DECISION FACTORIES:

The Role of the Regional Processing Facilities in The Alien Legalization Programs

Written for the
Administrative Conference
of the United States

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INTRODUCTION

Knowing that literally millions of individual decisions are currently being made about millions of newly-legalized aliens, the Administrative Conference of the United States asked TransCentury Development Associates to examine the operation of the four Immigration and Naturalization Service (INS) entities making these decisions. These are called Regional Processing Facilities (RPFs) by INS and decision factories by the authors.

This report follows earlier reports made by the same authors for the Administrative Conference, and the Ford Foundation,[1] regarding earlier stages of the alien legalization programs which had been set in motion by the passage of the Immigration Reform and Control Act of 1986 (IRCA)[2]. This report summarizes the progress of the alien legalization programs to date (the last filing deadline, for the farmworkers' part of the program, ended on November 30, 1988) and describes in some detail the structure and function of the RPFs.

TDA is grateful to a number of individuals, in INS, in other immigrant-serving agencies, and in the immigration bar, for the thoughtful responses they gave to our questions. These were asked as we visited more than two dozen local INS legalization offices, all four of the decision factories, and numerous related institutions. We owe a special note of thanks to Terry O'Reilly and Aaron Bodin of Central Office, and to the four RPF managers, who were most generous with their time: Joe Thomas in the Western Region; Jim Bailey, Northern; Gil Tabor, formerly Eastern, now at the Eastern RSC; and Lewis De Angelis (acting director) Southern. We are thankful to Bonnie Flanigen of the TDA staff for her abilities with concepts, words, numbers and editorial production. None of these words and numbers would have been set on paper without the financial support

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[1] See North and Portz, *A Review of the Decisionmaking Process in the Alien Legalization Program Established by the Immigration Reform and Control Act of 1986*, TransCentury Development Associates (TDA), Washington, 1988, and *Through the Maze: An Interim Report on the Alien Legalization Program*, TDA, Washington, 1988.

[2] Pub.L. 99-603.

of the Ford Foundation and the Administrative Conference. The authors alone, however, are responsible for what follows; it is a report *to* the Administrative Conference, not *by* it.

I. AN OVERVIEW OF THE ALIEN LEGALIZATION PROGRAM

If one were to mix the Emancipation Proclamation with IRS form 1040, or stir the granting of the franchise to women with the issuance of drivers' licenses to teenagers needing to prove their age, one would get a rough picture of the significance -- and the complexities -- of the alien legalization programs created by IRCA.

The 13th and 19th Amendments opened new doors, respectively, for 4.5 million slaves and 50 million women; Congress achieved these breakthroughs in, respectively, 43 and 42 words. No one needed an army of adjudicators to determine who had been slaves and who were women (though enforcing the rights of both groups has keep many a judge busy ever since.)

But granting legal status to nearly three million previously undocumented aliens has proved to be a different kind of task. Congress took 100 pages to spell out IRCA, including provisions on other, related issues; and more than one thousand total legalization staff government and contract people continue to sort through the alien applicants and their paperwork.

A. Origins, Eligibilities and Benefits

The origins of the legalization segments of IRCA have been described more fully elsewhere[3] but they can be summarized briefly here. After more than a decade of debate the 99th Congress decided that the country needed to take two different kinds of actions to reduce the size of the illegal alien population: (a) employers were to be fined (sanctioned) in the future, for hiring undocumented workers while (b) the more senior of the illegal aliens in the country were to be given an opportunity to file for legal status. This package of proposals constituted the heart of the Immigration Reform and Control Act which was signed into law on Nov. 6, 1986.

Although IRCA created a couple of lesser legalization programs as well, the two principal ones were for aliens who had been in the nation since January 1, 1982 (the section

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[3] See, for example Meissner, Doris, and Demetrious Papademetriou *The Legalization Countdown: A Third Quarter Assessment*, Washington DC: The Carnegie Endowment for International Peace, 1988, as well as the two reports cited in footnote # 1.

245A program) and for alien farmworkers, who had worked in specified agricultural employment for at least 90 days in a period ending May 1, 1986. The latter is the Special Agricultural Worker or SAW program.

Although there are substantial differences between the two programs, they have the following in common:

- aliens seeking legal status had to apply in person at INS offices where they went through personal interviews;
- they had to submit to a medical examination, blood test and x-ray procedure;
- they had to submit multi-part application forms as well as supporting documentation;
- the process was an expensive one, with government fees, medical and photography expenses as well as, in many cases, charges made by counseling organizations;
- those whose applications were approved receive a newly-created legal status, that of temporary resident alien (TRA); this status is clearly better than that of an illegal alien, but not as good as that of an immigrant (permanent resident alien status);
- in addition, both programs (section 245A and SAW) have been subject to much controversy and numerous court cases.

The section 245A application period (for aliens who had lived in the U.S. since January 1, 1982) opened on May 5, 1987 and closed twelve months later. The SAW program started on June 1,, 1987 and closed on November 30, 1988. The application fee for each program was $185, with fees being capped at $420 for nuclear families.

The benefits of the two programs were not identical, with farmworkers receiving a much more attractive package than those in the 245A program, but again, these elements were common:

- temporary resident alien (TRA) status may lead to permanent resident alien status and on to naturalized citizen status;

- both SAW and 245A applicants, after interview, were usually granted short-lived work authorization cards; following granting of TRA status they secured a longer-lived work authorization card;

- both groups can, under different circumstances, travel legally into and out of the U.S.;

- both groups were encouraged, at the time of application, to straighten out their often muddied relations with the Social Security system;

- both groups have only limited access to public assistance programs while in TRA status;

- neither group can use the TRA status to seek immigrant visas for their relatives;

- most previous immigration law violations were not held against either group, and data secured in the application process could not be used for any other governmental (or private) purposes.

In summary, two different groups of undocumented aliens were invited to apply for a fairly complex, somewhat expensive program; the very large majority of applicants who were found qualified received substantial benefits, but not quite as attractive as those available to the usual flow of immigrants; there were different eligibility standards, application windows and benefit packages (as spelled out subsequently) for the 245A and the SAWs applicants.

B. The Application Process

To obtain a better appreciation of the alien legalization program in general it is useful to follow a couple of

imaginary applications through the decision-making process.

The Case of Agnes B. A Section 245A application was filed in November, 1987, by Agnes B. A woman in her thirties, with one Mexico-born child and two younger U.S. Citizen children, she went to one of the INS-licensed assistance agencies (termed Qualified Designated Entities (QDEs) by the legislative draftsmen). She brought along a shoebox full of documents, some useful to her cause, some useless. The QDE case worker sorted through the box, and pulled out (for photocopying) a set which depicted Agnes' life in detail. There was her birth certificate from Mexico; the 12-year-old U.S. marriage license; her husband's old Texas driver`s license (they moved to Indianapolis last year); an El Paso Independent School District report card for the oldest child, fortunately dated June 2, 1981; an INS document showing her one brush with the Border Patrol; birth certificates for the two U.S.-born children; several doctor's bills; some pay stubs and rent receipts; the insurance on the family car, dated July 1, 1983, and more. Agnes had the money she needed for her own application ($185) and the $50 for the oldest child. As was often the case, this was a family with mixed immigration statuses; while mother and oldest son were undocumented, the father had a green card and the younger children were U.S. citizens.

The caseworker helped her fill out the I-687 application forms[4] for herself and her son. Then Agnes carried that form, the checks, the photos and the medical examination off to the nearest Legalization Office (LO). (There were 107 of them at the peak of the program.) Since she was living in Indianapolis at the time she was in luck -- there was a nice big office with few applicants and she had an immediate interview. Elsewhere she might have had to wait for months.

The INS adjudicator looked through her collection of documents, read the application carefully (there was no time pressure that day) and asked a few questions; she was satisfied that Agnes and her documents and her application meshed with one another. The adjudicator marked "approval recommended" on the worksheet (I-696), gave Agnes a receipt for her checks ("feed her in" to use the INS

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[4] Most INS forms start with the letter I, for immigration. See Appendix for copies of this and other legalization forms.

term), walked her and her son over to a Polaroid camera, took her picture, and sealed the photo into a driver's-license-sized work-authorization card.

Then Agnes and her application went their separate ways. Agnes and her son took their new documents, which came out of the sealer about the temperature of freshly-baked bread, and went home to wait for the next step.

The file was then sent to the national clearing center, in London, Kentucky, where a contracting firm key-punched the more important information from Agnes's application. The firm sent electronic messages off to a series of U.S. government index systems to see if any of them had any records on Agnes. Among the systems queried in this, and every other case, are the FBI master file on criminal activities, the Government's lookout book file for people they want to stop at the ports of entry, and several, not-yet-totally connected INS data systems.

Once these activities had been set in motion, Agnes' file was boxed up with dozens of others and sent overnight by Federal Express to another location not usually associated with immigrants, the basement of the federal building in Lincoln, Nebraska. Here Agnes' file was delivered to one of the decision factories we are describing, the Regional Processing Facility (RPF) for the INS Northern Region.

The file was logged in and was placed on a shelf for several weeks. Meanwhile, the query from London, Kentucky, produced no responses from any of the electronic files consulted. The FBI knew nothing about Agnes. None of the INS files reflected her one apprehension by the Border Patrol (which is not unusual for a single, non-aggravated apprehension). In the words of the RPF, there were no hits on her case, and since this was true, and since there was a recommendation for approval from the LO, her file went into the automatic approval category.

A sample of 10% of these cases are reviewed at the RPF, but Agnes' was not, and a letter was ground out telling her to come back to the Indianapolis LO for another card, this one indicating that she had been approved for TRA status.

Agnes regarded the letter with mixed emotions; it was neither attractively printed nor immediately scrutable (see Exhibit 1.) Worse, it was about her, and not about her and her son. Had she been approved, but her son denied? What had happened, as she would never learn, was that her son's file had been selected in the random quality review of the RPF; once the adjudicator saw the son's file he asked for

the mother's as well, and it took some days before he got back to the youngster's case, which was quickly approved once it got to the top of the pile. (INS, like virtually every other government agency except those administering aid to families with dependent children, works through cases individual by individual, as each single person must qualify or not qualify on his or her own.)

Since Agnes, and, later, her son, were approved for Temporary Resident Alien status, she was effectively through phase one of the program, and would, later, as will the reader, face phase two.

The Case of Sam C. While Agnes B. was clearly eligible for section 245A TRA status, and was found to be eligible without difficulty by INS, the imaginary Sam C. presented a more troublesome case, for himself, and for the agency.

