

Testimony of  
**Mr. Stephen Yale-Loehr**

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Mr. Chairman and distinguished Members of the Subcommittee, I am Stephen Yale-Loehr. I teach immigration and refugee law at Cornell Law School in Ithaca, New York, and am co-author of *Immigration Law and Procedure*, a 20-volume immigration law treatise that is considered the standard reference work in this field of law. I am honored to be here today representing the American Immigration Lawyers Association (AILA). AILA is the immigration bar association of more than 7,800 attorneys who practice immigration law. Founded in 1946, the association is a nonpartisan, nonprofit organization and is an affiliated organization of the American Bar Association (ABA).

AILA members take a very broad view on immigration matters because our member attorneys represent tens of thousands of U.S. families who have applied for permanent residence for their spouses, children, and other close relatives to lawfully enter and reside in the United States. AILA members also represent thousands of U.S. businesses and industries that sponsor highly skilled foreign professionals seeking to enter the United States on a temporary basis or, having proved the unavailability of U.S. workers, on a permanent basis. Our members also represent asylum seekers, often on a pro bono basis, as well as athletes, entertainers, and international students.

Given AILA's concerns with all aspects of our immigration function, I am especially pleased to be here today to express AILA's views on how best to restructure the Immigration and Naturalization Service (INS). This is neither an academic exercise nor one with solely bureaucratic implications. Rather, reorganization has consequences for U.S. citizens, legal permanent residents, refugee and asylees, American business and our national security. What is at stake here is whether people will be able to naturalize, get their green cards, and find safe haven; whether our economy will be strengthened by needed foreign workers; and whether the INS will contribute its share to enhancing our security.

INS restructuring tops the congressional agenda for many reasons, not the least of which is that the agency has been unsuccessful in fulfilling its dual missions of enforcement and adjudications and is ill-equipped to respond appropriately to our nation's security needs post-September 11. Several bills have been introduced to reform the agency that reflect these concerns, and the INS is in the process of implementing the Bush Administration's own administrative proposal.

#### **ESSENTIAL ASPECTS OF A SUCCESSFUL REORGANIZATION OF THE INS**

As Congress and the Administration address restructuring the INS, it is important to emphasize the following points:

Passing legislation to restructure the INS is one step in a multi-step process, the end result of which needs to be effective, efficient, and fair adjudications and enforcement. Before

restructuring, the agency needs to eliminate its current huge backlogs. The INS also must implement internal management and cultural changes essential for meaningful reform.

Congress can either make or break any restructuring plan due to its central role in creating and maintaining our federal immigration function. Congress must end its practice of sending the agency conflicting, complicated, unfunded and incomplete mandates that have severely diminished the INS's ability to fulfill its missions. Furthermore, many of these mandates stem from rapid and often contradictory changes in our immigration laws and reflect the absence of an enduring consensus on immigration issues and priorities. Congress cannot expect the INS to effectively implement policies that are contradictory and change rapidly. No reorganization can succeed if Congress does not change its relationship with the INS. In fact, without such change, we will be right back to where we are today, no matter which reorganization plan is implemented.

Any meaningful restructuring of the immigration function needs to include adequate funding, especially given the increased demands resulting from the September 11 attacks. Since the INS's enforcement and adjudication functions are both in the national interest, each should receive from congressional appropriations the funding needed to fulfill mandates. While the enforcement function now receives appropriated funding, the adjudications function is supported largely through user fees. The funding level achieved through these fees is inadequate and must be supplemented by direct federal appropriations. Finally, adequate funding needs to be appropriated to create reliable information systems that are regularly updated.

While an effective, efficient and fair INS restructuring is essential, such reform will not in itself address many pressing concerns. Reforming the INS will not alter the fact that U.S. immigration policy needs to be changed to make legality the norm. Currently families face long delays before they can be reunited, no visa exists to bring in certain kinds of needed workers, and the 1996 immigration laws eliminated due process for many legal permanent residents. Reforming the INS will not address these and other concerns, but leaving these concerns unresolved will stand in the way of a successful reorganization of the agency.

