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THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20506

08 JUL 1981

June 7, 1981

MEMORANDUM FOR MARTIN ANDERSON

FROM: MURRAY WEIDENBAUM 

SUBJECT: Proposal for Increased Enforcement and Employer
Sanctions for Illegal Alien Employment (Option III)

Option III raises questions of fundamental concern to the Administration's efforts to reduce the intrusion of government in the private sector and to the success of the Economic Recovery Program.

Effect on the Regulatory Relief Effort

Above and beyond the costs of compliance, I question the inherent desirability of imposing a new, large program regulating the workplace, involving potentially thousands of employers and millions of employees. Option III strikes me as a major step backward, offsetting so much of the positive benefits of our regulatory relief efforts.

Effect on the Economic Recovery Program

The contemplated restrictions on the supply of labor run counter to a fundamental thrust of the Economic Recovery Program -- to expand the supply of work effort. In the years ahead, we are likely to see a reversal of current labor market conditions due to demographic factors which will produce smaller increases in the supply of prime working-age people in this country.

Decision/Making/Information

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M E M O R A N D U M

TO: Jim Baker, Ed Meese, and Michael Deaver
FROM: Richard B. Wirthlin
DATE: June 18, 1981
SUBJECT: National Identification Card

The latest D/M/I survey included an "Alias Smith and Jones" question on the idea of a National Identity Card which read:

Mr. Smith says it is essential, if we really want to control the influx of illegal aliens, that the Federal government require all US citizens to carry some type of national, forge proof identification.

Mr. Jones says that instituting some stringent national identification system would very seriously threaten individual freedom and probably not be very effective in controlling aliens anyway since there is no such thing as "forge proof."

Do you feel...

Exactly like Smith	13%
More like Smith than Jones	16
More like Jones than Smith	22
Exactly like Smith	46

The results show definitively that there is very little support for a national identification system, even if the issue is carefully raised in the context of a way to deal with the problem of illegal aliens.

Support instead weighs heavily on Jones' side of the argument, with fully 68% agreeing with Jones' stance against the National ID card. This opposition to the card is consistent regardless of any demographic classification, including political affiliation and ethnic background. Opposition levels increase with increases in income and educational levels of the respondents. What support there is for the idea exists most noticeably among older Americans, and as to be expected, residents of Southern States where the illegal alien problem is most severe. Yet, even in these categories the idea does not receive much support.

Jim Baker, Ed Meese, and Michael Deaver
June 18, 1981
Page Two

What makes the National Identification system such a disastrous idea politically is the way it unites both ends of the ideological spectrum in opposition to the idea. Liberals oppose the plan as an abridgement of civil liberties while conservatives oppose the plan on the grounds that it is yet another intrusion by "big brother" government into the lives of its citizens. In addition, no one believes very strongly the notion that any system could in fact be "forge proof."

These conclusions are borne out by the figures on the attached pages. Furthermore, if we should launch the idea of such an Identification Card program, I believe that the suggestion would quickly be yanked out from under the "favorable" setting of the issue as a way to control "illegal" aliens and standing alone be even less supported than this question reflects.

MR. SMITH SAYS IT IS ESSENTIAL, IF WE REALLY WANT TO CONTROL THE INFUX OF ILLEGAL ALIENS, THAT THE FEDERAL GOVERNMENT REQUIRE ALL U.S. CITIZENS TO CARRY SOME TYPE OF NATIONAL, FORGE-PROOF IDENTIFICATION.

MR. JONES SAYS THAT INSTITUTING SOME STRINGENT NATIONAL IDENTIFICATION SYSTEM WOULD VERY SERIOUSLY THREATEN INDIVIDUAL FREEDOM AND PROBABLY NOT BE VERY EFFECTIVE IN CONTROLLING ALIENS ANY WAY SINCE THERE IS NO SUCH THING AS "FORGE-PROOF."

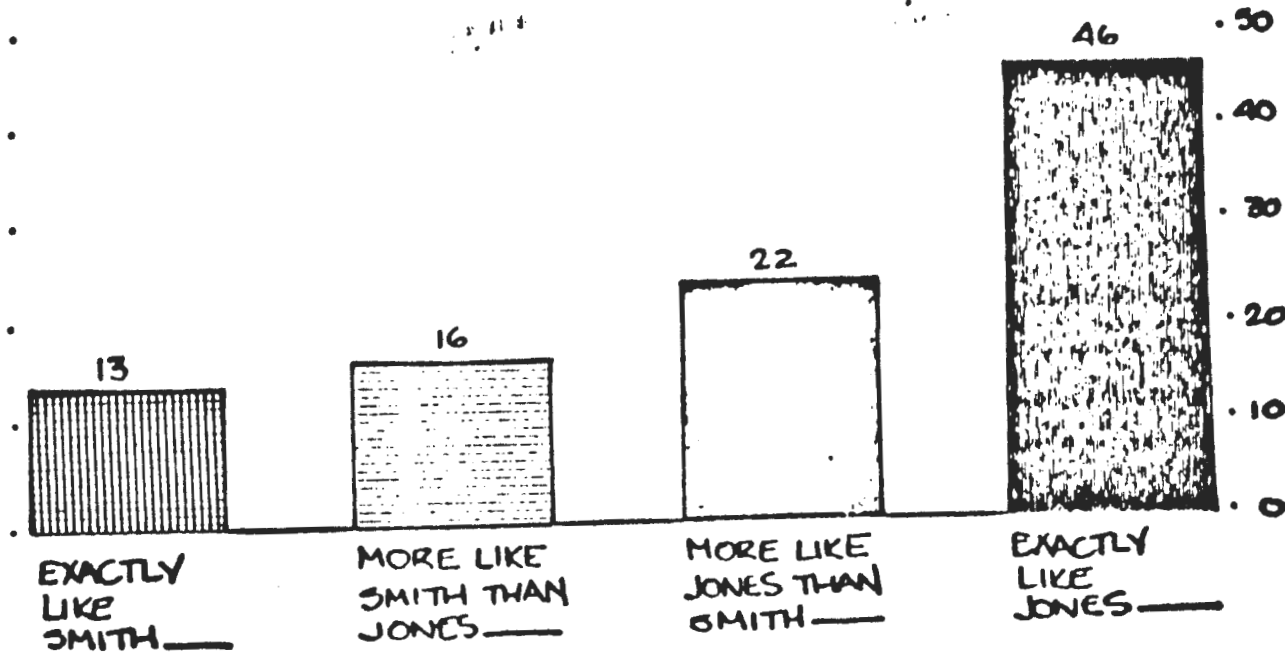


TABLE 323

3. POLITICAL VARIABLES VS. 35. SM: NATIONAL ID CARD

ANSWERS TO

2. 35:

1) EXACTLY LIKE SMITH
 3) MORE LIKE JONES
 5) (NO OPINION)

2) MORE LIKE SMITH
 4) EXACTLY LIKE JONES

	(1)	(2)	(3)	(4)	(5)
	%	%	%	%	%
	----	----	----	----	----
<AGGREGATE RESULTS>	13.	15.	22.	45.	2.

TABLE 325 IS Q. 36 X Q. 35-----
 IDEOLOGY

VERY CONSERVATIVE < 168>	19.	15.	17.	45.	4.
(AVG. = 2.93 SIG. LOWER *)					
SOMEWHAT CONSERVATIVE < 370>	21.	15.	27.	43.	1.
(AVG. = 3.06 NO SIG. DIFF)					
MODERATE < 121>	18.	16.	20.	43.	2.
(AVG. = 2.92 NO SIG. DIFF)					
SOMEWHAT LIBERAL < 241>	11.	17.	23.	48.	1.
(AVG. = 3.10 NO SIG. DIFF)					
VERY LIBERAL < 83>	14.	13.	17.	54.	1.
(AVG. = 3.12 NO SIG. DIFF)					
CHISQ = 16.95 W/ 12 D.F. IS SIGNIFICANT AT 84.47 %.					