Sam is a 23-year-old single male from Belize. He now works in a store in Chicago which sells records and tapes, and rents videos, to a predominantly Jamaican clientele. He walks, talks and dresses like a city person. He says that when he first came to Chicago in 1985 he knew no one, and spent several months working for a Jamaican crewleader on the truck farms in Cook County south and east of Chicago. (Privately he is not sure that he worked as much as 90 days in the fields, but he is not sure that he did not; he does not share that information with anyone.)

When Sam heard about the alien legalization program he first learned of the 245A program, and knew that he was not eligible; after a while he learned that there was a farmworker program as well, so he looked up the QDE which had an office in the Belizian neighborhood of Chicago. He went up the steps and found a little office run by the local Chinese Benevolent Association; it did not have many Chinese applicants for legalization, but it had a thriving practice among the people from Belize who lived in the neighborhood. (The last sentence is *not* imaginary.)

The Chinese gentleman in charge was a little dubious about Sam; he looked pretty urban for a farmworker, but he told Sam that he needed at least some evidence, other than his own word, that he had worked in agriculture. "Go find that crew leader, and have him fill out the verification form" he said. Sam took the form (I-705) and started to look for the crew leader.

Agriculture crew leaders (or labor contractors, the West Coast term) are rarely mistaken for the pillars of the community; Sam was sure that his crew leader, Jonas D.,

had cheated him in several ways, and did a little illegal selling of liquor and pimping on the side. They had not parted friends. But Sam bit his lip, he looked up Jonas and asked him to sign the I-705.

Jonas had forgotten their quarrel, and may have forgotten Sam completely, but he was wise in the ways of the SAW program. He said that he thought Sam had worked for him, but would have to check his records; that would take a couple a days and it would cost Sam $150 -- if Sam came back on Monday with the money, Jonas would see what he could do.

Sam did not like Jonas, he did not like paying $150, but he felt he had no choice. He showed up with the money and Jonas signed the I-705 indicating that Sam had worked vegetables in the spring and summer of 1986.

Sam went back to the Chinese QDE where the rest of the application was completed. He then visited the Blue Island legalization office where he was interviewed by an adjudicator with no immigration experience, but some street wisdom; she knew about Mexican and Puerto Rican and Southern Black farmworkers but a Belizian? With those clothes? With those soft hands? But, on the other hand, he did know the difference between a hoe and a shovel, knew at least the most obvious facts about radishes, carrots, tomatoes and spinach. And he was not flustered. He knew he had worked for Jonas, and seemed consistent in what he said.

The adjudicator decided to do something that has happened frequently in the SAW program. She recommended that his application be denied on the worksheet (the I-696), checked that fraud was suspected, but at a low level (one point out of five) and then gave him the same work authorization card that Agnes had secured at the time of her interview. Sam was relieved to get the card, was happy that the difficult interview was over, and had no clue that he had been recommended for denial.

Sam's file was also sent to London, Kentucky, but the electronic queries received some responses. INS had a file on him for trying to push his way through the Brownsville, Texas, port of entry without being inspected. (This sometimes works during the rush hour.) He had been booked by the police after a tavern brawl, and his fingerprints were known to the FBI, but there was no conviction.

When Sam's file came up for adjudication in Lincoln, Nebraska, the INS staffer pricked up his ears. No single item was fatal, but the combination meant he had to look further. There was just one piece of documentation on farmwork, and that was signed by Jonas. The adjudicator asked the document fraud unit if they knew anything about him; the answer was yes, he had been known to do run a small-scale crew of farmworkers, but he had signed more than 60 I-705s, mostly for Pakistanis, and a couple of them had admitted to INS staff that they (a) had never worked for Jonas, and (b) they had paid $300 for the documentation. That did not mean that Sam had not worked in agriculture, but it looked suspicious. The RPF adjudicator asked Sam to provide additional support for his farmwork experience, and placed the file in the continuing category where it still sits.

Sam's case is not unique. Some farmworkers with genuine agricultural work experience have had to pay for documentation; some crewleaders with genuine farm experience sell documents, directly or indirectly, to people who have never worked for them; as a matter of fact, most people selling SAWs documents are, in fact, in agriculture. Making decisions about people with files like Sam's is very, very difficult, which is why there are so many pending cases.

If Sam gets through the process, however, he will be in better shape than Agnes. Since Congress set different, and less stringent requirements on farmworkers than on the 245As, Sam will float through the second phase of the legalization program while Agnes will continue to struggle, a subject to which we will return.

C. Decisions Made in the First Phase

There were two decisions to be made in every first phase legalization case: an individual one by the applicant to apply, and a governmental decision regarding the disposition of that application.

Much of the controversy about the first phase of the 245A program revolved around the first kind of decision. Was the program being run in such a way that the maximum number of eligibles were applying?[5] (Given the large number of SAW applicants, and the apparent presence of substantial fraud, there were few complaints that the SAW

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[5] For more on this subject, see *Through The Maze*, pp. 46-55.

program was under-utilized by legitimate applicants.)[6] In most cases, 245A eligibles decided that the expense and the bother of the program were overshadowed by the principal benefit -- the right to be a legal resident of the United States -- so they applied: we will never know how many 245A eligibles did not apply.

In numerical terms approximately 1.8 million people applied for the section 245A program, while another 1.2 million applied for the SAW program. Both of these totals were somewhat different from the predictions: there were fewer 245A applicants than many had predicted and far more SAW's. One reason for both of these differences may be that the SAW program required much less documentation and people eligible for both opted for SAW's. Another, less cheerful reason, is that the differential documentation requirements pushed (or lured) most of the fraudulent applicants into the SAW program. Certainly people working in both programs (those in and out of the government) agreed that fraud was a minor problem in the 245A program and a major one in the SAW program, particularly in the last half of the application period.

After the aliens decided to apply, what did INS decide to do with the applications? Nationally, as of Jan. 27, 1989, these were the statistics for the 245A and SAW programs:

	245As	SAWs
Total applications received	1,767,033	1,387,824
Approvals	1,311,560	332,210
Denials	28,439	21,674
Pending	427,034	933,940

These data require a little elaboration. The total number of applications are for those fed in by INS on January 27, 1989; a few more 245A applications may arrive, because of court decisions; thousands, perhaps tens of thousands of additional SAW applications will enter the system because

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[6] For a typical journalistic account see Peter Applebome 'Four Laws Abused by Illegal Aliens,' *New York Times*, Nov. 17, 1988. For more detailed coverage of the subject, written for immigration lawyers, see the frequent articles written in *Interpreter Releases* throughout the life of the program.

they were still being processed by INS or by QDEs on that date.

The final decisions shown above are those made at the RPFs, and do not relate to recommendations made at the Legalization Office level. (A more detailed analysis of decision-making, and appeals, at various steps in the process can be found in Chapter II.) We calculated the pending cases by subtracting the number of decisions from the number of applications filed; the pending cases fall into several subcategories including many freshly filed in the SAW program, many other cases awaiting interviews, many going through the normal process at RPFs, some categorized as continued -- awaiting additional documentation and, unfortunately, many SAW applications set aside for further scrutiny because fraud is suspected. Several thousand other cases are pending because they are covered by on-going, class-action litigation.

The numbers shown above indicated that the overwhelming majority of RPF-decided cases have been decided for the applicant; for the decided cases, 97.4% of the 245As have been approved, as have 92.6% of the SAWs. However, the approval rate for the SAW cases is likely to drop, as INS tackles both the late filers and the backlogged cases.

D. The Second Phase of the Legalization Program

The Requirements. Before addressing the public administration problems and public policy implications of the second phase of the alien legalization program, let us examine it from the rather different perspectives of Agnes (and her son) and of Sam (assuming he is found eligible in the first phase.)

They may not know that they have secured only *temporary resident alien* (TRA) status, and not the full-fledged *permanent resident alien* (PRA) status enjoyed by other immigrants, the ones with the green cards (I-551s). In the case of Agnes and her son, they must successfully complete another application process during a finite period of time or revert to illegal alien status. Sam is luckier: if he makes it through the first phase, he will be in TRA status, but he will convert automatically to PRA status without lifting a finger.

This discrepancy was caused by Congress setting different standards for urban and rural residents of the

legalization program -- it clearly wanted the urban ones to learn some English and some civics and it clearly wanted to make it easier for farmworkers to apply for TRA status than for others to do so. (This tilting of the system was designed to meet the desires of California agri-business; that it happens to help a number of farmworkers is largely incidental.)

SAWs are treated differently, and better, than 245As on a long series of variables, not just in the much easier eligibility requirements and the longer window for applying. Whether or not the SAWs' more generous access to social service programs, to international travel, and the fact that they can skip the English and civics requirements made of 245As was deliberate is hard to determine. This is the case because the SAW provisions were written outside the normal path of legislation -- there were no hearings, markups or the like. The SAW provisions were hammered out in a series of negotiations by three Congressmen: two California Democrats, Howard Berman (who spoke for the workers), Leon Panetta (who spoke for the growers), and Charles Schumer (D-NY) who played the role of deal-maker. These three -- who happen to share a house on Capitol Hill -- then convinced the other principal legislative actors to include the SAW provisions at the conference stage after differing versions of the underlying bill had passed the two houses. At that point in the fall of 1986, with the elections looming, there was little opportunity to compare the detailed SAW provisions with those written for the section 245A applicants. The principal authors of IRCA, Senator Alan Simpson (R-WY) and Congressman Peter Rodino (D-NJ), were very unhappy with the SAW provisions but felt that they had to be inserted or else the bill would be defeated in floor votes[7].

Returning to Agnes; she became a TRA effective Nov. 10, 1987; 18 months later, on May 10, 1989, she will become eligible to apply for PRA status; on that date a one-year window opens. She must apply for PRA status during that time or on May 11, 1990 she will automatically revert to illegal alien status. While this fate is clearly spelled out in

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7 This account is based on a series of conversations with those involved in this piece of legislative history.

IRCA, it is barely mentioned in some INS documents on the subject[8].

In order to secure PRA status, Agnes must do all of the following:

> • buy another group of three photographs of herself, for use in the production of the green card;
>
> • fill out and file another application (I-698); this is shorter than the previous one she completed, and requires less in the way of supporting documentation;
>
> • get another blood test, this one designed to detect AIDS;[9]
>
> • pay INS another $80; and
>
> • satisfy the English and civics requirements.

