functions. Likewise, they noted the opportunities for coordination between these officials to enhance enforcement and service activities alike -- as when, for example, a service officer discovers that a person has overstayed his visa and become an illegal alien. For these reasons, almost all experts and advocates recommended keeping enforcement and service activities within a single agency.

At the same time, however, our review process found widespread agreement with the Commission that immigration policy has suffered from the INS's failure to delineate clearly between its service and enforcement operations. Advocates and experts consistently remarked on the absence of any lines of authority within INS reflecting this division in function. They particularly noted that many INS employees at both the headquarters and field levels have responsibility for both enforcement and service activities, notwithstanding the fundamental difference in knowledge, skill, and ability necessary to perform these functions effectively.

Our review process concluded that we have the best chance of achieving the optimum mix of separation and coordination by dramatically restructuring the INS itself. This fundamental reform would create two distinct lines of authority -- one for services, one for enforcement -- running from the field offices all the way up through headquarters. Under this model, each function would be organized in the way best suited to its core responsibility. Enforcement operations, for example, would be organized regionally (e.g., Southwest border, Northwest border), while the benefits operations would be located in areas of high immigrant concentration.

We are attaching two organization charts -- one showing the current INS structure, the other the proposed INS structure -- to give you a clear idea of the magnitude of this reform. We believe that the proposal would greatly enhance the effectiveness of immigration activities by encouraging the development of function-specific knowledge and skills and creating clear lines

of accountability throughout the organization.

Congressional Reaction

We have met with key Hill staff to try to get a sense of where the Congress is going on the INS reform issue, and how it would respond to our proposal. Chairman Rogers of the House CJS appropriations committee is trying to garner support to dismantle the agency along the lines of the CIR recommendations. Our conversations with Congressional staff from other offices, however, suggest that most members of Congress are approaching the issue cautiously. The key Senate authorizers and appropriators -- Sens. Abraham, Kennedy, Gregg, and Hollings -- appear dubious of the CIR's proposal and receptive to our alternative. The situation in the House is more uncertain. Rep. Lamar Smith, who will be critical to the outcome, is playing his cards very close to the vest, indicating a desire to deal with structural reform issues, but no preference for any particular proposal.

Recommendation

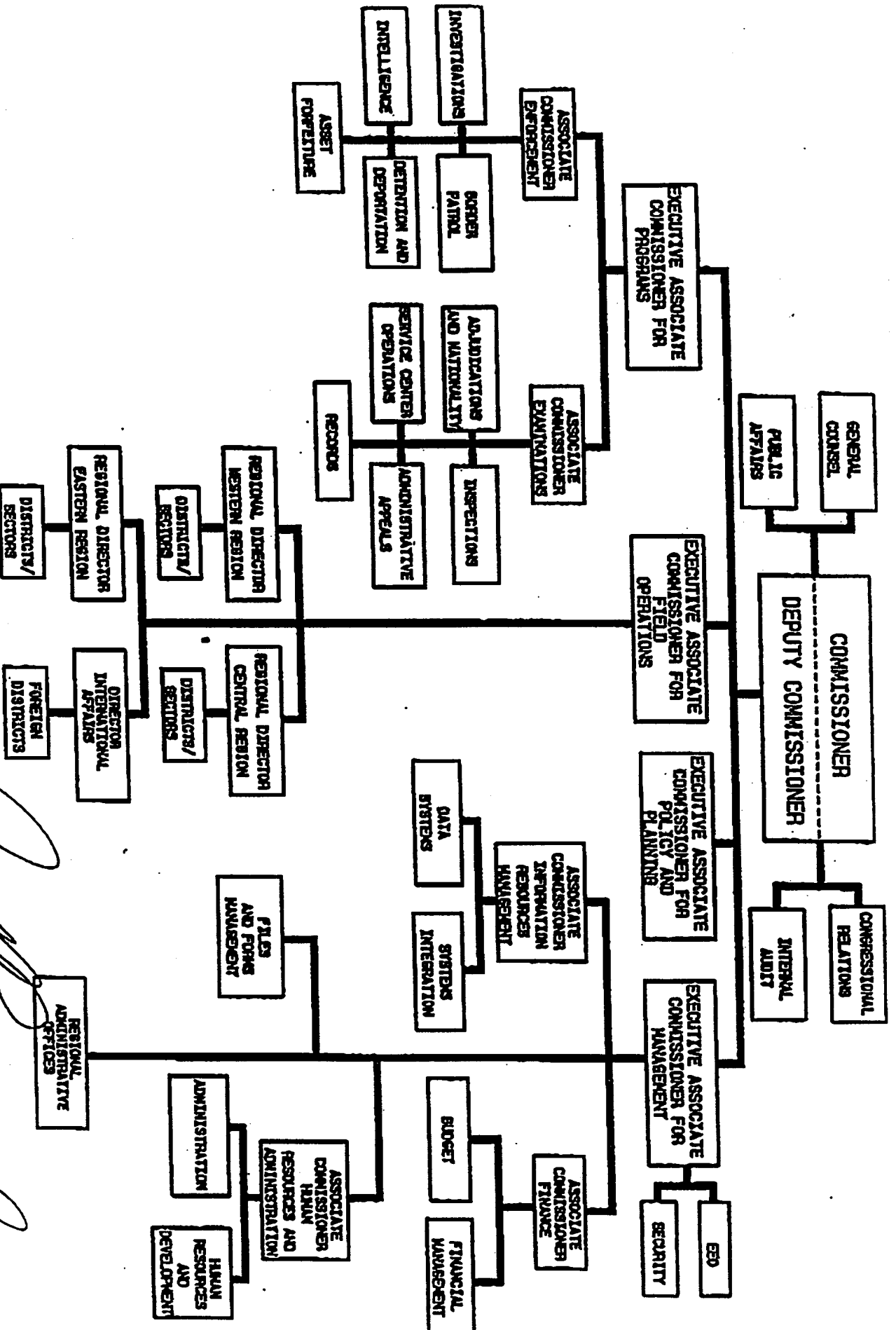
We recommend that the Administration propose a reform model that clearly separates enforcement and service operations within the INS, while retaining the INS as a single entity.

Agree: _____

Disagree: _____

Let's Discuss: _____

IMMIGRATION AND NATURALIZATION SERVICE



Approved:

JANET RENO
Attorney General

Date:

June 14, 1984

PROPOSED INS ORGANIZATION