THE WHITE HOUSE

WASHINGTON

July 1, 1981

MEMORANDUM FOR MARTIN ANDERSON
ASSISTANT TO THE PRESIDENT
FOR POLICY DEVELOPMENT

FROM: FRED F. FIELDING 
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Use of Revised Social Security
Card in Response to Illegal Alien Problems

Among the options being considered to deal with the problem of hiring of illegal aliens is adoption of a revised, "tamper proof" Social Security card, which might include individual photographs. I recommend in the strongest possible terms that this proposal, which would effectively transform the Social Security card from a tax and record-keeping device to a virtual "National Identity Card" for American citizens, be rejected.

The increasing use of Social Security numbers in a variety of contexts far removed from the purposes for which the numbers were created is a textbook example of the "slippery slope." Although concerns about use of the numbers as a centralized identification device for the Federal Government have been voiced since the system was instituted, pressures of administrative convenience have step-by-step made the card's "Not for Identification" recitation more honored in the breach than in the observance. As early as 1943, Executive Order 9397 directed that "any Federal department, establishment or agency shall, whenever the head thereof finds it advisable to establish a new system of permanent account numbers pertaining to individual persons, utilize exclusively the Social Security account numbers." Since then, the Social Security number has also steadily become the central identification device for state and local governments and private companies for tax, employment, licensing and general record-keeping purposes.

Experience indicates that the trend toward expanding use of Social Security numbers as the basic identifying device in American life is well nigh irreversible. Although computerization has led many to express the traditional concerns with new vigor, efforts to prevent potential abuses have met with only limited success. For example, the issue was discussed in connection with the Privacy Act of 1974, Pub. L. No. 93-579, 88 Stat. 1896, which, as originally introduced in the Senate, would have made it unlawful to require any person to disclose his Social Security number in connection with any business transaction or commercial activity, including credit and loan applications. The legislative history acknowledged that a problem with disturbing implications existed, see S. REP. NO. 93-1183, 93d Cong., 2d Sess., reprinted in [1974] U.S. CODE CONG. & AD. NEWS 6916, 6943-46, but this proposal was eliminated. As enacted, the Privacy Act simply prohibited any Federal, state or local agency from denying any right, benefit or privilege provided by law because of an individual's refusal to disclose his social security number, and included an exception for disclosures required by other Federal statutes and a "grandfather" clause exempting any system of record keeping in existence and operating before January 1, 1975. Pub. L. No. 93-579, § 7. The Privacy Act's provisions on this score were further limited by § 1211 of the Tax Reform Act of 1976, Pub. L. No. 94-455, 90 Stat. 1520, codified at 42 U.S.C. § 405(c)(2)(C). This section expressly authorized as "the policy of the United States" the already common use of the Social Security number for state tax, public assistance, driver's license and motor vehicle registration identification purposes.

It may be difficult or impossible to eliminate even undesirable current uses of Social Security numbers. However, to institute a new system requiring individual photographs on Social Security cards would be an order-of-magnitude change with far-reaching implications. Once taken, this step could prove as irreversible and uncontrollable as use of account numbers has proved to be.

In the first place, it is obvious that the photo-ID card proposal, if made public, will be met with considerable criticism from both left and right. The issue of government intrusion on individual liberty and privacy is one of those

areas where liberal and conservative ideologies frequently converge, and they will do so with vigor on this question. Criticism from groups such as the American Civil Liberties Union would be couched in the "Watergate/CIA" mode, and would seize on the proposal as an illustration of the Administration's supposed "indifference" to governmental abuses of civil liberties. Conservative objections will be cast in terms that are more philosophical and less personal, but probably no less outspoken.

More importantly, the criticism from both ends of the spectrum will (putting to one side the personal and ad hominum overtones of A.C.L.U.-type comments) be largely justified. Adoption of a "National Identity Card," such as that used in France, would be inconsistent with fundamental notions about individual privacy and limited central government which, however difficult they are to articulate, are deeply imbedded both in American history and in the American populace. In simplest terms, people won't like this idea, and will rebel at the concept. Their instincts on this issue will be right. Moreover, those instincts are closely related to a more general outlook on the proper role of government in daily life that has been voiced by the President throughout his public service.

The potential for future abuse of a national identification system is apparent. Obviously, such abuse is not intended by those who propose the photo-ID Social Security card as a possible means of dealing with illegal alien employment problems. But neither the specific, limited objectives that provide the impetus for major policy changes, nor the good intentions of those who advocate such changes in response to particular problems, will be effective in limiting future proposals for expanded use of the new Federal identity card -- proposals that are certain to be advanced and likely to be adopted on grounds of simplicity, administrative economies and bureaucratic convenience. Similarly, this Administration would not attempt to use a new Social Security identification program for improper purposes. But there are limits on the degree to which the best top-level executives can control activities at lower levels in the Federal bureaucracy; and there is no guarantee, even with the adoption of formal safeguard measures, that future Administrations will not implement policies undreamt-of today, building on the base of the national identification system changing the

Social Security card would establish.

Allusions to "1984," and Orwellian analogies generally, tend to be overused. In this instance, there would be some justification for the reference. Given the historical experience with Social Security numbers, no one can predict with any confidence that a photo-ID Social Security card would not end up being used for purposes patently objectionable to this Administration and to most American citizens.

In summary, I strongly believe that the proposal would be widely unpopular; would generate considerable media and other public criticism, much of it justified, that can and should be avoided; and would associate the President with an idea basically foreign to his views on personal privacy and the proper, limited field of permitted activity by the Federal government. Thus, every reasonable alternative means of dealing with the illegal alien problem should be thoroughly explored before this proposal is given any serious consideration. Even if changing the Social Security card would have some positive impact with respect to this particular problem, I believe the objective in this instance does not begin to outweigh the drawbacks I have attempted to outline here.

cc: Edwin Meese, III
James A. Baker, III
Michael K. Deaver

THE WHITE HOUSE

WASHINGTON

July 1, 1981

MEMORANDUM FOR THE PRESIDENT

FROM: CRAIG L. FULLER

SUBJECT: Report of the President's Task Force on
Immigration and Refugee Policy/CM 62

The attached Report will be discussed at today's Cabinet meeting. It need not be read in advance. It contains fourteen decision items which are contained in four major issue categories:

1. The Cuban/Haitian Problem.
2. Legal Immigration and Refugee Admission.
3. Illegal Immigration
4. Refugee Benefits and Services.

Since all but about two of the fourteen decision items have been agreed upon by members of your Cabinet and White House staff, it is expected that the Attorney General's presentation will focus on the two most difficult areas where options remain to be selected: Cuban/Haitian issues and Illegal immigration.

1. Cuban/Haitian Issues

All agencies agree that we should seek legislation (i) to authorize Cubans and Haitians who arrived before October 1980 to apply for permanent resident status after residing here two years, (ii) to prevent the transport of illegal aliens to the U.S., particularly during a mass exodus, (iii) to reform and expedite exclusion proceedings, and (iv) to provide for holding stations and emergency budgetary authority for future mass influxes.

It is also agreed that we should pursue international negotiations (i) to restrain Haitian illegal immigration (while providing resettlement opportunities in other countries), (ii) to discourage third world countries from serving as conduits for illegal immigration, and (iii) to return to Cuba the Cuban criminals, mentally ill and anti-socials (Ft. Chaffee).