Agnes is worried about only one of these requirements, the last one. She is not aware that her English is more than adequate for these purposes; similarly, she probably knows more about American history and civics than she realizes, but she is concerned. The requirement in question, introduced by Speaker Wright in the House, is spelled out in the law:

> . . . The alien must demonstrate that he either --
>
> (I) meets the requirements of section 312(relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United State), or

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[8] Such as in the novella, or bi-lingual comic book, which INS has produced, "The Path to Permanent Residence."

[9] This applies to only a minority of the second round applicants, those who applied early in the first round. By December, 1987, the medical examination for applicants included the blood test for HIV-positive; everyone approved after that date has already been through that test.

> (II) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States. . .[10]

Agnes must satisfy this requirement, but her son belongs to one of the many classes of persons who are exempt. These include people under 16 (such as Agnes' son), those over 65, those who have lived in the country for more than 20 years and are over 50 years of age, and those who are physically incapable of reading, hearing or speaking.[11] Similarly people who have an American high school diploma, or have recently taken a full academic year in an American institution of higher education (including 40 classroom hours of civics instruction) are exempt from the requirement. But Agnes, like most 245A applicants, fits none of these categories. She has, at this writing, two principal options[12]:

> 1. She can go to the INS office and take the oral examination given to people seeking naturalization (this is called the section 312 examination and is administered by INS staff);

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[10] The Immigration and Nationality Act (INA) 245A (b) (1) (D) as amended by IRCA 201 (a).

[11] 53 Fed. Reg. pp. 43993-43997 (Oct. 31, 1988) (Amending 8 C.F.R. Section 425a.)

[12] Other options are likely to be available later, as INS works through its second round regulations. One of these is to take an examination designed and provided by the Educational Testing Service (the college board people), and another is to have a GED and have completed a self-study course. The requirements outlined in this text are based on the INS "Interim Rules and Regulations," published in the *Federal Register*, Vol. 53, No. 210, 10/13/88, pp. 43993-5.

> 2. She can take specialized classes from an INS-recognized organization in English and civics and secure, from that institution, a certificate that she has satisfactorily completed at least 40 hours of a course of at least 60 hours in duration.

The expectation is that most TRAs in Agnes' situation will enroll for the courses, secure the certificate, and avoid the uncertainties of the 312 examination. (That she can take the examination twice is not known to her, nor does she know that she can take the examination, and fail it, and then return with the 40/60 certificate.)

While there are now, and will continue to be, a morass of complex administrative and legal problems regarding who is, and who is not, eligible for the first round of legalization, the second round problems are probably going to be simpler, if no less serious. They are: (a) how many of the applicants, despite several rounds of INS mailings in English and Spanish, will simply not get the message, and will not apply, thus reverting to illegal status? and (b) will there be enough educational resources available, in the right places, to meet the demands of Agnes and her peers for the section 312 classes? One cannot imagine that there will *not* be court challenges to what presumably will be a small number of denials of PRA status[13], but the big questions appear to be not in the field of law, but in education and communications.

Neither of these are fortes of the Immigration Service. While it increased its ability to communicate with low-income, non-English speaking people during the legalization program (particularly in the Western Region), INS graphics are often less than inspired and INS copy is often wooden and legalistic.

As for education, that is a brand-new field for the Service; it has done a little regulating of vocational training institutions in the past, but it finds itself in the position of seeking to encourage the creation of a short-term program to help some 1.5 million people to learn enough English and civics to meet the 312 requirements.

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[13] INS officials, at all levels, say that they expect that there will be very few denials during the second phase of the program.

What INS has done, internally, to ease these problems, is to define "satisfactorily pursuing" in a remarkably liberal way. The reader is invited to remember a first year of language instruction, say the French class in the freshman year of high school. How much French did you know by the middle of November of freshman year? Not much, but if the classes were 50 minutes in duration, and five days a week, 40 hours of classes were completed before Thanksgiving.

INS is not demanding 40 hours of English, it is requiring 40 hours of English and civics. Further INS has made it possible for a wide range of educational institutions to offer these classes, and provide these 40/60 certificates. (Most schools will offer tuition-free 312 classes, with funding coming from the State Legalization Impact Grants program, which is also authorized in IRCA.)

As set by Congress, the 312 requirement applied to the Section 245A legalization applicants is an unusual one, neither demanded of the SAWs, nor of other American immigrants. INS, through its definition of "satisfactorily pursuing," has lightened the 312 burden as much as it possibly could.

While all of this is true, it is not clear how INS will handle a totally predictable problem: the last-minute rush for seats in the 312 classrooms. If history repeats, many of the phase two applicants, particularly the ones who signed up for the amnesty program at the last minute in May, 1988, will sign up for classes at the last minute in October and November 1990, at the end of their one-year-long window of opportunity. They will have started to pursue the mandated education, but they will certainly not be 40 hours deep in the subjects. How will INS handle these laggards? Probably gently, but INS is not making statements about that eventuality.

The Process. Let us return to Agnes's second round application, and assume that she has decided to take her chances with the oral 312 examination, the one that her cousin passed when she applied for citizenship a few years ago.

Agnes pulls together the application (a copy has been mailed to her house), the photos, the results of the blood test, together with the check for $80, and mails them, as directed to the RPF. She also assembles a similar package for her son, but because of his age he needs neither to pass the 312 or the blood test.

After her application has been logged in at the RPF an examiner will pull up her computerized file to see if there are new, and negative data on Agnes. (Apparently no effort will be made to run all the second round applicants through the FBI and other electronic filing systems.) The examiner finds nothing interesting on Agnes, notes that she has filed everything, and sets up an interview for her at the nearest legalization office.

Agnes is lucky, there is an INS office that can handle her claim in Indianapolis; had she lived in one of the Dakotas, on the other hand, she probably would have to go to Minneapolis for the interview. In the same moment that the interview is established by the RPF a form letter to Agnes is generated telling her when and where to report for the interview. Fortuitously Agnes' son is assigned an interview the same day.

When the day comes Agnes is nervous and worried about the test. She arrives at the office well ahead of schedule (this is not infrequent), and has time to grow more nervous, and to study, one more time, the numbering and the content of the amendments to the U.S. constitution.

The interview goes well, and Agnes finds most of the questions easy ones; the interviewer appears satisfied with her application and her command of English. Perhaps without explicitly telling her that she has passed he moves to the clerical elements of the encounter that indicate (to the examiner) that she has been approved. He needs two of the three photos that she had taken some time earlier for INS files; he stamps her TRA card to indicate that she is now a permanent resident alien, and tells her to look for the green card in the mail a couple of months later. (Agnes's son does not really have an interview, but the submission of the photos and the stamping of the card indicate that he, too, has become a PRA.)

Had Agnes opted to submit the certificate of satisfactorily pursuing the 312 course, her session in the INS office could have been similar to that experienced by her son.

Had Agnes failed to keep interview dates without justification, had she failed her 312 interviews, twice, or had she committed a felony, she would have been denied PRA status; that decision can be made in a legalization office, a district office, or at the RPF. In short, the final decision in the second round of the program, unlike those in phase one, may be made locally, and simply will be confirmed at the RPF decision factories, our next subject.

II. A DESCRIPTION OF THE REGIONAL PROCESSING FACILITIES

There are four Regional Processing Facilities (RPFs), one in each of the Immigration Service's four regions: Western, Northern, Southern and Eastern. (No other federal agency, to our knowledge, has four regions, most have ten.) The facilities are located respectively in Laguna Niguel, California; Lincoln, Nebraska; Dallas, Texas, and Williston, Vermont.

The Western Region, handling well over 50% of the nation's 245A and SAW applications, is the largest of these four facilities, with Southern being next in size, and Eastern and North being relatively small.

In the course of this chapter we describe the background that led to the creation of these decision factories, their structures and their functions. In the final chapter we weigh the strengths and the weaknesses of this kind of institution.

A. The Background

Making a large number of decisions regarding human beings seeking similar benefits (a Veteran's Administration loan, a Social Security pension or an income tax refund) has become a standard fixture in modern government. While legislatures make broad policy decisions, and courts mete out justice one case at a time, someone has to decide what to do with tens of millions of individual 1040s. That someone is the executive branch of government, and that process has been called "Bureaucratic Justice."[14]

The INS variation of bureaucratic justice, the RPFs which are the subject of this report, evolved slowly rather than being created in a single process.

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[14] This is the title of Jerry L. Mashaw's very helpful book on the subject (Yale University Press, 1983); more specifically, he examined the process by which the Social Security Administration decides claims for disability pension claims. These up-or-down decisions are made about 1.2 million times a year in a process which has many similarities to those followed in the INS decision factories.

Twenty years ago virtually all INS decisions on formal applications for benefits[15] of various kinds were made in the network of some 30 district offices, with only some appeals being decided at regional or national levels.

During the 1970s, and perhaps before, INS managers noted two separate work-load situations in widely-separated areas. Sometimes inspectors at the ports of entry, particularly on the northern frontier, had too little to do; this was particularly true during early-morning hours at 24-hour entry points. Meanwhile, adjudicators in big, immigrant-filled cities, had more paper work than they could handle. (Many INS cases, such as an application for a change in, or an extension of, nonimmigrant status, are routinely handled without direct contact with the applicant.)

If the inspectors had time on their hands and the adjudicators were overwhelmed, why not send some of the paperwork from, say the Boston District Office to the port of entry at, say Jackman, Maine. Since inspectors and adjudicators do similar work, and have similar training, it seemed to be a good fit. This process, which grew over the years, was called "remoting." (Soon the adjective, "remote," was converted into a transitive verb, as in "we remoted 435 cases this morning.")

The ad hoc remoting of cases to the ports of entry worked so well that it evolved into the creation of Regional Adjudication Centers (RACs). These were centralized places where adjudicators could make more or less standardized decisions on stacks of files; there was no public access to these evolving facilities, the phones did not ring often, and the RACs reported to the Regional Commissioners, rendering decision-making a little more consistent than it had been when those same cases were decided in the district offices, with the senior adjudicator reporting to the district director. The RACS are now called Regional Service Centers (RSCs).

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15 INS runs a number of programs in which decisions are made to grant or deny a benefit that some individual or corporation wants in the immigration field; these include permission to admit the relatives of citizens or PRAs, grants of citizenship, issuance of travel documents to non-citizens, and extensions of legal presence of legally-admitted nonimmigrants. These decisions usually require at least three ingredients: (1) the application, usually on a prescribed INS form; (2) the alien's file (the A-file); and (3) an adjudicator to dispose of the case. Sometimes a face-to-face interview, as in naturalization cases, is needed as well.