The Administration and Congress need to undertake INS reorganization in a way that takes into account, and does not disrupt, the enforcement and adjudication requirements of our post-September 11 world. In our world of security concerns, it is necessary to fully integrate our immigration functions. Accordingly, the terrorist attacks reinforce the need for someone in charge with clout who can articulate our nation's immigration policies, someone with more power than the current Commissioner. They also reinforce the fact that both adjudications and enforcement are equally in the national security interest and are most effectively implemented when they are closely coordinated and based on a common understanding of the law and policy.

Reorganizing the INS can and should be a nonpartisan effort that brings together the best thinking from Republicans and Democrats, experts in the field, and the INS's customers.

**WHY WE NEED TO RESTRUCTURE THE INS, AND WHAT DIRECTION AN EFFECTIVE RESTRUCTURING SHOULD TAKE**

As the federal agency responsible for both enforcing U.S. immigration law and adjudicating applications for naturalization and family and business immigration, the INS needs to function efficiently, effectively, and fairly, and with our national security concerns in mind. The September 11 attacks underscore the fact that the agency's two functions, enforcement and adjudications, are both in the national interest and merit the attention of and support from Congress.

The INS has been severely criticized for failing to effectively, consistently, professionally, and humanely enforce immigration laws through nationally set priorities. Since September 11, many have concluded that the agency is not up to the challenge of protecting us from terrorists because of fears that we cannot control our borders and reports that some of the terrorists were in legal status, others had overstayed their visas, and the status of others is unknown because of the lack of records.

"Fortress America" is impossible to achieve and not in our national interest, but we can better equip our immigration function to help make us safer. A smart reorganization of the INS will help accomplish that goal, as will the passage of the Enhanced Border Security and Visa Entry Reform bill. That legislation will enhance our intelligence capacity and develop layers of protection so that our land borders are not our first line of defense. AILA applauds Senators Edward Kennedy (D-MA), Sam Brownback (R-KS), Jon Kyl (R-AZ), and Dianne Feinstein (D-CA) for their groundbreaking efforts on the Border Security measure, and supports its swift passage into law.

Why has the INS faltered in carrying out its missions? Both the INS and Congress are to blame. First, the agency needs to better manage its enforcement and adjudications responsibilities, which themselves need to be both better differentiated and coordinated. Second, the agency has had problems dealing with the vast and complicated changes in immigration law and the unprecedented growth in its size and responsibilities. Third, the continued absence of adequate resources for adjudications makes it difficult for the INS to fulfill its responsibilities in this area. Finally, Congress has contributed to the agency's problems because of conflicting, complicated, unfunded, and incomplete mandates. As a result, people wait years to reunite with close family members and obtain U.S. citizenship, and businesses are forced to wait years to fill jobs with needed legal immigrants. Moreover, the INS has been crippled because it is granted neither the financial resources nor adequate authority (such as access to relevant databases of other federal law enforcement agencies) to carry out its functions successfully.

AILA is on record urging the creation of a new, independent cabinet-level department or agency combining all current immigration-related functions of the INS and the Departments of Justice, State, and Labor. Such an agency should separate, but coordinate, immigration services and enforcement functions. Just as we have an Environmental Protection Agency to coordinate all environmental issues, we also should have a single, cabinet level immigration agency to handle all immigration issues. If a new, independent agency is unfeasible, AILA urges the creation within the Department of Justice (DOJ) of two separate, but coordinated, entities for services and enforcement. These two bureaus should be staffed by trained individuals who can rise within the ranks of their respective bureaus based on their experiences. (Unlike current circumstances, the two bureaus would need to offer their employees similar benefit and retirement packages.)

Someone in charge who reports directly to the Attorney General should oversee these bureaus. Having such a person in charge would improve accountability by fully integrating policy making with policy implementation, coordinate the efforts of the two bureaus, ensure direct access to high-level officials within the executive branch, and attract top managerial talent.