With regard to enforcement, all agree we should seek legislation to permit us to interdict Haitian vessels on the high seas suspected of attempting to violate U.S. laws and negotiate an agreement with Haiti whereby we would do this on their behalf (see page 7). The only issues involve

- (a) whether we should detain undocumented aliens upon arrival

State, Justice, Treasury, Labor and HHS recommend detention. The problem is we lack adequate camps for this purpose (see page 8). If you decide in principle to approve a detention policy, it is recommended you ask the Attorney General to lead an effort (including DOD, Interior and GSA) to review all Federal facilities with a view to identifying sites of least political and operational costs (emphasis on political).

- (b) what we should do with those at Ft. Chaffee

There are no good answers to the Ft. Chaffee problem. Governor Frank White (Republican) won an election on a pledge to eliminate this facility. Arkansas GOP claim they have an Administration pledge (Vice President, Secretary Schweiker) to close Ft. Chaffee by August 1. The problem is movement of the approximately nine hundred mentally ill, alcoholics, homosexuals and social misfits would be opposed by any state to which they were moved. While we propose to open negotiations with Cuba for their return, such return will not happen by August 1. After discussion of this matter, it is recommended you request the AG (as regarding detention facilities) to report back to you within two weeks.

Suggested Talking Points

- o Must find a way to move Cubans from Ft. Chaffee.
- o This must be done in a way that is least politically costly to the Administration.
- o Ask DOD, Interior, GSA and State to help AG find within 2 weeks "least bad" solution.

2. Illegal Immigration

All agree that there should be additional international cooperation, border enforcement, and enforcement of the

Fair Labor Standards Act. All agree that there should be some form of new temporary worker program: the majority believe we should grant temporary worker status to a large number of those here illegally and create a pilot temporary worker program for Mexicans (50,000/a year maximum) based on State labor needs. OMB and some others would support a pilot program of 100,000.

Finally, it is agreed that illegal aliens who have been here a considerable period of time should be able to apply for a more permanent resident status, provided they demonstrate minimal English language capability and show interest in continuing as part of the community in which they are working.

The principal issue involves whether we should propose legislation that would establish "employer sanctions." Employers (of four or more employees) would be prohibited from "knowingly and willfully" hiring illegal aliens. Employee eligibility would be determined by a requirement that new hires show a social security card. The social security card itself would have to be made more secure from fraud, and some of your advisers are very concerned that this would lead eventually to a national identity card; others believe that employer sanctions and an identity system are necessary to enforce our immigration laws.

The employer sanction and identity card issues are the most controversial ones contained in the report. For additional information on this issue, it is suggested that you read pages 16-24 of the Task Force Report.

Items presented during this meeting do not need to be decided on today. You will notice that each of the fourteen decision items are listed in the binder. They can be reviewed in greater detail after the meeting and additional sessions can be held on specific items.

THE WHITE HOUSE

WASHINGTON

CABINET MEETING AGENDA

July 1, 1981 -- 11:30 a.m.

1. Immigration Policy

a. Background

Martin Anderson

b. Report of the President's
Task Force on Immigration
and Refugee Policy

William French Smith

c. Public Attitudes

Lyn Nofziger
Rich Beal

2. Congressional Subpoena
Procedures

Ed Meese

CABINET MEETING PARTICIPANTS

Wednesday, July 1, 1981 -- 11:30 a.m.

The Cabinet -- All Members*

James A. Baker, III
Michael K. Deaver
Richard V. Allen
Martin Anderson
Max Friedersdorf
David Gergen
Murray Weidenbaum
Richard Darman
Craig Fuller
Larry Speakes
Karen Hart

- * Robert Searby, Assistant Secretary of Labor for International Labor for Secretary Donovan
- * Charles Lichenstein, Alternate Representative to the United Nations for Special Political Affairs for Ambassador Kirkpatrick
- * Rich Bond for the Vice President

For Presentations:

Ed Harper
Lyn Nofziger
Darrell Trent, Deputy Secretary of Transportation
Robert E. Fritts, Senior Deputy Assistant Secretary of State, Bureau of Consular Affairs
Rich Beal

Guests in attendance:

Kelsey J. Selander, White House Fellow, DOC
Merrie M. Spaeth, White House Fellow, FBI

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20506

July 6, 1981

MEMORANDUM FOR MARTIN ANDERSON

FROM: MURRAY WEIDENBAUM 

SUBJECT: Proposal for Increased Enforcement and Employer
Sanctions for Illegal Alien Employment (Option III)

Option III raises questions of fundamental concern to the Administration's efforts to reduce the intrusion of government in the private sector. Above and beyond the genuine problem of the costs of compliance, I question the inherent desirability of imposing a new, large program regulating the workplace, involving potentially thousands of employers and millions of employees.

Option III strikes me as a major step backward, offsetting so much of the positive benefits of our regulatory relief efforts.



Office of the Attorney General
Washington, D. C. 20530

July 6, 1981

MEMORANDUM FOR THE PRESIDENT

FROM: The Attorney General

SUBJECT: Alternative Facilities -- Fort Chaffee
and Alien Populations

At the Cabinet meeting of July 1 you asked that options be presented for relocating the 950 Cubans detained at Fort Chaffee. In addition, if the Administration pursues a policy of detaining illegal aliens pending deportation, which the Task Force recommends, facilities with additional capacity of up to 10,000 will be required.

THE PROBLEM

1. The Fort Chaffee population

All 950 Cubans remaining at Fort Chaffee have problems that prevent their release into the community (250 mentally ill and retarded; 400 antisocial; 100 homosexual; 100 alcoholics or drug users; 100 women, babies, elderly, and handicapped). Placements into state and private facilities possibly could be arranged, but if Fort Chaffee is closed by August 1 another site for at least 650 Cubans will be needed. The State Department has been directed to approach Cuba in an effort to return the detainees, but near-term diplomatic prospects are limited.

2. Detention of Other Illegals

The Task Force recommends that the Administration detain rather than release illegals pending exclusion hearings. This is now the policy in the southwest (e.g., Mexicans) and was the policy in Florida (e.g., Haitians) until 1977. Release into Florida adversely affects the local community; Governor Graham and the congressional delegation urge dispersal of the illegals to other areas of the country. Haitians are arriving in Florida at a rate of

1,000 to 1,500 a month; existing facilities in Florida are overflowing.

A detention policy requires facilities for up to 10,000.

DISCUSSION AND RECOMMENDATIONS

I. Fort Chaffee Relocation

In order to relocate the Cuban illegal immigrants from Fort Chaffee, a facility is needed both for detention and for hospitalization of the mentally ill. A federal facility also is needed so that a large number of the Cuban mental patients can successfully be dispersed to state institutions.* No suitable facility can be available with certainty on August 1.** Three facilities, however, have been identified as the most suitable, and could be ready in 30 to 90 days.

PR ——— (1) Naval Training Center, Bainbridge, Maryland is in a rural area 15 miles west of Elkton. It is presently being partially used by the Job Corps but is still owned by the Navy, although not operated for a military purpose. It has 137 barracks, most of which cannot be salvaged; enough temporary structures could be put in place on an emergency basis within two to three months to hold the Fort Chaffee population. Bainbridge could be expanded by constructing permanent facilities to house ultimately as many as 25,000 people.

✓ (2) The Port Isabel Service Processing Center in Los Fresnos, Texas, is approximately 25 miles northwest of Brownsville. INS is presently using it as a detention facility for approximately 250 aliens. Temporary facilities could be erected within 30 to 60 days to hold the Fort Chaffee population. Port Isabel could be expanded in stages to hold up to 10,000 aliens if a detention policy is adopted.

* Crucial to the success of a dispersal program is creating a federal back-up facility so that the federal government can guarantee to state institutions that those patients who create serious problems can be returned to federal custody.

** It was impossible to consider all available options, because the Department of Defense declined to provide information concerning Defense facilities (active or partially active).