In the 1980s Congress kept giving INS signs, mostly premature ones, that it was about to pass an immigration reform bill which would contain both employer sanctions and a legalization program. INS went through a couple of planning exercises before the bill was passed, and debated how to handle the anticipated flood of legalization applications. What kind of administrative structure should be created for this massive new program? Where should the decisions be made, at the local, regional or national levels?

A more pressing question quickly eliminated the possibility of the decisions being made at the district level. That question was: where will the applications be taken? Everyone quickly agreed that the district offices should not be used in the first stage of the legalization program, for two very sound reasons. First, the district offices were too crowded already, and could not take the additional traffic; secondly it was felt that the undocumented aliens, the potential customers, should be able to apply in offices where there were no immigration law enforcement functions; many probably would not apply if they had to go to the office where they, or their friends, had been processed for expulsion from the country. So it was decided to establish a new set of offices dedicated to the legalization program. INS proceeded to find, and to furnish attractively, 107 such offices. At this point, INS had two remaining options, a national decision factory (presumably to be co-located with the INS contractor's data processing facility in London, Kentucky) or four regional processing facilities along the lines of the existing RACs. The former alternative offered logistical convenience (less movement of files), economies of scale, and presumably a greater degree of consistency. If the latter alternative were adopted, however, the RPFs and the RACs could be merged subsequently, and the new organizations could make use not only of the lessons learned during the legalization program, but also the computers and other equipment purchased for that program. The regional commissioners strongly pressed for the second option, and carried the day.[16]

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16 For somewhat similar local turf reasons, the first stage of the disability pension decision-making process takes place within state offices (the vocational rehabilitation agencies) though the program is totally funded by federal money. See Mashaw, *op cit., pp. 70, 162-163.*

B. The Structure of the RPFs Location

The atmosphere in the two kinds of offices handling legalization applications is radically different.

The local Legalization Offices we visited, particularly in busy periods, were for the most part warm, full of people, with a quiet bustle on the inside, and loungers and hawkers on the outside. The dominant language of the applicants was Spanish, which was also spoken by many to all of the staff. The Legalization Offices were often surrounded by vans selling food and soft drinks; usually a couple of representatives of rival medical examination services distributed flyers to all entering the office; sometimes immigration consultants set up shop on the sidewalk, and usually there was some guy fixing a sick car in the parking lot. In Fresno, the busiest of the SAW offices, one could obtain a physical examination in a trailer parked across the street from the INS facility.[17]

The four decision factories, however, are very different. They appeared quiet and neat; there were virtually no visitors, the phones were largely silent, the dominant language was English, and each facility, in its own way, is quite isolated.

The INS facility in California is in a handsome Government building regarded as a white elephant for years; the pyramid-shaped Chet Holifield Building overlooks an as yet-largely-undeveloped piece of Southern California real estate half way between San Diego and Los Angeles. The RPF offices in Lincoln, Nebraska, overlook nothing; they are in the basement of the federal building in that city.

The RPF in Dallas is in a major downtown high rise, but it takes persistence and a prior appointment to work one's way through the security systems, which do not seem to have much of a presence in the other three. The Eastern Region's RPF is located in a typical, accessible, one-story small town office building, but is in Williston, Vermont, a town with a population of less than 5,000. To some extent these different atmospheres are the result of deliberate INS

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17 Competition drove down the price of the medical examinations; one could get a blood test (including the AIDS screening), an X-ray, and the rest of the exercise for $50 in Fresno in November, 1988. The same examination cost more than $120 in other places, where there were fewer of them, but as little as $25 in Los Angeles at the end of the Section 245 program in May 1988.

decisions; legalization offices were placed in neighborhoods where applicants live; RPFs were designed to be quiet places for the handling of files and computers. But we wondered, are the RPFs too isolated from the gritty reality of the day-to-day legalization program?

Staffing. There are two separate staffs at each of the RPFs, operating in almost a caste system; there are the INS staff members who run the place and make all the decisions on the cases; and then there are the contract staff, who handle the voluminous paper and computer work. (The latter are employees of Appalachian Computer Systems, the firm which runs the central data entry facility in London, Kentucky.)

In the largest of the RPFs, in Laguna Niguel, there are about 300 staff members, some 160 with INS and the rest with the contractor. Of the INS staff there are 10 supervisors, some 90 adjudicators, and a number of investigators and clerks.

In the smallest, in Lincoln, there are 45 staff members; 25 on the INS payroll and 20 belonging to the contractor. Of the INS staff, there is the manager and four other supervisors, twelve adjudicators, six people in the document examination unit, and two clerks. In addition, co-located but not organizationally part of the RPF, there is an INS attorney and his clerk.

The RPFs are all managed by seasoned INS career people; and many, but not all of the supervisors, have prior INS experience as well. But most of the adjudicators were new to immigration when they were hired, though many had other government decision-making experience (e.g. there are numerous ex-Social Security people in these facilities.) The grade levels are GS-14 or 15 for the RPF managers, GS-11 to GS-14 for the supervisors, and GS-5 to GS-11 for the adjudicators.

Given the legal complexities of the program, one might expect a substantial presence of on-staff attorneys, or ready access to other INS attorneys. This is not the case. While there is an INS lawyer on the premises in both Lincoln and Williston there is none, at this writing in the Western Region, though a part-time attorney used to spend some time at the RPF. The RPF directors in the Western and Southern Regions do not lead lawyer-free lives, however, much of their time is taken in getting ready for court appearances in the many suits filed against INS by

immigrant advocacy organizations (a subject to which we will return).

Staff specialization varies considerably from the larger to the smaller RPFs. All the adjudicators do everything, handling all types of cases (245As and SAWs), easy cases and tough ones, in the Eastern and Northern Region.

In the Western Region, however, there is a great deal of specialization, though routinely 245As and SAWs are not segregated during the first-round examinations. In Western Region there are half a dozen denial units, each with four or five adjudicators and a first-line supervisor, all reporting to another supervisor. One of these units, for instance, works with the oldest cases, those filed in the summer and fall of 1987, which have not been decided because of various complications. Another unit works on appeals, and others review denials made by journeymen adjudicators.

Relations with Other Parts of INS. Generally, in terms of direct line authority, the RPF managers report through the Regional Legalization Officer to the Regional INS Commissioner.

The situation is, however, a bit different in each region; the RPF managers are located in different buildings from the regional legalization officers in the Eastern, Southern and Western Regions, which tends to limit contact. Further, in the Northern Region, the Regional Legalization Officer makes his office in the Lincoln RPF, some 350 miles from the Regional Commissioner in the Twin Cities.

As to relations with the Central Office, all of the RPFs have steady contact with the INS Assistant Commissioner for Legalization, in the Central Office, and his two deputies, one for the 245A program and the other for the SAW program. The principal, or at least the most frequent, substantive conversations about the program tend to be between the RPF managers and one of the two deputy assistant commissioners in Washington. If an RPF manager needs legal advice, he usually follows this route, with the deputy assistant commissioner checking with a Central Office (CO) lawyer, and then calling the RPF back. (For a system making more than three million legal determinations it seems, to two non-lawyerly outsiders, to be an awkward way to get legal advice.)

Despite their isolation, the RPFs do have other regular relations as well, with the internal INS appeals unit, with (or primarily from) the Congress, and with the immigration bar.

IRCA established a one-step appeals system for the amnesty program (apparently there was dissatisfaction with the multiple-step system which operates in the rest of the immigration-management system). As a result, INS established an adjudicator-staffed Legalization Appeals Unit (LAU) which handles appeals from cases denied by the RPFs. An alien who, (1) is turned down by LAU *and* (2) becomes involved in a deportation hearing can take his case through the usual appeals channels of the immigration system, generally starting with an Administrative Law Judge and then moving into the federal courts. (Being denied legalization by the LAU or an RPF *never* automatically leads to deportation,[18] but an alien, as the Government works on different tracks, can find himself simultaneously losing his legalization case *and* facing deportation proceedings.)

Returning to RPF contacts with the LAU, there appear to be different patterns in different regions. The Northern Region regards the LAU as a group of appeals judges, and will not discuss the substance of cases with them; supervisors in the Western Region, looking for legal advice wherever they can get it, do call the LAU for advice. (The flow of cases between the RPF and the LAU is described later.)

We gather from both the RPFs and a couple of Congressional offices we have contacted that the flow of Congressional inquiries to the RPFs is very limited, and that the RPFs have established small units to handle such inquiries quickly.

The number of Congressional queries is not significant enough for it to be registered on the all-embracing RPF management information system; the managers of the Western and Northern RPFs estimated that they had no more than a single inquiry a day.

This stands in stark contrast to the experience of the agencies making disability pension decisions for the Social Security Administration; Mashaw says that more than 100,000 of the total of some 1.2 million cases handled

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[18] This is the case because of the privacy provisions of the legalization program; no information on an applicant, including the denial of an application, can be used against the alien by INS or any other arm of the Government. If the alien unsuccessfully used fraud in connection with his application, however, that can be used in both criminal and deportation proceedings.

annually are the subject of Congressional inquiries.[19] Since these cases are then expedited, the level of Congressional interest places a heavy burden on the system.

Why are there so few inquiries in the legalization program? Two thoughts come to mind: first, virtually all the pension applicants are citizens and voters, as are none of the legalization applicants; secondly, most legalization applicants get a very tangible good immediately after their interview. They secure a work authorization card which takes care of their short-term employment problems. In contrast, the pension seekers get nothing until a decision is made.

The third set of RPF relationships are those with the immigration bar, and other immigrant advocates. The relationship between INS officials and the immigration bar has been the subject of numerous suits, carefully written accounts in the immigration law trade journal, *Interpreter Releases*, and an irreverent article in the *New Yorker*.[20] Sometimes INS is very open with the bar, as it clearly was in the process of writing regulations for the legalization program; and sometimes it is uncommunicative, particularly on individual cases.

The first variable is the question of a telephone number. The Eastern and Western RPFs have published their phone numbers and have assigned clerks to answer those phones. The Northern Region has not published its number, but talks to lawyers who have managed to secure the phone number. Several numbers are in circulation for the Southern Region -- according to one lawyer "some may even be connected." There are however, complaints about getting through, calls not being returned, and a general lack of accessibility.