## PROPOSED INS RESTRUCTURING PLANS

Several plans have been proposed to restructure the INS. These plans reflect different visions of how best to restructure the agency. Most reflect the consensus that the enforcement and adjudication functions should be separated. The plans differ, however, on whether there should be a strong central authority, what the role and responsibilities of the enforcement and adjudications divisions should be, and whether these two functions should be coordinated. Such differences are significant and can play a leading role in determining whether reorganization efforts will ultimately succeed or fail.

**The Bush Administration Plan:** Bush Administration officials have emphasized the need for fundamental reform of the INS, and support separating enforcement and adjudications to address competing priorities and problematic chains of command. On November 14, 2001, the Administration announced a reorganization plan, the details of which include many provisions that were part of the bipartisan legislation introduced in 1999 by Senator Edward Kennedy (D-MA) and former Senator Spencer Abraham (R-MI). Many of these same provisions are included in the bill soon to be introduced by Senators Kennedy and Brownback. The Administration's plan includes a strong Commissioner, clear lines of authority, and separation (with coordination) of the agency's enforcement and adjudications functions.

**The Border Security Agency Proposal:** Homeland Security Chief Tom Ridge reportedly has proposed a plan to consolidate some of the functions of the INS, including enforcement, inspections and the Border Patrol, with those of the U.S. Customs Service. Other reports indicate that the Coast Guard and some Department of Agriculture programs would be included in this consolidated agency. Some Members of Congress have introduced measures that would create such an agency.

While enhanced coordination of enforcement functions (and border-related functions, specifically) is vitally important, any inter- and intra-agency coordination would be harmed by any proposal that splits off INS inspections and other aspects of INS enforcement from the entity responsible for overseeing our nation's immigration system. Such splitting off runs counter to an effective reorganization of our immigration functions, and would threaten the necessary balance between enforcement and adjudications. It is essential to have one person in charge of all immigration functions to ensure the consistency of legal opinions, interpretation, and implementation. A border security function that subsumes the enforcement aspect of immigration but which would be separated from adjudications would lead to ineffective enforcement and adjudications.

Rather than moving boxes around an organizational chart, some form of unified port management may offer an effective solution, and merits further investigation. But unified port management does not require the reinvention of the proverbial wheel by forming a new single federal agency. Instead, it would involve individual agencies reporting to a single port director at

the ground level for major port operation decisions. Efficiencies could be achieved through community and agency involvement to create a port authority reporting to a governing body comprised of agency and Administration members. Such a body would clearly and decisively react to port of entry security, staffing, infrastructure, and policy needs. All of these needs must be coordinated to achieve the goal of enhanced border, and hence, national, security.

The Sensenbrenner/Gekas Bill (H.R. 3231): Insisting that the Bush Administration's proposed reorganization of the INS could not be effective, Representatives James Sensenbrenner (R-WI) and George Gekas (R-PA) introduced H.R. 3231. The version of H.R. 3231 passed by the House on April 25 does include some positive improvements on the legislation as originally introduced. We commend Representatives Sensenbrenner and John Conyers (D-MI) for their hard work to reform a deeply troubled agency.

H.R. 3231 would abolish the INS and create an Office of Associate Attorney General for Immigration Affairs (AAG). It also would create two Bureaus within the Department of Justice: the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement. While the relationship between the AAG and the two bureaus is unclear, it appears that the AAG would have insufficient authority, especially when compared to the clout that the bill would give to the Directors of the two Bureaus. The Directors of the two bureaus would be charged with establishing immigration policy. In addition, while the bill would separate the agency's competing functions, it provides little, if any, coordination between the two.

The Bush Administration, while issuing a statement urging House passage of H.R. 3231, noted its concern with several provisions in the bill, including the weakened authority of the new AAG in comparison to the authority of the existing INS commissioner.