(3) Ellington Air Force Base, Houston, Texas, is 18 miles southeast of Houston. About 10% of the base is being used by NASA, the Texas National Guard, the Coast Guard and the Army Reserve. There are existing unused barracks which could be renovated within 30 to 60 days to hold the Fort Chaffee population. Ellington could be expanded to hold approximately 5,000 people. Its limited expansion capacity and its location, near Houston in a suburban area, make it an inappropriate site for developing a long term detention facility. Community opposition would be considerable. Accordingly, Ellington should be considered only as a temporary solution to the Fort Chaffee problem.

It is recommended that INS be directed to acquire (if necessary) and renovate one of these three facilities. GSA should assist in acquiring the facility; the Department of Defense should assist in constructing the necessary temporary facilities and constructing and renovating the necessary permanent facilities; and HHS should provide the staffing for the mental patients. HHS should be directed also to continue its negotiations with state institutions to disperse as many of the Cuban mental patients as possible.

Port Isabel	_____
Bainbridge	_____
Ellington	_____
Other	_____

II. Long Term Detention Facilities

If a detention policy is adopted for illegal immigrants, facilities which can be renovated to hold up to 10,000 people are needed. The facilities should be readied in stages, to meet foreseeable increases. They also should have the reserve capacity to hold up to 20,000 illegal aliens in the event of an immigration emergency (e.g., Mariel boatlift).

Two of the facilities recommended to solve the Fort Chaffee problem -- Bainbridge and Port Isabel -- are also the best options for expansion to carry out a detention policy. Bainbridge could be expanded in steps by new construction to hold up to a maximum of 25,000 people. Similarly, Port Isabel could be expanded in stages, first by erecting tents and then permanent facilities, to house eventually as many as 10,000.

Both Bainbridge and Port Isabel are in relatively isolated areas, but the costs of providing services would not be prohibitive. Community opposition is likely to be limited. Other facilities considered, in urban areas or suburban residential areas, would pose larger community problems.

It is recommended that both Bainbridge and Port Isabel be used. INS should be directed to begin renovations at Port Isabel, first to house temporarily 1,000 illegal aliens (in part to ease the burden on South Florida), and then to build permanent facilities to house up to 5,000. The Navy and GSA should be directed to convey Bainbridge to INS and INS should be directed to build enough facilities to house 5,000. The Department of Defense should be directed to assist in the construction and renovation. INS also should be directed to prepare a contingency plan for expansion of both Port Isabel and Bainbridge to meet a possible immigration emergency.

Agree _____

Disagree _____

Other _____

Respectfully submitted


William French Smith

FACILITIES CONSIDERED AND FOUND INADEQUATE

1. Matagorda Island Air Force Range

Five miles off Gulf Coast of Texas, near Port O'Connor. Barrier island with significant environmental/legal problems; high cost of transporting services.

2. Hamilton Air Force Base

Marin County, California. Suburban residential area. Litigation pending involving legal title, environmental questions, and planned conflicting local use.

3. Almaden Air Force Station

Santa Clara County, California. Existing structures in disrepair and unsuitable (single-family units). Mountain-top site with severely limited capacity for expansion.

4. V.A. Medical Center, Augusta

Outside Augusta, Georgia. Located in suburban residential area.

5. Highlands Air Defense Site

Highlands, New Jersey (60 miles from New York City). Capacity limited to less than 500.

6. Roanoke Rapids Air Force Station

Roanoke Rapids, North Carolina. Limited capacity; extensive improvements in sewage and water plant necessary.

7. U.S. Naval Home

Downtown Philadelphia, Pennsylvania. Limited capacity; concentrated urban environment.

8. Sault St. Marie Air Force Station, Minnesota

Small facility; extreme climate; structures unsuitable for detention.

9. Fort Jefferson National Monument, Florida

Sixty-eight miles west of Key West. Historic structure; no other facilities; environmental/legal challenges likely; high cost.

10. Ellis Island, New York

New York Harbor, one mile from Manhattan. No utilities; structures in bad repair; historic site.

11. Alcatraz, California

San Francisco Bay, one and one-half miles from mainland. Essentially no utilities; historic site; popular tourist attraction.

THE WHITE HOUSE
WASHINGTON

CABINET
MEETING

7/6/81

Martin Anderson.

Per our discussion,
attached is the draft
from Justice. I have
not yet reviewed it, but
thought you ought to
have a copy forthwith.
Let's discuss.

Frank

DRAFT

MEMORANDUM FOR THE PRESIDENT

FROM: The Attorney General

SUBJECT: Alternative Facilities -- Fort Chaffee
and Alien Populations

At the Cabinet meeting of July 1 you asked that options be presented for relocating the 950 Cubans detained at Fort Chaffee. In addition, if the Administration pursues a policy of detaining illegal aliens pending deportation, which the Task Force recommends, facilities with additional capacity of up to 10,000 will be required.

THE PROBLEM

1. The Fort Chaffee population

About 950 Cubans remain at Fort Chaffee. All have problems that prevent their release into the community (250 mentally ill and retarded; 400 antisocial; 100 homosexual; 100 alcoholics or drug users; 100 women, babies, elderly, and handicapped). Suitable placements into state and private facilities could be arranged by November 1, but not before. If Fort Chaffee is closed by August 1, another site for at least 650 Cubans will be needed. The State Department has been directed to approach Cuba in an effort to return the detainees, but near-term diplomatic prospects are limited.

2. Detention of Other Illegals

The Task Force recommends that the Administration detain rather than release illegals pending exclusion hearings. This is now the policy in the southwest (e.g., Mexicans) and was the policy in Florida (e.g., Haitians) until 1977. Release into Florida adversely affects the local community; Governor Graham and the congressional delegation urge disbursal of the illegals to other areas of the country. Haitians are arriving in Florida at 1,000 to 1,500 a month; existing facilities in Florida are overflowing.

Detention policy requires facilities for up to 10,000.

DISCUSSIONS AND RECOMMENDATIONS

I. Fort Chaffee Relocation

In order to relocate the Cuban illegal immigrants from Fort Chaffee, it is necessary to develop a facility that can be used both for detention and for hospitalization and to disburse a large number of the Cuban mental patients to state institutions. There is no appropriate facility that can be available on August 1.* Three facilities, however, emerge as the most suitable:

* It was impossible to consider all available options, because the Department of Defense declined to provide information concerning Defense facilities (active or partially active).

(1) Naval Training Center, Bainbridge, Maryland is in a rural area 15 miles west of Elkton. It is presently being partially used by the Job Corps but is still owned by the Navy, although not being operated for any military purpose. It has 137 barracks and with the force of a Presidential directive enough barracks could be renovated within two to three months to hold the Fort Chaffee population. Bainbridge also could be expanded by renovating existing structures to house ultimately as many as 45,000 people.

(2) The Port Isabel Service Processing Center in Los Fresnōs, Texas, is approximately 25 miles northwest of Brownsville. INS is presently using it as a detention facility for approximately 240 aliens. By erecting temporary facilities it can be expanded within 30 to 60 days to hold the Fort Chaffee population. Although there would be some community opposition because the location is remote and a detention facility is already there, the opposition should be far less than for most of the other options. Port Isabel also could be expanded in stages to hold as many as 10,000 illegal aliens if a detention policy is adopted.

(3) Ellington Air Force Base, Houston, Texas, is 18 miles southeast of Houston. About 10% of the base is

being used by NASA, the Texas National Guard, the Coast Guard and the Army Reserve. There are existing unused barracks which could be renovated within 30 to 60 days to hold the Fort Chaffee population. Ellington could be expanded to hold approximately 5,000 people. Its limited expansion capacity and its location, near Houston in a suburban area, make it an inappropriate site for developing a long term detention facility. There would be considerable community opposition and Ellington should only be considered as a temporary holding facility, that is, for no more than one year.