C. The Functions of the RPFs

General Considerations. The primary function of the RPFs is to say "yes" to the overwhelming majority of legalization applicants, while sorting out a small minority of cases for denial.

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19 Mashaw, *op cit*, pp. 58, 59, 71 and 78.

20 Calvin Trillin. "Profiles -- Immigration Lawyers: Making Adjustments," *New Yorker*, 5/28/84, pp. 50-71.

This is both consistent with other INS decision-making operations, and quite different from the situation in the disability pension system described in *Bureaucratic Justice.*

In that program about half the applicants secure pensions, and half do not; given the large numbers of denials, the appeals mechanism plays a much larger role in the disability system than it does in the legalization program.

The high approval rates in the RPFs--though one would not know it from discussions with immigration lawyers--are typical of INS decision-making operations. More than 99% of those seeking admission at the ports of entry go through the gates; more than 90% of those pressing their citizenship application to a decision are naturalized.[21] Most applications for other benefits are approved.

But while INS usually says yes, it does not always do so, nor does it have a totally free hand. The American immigration service operates with much more complex and detailed statutes than any other in the world; elsewhere the minister, and his deputies, have a great deal of latitude, but this is not the case with INS. For a taste of the detailed instructions that Congress has given, note not only the length of IRCA, but also read box 19 on page 2 of the second phase application form, (the I-698 reproduced in the appendix). This is a listing of what obstacles to immigration to the US can be waived (e.g. insanity, prior deportations) and which ones can not (e.g. likelihood of becoming a public charge, or World War II service with the Nazis).

The description of the functions of the RPFs that follows begins with more detailed discussions of the operations of the legalization offices and the data entry facility in London, Kentucky, as they impact the decision factories, and then includes accounts of RPF adjudications, RPF fraud-detection activities, RPF handling of appeals, and the impact of law suits on the RPF operations. These reports, in contrast to the client-oriented perspectives used previously, are those of outside observers looking at various steps in a mass decision-making process.

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21 See North, *The Long Gray Welcome: A Study of the American Naturalization Program* (NALEO Education Fund), Washington, D.C., 1985. In addition to a small number of formal denials in this program there are a larger number of, in effect, staff decisions that applicants should file again later.

Legalization Office Operations. From the point of view of the RPFs, the legalization offices produce a variety of files, all demanding an RPF decision. These files, in addition to more than three million SAW and phase one 245A applications, also include small numbers of waiver applications filed by SAW or 245A applicants and even smaller numbers of applications filed by aliens granted legalization through another channel, those from a handful of nations who have Extended Voluntary Departure (EVD) status.

Let us dispose of these two small categories first. Persons seeking immigrant status generally can be rejected (i.e. be held excludable) on a number of grounds, such as recent prior deportations, or the prior use of a fraudulent document; or, if they have strong ties to the United States and have otherwise clean records, the barriers created by a pre-1982 deportation, for example, can be waived in an exercise of the Government's discretion.[22] By Nov. 14, 1988, when INS had received 67,911 legalization-related waiver requests nationwide, the agency had said yes to 37,705 of them, no to 2,322 of them, and had not yet decided on 27,884 other cases; of those cases decided, 94.2% were approvals.[23]

EVD cases involve small numbers of people from Afghanistan, Ethiopia, Poland and Uganda who can apply for TRA status through the legalization offices. Their cases are neither difficult enough to have made much impression on the RPF managers, nor numerous enough to secure a separate line on the management information system, so little can be said about them.[24]

Returning to the principal flow of paper, all feed-in 245A and SAWs applications received by the LOs must be transmitted to the decision factories. Each of these files includes:

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22 Deportations after January 1, 1982, however, can not be waived.

23 Unpublished INS statistical data.

24 For more on this small group of legalization eligibles, whose status was mandated through a different legislative vehicle than IRCA, see North and Portz *Through the Maze*, pp. 6-8.

- the adjudicator's worksheet (I-696) (see Exhibit Two);

- the completed medical examination;

- a full set of fingerprints and photographs;

- an indication that the fee has been paid; and

- the application form (I-687 for 245A cases or I-700 for SAWs, see Appendix) and accompanying documentation.

In addition if a waiver is needed, that is sent along. Similarly if the adjudicator determines that more documentation is needed, he attaches to the file the request for documents (I-72) that he has given to the applicant.

The most important part of the package, from the RPF point of view, is the adjudicator's checkmarks in box B (see Exhibit Two). To make things suitably complicated box B is *not* a multiple-choice question in which one answer is called for; the adjudicator must check at least one box, but may, given the circumstances check as many as four of them.[25]

The terminology in box B, combined with the pattern of RPF operations, has probably created some needless grief for the agency. It was awkward for INS that word got to the press that as many as 50 to 70% of the final group of SAW applicants were being recommended for denial. Adjudicators in the LOs knew that cases which attracted neither hits from the electronic data systems nor recommended denials, would be likely to receive an automatic approval. The only way that they could be sure that someone looked at the case again was to recommend denial; and many of the recommended denials, we gather, fell into that category.

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[25] For example, the examiner faced with a suspicious, ill-documented case, could check the boxes for recommended denial (#2), fraud suspected, verification requested and one of five levels of suspected fraud. For a while some adjudicators in the Chicago area were simultaneously checking granted and fraud suspected, a combination which the Northern RPF found anomalous, and which was subsequently not used.

Had there been an additional box labelled: "recommended scrutiny" the problem of semantics would not have occurred.

In a few instances, Legalization Offices made denials on the spot -- in which case no temporary work authorization was granted. These, so called "statutory denials" are used when one of the situations outlined in box C and D of Form I-696 are apparent. These decisions are not made very often because they cover a fairly narrow range of circumstances -- an applicant who shows up with no documentation whatever, for example, or one who simultaneously states that he is eligible under the SAW program but never set foot on a farm.[26]. When statutory denials are made, like any recommended denial determination, the file is sent on to the RPF and the paper trail for a potential appeal is recorded.

INS placed greater emphasis on statutory denials as the program progressed. At first the LOs issued these denials only in cases where the applicants stated that they were ineligible (or did not make claims of eligibility) or in cases where they admitted fraud. By March, 1988, the regulations were revised to expand the LOs' authority to grant such denials if they found evidence of fraud.[27]

London, Kentucky Operations. No decisions are made in London, but all files are sent from the LOs to London, where two things happen: (1) basic data entries are made in the national INS computerized legalization data system, and (2) electronic inquiries regarding the applicant are made applicant to several other INS data systems, to the FBI files on criminal records, and to a couple of other filing systems. Hits on these systems are transmitted to the RPFs.

We did not have a chance to inquire from anyone who knew the answer why three million files are sent to a single computerized handling facility, and then moved on to the

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26 Another example would be an application made on behalf of a child born outside the U.S. after Jan 1, 1982. One could not qualify as having lived in the U.S. continuously since Jan. 1, 1982 if one were born after that date but such applications have been filed, and once denied, appealed. By October 12, 1988, INS had made 24,151 of these statutory denials, according to unpublished INS statistics.

27 See INS Legalization Wire # 59, March 15, 1988, as quoted in *Interpreter Releases* April 4, 1988, "INS Moves to Reduce Legalization Backlog"; see also "INS Revises SAW Regulations" in the same issue, pp. 336-338.

four RPFs, all of which are also in the business of handling INS files and computers. Why not decentralize the data entry process, and avoid the expense of moving the files twice?

The FBI check is not as comprehensive as one might imagine. It starts with a check by name and date of birth; if there is a hit, (an indication of an encounter with law enforcement authorities) then the fingerprints are shipped to the FBI for positive identification. If the prints confirm the identification then the RPF gets the details of the case; usually these are for minor violations; in less than 1% of the cases coming to the RPF is the criminal record significant enough to warrant serious scrutiny.

Our comment about the lack of comprehensiveness of the FBI check relates to the fact that all the fingerprints are not run through the system; were that to be done, more positive identifications would presumably be made, on the grounds that once-arrested persons often use different names in subsequent encounters with the Government. But the FBI does not regard searching through three millions sets of fingerprints as a useful (or indeed a feasible) exercise.

London, Kentucky, also sends electronic queries to several other data systems, none of which are as significant as the INS Central Index and the FBI files just described. These other systems include an INS file on nonimmigrants, a specialized file on INS deportation activities, a file on foreign students, and the look-out file (National Automated Immigration Lookout System or NAILS) which is used by immigration inspectors as they talk with those seeking admission at the ports of entry.[28] No one we encountered could recall a hit on the NAILS system, which carries a list of prominent terrorists and other unattractive types.

Interestingly, while all these electronic checks are made, often will minimal results, one other data matching processes has not been used. Since INS has the alien's social security number (SSN), and since more than one million aliens filed for SAW status in California, why did not INS routinely ask the California State Employment Development Department (EDD) to provide data on applicants' agricultural earnings? EDD, which runs the

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[28] For more on NAILS, see U.S. General Accounting Office *Computer Systems: Overview of Federal Systems for Processing Aliens Seeking U.S. Entry* (GAO/IMTEC-88-55BR) Washington, D.C., 1988 pp. 18-21.

unemployment insurance program in that state, has unusually good data on farm workers and their earnings. EDD data could have been used to confirm agricultural employment, and ease the decision-making in these cases; unfortunately, the electronic checks were only used to secure negative information.

RPF Adjudications. After their detour to London, Kentucky, the files arrive at the RPFs where they are logged into the RPF computer system and marked with machine-readable bar codes. Then, they are allowed to age for a while either until reports come in from the electronic filing systems, or until it is clear that there will be no such reports. About 40% of the files draw some attention from some system, usually the existence of a prior INS file.

Should there be an A-file it is shipped to the requesting RPF. Since, however, some of these files are never found, and others are found only slowly (many having been retired to federal archives) the RPFs have put a 42-day limit on the process. If no A-file shows up after this period the application is adjudicated anyway on the basis of the legalization application and whatever electronic data exists in INS files.

Once the electronic searches are finished (or the allocated time has elapsed) the cases move on toward adjudication. Clerks determine which cases are eligible for automatic approval (i.e. no hits plus LO approval recommendation). When the program was young, and the volume was low, all cases were individually reviewed, and, in INS terms, "manually" approved or denied. Later, as volume increased, only a sample of the automatic approvals (10% in November, 1988) were reviewed by adjudicators.

The vast majority of the all legalization cases are reviewed by RPF adjudicators. For example, in the Northern Region, through Dec. 1, 1988, these were the rounded numbers of cases:

Action	Section 245A	SAWs
automatic approvals	29,000	0
manual approvals	90,000	35,800
denials	4,500	1,800[29]

[29] Unpublished INS statistics from the Northern RPF.