The Kennedy/Brownback Bill: This bipartisan measure, entitled the Immigration Reform, Accountability and Security Enhancement Act of 2002, would dismantle the INS and establish in its place the Immigration Affairs Agency (IAA) within the DOJ. A Director of Immigration Affairs who is tasked with full responsibility and authority to administer the agency would head the IAA. The bill also would establish a Bureau of Immigration Services and Adjudications and a Bureau of Enforcement and Border Affairs, each headed by a Deputy Director. The Kennedy/Brownback reorganization plan creates an immigration agency headed by a Director with clout, separates and coordinates the enforcement and adjudications functions, has clear lines of authority, and includes helpful funding provisions. As such it is the only legislative proposal that fulfills the criteria reviewed below.

In summary, both the Bush plan and the Kennedy/Brownback bill would place someone in charge with clout and would separate, but coordinate, the agency's two functions. H.R. 3231 does not create a strong central authority. Nor does it provide for coordination between the two functions. The Ridge plan, by consolidating INS enforcement and border functions with functions now housed in other agencies, would separate these functions from adjudications, making a consistent interpretation of the law and any coordination between the two extremely problematic. The Ridge plan also appears to contradict the INS reorganization plan that the Administration has advanced and has begun to implement. That plan, in contrast to the Ridge border security plan, is based on a strong central authority with direct lines of command over the enforcement and adjudications functions.

## INS REORGANIZATION WOULD AFFECT REAL PEOPLE

Any reconfiguration of our immigration function will work only if it successfully serves real people. Here are some examples of why it is vital to have a single person in charge and close coordination between adjudications and enforcement:

The Border Patrol picks up a suspected illegal alien. He claims to be a lawful permanent resident, but does not have his green card in his possession. The Border Patrol needs to check his status with Adjudications before determining whether to release or detain him.

Immigration Adjudications receives a petition for H-1B status and suspects fraud. The INS Service Center wants to check on the employer's record with INS and determine whether it has been found to hire undocumented workers in the past. The Adjudications division would need to access enforcement records to check on the employer's work site investigations records.

An applicant for adjustment of status claims to have no periods of unlawful presence. The Immigration Adjudicator suspects otherwise based upon claimed dates of entry. Without easy access to entry/exit records from Inspections, the adjudicator cannot confirm her suspicions.

There is a discrepancy regarding whether the physical presence requirement in an application for Temporary Protected Status (TPS) has been met. INS needs to examine entry databases. Without easy access to those inspections records, the application cannot be properly or efficiently adjudicated.

An individual applies for a green card after marrying a U.S. citizen. She arrived legally, but overstayed her tourist visa. INS adjudications needs to check with the enforcement branch to make sure there are no issues precluding her from obtaining a green card.

A Canadian computer systems analyst applies for a TN visa at the U.S.-Canada border. He has a minor conviction from 20 years ago for possessing a small amount of marijuana. He needs a waiver under INA § 212(d)(3) to be able to enter the United States. Under any reorganization, the service and enforcement branches need to coordinate efforts to allow this person entry.

These examples underscore the need for restructuring to be based on the principles discussed below.

## PRINCIPLES THAT SHOULD GUIDE INS RESTRUCTURING

AILA believes that any successful reorganization of the INS must be based on the following four criteria:

Appoint a high level person with clout to be in charge of both the adjudications and enforcement functions.

Coordinate the separated enforcement and adjudications functions.

Provide adequate resources.

Ensure that a reorganized immigration function contributes to our national security.

Appoint a high level person with clout to be in charge of both the adjudications and enforcement functions. This person must integrate policy making with policy implementation and lead and coordinate the separate service and enforcement functions. Accountability and leadership must come from the top.

A successful reorganization of our immigration functions hinges on the appointment of one full-time, high-level person with line authority. Such an office would improve accountability, especially critical after the September 11 terrorist attacks, by fully integrating policy making with policy implementation, ensuring direct access to high-level officials within the executive branch, attracting top managerial talent, having authority both horizontally and vertically, and leading the efforts of the two bureaus. Especially after September 11, it is vitally important that one person at the top articulates a clear, coherent, and unified immigration policy within the government, to Congress, and to the world.