It is recommended that INS be directed to acquire, if necessary, and to renovate one of the three above-mentioned facilities. To adequately support INS, GSA should assist in acquiring the facility, the Department of Defense should assist in constructing the necessary temporary facilities and constructing and renovating the necessary permanent facilities, and HHS should provide the staffing for the mental patients. HHS should be directed also to continue its negotiations with state institutions to disburse as many of the Cuban mental patients as possible.*

* Crucial to the success of a disbursal program is creating a home base facility such as one of the above-mentioned so that the federal government can guarantee to state institutions that those patients who create serious problems will be returned to the federal facility.

Port Isabel	_____
Bainbridge	_____
Ellington	_____
Other	_____

II. Long Term Detention Facilities

If the President elects a detention policy for illegal immigrants, it will be necessary for INS to renovate or acquire facilities which can be renovated to hold up to 10,000 people within the next two years. The facilities should be renovated in stages, to meet foreseeable increases. They should also have the reverse capacity to hold large flow of illegal aliens in the event of an immigration emergency.

Two of the facilities recommended to solve the Fort Chaffee problem -- Bainbridge and Port Isabel -- are also the best options for expansion to carry out a detention policy. Bainbridge could be expanded in steps by renovating existing but dilapidated structures to hold 1,000, then 5,000 up to a maximum of 45,000 people. Similarly, Port Isabel could be expanded in stages, first by erecting tents

and then permanent facilities, to house initially 1,000, and could eventually house as many as 10,000, if that became necessary.

Both Bainbridge and Port Isabel are in relatively isolated areas but not so isolated that the costs of services would be prohibitive. Also, although there would be community opposition, it is unlikely to be as great as the other facilities considered such as those in urban areas or suburban residential areas.

It is recommended that both Bainbridge and Port Isabel be utilized. INS should be directed to begin renovations at Port Isabel first to temporarily house 1,000 illegal aliens (in part to ease the burden on South Florida) and to build permanent facilities to house up to 5,000. The Navy and GSA should be directed to turn Bainbridge over to INS and INS directed to renovate enough of the presently existing structures to house 5,000. The Department of Defense should assist in the construction and renovation. INS should also be directed to develop a contingency plan for expansion of both Port Isabel and Bainbridge to meet any possible immigration emergency.

Agree _____

Disagree _____

Other _____

1. Matagorda Island Air Force Range

Five miles off Gulf Coast of Texas, near Port O'Connor. Barrier island has significant environmental/legal problems and prohibitive cost of transporting services.

2. Hamilton Air Force Base

Marin County, California. Suburban residential area. Litigation pending involving legal title, environmental questions and planned conflicting local use.

3. Almaden Air Force Station

Santa Clara County, California. Existing structures unsuitable (single-family units). Mountain-top site has severely limited capacity for expansion.

4. V.A. Medical Center, Augusta

Outside Augusta, Georgia. Located in suburban residential area.

5. Highlands Air Defense Site

Highlands, New Jersey (60 miles from New York City). Capacity limited to less than 500.

6. Roanoke Rapids Air Force Station

Roanoke Rapids, North Carolina. Limited capacity; extensive improvements in sewage and water plant necessary.

7. U.S. Naval Home

Downtown Philadelphia, Pennsylvania. Limited capacity; concentrated urban environment.

8. Sault St. Marie Air Force Station, Minnesota

Small facility; extreme climate; structures unsuited for detention.

9. Fort Jefferson National Monument, Florida

Sixty-eight miles west of Key West. Historic structure; no other facilities; environmental/legal challenges likely; high cost.

10. Ellis Island, New York

New York Harbor, one mile from Manhattan. No utilities; structures in bad repair, historic site.

11. Alcatraz, California

San Francisco Bay, one and one-half miles from mainland. Essentially no utilities; historic site; popular tourist attraction.

7/6/81
6:30 pm

I. Cubans and Haitians.

A. Background.

The 1980 "Mariel boatlift" brought a wave of 125,000 Cubans to south Florida; over 24,000 were criminals, mentally ill or otherwise maladjusted. Most have been re-settled. But 1,800 criminals remain in the Atlanta federal prison, and about 1,700 social misfits and mentally ill remain at Fort Chaffee, Arkansas. Cuba has thus far refused to accept back these undesirables, most of whom are "excludable" from the U.S. under law. CIA estimates an additional 200,000 Cubans could come to the U.S. if Castro reopened the port of Mariel for this purpose.

There is also a continuing migration to Florida of undocumented Haitians (35,000 now here; 1000-1500/month still arriving). This seriously impacts Florida. Although Haiti is willing to accept back Haitians deported by the U.S., exclusion proceedings have been blocked by litigation. While State believes that few Haitians are entitled to asylum under current law, the U.S. District Court for Southern Florida believes the Haitians would be persecuted on return and are thus entitled to asylum in this country. Exclusion proceedings are currently being instituted against new Haitian arrivals, but legal challenges are expected to continue.

B. Options and Recommendations.

Presidential decisions are needed as follows:

- (1) What do we do with the 160,000 Cubans and Haitians now here, including criminals, mental cases, and social misfits?
- (2) What policy should the Administration pursue with regard to future arrivals?

1. Legal Status.

Carter established a new category, "Cuban/Haitian entrants" for those arriving on or before October 10, 1980; this provided for these people to remain temporarily pending legislation to permit permanent residence. Legislation

introduced in the last Congress was not acted upon. The temporary status expires July 15, 1981. Without further legislation, Cubans (but not Haitians) can apply for permanent resident status under the Cuban Refugee Adjustment Act of 1966, after residence here for one year. Applications under this Act have been deferred pending this report.

Mass deportations would not be in the national interest. With the exception of the criminals, mentally ill, and the misfits at Fort Chaffee, Cuban/Haitian entrants (as of a certain cut-off date) should be permitted to remain. Cuba will not likely accept its nationals' return; and since most of the Cubans have been resettled, many with relatives, and are becoming productive members of society, their involuntary return to Castro would be highly controversial. Although the Haitians could theoretically be deported, the administrative burden would be enormous, and we would be criticized (particularly by Black and church groups) for treating them less favorably than the Cubans.

OPTIONS

1. Option I (permanent residence for Cubans and Haitians who arrived before December 31, 1980).

The Administration would seek legislation (1) to authorize Cubans and Haitians who arrived before December 31, 1980, to apply for permanent resident status after residing here for two years, and (2) repeal the 1966 Cuban Adjustment Act; but

Cuban entrants who are serious criminal offenders or mentally ill; or who cannot for other reasons safely be released into the community, should not be given permanent resident status. Such persons should be maintained in appropriate custodial facilities pending their repatriation to Cuba.

Analysis

This option would permit regularization of Cuban-Haitian status beyond July 15. Since virtually none of the Cubans can return to Cuba and many view Haitians as in a similar predicament, granting permanent residence (on a one-time basis) for all except those who are otherwise excludable recognizes reality. Repealing the Cuban Adjustment Act reduces the incentive for additional immigration from Cuba.

Permanent residence status confers rights to social welfare - and additional rights to bring over relatives.

But this approach provides for more favorable treatment of Cubans and Haitians than would be the case under a partial legalization of other illegals (see Illegal Immigration section). It would not require Cubans and Haitians to develop minimal English language capability and establish links with the community.

Unless accompanied by a major effort to resettle Cubans and Haitians outside of Florida, this approach will be viewed by some in Florida as placing added burdens on the Florida community.

APPROVE _____

DISAPPROVE _____

Option II (Temporary status (convertible to permanent residence after five years) for Cubans and Haitians who arrive before December 31, 1980.)

Same as Option I, but the legislation would authorize such Cubans and Haitians to apply for temporary worker status now; after five years of continuous residence in this country, such Cubans and Haitians could apply for permanent residence, providing they were not excludable, had minimal English language capability and interest in continuing as a part of the community in which they were working.