As a matter of policy, all SAW applications are reviewed manually, presumably due to the high incidence in this program of suspected fraud.

Within the cases receiving manual review there are, again, categories and subcategories. The easiest are those in which approval has been recommended at the LO, which is the norm in the 245A program and is usually the case in the SAW program.

The following are for Western Region through Nov. 27, 1988:

Category	Section 245A	SAWs
Applications Accepted	1,019,697	579,831
Interviews Completed	992,307	463,193
Recommended Denial	171,347	201,096[30]

When recommended denials are compared with interviews completed (no recommendations are made until the interviews have taken place) we find that in the Western Region, in 17.3% of the Section 245A cases the LO recommended denials, while 43.4% of the SAW cases had LO denial recommendations. (Also note that 27,000 Section 245A interviews had not yet taken place in the Western Region, although the filing deadline for that program was six and a half months earlier.)

Returning to the adjudication process, most of the Section 245A cases which are manually adjudicated are those for which the LO recommended approval, and for which there is a hit on one of the electronic systems. Most of the hits are not serious, and most of this group of cases can be approved without much further processing.

The next level of difficulty are 245A cases in which the LO has recommended denial (though bear in mind the comment made on this earlier). Although detailed cross tabulations do not appear to be available, RPF managers tell us that they are over-ruling (i.e. granting) more than two-thirds of these cases. Usually if a LO recommendation is to be reversed -- in either direction -- the case is either reviewed by a supervisor or by a special unit of adjudicators.

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30 Unpublished INS statistical data, (Western Region Statistical Report).

Of roughly the same level of difficulty are the less than 1% of the total flow of cases in which there is a serious criminal problem or a recent deportation. The adjudicator must be sure that the violation is such that no waiver is either possible, or if possible, warranted. In the Western Region such decisions are routinely sent for additional review to one of the special denial units.

Finally, there are the most difficult of cases, those in which fraud (usually SAW fraud) is suspected; treatment of this class is described in the next section.

What are the statistical outcomes of all this activity? As Exhibit Three indicates, 73% of the Section 245A cases had been settled by December 5, 1988, and the overwhelming majority were approved. On the other hand, the SAW program, with its later deadline, had only 29% of its cases decided by that date, and there was a much higher percentage of denials, particularly in the Eastern Region. (The Eastern Region includes Virginia, West Virginia and Pennsylvania, and the states north and east of them -- an essentially urban area. The denial rate is probably higher than in other regions not only because it received so many urban SAW applications, more than 14,000 in New York City, for example, but also because of the Region's aggressive program regarding document fraud.)[31]

RPFs and Fraud. Before describing what the RPFs are doing about SAW fraud, it is useful to discuss some of the statistical and anecdotal evidence that suggests the extent of the problem.

Statistically, there not only are a lot more SAW applicants than anyone expected, but their numbers in California, anyway, appear to be very large in comparison with other measures of the California farm labor force. For example, on Sept 19, 1988, we compared the total number of SAW applicants in that state (455,106) to the total number of man years used in California agriculture the previous year (273,700.)[32] If all the California SAW applicants worked

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31 While there have been many references to unpublished INS data in this report, grateful mention should be made of the periodic publication of "Provisional Legalization Application Statistics" by the INS Statistical Analysis Branch, an extremely valuable reference tool. The data on New York City filings for SAW status, for example, is drawn from the October 9, 1988, issue of this report, table 8.

fulltime in California agriculture they would provide twice as many man years of work as California used in 1987--even if *no one except SAW applicants* were employed in the roles of farmer, unpaid farm family worker, year-around farmworker and seasonal farmworker. Another comparison made at the time -- if all SAW applicants in California worked only fourteen weeks a year, they would provide more than enough weeks of seasonal farm labor to meet the State's current seasonal labor-use practices -- again, even if no citizen or green card worker picked a single head of lettuce or clipped a single lemon. Our point was that either the State of California, which keeps some of the best farm labor statistics in the nation, had grossly understated the size of the agricultural work force or there was an unbelievably large number of SAW applicants.

After we made our statistical comparisons another 235,000 applicants appeared; the pool of genuine and alleged SAWs had expanded by another 51%.

Anecdotally, much has been written about the bizarre accounts of farmwork offered by city people trying to take advantage of the program, the picking of purple cotton, the use of ladders in the strawberry harvest, the harvest of cherries by digging them from the ground. What we found impressive on trips through California was the unanimity of comments from all sides -- INS staffers and people in the immigrant-serving agencies, Anglos and Hispanics -- the agreement that fraud was rife in this program, and rare in the 245A program.

Support for this position came from an unlikely source, a staffer for one of the many local offices of ALFA (Alien Legalization for Agriculture) the grower-supported QDE which operated throughout the state. When we asked toward the end of the program: "do you ever see any fraudulent applicants" the answer was "most of the people I have seen in the last six months."

We then continued: "What is it that gives you the first hint of this?" There was a pause and then: "Well, there's the whiteout on the applications."

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32 See North, "IRCA's Batting Averages (Memo # 2)" TransCentury Development Associates, Washington, Sept 22, 1988.

The source of the estimate of man years of agricultural employment is: California Employment Development Department, Report 881-M, Agricultural Employment Estimates, February, 1988, Sacramento.

Returning to the RPFs, and their work in this area, three preliminary points should be made:

1. Many farmworkers do, in fact, have great, legitimate difficulties in documenting their work history. Some migrants never learn the name of the grower, having real contact only with the crew leader who may or may not be accessible. Farmworkers are powerless in their dealings with their employers, further, many of them are illiterate.

2. The burden of proof in SAW determinations, because of these factors, has been placed largely on the INS by IRCA.

3. INS has, to some extent, tied its own hands by placing the locus of decision-making in this program in the RPFs and not in the LOs, where the face-to-face interviews occur.

The first point has been made at some length in a series of lawsuits filed against INS in Miami, El Paso and Sacramento by farmworker advocates, which are discussed briefly under "RPFs and the Courts."

The second point relates to one more of the many differences between the posture of the 245A and the SAW applicants. Typically, in the 245A and other INS programs, if an applicant files a fraudulent document, and it is identified as such, that is the end of the case. But in the SAW program it can simply be the start of the process.

INS has determined that if a farmworker can make a good preliminary case that he is eligible for the program,[33] if he files the application with a single supporting document, then he has done what he needs to do to open his case, and it is up to the Service, if it is suspicious, to refute it. In other words, at some early stage in the process the burden of proof shifts from the applicant to the Government. (There is no comparable shifting point in the 245A program.)

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[33] The IRCA term for such a claim is a "non-frivolous application;" INS has defined a non-frivolous application as one which is supported by at least one piece or documentation other than the alien's application.

not work that crop that year, INS has an obligation to tell him why they plan to deny the application on its form I-72. At this point the applicant is not blackballed for having shown a phoney document to the Government, he simply has been blocked on that attempt to prove his case; INS has not proved that the farmworker is ineligible, it has simply proved that the proof offered is not adequate.[34] The farmworker has an opportunity to change his story, and come in with a different document which might withstand INS scrutiny. (Since SAW applicants were never confined to applying at a specific Legalization Office, as most 245A applicants were, the once-rejected SAW applicant could not only apply again, he could do so at a different office, perhaps even in a different region.)

Meanwhile, although it is generally accepted that when the credibility of the applicant, or the witness, is the key question, face-to-face decision-making is appropriate. This is what juries do. But INS had created a system in which the ultimate decisions on these cases are not made under those circumstances, they are made in the distant decision factories.

It was within this difficult context that the Central Office of INS dispatched a wire to the field urging, but not demanding, that an effort be made to verify the employment of SAWs *before* their interview. The notion was that if the adjudicator knew that the claimed employer either did not exist or denied signing the affidavit, then he might be in a position to make a statutory denial. The wire, however, went out late in the program, at a time when resources were severely strained (after two to three times as many SAWs applied as expected) and from what we could learn in the field, relatively few Legalization Offices were able to follow the advice of the Central Office.[35]

The RPFs have, however, not given up the struggle. They have devised a series of techniques to expose *organized* fraud in the SAW program. They are essentially helpless against the individual or small-scale fraud which takes this

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34 This procedure, which sets teeth on edge among INS people, was instituted following the decision in *Haitian Refugee Center v. Nelson*, cited in footnote #41.

35 For a text of the wire, see "INS Advises on SAW Fraud" *Interpreter Releases*, September 26, 1988.

form; Applicant A says (falsely) that he worked for a sufficient time for Farmer X, working in Y crop; Farmer X signs the I-705 supporting the application; when he is phoned or visited, Farmer X insists that Applicant A did work for him, and, it is determined that Farmer X did, in fact, grow crop Y in the year of interest. If Farmer X obliges in this manner only infrequently compared to the apparent size of his labor force, INS is in no position to do anything about it.

Organized fraud generally takes one of three forms: in some cases the labor contractor or grower both signs the fraudulent documents and sells them to alleged workers; in other cases the signer of the documents does not sell the documents directly, in effect, he signs blanks for so much an autograph, and a facilitator (or vendor) sells them for a substantial markup;[36] in the third form the labor contractor or the grower is innocent; someone has forged his name.

The RPFs can do something with these patterns of fraud, they can bring their computers to bear on the problem. Exhibit Four is a worksheet for use in both LOs (in this case in the Western Region) and the RPF. If a given notary's name starts showing up quite frequently among the SAW applications, all the forms he signed can be reviewed to see if there is fraud. If a given affiant (a labor contractor or a grower) seems to have a lot of ex-workers applying, the number of such workers, and their nationality can be ascertained. Similarly if one is interested in the pattern of Albanian illegals claiming SAW status in Las Vegas (real story) then the affiants, notaries and the names of the farms they claimed can be identified.