Given this country's urgent need to maintain and upgrade its security, it is now more pressing than ever to place one person in charge who is accountable so that our laws are implemented quickly and fairly, rather than developing two rival bureaucracies that will create balkanized immigration policies. Given this need for accountability and coordination, AILA also would support placing the inspections function in the office of the person in charge. Given that enforcement and adjudications come together in the inspections process, it is important that the person in charge oversees the exercise of this procedure and that inspectors receive training in both adjudications standards and enforcement procedures. In contrast, the Bush Administration plan and H.R. 3231 both would place inspections in the Bureau of Enforcement.

The need for someone in charge of national policy with direct authority over the two immigration functions is evident in other areas as well. For instance, immigration enforcement officers interdicting or inspecting asylum seekers will likely have a different interpretation than would immigration service personnel as to whether the asylum seeker is eligible for protection under U.S. laws and treaty obligations. One central authority would help ensure consistent interpretations of the law.

## 2. Coordinate the separated enforcement and adjudications functions.

A consensus has been reached that separating the enforcement and adjudications functions will lead to more clarity of mission and greater accountability, which, in turn will lead to more efficient adjudications and more accountable, consistent, and professional enforcement. The Kennedy/Brownback bill, H.R. 3231, the Bush Administration's plan, and the Ridge border security plan all are based on such a separation.

However, coordination of the two functions is as important as separation and is key to a successful reorganization because enforcement and adjudications are two sides of the same coin. Almost every immigration-related action involves both enforcement and adjudicatory components. The INS's recent blunder in notifying a Florida flight school regarding the agency's approval of student visa applications for two of the now-deceased September 11 terrorists reinforces the need for these two functions to be even more closely coordinated than they are today. Only through such coordination will we achieve consistent interpretation and implementation of the law, clarity of mission and, in turn, more efficient adjudications and more

effective, accountable, consistent, and professional enforcement. Such coordination cannot be achieved merely by creating a shared database. Inconsistent policies and interpretations of the law, the lack of a common culture, and - most importantly - the absence of someone in charge who can resolve differences, can turn routine referrals into Kafkaesque nightmares.

The Kennedy/Brownback bill and the Bush Administration plan provide for this coordination. H.R. 3231 and the Ridge proposal do not. While H.R. 3231 separates enforcement and adjudications by creating two separate Bureaus within the Department of Justice, there is little coordination between the two, save a General Counsel placed in a weak Office of the Associate Attorney General. This coordination is largely lacking because there is no high level official given sufficient authority over the two bureaus who would be able to integrate shared information systems, policies, and administrative infrastructure, including personnel and training. The two bureaus likely would end up working at cross-purposes, with the leaders from each sending conflicting messages on policy matters pertaining to complex laws.

The absence of coordination can lead to inconsistent opinions and policies, and result in each bureau implementing laws differently, thereby creating ongoing difficulties. The absence of coordination will exacerbate these concerns even more and raise additional questions. For example, since border inspections combine both adjudications and enforcement functions, how will the many different activities that take place at our ports of entry be handled? These activities can include officials adjudicating asylum eligibility, granting final admission as a legal permanent resident based on an immigrant visa, issuing entry documentation, interdicting those ineligible to enter the United States, and assisting in the interdiction of those engaged in trafficking activities. Given the structure of H.R. 3231, these functions would not be organized, integrated or coordinated.

Furthermore, how will Congressional staff be able to efficiently handle requests for assistance on immigration matters? Without adequate coordination, staff will be forced to deal with two separate bureaus that implement different policies and practices, making their jobs much more difficult and time-consuming.

Provide adequate resources for the adjudications and enforcement functions and ensure that direct congressional appropriations are available to supplement user fees.