Analysis

The analysis of this approach is the same as Option I except it would avoid the disadvantage of favoring Cubans and Haitians over other illegals and would provide for indicia of a desire to become a part of the community. But, in the case of Cubans, this approach would be contrary to our customary practice of granting permanent resident status to asylees. And, it would prevent immediate family (spouses and minor children) joining the asylee. *— and receiving work*

APPROVE _____

DISAPPROVE _____

2. Domestic Enforcement Measures

Current law does not provide for prohibiting the open transport of undocumented aliens to the U.S.; it also does not provide clear authority for the seizure and forfeiture of vessels used in violation of the immigration laws. Clear legal authority to these ends is needed in order to permit Justice to enforce our laws and increase the penalty to those who would thwart them, particularly for profit.

In the Spring of 1980, many Cuban-Americans assisted in transporting Cubans fleeing Cuba during the Mariel boatlift. This effort on the part of U.S. citizens and U.S. flag vessels expanded the mass exodus and made it more difficult for the Coast Guard and other U.S. agencies to maintain order. There is no clear legal authority to prevent U.S. citizens and U.S. flag vessels from engaging in such activity.

RECOMMENDATION (All Agencies)

That the Administration propose legislation:

- to prohibit bringing undocumented aliens to the U.S.;
- to strengthen existing authority for the seizure and forfeiture of vessels used in violation of the immigration laws; and
- to prohibit, in Presidentially declared emergencies, U.S. citizens from travelling to designated foreign countries in a U.S. flag vessel *for the purpose of assisting illegal immigration.*

implications?

APPROVE _____

DISAPPROVE _____

3. Reform of Exclusion Proceedings

Exclusion and deportation proceedings are subject to lengthy delays. The current legal framework provides for a quasi-judicial hearing and a right to both administrative and judicial appeals, after time-consuming referrals to State for advice on whether the alien is entitled to asylum. Not necessary for a fair hearing, these procedures are completely unworkable in the event of a mass inflow.

RECOMMENDATION (All Agencies)

That the Administration propose legislation to reform and expedite exclusion proceedings. Applications for asylum would be heard before newly established INS asylum officers and could be appealed to the Attorney General. Exclusion hearings would be confined to the question whether the alien had entered the U.S. with adequate documentation.

APPROVE _____

DISAPPROVE _____

4. Foreign Policy Measures.

A number of diplomatic measures should be pursued to help curtail illegal immigration from Cuba and Haiti.

RECOMMENDATION (All Agencies)

That the Administration pursue this year international negotiations (1) to provide additional resettlement opportunities for Haitians in Western Hemisphere countries; (2) to obtain Haitian cooperation in restraining illegal immigration of its nationals to the U.S.; and (3) to discourage third countries from serving as conduits for illegal immigration into the U.S. And that the Administration consider diplomatic measures to secure the return of the criminals, mentally ill, and anti-socials who arrived in the Mariel boatlift.

APPROVE: _____

DISAPPROVE _____

5. Contingency Planning.

The most significant lesson from last year's mass arrivals in Florida was the need to plan for such contingencies. Carter had neither a consistent policy nor an orderly way of implementing decisions. Contingency planning involves both management and policy issues. Management issues are discussed in a separate memorandum. This paper asks only for decisions on (1) legal and budgetary authority, and (2) facilities to deal with future mass influxes.

Clear legislative authority is needed to authorize federal agencies to respond quickly in a coordinated way to any future immigration emergency. Budgetary authority to fund emergency operations also is required. The prior Administration was hindered during the Mariel boatlift by the absence of these authorities. In the aftermath of Mariel, the Fascell-Stone Amendment was enacted, providing you with authority to respond to inflows of Cubans or Haitians. This authority should be extended beyond Cuban and Haitian inflows, to any immigration emergency.

Also, facilities are needed to hold mass arrivals pending processing and legal proceedings. The prospect of indefinite detention may be an added deterrent to future flows. Most suitable sites are excess military facilities. The cost of setting up a camp facility typically has averaged \$10 to \$20 million. The per capita daily operating cost would range from \$10/day to \$50/day, depending on the degree of security. Justice has reviewed an inventory of potential sites.*

RECOMMENDATION (All Agencies)

That the Administration seek legislative and budgetary authority (1) for the President or his delegate to direct federal agencies to take necessary actions, including the establishment of holding centers;** (2) to reimburse state and local governments for certain authorized expenditures resulting from the emergency; and (3) that there be established an emergency immigration and refugee fund of \$100-200 million and that, in an emergency, agencies also be authorized to reprogram existing immigration and refugee funds.

APPROVE _____

DISAPPROVE _____

* On the basis of the recent inventory, the following sites have been identified, Ellington Air Force Base, outside of Houston; Fort McCoy, Wisconsin; Hamilton Air Force Base, California; Craig Air Force Base, Alabama; Roanoke Rapids Radar Station, North Carolina; and Glasgow Air Force Base, Montana.

** The Department of Defense (DOD) believes that the proposal to expand and make permanent the Fascell-Stone amendments would perpetuate much of the confusion and delay which characterized last year's handling of the Cuban and Haitian influx. Instead of waiting for the uncertain outcome of what DOD regards as a questionable legislative proposal, DOD recommends that the President clearly designate a single federal agency as being responsible for handling a future refugee and immigration crisis. That agency, in turn, should then quickly reorder its internal priorities, make standby arrangements with contractors and voluntary agencies, and take whatever other steps are needed to cope with a mass influx.

That the Administration identify suitable facilities to hold 10,000 to 20,000 people; that plans be made for activation of the facilities on short notice, but that the facilities remain inactive prior to an emergency.

APPROVE _____

DISAPPROVE _____

6. Enforcement Options.

Three enforcement options are presented involving (1) interdiction by the Coast Guard of illegal aliens traveling to the U.S. by sea, and (2) detention upon arrival of those apprehended, pending deportation or asylum.

- How determine which boats to search?

OPTION I [Status Quo]

The Administration would continue current practices of (1) not interdicting illegal aliens at sea; and (2) only initially detaining aliens, followed by their release into the community with the right to work pending asylum or exclusion.

Analysis:

This option avoids the disadvantages of interdiction or detention in Options II and III.

But failure to interdict or detain will not deter illegal immigration. Release into the community with work authorization encourages such immigration and aggravates the adverse impact on south Florida. It treats Haitians more favorably than other illegal aliens, e.g., Mexicans. A non-enforcement policy will cause an outcry in Florida. Governor Graham appears prepared to capitalize on the circumstances. Senator Hawkins is placed in a difficult situation. Pro-enforcement Members of Congress also disfavor a "do-nothing" approach.

None of your advisers recommend this approach.

APPROVE _____

DISAPPROVE _____

OPTION II [Status Quo Plus Limited Interdiction at Sea]

As in Option I, the Administration would continue a policy of non-detention. But the Administration would seek legislation to authorize the President to direct the Coast Guard to assist foreign governments that request such assistance to interdict on the high seas their flag vessels suspected of attempting to violate U.S. law. U.S. would negotiate agreement providing for cooperation in enforcing U.S. and Haitian laws. A strategy of selective interdiction would be devised requiring modest resources (\$10 M per year, probably offset by reduced welfare and resettlement costs) and no significant diversion from drug enforcement and search and rescue operations. Interdiction would be conducted only as directed by those responsible for crisis management, and not as standard Coast Guard procedure.

Analysis

This option may deter continuing flows from the Caribbean and is estimated to decrease inflows into south Florida by at least 1200/year. It would demonstrate a commitment to enforcement without risking the cons incidental to extended detention, and thus help diffuse the current political situation in south Florida.