Similarly, both the Western and Northern regions have created files on legitimate growers and crew leaders. The Western Region has a thick collection of 270 3-or-4-page descriptions of these farms, what they grow, and when they

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36 This modus operandi sometimes involves two ethnic groups, which sometimes suggests unusual (and suspicious patterns). In one of the first fraud cases prosecuted in the courts, the signers of the documents were several Hispanic crew leaders, while the alleged workers were all East Indians with urban addresses. Once the pattern was identified it raised questions -- why would that group of workers work for those crew leaders? See U.S. Attorney, Eastern District of California Press Release "Amnesty Fraud Prosecution," Office of the U.S. Attorney, Fresno, California, 1/14/88, or *Through the Maze*, pp. 67-68.

grew it, how many acres they had, who is empowered to sign documents. Sometimes there are copies of valid, and sometimes of both valid and forged signatures. In many instances growers, finding that someone had forged their names to phoney documents, brought the subject to the attention of INS, and volunteered the information about their real farm activities. But what does a sophisticated system do when a real farmworker has a real document signed by a real labor contractor, who has also sold his signature a hundred times? As noted earlier, INS asks for other documentation, and yet another SAW file goes into the pending category.

RPFs and the Appeals Process. A legalization applicant who receives a formal denial may appeal that decision. The applicant has a period of 33 days to do so; appeals are filed (along with a $50 fee) at the RPF. If the applicant, or his or her attorney, wants an additional 30 days to perfect the appeal, the applicant may apply in writing for the additional time. Further, the applicant may file additional documentation with the appeal.

A newly-arrived appeal is first examined by the RPF. Has the appellant corrected the problem which led to the denial in the first place? Is there new evidence which is convincing? Has the constantly changing legal and regulatory framework been altered since the original decision was made so that the appellant is now eligible? The answer to one or more of these questions is often positive, and in those cases the RPF short-circuits the appeals process by granting TRA status.

This reopening and reconsideration at the RPF is, in a sense, an additional appeals system, one that is not mandated by IRCA. There have been no complaints about this extra layer of activity, however, because the only possible result (from the point of view of the applicant) is another, earlier opportunity to secure the benefit. If, after this additional review, the RPF is sure of its ground, it sends the case to the Legalization Appeals Unit (LAU) in Washington, D.C.

That entity also works with the written record, and nothing else. It, too, is a decision factory, and its findings, as noted earlier, can only be appealed if the rejected applicant finds himself in deportation proceedings.

As mentioned earlier, the overwhelming majority of RPF decisions are in favor of the applicant. What happens to the

cases that go into the appeals process? Let's look at the flow in the Northern Region.

A little less than half the denials are appealed nationally, but the percentage ranges from region to region. It is below 25% in the Western Region, but in the Northern Region, where statistics on this point were readily available, there had been 4,795 denials and 2,605 appeals (in the 245A and SAW programs combined.) The actual proportion of appeals to denials will ultimately be slightly higher than these numbers would suggest since the number of denials include a few that are less than 33 days old, from which at least some additional appeals can be expected.

The disposition of the appeals filed with the Northern RPF as of 12/9/88 is as follows:

2,605 appeals feed in
236 grants upon reconsideration at RPF
2,369 transmission to LAU

Of the Northern RPF's cases decided by the LAU, only 7%, or 161 out of 2369, have been reversed (i.e. RPF denials have been changed to grants by LAU.)

In summary, a substantial portion of appeals are reversed by the RPF on reopening, but once they are sent on to the LAU, and they are decided by the LAU, they are highly likely to be sustained. On the other hand, the decision made most frequently by the LAU, the remanding of cases to the RPF, often leads the RPF to reverse itself. (The manner in which work load data are collected by INS on this point makes it difficult to determine what is really happening in this process.) National caseload and decision-making data for appeals disposed by the LAU are as follows.

Activity	SAW	Section 245A
Deny benefit	467	1,061
Grant benefit	8	70
Remand to RPF	5,644	538
Withdrawn by applicant	26	5
Total dispositions	6,145	1,674[37]

[37] Data are unpublished INS workload data provided by telephone in December, 1988, by the Legalization Appeals Unit.

The numerous remands relate, primarily, to suits against INS program regulations, or alleged failure on the part of INS to carry out its own regulations. Probably a majority, perhaps a big majority of these remands will lead to the granting of benefits, but as to decisions made to date note the remarkably small number of RPF reversals in the SAW program (eight, nationwide). For a breakout of some of these data by region, see Exhibit Five.

There is another, small flow of cases from the RPFs to the LAU. These are instances in which the RPFs are puzzled, usually over legal issues, and certify the case to the LAU on their own motion. Sometimes the RPF makes a recommendation as to denial or award in these cases. In all of them, the applicant is informed that the case is being handled in this way, and is given an opportunity to file new documentation with the LAU. No fee is assessed in these cases. There had been 123 of these cases nationwide by early December, 1988.

In both the disability pension and legalization systems only the applicant appeals; the Government does not appeal grants made in the decision factories but it does, of course, set the rules of decision-making in those places, a process which is conducted under the watchful eyes of the courts, our next subject.

RPFs and the Courts. Although the decision factories have made thousands of decisions adverse to applicants, few of these have made their way into the courts. Courts, however, play an important role in the operations of the RPFs and of the legalization program generally.

This seemingly contradictory situation is the case because lawyers for immigrants' rights groups have concentrated their energies in early stages of the legalization process, filing class action and habeas corpus suits against INS regulations, rather than waiting to appeal specific adverse decisions coming out of the LAU.

There has been much legal activity in this field, with the American Immigration Lawyers Association tallying 32 separate and distinct suits as of Nov. 7, 1988.[38] (The list has since been lengthened.) All of the suits, with one exception, have been aimed at making the regulations more

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[38] See the Nov. 15, 1988 memorandum from Crystal Williams, Director of AILA's Legalization Appeals Project "New developments in legalization and SAW litigation".

generous, and enough of them have been successful to open wider a number of doors for legalization applicants.

While the complexity of this skein of suits is such to warrant a paper much longer and more learned than this one, we can only mention some of the more important facets of this body of litigation on the legalization process.

In the first place, it appears to the non-lawyerly authors of this paper, that the immigration bar, while totally decentralized, is almost as well coordinated in bringing these suits as the Government is in defending against them. The immigrant advocates seem to be in steady contact with each other on a one-to-one basis as well as working together through AILA and other networks.

Secondly, these suits have attacked a wide range of apparently vulnerable Government positions. For example, one group of cases (in which INS played only a minor role) involved the question of which crops should be listed among the perishable ones leading to SAW status. The Department of Agriculture, in response to various interests, concocted a long list of perishable crops -- including such unlikely entries as Christmas trees and clarinet reeds. When the cotton growers and workers sued the Department, it was hard pressed to support the exclusion of cotton. There have also been suits on the inclusion of sod farms and the cutting of sugar cane.[39] The one suit designed to narrow the scope of legalization in this category -- the effort of the Federation of Americans for Immigration Reform (FAIR) to cause the Department of Agriculture to shorten the list of SAW crops -- was unsuccessful.[40]

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39 "USDA Applies Linguistic Veg-O-Matic to Would-be SAW Sugar Cane Workers," *Interpreter Releases*, Vol. 65, No. 32, 8/22/88, pp 841-2.

40 *Northwest Forest Workers v. Lyng*. No. 87-1487 (D.D.C. 1988.) Two other crop-related suits were unsuccessful at this writing, one was filed on behalf of hay workers and the other on behalf of sugar cane cutters; the courts ruled that such workers were not eligible for the SAW program. The sugar cane case was a particularly interesting one in that the Florida growers of cane were opposed to granting of SAW status to the Jamaicans who had worked for them as nonimmigrant (H-2) workers. The growers' apparent reasoning was that if the workers were allowed into the SAW program they would be unlikely to continue the grim work of cutting cane with machetes, because then they would be free to take other work in the United States, a freedom that they lack in H-2 status.

Thirdly, and most importantly, most of the cases were class actions attacking INS regulations on subjects where reasonable people could disagree. These dealt with such matters as the length of time an applicant could be out of the nation without breaking his or her continuous illegal residence, the appropriate definition of a potential public charge, and whether or not an alien "known to the Government" to be in illegal status had to be known to INS (as that agency argued) or, as the advocates successfully argued, such status could be known by another agency or by a combination of government agencies.

Three cases of particular significance deserve specific mention because of their somewhat different impact on RPF activities. These are the *Ayuda*, *UFWA* and *Haitian Refugee Center* cases.[41]

The judge in the *Ayuda* case (Judge Stanley Sporkin) issued a number of orders and ultimately appointed a Special Master to rule on individual "known to the Government" cases filed under his order.[42] It is estimated by AILA that as many as 5,000 post-May 4, 1988 cases will be handled under this court order -- and outside the jurisdiction of the RPFs; similarly there is also a block of more than 6,000 cases once denied on known-to-government grounds which were re-opened as a result of Judge Sporkin's order.

Many of the *Ayuda* beneficiaries are former students who entered the nation legally as nonimmigrants, and who then proceeded to work in violation of their visas, an act not known to INS, but known to the Internal Revenue Service and the Social Security Administration (which collected taxes from them). Most of the *Ayuda* beneficiaries are now in middle class status, and most are from nations other than Mexico.

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41 These are respectively the "known to the Government" case mentioned above, *Ayuda, Inc. v. Meese*, 687 F. Supp. 650 (D.D.C. 1988), a case involving the extent of documentation needed by SAW applicants, *United Farm Workers of America v. INS*, C. No. S-87-1064-LKK/JFM (E.D. Cal.), and *Haitian Refugee Center v. Nelson*, No. 88-1066 (S.D. Fla 1988) challenging a number of INS practices and policies regarding the SAW program.

42 See "*Ayuda* Court Provides for Special Master, Extends Filing Date to October 30" *Interpreter Releases*, October 3, 1988, pp. 1012-1014. Other *IR* reports on this case are listed here as well.

UFWA beneficiaries, on the other hand, are farmworkers, largely Mexican Nationals. This case (along with two other almost parallel cases)[43] are making a major impact in the way the RPFs handle SAW cases. The UFWA attorneys contended that an alien's own statement should be sufficient to shift the afore-mentioned burden of proof to the Government. Picking up *Interpreter Release's* account of the case:

> Judge [Lawrence K.] Karlton disagreed, holding that 'Congress explicitly intended to require SAW applicants to submit some corroborating documentation to sustain. . .a nonfrivolous application.'
>
> While plaintiffs lost the preliminary injunction they may have won a partial victory. Judge Karlton's definition of what constitutes 'corroborating documentation' is quite liberal (emphasis in original):
>
> 'The applicant need only produce corroborating documentation that he or she performed some portion of the claimed qualifying work; once this is established his or her own testimony, if credible, as to the extent of that employment will suffice to shift the burden of proof to INS. For example, the corroborating affidavit of a co-worker that the applicant worked for a particular farmer at some point during the claimed period will establish the *fact* of employment; the applicant's own testimony that he or she worked for that farmer for the full 90 man-days establishes the *extent* of employment.'