As the reorganization debate continues, we urge Congress to review how immigration functions have been and should be funded. Currently, enforcement functions are supported by congressional appropriations, while adjudications are largely funded by user fees. Since adjudications are as much in the national interest as enforcement, adjudications should receive on an ongoing basis direct congressional appropriations to supplement user fees. AILA supported the establishment of the Examination Fee Account when it was first created. However, given the history and status of that account, we have revised our views and urge Congress to supplement user fees with congressional appropriations to ensure that an appropriate level of service is achieved.

In addition, adjudication fees paid by applicants for immigration benefits should be used solely to adjudicate those applications. In practice, a large share of the user fees has been diverted to support other functions. Immigrants, particularly when they already are experiencing lengthy



delays and unacceptable levels of service, should not be forced to pay for programs unrelated to the processing of their applications. The responsibility for programs that do not generate fees should be shared among all taxpayers.

Both the Kennedy/Brownback bill and H.R. 3231 include important first steps in this area. But we believe that Congress should go beyond the measures included in both bills and dramatically increase its appropriations role.

Ensure that a reorganized immigration function contributes to our national security.

Our immigration function, whatever shape it takes, has an important role to play in helping our nation enhance its security. To aid in that effort, a restructured immigration agency needs a strong leader at the top who can quickly undertake decisive actions, especially in periods of emergency. To be effective, particularly in times of crisis, a reorganized agency also must have accountability. Creating an agency with a weak position at the top, and empowering the heads of two conflicting bureaucracies, as envisioned in H.R. 3231, is a recipe for conflict and dysfunction, especially in times such as these when the need for quick and effective decision-making is essential to protecting our national interests.

Any restructuring of our immigration function to enhance our security must reflect the importance of both adjudications and enforcement and include adequate funding for both. While the importance of enforcement is obvious in this regard, the security-related aspects of adjudications have been downplayed during the restructuring debate. As important as it is to enforce our laws as a means to enhance our authority, it is equally crucial that we distinguish those who mean to do us harm from those who seek entrance into our country, much as our ancestors did, to help us build this nation. Provisions in the Border Security and Visa Entry Reform bill reflect the importance of both functions and the need to pay for initiatives in both areas. Any INS reorganization bill should do the same.

Given our nation's enhanced security needs after the September terrorist attacks, it is important that Congress and the Administration support direct federal appropriations for the kinds of technological, staffing, and infrastructure needs that both the INS (in its enforcement and adjudications capacities) and the Department of State will require. The security agendas of these two agencies cannot be supported through user fees alone. The enhanced capacity to meet our security needs is an important national function best supported through the federal government and will require such support on an ongoing basis.

## RESTRUCTURING MUST BE BASED ON RELIABLE INFORMATION

The information Congress needs to help determine the best reorganization plan must be reliable. AILA urges Congress to seek this information from many sources, including INS staff at headquarters and in the field and those who use the agency's services. AILA member attorneys have much experience dealing with the INS at headquarters and in the field (at service centers, district offices, and ports-of-entry, for example). We stand ready to relay to Congress information concerning the agency's failures and successes based upon the hundreds of thousands of encounters our members have had with the INS over the years.

Such anecdotal information serves a useful function. However, it is precisely that: opinions of AILA members based upon their experiences. Rigorous study would be needed to determine if these opinions are fact. The General Accounting Office (GAO) did not exhibit such caution when it recently issued a report entitled "Immigration Benefit Fraud: Focused Approach Is Needed to Address Problems." The GAO report was supposed to review information on the nature and extent of immigration benefit fraud at the INS.

Fraud should not exist within the INS or any agency. Immigration benefit fraud threatens the integrity of the legal immigration system. It cannot and should not be tolerated. Like the GAO, many, with good reason, have found fault with INS management. Certainly, there is much room for improvement. We all want an agency that works, and works well. However, any investigation of fraud must be conducted fairly and use methods that are above question. Based on these criteria, the GAO has failed. Its report presents opinions as facts, makes no attempt to corroborate allegations raised, and portrays the INS's successful efforts at fraud detection as examples of a broken system. In fact, the report really is two reports: one focusing on alleged fraud based on uncorroborated opinions, and the other detailing procedural changes from which any agency would benefit.