But interdiction could result in an ugly incident with Haitians jumping overboard or otherwise being injured or killed and the Coast Guard getting the blame. Black Caribbean and African nations might react adversely. It could set an international precedent for turning away "boat people." Even with authorizing legislation, U.S. Coast Guard might be sued for abridging rights of potential asylees. Liberals, blacks, and church and human rights groups would strongly oppose. The Black Caucus has written you in opposition.

This approach is recommended by Transportation

APPROVE _____

DISAPPROVE _____

OPTION III [Limited Interdiction at Sea Plus Detention]

As in Option II, the Administration would pursue a limited interdiction policy. Also, we would detain undocumented aliens upon arrival pending exclusion or granting of asylum. This requires facilities with a capacity of 5,000-10,000 assuming more rapid exclusion hearings and high apprehensions. Capacity requirements and costs would be reduced if detention deterred further flows, but would increase if exclusion proceedings were plagued by litigation and other delays. (The estimated cost of a detention facility is \$30-60 million annually and \$10-15 million in start-up costs. Estimated welfare and resettlement savings would be \$45 M-per year.)

Analysis

This option would bring Haitian policy in line with that regarding others who enter the U.S. illegally (e.g., Mexicans, El Salvadoreans, and other Central Americans). Detention could deter continuing illegal immigration reducing adverse community impacts. It would demonstrate a major commitment to enforcement, and would prevent aliens from disappearing prior to exclusion hearings.

This recently happened in Florida.

But detention risks camps overflowing because of procedural delays. The community in which the detention facility is located could create a greater political problem (e.g., as at Fort Chaffee, Arkansas) than dispersion of the aliens into the community. Detention could cause illegals to go underground; this could pose an even greater burden to local communities and states since Federal reimbursement of welfare and medical expense and voluntary agency services would not automatically be available. Detention could create an appearance of "concentration camps" filled largely by blacks. The Black Caucus has written you in opposition.

State, Justice, Treasury, Labor, and HHS recommend this approach.

APPROVE _____

DISAPPROVE _____

THE WHITE HOUSE

WASHINGTON

CABINET MEETING AGENDA

July 7, 1981 -- 11:30 a.m.

1. Immigration - William French Smith
Alternative Facilities

CABINET MEETING PARTICIPANTS

Tuesday, July 7, 1981 -- 11:30 a.m.

The Cabinet -- All Members

James A. Baker, III
Michael K. Deaver
Richard V. Allen
Martin Anderson
Max Friedersdorf
Murray Weidenbaum
Rich Williamson
Richard Darman
Craig Fuller
Larry Speakes
Karen Hart

For Presentations:

Ambassador Diego Asencio, Assistant Secretary
of State for Consular Affairs
David Hiller, Special Assistant to the
Attorney General

Guests in attendance:

Gael C. Leiby, White House Fellow, HUD
Alexander Rodriguez, White House Fellow, HHS

THE WHITE HOUSE
WASHINGTON

July 9, 1981

NOTE FOR: MARTIN ANDERSON
MICHAEL UHLMANN

FROM: FRANK HODSOLL *Frank*

Attached is a draft revision of the Illegal Immigration portion of the Immigration & Refugee paper. It is a slight mark-up of Option II to reflect State Labor cert for the temporary worker program and the fact that the old Option II is no longer under consideration.

On Option III, I have ^{*amended*} ~~used~~ the earlier version to (i) reflect our understanding with Schweicker on the Social Security card (see my earlier note), (ii) combine the analysis of employer sanctions and ID card since the option deals with both as a package, and (iii) reflect through the rubric "Proponents argue/It is argued" points that are disputed.

I would be grateful if we could meet this afternoon to iron out any remaining problems.

Thanks.

B. Options (Revised)

Four alternative policies are presented in this section. All except Option I require legislation.

OPTION I - [No major changes]

International Cooperation:	Negotiate with Mexico (1) joint prevention of third country nationals crossing Mexico to enter the U.S. illegally, (2) increased cooperation in the border areas, (3) labor-intensive developmental projects in principal Mexican "sending" states (perhaps with matching U.S. AID funds).
Enforcement of Existing Statutes:	Maintain current levels of INS and DOL enforcement. The Farm Labor Contract Registration Act prohibits the employment of illegal aliens in agriculture. The Immigration and Nationality Act, in conjunction with a number of labor laws, authorizes penalties against employers in all industries for wage and hour and working condition violations. There are also laws which prohibit aiding illegal entry and the harboring of illegal aliens.
Employer Sanctions and National Identity Card:	None
Temporary Worker Program:	Maintain existing "H-2" program (admitting an average total of 30,000 workers per year, largely from the Caribbean; 18,000 in agriculture).
Legalization of Illegal Aliens Now in U.S.:	Continue current efforts.

Analysis

Arguments For:

This option assumes that the status quo (i.e., ineffective enforcement of the immigration laws) is tolerable and preferable

to efforts to curb illegal immigration which might either encourage somewhat larger foreign migration to the U.S. (Options II and III) or impose substantial regulatory burdens and economic dislocations (Options III and IV).

It permits continuing flows of Mexican workers (benefitting both the U.S. and Mexico) without alienating Hispanic groups or creating an issue of principle with organized labor. It avoids the possible "magnet effect" of an enlarged temporary worker or legalization program that could attract additional illegal migration. It would be viewed by Mexico as preferable to alternatives restricting Mexican migration. Finally, the option does not require a political effort that could decrease Congressional and public support and attention to other Administration priorities.

Arguments Against:

The option fosters disrespect for law by tolerating an illegal population and illegal flows greater than legal flows. It fails to limit aliens to employment which does not adversely impact Americans. With high unemployment and social programs being cut back at home, many will not tolerate what is perceived to be labor competition from abroad. High illegal immigration reduces de facto the ethnic diversity and balance of immigrant admissions that have been an objective of the immigration laws.

Failure to pursue an improved strategy will be viewed as irresponsible by Congress, restrictionists, Labor, and the general public (except for Hispanic and civil liberties groups). Hispanics, minorities, churches, and labor would object to the absence of amnesty for those illegals already here. Some Governors, Congressmen, and employers in the southwest would object to absence of new temporary worker program.

APPROVE _____ DISAPPROVE _____

OPTION II - [Increased law enforcement effort, small ^{experimental} pilot guest worker program, (~~limited~~) legalization of illegal aliens]

International Cooperation: Same as Option I.

Enforcement of Existing Statutes: ~~Same as Option I.~~ (X1)

Employer Sanctions and National Identity Cards: ~~More effective enforcement of existing law (1,290 new personnel and \$70 million) Nonc. new employer regulations or identity card.~~ (X2)

Temporary Worker Program: Enact legislation to establish a ~~pilot guest~~ ^{new experimental guest} worker program for Mexican nationals (for a 2-year trial period, 50,000 visas per year maximum). ~~Ability to bring in spouses and minor children; access to education and medical services (but not welfare, food stamps or unemployment insurance).~~ (X2)

Legalization: ~~Instead of granting permanent resident status now to those here 5 years or more, and within 2 years to those here 3 years or more prior to 1980, grant a newly created status ("Renewable Term Resident") to all illegals here as of January 1, 1980.~~

The new status would "legalize" the estimated 2.7 million illegal aliens who came here prior to 1980, but would greatly lengthen the period before they could become eligible for permanent resident status. Provided they are not otherwise excludable (e.g., becoming a public charge, criminal record, etc.), Renewable Term Residents could remain in present employment or seek new employment, but would be eligible for no public assistance other than Medicaid. They would have to pay social security, income, and other taxes.

The Renewable Term visa could be "rolled over" every 3 years, more or less indefinitely, provided however that after 10 years in Renewable Term Status one could then apply for permanent resident status. Permanent resident status would require a certain ~~proficiency in the English language~~

(X3) →

* (X4)

Analysis*large numbers of*Arguments For:

Would not confront American society with the more or less immediate prospect of ~~having an estimated 2.7 million~~ new permanent resident aliens.