What did we learn from this report?

The report repeatedly cites opinion as fact, appears to fault the INS when the agency successfully detects fraud, and suggests that simply because the agency has found fraud, such fraud is pervasive. Phrases such as "one official told us," "views of INS officials," "district officials told us" and similar attributions are repeated throughout the report, with anecdotal data treated not only as fact, but as pervasive fact. In addition, when citing to various instances of fraud throughout the report, the GAO, instead of crediting the INS for having mechanisms in place that have been successful in uncovering such fraud, criticizes the agency for the existence of the problem. The GAO could have concluded instead that current INS procedures to detect fraud are working. At the very least, these procedures are not as ineffective as the GAO alleges them to be. Finally, the report's tone and conclusions do not reflect what the GAO itself admits, that the "estimates provided by INS supervisors and managers were not based on scientific studies."

The GAO has raised serious charges. Such charges need to be based on fact, not allegations or conjecture. There is room for improvement in any agency, especially the INS, but any successful reform must be guided by accurate data.

The GAO report reinforces the need for someone in charge and a reorganized agency that coordinates the two functions of enforcement and adjudications. While not focusing extensively on INS reorganization, the GAO emphasizes the importance of coordination in a reorganized agency that separates the enforcement from the adjudications function: "Organizational crosswalks would need to be devised to assure that the two primary functions were still being effectively coordinated and balanced, that is that the enforcement concerns were considered in performing service functions and vice versa. Our intention is that these primary functions be coordinated and balanced, regardless of how the agency is structured." (GAO report at pg. 34). The GAO's recommendations also support the need for one person at the top who has the authority to coordinate all activities and goals. Such coordination, achieved both through the

person in charge and through the structure of the reorganized agency, is critical throughout the INS.

**Importance of Adequate Funding for Adjudications:** The GAO report was silent on one of the most important issues needing to be addressed: the importance of adequate funding for the INS in general, and adjudications in particular. While the GAO criticizes the agency for doing too little to combat immigration benefit fraud, the Service has not received adequate funding to undertake this task in a comprehensive and effective manner. Especially in this time of enhanced security, the INS needs the funding and technology that are critical for the agency to do a good job. The report also raises concerns about the INS's ability to balance its dual responsibilities of application processing and fraud detection, and states that "unless INS can devote additional resources to processing applications, its efforts to expedite application processing will mean that the quality of adjudication will most likely be sacrificed." (GAO report at pg. 27). Again, the most effective response to this concern is adequately funding the agency so that the competing goals of quality and timeliness can be achieved. Such funding must come from direct congressional appropriations that would supplement user fees.

**Importance of Enterprise Architecture and Information Technology:** The GAO report recognizes the importance of agency-wide case tracking, information technology, and management capability to help ensure the effective use of resources, and that necessary coordination occurs and accurate immigration benefit decisions are made in a timely manner. The INS, recognizing that the agency could achieve these goals through enterprise architecture and information sharing, was moving in those directions even before September 11. Since that date, the Service has accelerated work in those areas, which will help ensure the quality of adjudications as well as enhance our security efforts. Once again, adequate funding will be critical to the ability of the Service to develop and implement the needed improvements.

## CONCLUSION

INS restructuring is not a dry exercise involving reform of a government bureaucracy. Decisions in this area will impact directly on our national security, as well as the lives of hundreds of thousands of American citizens, businesses, and legal immigrants who daily interact with this system. Making the wrong decisions can weaken our security through less effective and unfair enforcement, and result in unconscionable delays in citizenship processing, reuniting families, and helping American business to acquire the workers they need.

Mr. Chairman, thank you very much for this opportunity to share my thoughts and perspectives with the committee. AILA remains available to discuss these matters with you at any future time, and is dedicated to working with Congress and the Administration to ensure that reorganization succeeds. Thank you.