Unlike permanent resident status, Renewable Term status would carry no rights to welfare benefits (other than Medicaid) and no enhanced right to bring in relatives. Accordingly, this Option would lengthen the period to absorb, and perhaps eliminate altogether, a potentially massive demographic and financial impact.

Would not reward illegal residence here with the highest "benefit" that our immigration laws now provide, i.e., a guaranteed right to apply for U.S. citizenship.

*(in a relatively short period (5 years))*Arguments Against:

~~Really a "back-door" attempt to create a large guest worker program by another name.~~

✓ In comparison to permanent residence status, the incentive to come out of the illegal underground may be insufficient.

✓ The English proficiency requirement for permanent residence status is impractical, especially for older people. For others, especially children, would impose a severe burden on the schools.

Massive enforcement/information tracking system would be necessary to insure that Renewable Term Residents were properly in status.

X1 Moderate increases in INS (\$54 million) and DOL (\$12.7 million) enforcement. Expected additional 184,000 INS apprehensions; expected 24,000 additional DOL compliance actions covering 312,000 underpaid workers. Increased costs could be partly offset by fees.

X2 The program would be targeted to specific areas and categories of jobs. The program would exclude jobs in a state where it certified there was an adequate supply of American workers. DOL would allocate the national ceiling among affected States and verify that there was a valid job offer not on the excluded list.*

X3 Permit illegal aliens who were present in the U.S. prior to January 1, 1980, who are not otherwise excludable, to apply for a new status of "renewable term temporary resident" (estimated up to 5 million eligible). Renewable term residents would not be able to bring in spouses and minor children, would have access to education and medical services (but not welfare, food stamps or unemployment insurance). Renewable term residents could remain in the job they had at the time of achieving renewable term resident status or seek new employment; they would have to pay social security, income and other taxes.

The renewable term visa could be rolled over every three years indefinitely providing the above conditions continue to be met. After ten years in renewable term status, the alien could apply for permanent resident status, providing ~~they were~~ able to demonstrate minimal English language capability.

he or she is

- X4 *DOL recommends that some other agency, e.g., State, have the allocating function, and that the program be limited to 20,000 visas per year.
- X5 By providing for a large scale legalization, this approach makes a major move in the direction of eliminating the subclass of illegals (3-5 million) currently in this country, and will help provide a data base on which our policy can evolve.
- By providing for an experimental new temporary worker program for Mexican nationals based on state labor needs, it avoids stimulating in a major way additional illegal immigrants and allows us to test a new system which, if it works, will over time permit meeting specific labor requirements which particular states do not consider would adversely impact American workers.
- X6 The large scale legalization will be criticized as providing a legal alternative to American workers without providing any prospect of significantly impeding future flows of illegals. This would run counter to the views of 91% of Americans as expressed in recent polls and of the leadership of the major committees in Congress, as well as the views of Governors of most impacted states (particularly Texas and Florida).
- Without employer sanctions, some would consider that enforcement of the law had not been significantly strengthened; enforcement at the border and of fair labor standards are not considered ~~to be~~ credible *by most*.
- X7 Legalization will require Social Security Administration surge capacity to issue new numbers and a much larger INS tracking system.

OPTION III [Increased law enforcement effort, small experimental guest worker program, limited legalization of illegal aliens, and large-scale employer sanction program, including some form of identity card]

International
Cooperation:

Same as Option I

Enforcement of
Existing Statutes:

Same as Option II

Employer Sanctions
and National
Identity Card:

Prohibit employers (four or more employees) from "knowingly" hiring illegal aliens. Civil fines \$500-\$1000; injunctions where "pattern or practice".

New hires would be required to show their social security cards (as well as provide a social security number as required under current law) and some other corroborative identifier (e.g., drivers licence). In addition the new hire and the employer would sign a form certifying, respectively, that (i) the new hire is either a U.S. citizen or a legal alien with a valid social security number, and (ii) the employer has inspected his social security card and other identifier and has no reason to suspect that the new hire has been fraudulent. Completion of this process would be an absolute defense against INS prosecuting the employer.

Temporary Worker
Program:

Same as Option II

Legalization:

Same as Option II

Analysis

The major difference between this option and Option II is the enactment of employer sanctions coupled with a requirement for new hires to show their social security card and some other identifier. Proponents of employer sanctions believe employer sanctions without some agreed identifier would likely be burdensome to employers and discriminatory:

- burdensome to employers because they would have no clearcut way under the law to avoid penalties for hiring an illegal; and
- discriminatory because employers might fear hiring those who look or sound like foreigners.

Arguments For

- * Increased enforcement and employer sanctions (combined with increased permanent immigration, legalization and an experimental temporary worker program) should reduce substantially net illegal immigration (perhaps from 500,000 to 100,000/year) by expanding opportunities to work lawfully in the U.S. and by prohibiting employers from hiring illegal immigrants outside the program.
- * The public generally wants greater enforcement of our immigration laws. While no panacea, it is argued that the only apparently credible additional enforcement tool is "employer sanctions." While even the most elaborate such system is unlikely to stop illegal immigration, a modest system will likely make such immigration somewhat more difficult, and, along with an appropriate enforcement strategy, restore an image of control (with both deterrent and political confidence effects).
- * Increased temporary work programs or legalization will be unacceptable without a perception of effective enforcement; over time, this perception will also contribute to orderly assimilation of the inevitable flows across the Mexican border.
- * Increased border enforcement and raids on places thought to employ illegals will be only marginally effective; we do not want to build a wall at the border, and there are limits to how many places of employment can be raided.
- * Enforcement of existing labor laws would be inefficient since such laws are not targeted to the problem of hiring illegal aliens. Moreover, DOL does not have the authority to apprehend illegal aliens or to investigate an alien's status. Thus, DOL can only make referrals to INS.
- * Such a system would provide a defense for a good faith employer and make it marginally more difficult for illegals to gain employment, since many illegals here do not now possess a social security card.
- * This system would not increase government intrusiveness by much, since employees now must give their social security numbers when hired, thus allowing intrusion; carefully worded legislation plus Privacy Act provisions should prevent misuse;

and employers now must document employees for tax, social security, and employment insurance. Proponents of this option believe the average additional time for employees would likely be on the order of 1-2 minutes.

* The polls show most Americans are prepared to go this route (including use of a social security card). Labor supports employer sanctions as do the concerned Committee chairmen in Congress.

Arguments Against

* It is argued the government has no right to tell an employer whom he cannot hire, even when the employee is an illegal alien. Some believe this precedent could lead to harrassment and abuse in the future, such as prohibiting employers from hiring certain other persons of other foreign backgrounds in order to "preserve jobs for Americans."

* Immigration enforcement is primarily a government function, and should rely on law enforcement agencies, not private businesses.

* There will be some additional paperwork for employers.

* Employer sanctions may increase the demand for forged documents.

* In order to minimize the risk of sanctions, employers may regard Hispanic applicants without social security cards with suspicion, increasing discrimination against Hispanics.

* Opponents of this option argue use of a social security card for identification purposes is a de facto national identification card which many feel is inconsistent with fundamental American principles of freedom, individual privacy, and limited central government. While the polls are favorable regarding use of a social security card, they are negative on a national identity card.

* Opponents of this option argue requiring new hires to show a social security card (in addition to stating the number) is in direct opposition to the President's stated views on personal privacy.

* Use of the social security card for identification is contrary to the original intent of the card.

* Social security or other identification cards, based on birth certificates, can be easily obtained or forged. This problem is not correctable.

* While providing a means of defense for employers, the principle of requiring new hires to show their social security card (in addition to providing the number) could lead to use of the card for other purposes, such as registration of guns and registration for the draft.

APPROVE: _____

DISAPPROVE: _____