This ruling, if it is not overturned on appeal, will change the ways that the RFPs do their business. The RPFs have been unhappy with affidavits filed by co-workers, on the grounds that two alleged co-workers could be trading these

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43 See *Haitian Refugee Center v. Nelson* and *Ramirez-Fernandez v. Guigni*, No. EP-88-CA-389 (N.D.Tex. 1988) which are described in the AILA memorandum cited in Footnote No. 38.

pieces of documentation to support each other's legalization applications. They have also sought documentation that covered the full 90 days of required work.

When a similar battle over what constitutes appropriate documentation for farmworkers was joined in Florida, between lawyers for Haitians and INS,[44] it led to a court order mandating the re-opening of once-denied cases; as a result, a large block of SAW cases were remanded from the LAU to the RPFs. The district court in this matter ordered several safeguards for SAW applicants including the provision of competent translators and full transcription of SAW legalization interviews, but this part of the order was stayed in the Court of Appeals.

In short, the RPFs, like many other agencies with similar assignments, must not only pay attention to what the appeals system does to their individual decisions, but what the courts are doing to the ground rules under which they must operate. In the legalization program, the latter is a much more important force than the former.

Standards used in Decision-Making. What standards are used by the LOs, the RPFs and the LAU when they make decisions on individual applications? A detailed answer to that question would fill a 200-page report, but perhaps some brief comments will be helpful.

As noted frequently, the legalization program, like INS generally, makes decisions with minimal input from attorneys.[45]

It has been suggested by some critics of INS that this lack of lawyers may relate to the frequency (and the success) with which the agency has been sued.

Decisions at the LO, RPF and LAU level are made based on a fairly slim volume of paper -- the statute, the regulations, legalization wires (from the Central Office), the

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[44] See *Haitian Refugee Center v. Nelson* (op cit). In addition to reports in *Interpreter Releases* on these cases, see "Litigation" in *Legalization Update* (published by the National Center for Immigrants' Rights), especially Vol. 2, Issue 9, October 31, 1988 and Vol. 2, Issue 8, August 30, 1988.

[45] The continuing naturalization program of INS is roughly comparable to the short-lived legalization program, in that a legal benefits are provided to individuals who meet certain requirements; first-line decision-makers in the naturalization program formerly were lawyers, but a few years ago the Justice Department decided that this was a misuse of legal training, and the lawyers were replaced by lay adjudicators.

policy memoranda which follow the wires, decisions of the courts, six precedent decisions of the LAU, and 20 volumes of Board of Immigration Appeals (BIA) decisions (a body of law which has been accumulating since 1906).

One commentator, Ms. Crystal Williams, director of AILA's legalization project, says she has collected every relevant INS-produced document needed for decision-making (excluding the BIA decisions) and it fills only one file drawer.

This is in contrast with the much older, and presumably more complex, Social Security program, which operates with a massive, Policy Operations Manual, whose index, alone, is said to require four volumes.

In the Northern RFP the collection of material described above is placed in a central location, a staff reading room. As new materials (court decisions, regulations and policy memoranda) become available in that region they are summarized in internal memoranda and distributed to the adjudicators.

The INS central office, early in the program, sought to meet the need for a comprehensive reference work on legalization by creating a one-volume Legalization Handbook. The program changed so rapidly that it became impossible to keep the Handbook up to date, and it was abandoned for all practical purposes.

How is this modest volume of guidance material used, in fact, in the three levels of the decision-making process in the SAW program? Let us look at some of the standards used at the LO level. The first part of the decision-making process, made during the face-to-face interview, includes the imposition of these three initial standards:

> 1. Is the applicant actually claiming eligibility? Does he claim that he worked in an appropriate crop for the right length of time? If not, the application is denied.
>
> 2. Is the application package complete?. Are all the forms included? Is the medical document signed? Is there the right kind of check, in the right amount? (INS did not accept personal checks, only money orders and cashier's checks.) If these standards were not met, usually the applicant was given an opportunity to rectify the situation.

3. Does the documentation relate to the applicant? A number of illiterate Haitian applicants in South Florida, including many eligible for the program, got into trouble because they had purchased Haitian birth certificates from inept middlemen who did not bother to make sure that the phoney documents bore the correct names.

Once these entry-level standards have been met, the interviewer works through a series of other standards, including the following:

• Is there no independent documentation of his claim? Is the documentation, on its face, unbelievable? In either case a denial can be expected.

• Is the applicant engaging in known fraud? Is he, for example, offering an employment verification document provided by an individual known to have not been engaged in agriculture. This would lead to a denial, at least of that document.

• Is the applicant's explanation of the kind of work done believable? Does he seem to know how lemons are clipped or blueberries rolled (if these are the crops claimed)? An implausible answer usually leads to a recommended denial.

(All too often, particularly in urban LOs, the INS staff did not have the needed training to ask these questions.)

On a softer, fuzzier basis is the question of what INS calls the "whole man approach." Does the person look like what he claims to be? Is he dressed for that role? Are his hands right? Does the vehicle he drove to the LO fit his claim? (Thick gold chains around the neck of the applicant with soft hands who arrives in a Jaguar at the LO where he claims to be a farmworker sets the adjudicator thinking.) If

the total picture of the applicant clashes with his claim, as in this instance, a denial may be recommended.

Claims are more likely to be carefully scrutinized if there is a discrepancy between the applicant's background or the location of the filing, on one hand, and the claim to be a farmworker on the other. If the applicant has a Ph.D. in chemical engineering and claims that he spent exactly 90 days working in the peanut harvest in South Georgia (real story) after he received the Ph.D., the LO will be dubious. Similarly, claims by ex-farmworkers are more likely to be reviewed carefully in Manhattan than they are in Fresno; and claims filed by people from nations not thought to provide many farmworkers to the U.S. (such as Pakistan) are likely to be looked at more carefully than those filled by Mexican Nationals.

If, on the other hand, if the applicant looks like a current or former farmworker, is from a plausible nation, and carries a verification form filled out by a grower or a labor contractor known to be in the business, and if the applicant seems to know something about the crop or crops he claims to have worked, the chances are excellent that an approval will be recommended.

The decision-making process at the RFP is different from that at the LO; again using the still continuing SAW program for our examples, the following tests or standards are among those applied:

- Is there a recommended denial from the LO? If fraud is suspected, at what level of seriousness? Recommended denials in the SAW program are screened more carefully than recommended approvals. In the 245A program only a small percentage, a sample, of the recommended approvals were screened unless there were electronic hits.

- Does the case fit into one of the patterns of abuse recorded on the RPF computers? Each RFP maintains data on such patterns, by grower, by labor contractor, by notary, by (we think) nationality, by crop and by location.

If the case fits one of these patterns, then it will be examined more carefully, and perhaps additional documentation requested.

- What, if anything, significant has shown up in the electronic checks on the individual? Does the old INS file have something that might effect eligibility for the benefit?

- Is there a need for a waiver in the file, and if there is such a need, is it there?

- Has there been a change in INS policy regarding the type of case in question, or a court-induced change in the standards, which should cause a change in the outcome of the case?

- Does the applicationl, generally "feel right" to the adjudicator; if it does, it is highly likely to be approved quickly, and if not, there may be more careful consideration. (We never saw this standard in writing, but heard it discussed frequently.)

- And, perhaps most importantly, if there is a recommended denial (and nothing else in the file pointing in that direction), has the adjudicator written an adequate justification of the denial? We understand from INS staff that more denials are reversed for lack of adequate written justification than for any other reason. If the justification is missing, then the RPF rules that it is not a "sustainable denial." In some of the larger RPFs, such as the Western one, all denials are scrutinized by a special unit that seeks to make sure that its denials are, in fact, sustainable.

For those few cases that reach the LAU the principal standards are these:

- Did the RPF appropriately interpret IRCA, regulation, policy memoranda and immigration law precedents?

- Was the case denied because of a situation which could have been remedied by a waiver?

- Has the state of the case law changed between the time the RPF last saw the case and its arrival at the LAU?

- Did the file contain an adequate written justification of the denial?

Even at the LAU level, the operation is largely free of lawyerly inputs. Although the Director of the LAU is an attorney, and though a member of the General Counsel's staff has been assigned to work with the LAU, most decisions are made by lay adjudicators, and no more than a fraction, perhaps only one case in ten, was prepared by an attorney.[46]

A review of the LAU's six precedent cases, cases, a modest body of published work for a program that had been in operation for 18 months at this writing, shows that there are several instances in which the LAU simply applied a court ruling to a case before it. The LAU's Interim Decision 3080 *Matter of N-*, decided on September 26, 1988, for example, appears to be an LAU ruling made in the wake of the *Ayuda* decision. The six LAU precedents, admittedly a tiny sample of its work, included five decisions favoring the applicant, and one against the applicant.

LAU precedent decisions are written by that agency, but the determination of which of its decisions are precedents, and thus binding on INS officers, is made by the Commissioner.

III. AN ASSESSMENT OF THE REGIONAL PROCESSING FACILITIES

"Is it possible" Mashaw asks, "to integrate the normative concerns of administrative law with the positive concerns of organizational theory?" [47]

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[46] Statement made at an Urban Institute meeting on the legalization program by Francesco Isgro, the attorney assigned to the LAU, Washington, D.C., March 3, 1989.

[47] Mashaw, *op cit*, p. ix.

One might ask, in this particular setting, is it possible to bring substantive justice, swiftly and efficiently, to three million applicants, most -- but not all -- of whom are eligible for the benefit in question? And can all this be done within Congressionally-mandated policy frameworks which, at best, are vague? Finally, do the Regional Processing Facilities play an appropriate role in such an effort to create bureaucratic justice?

Before returning to these large-scale questions, let us examine some of the advantages and disadvantages of the RPFs.

The following seem to be on the plus side:

1. There is greater, perhaps much greater, consistency in decision-making in the RPF system than in the district-by-district system used by INS in most other programs. Compare the relative similarity of the RPF treatments of SAW and 245A applications in Exhibit Three with the more traditional distribution of decisions in the naturalization program in 1984 shown in Exhibit Six. Although the Eastern Region's treatment of SAW applications was different from that of other regions, the patterns appear generally to be more consistent than in the past.

There are several reasons for this; first, there are four bosses, not 35 of them; secondly, the four RPF managers are a small enough group so that they can confer regularly, as they often do, in conference calls; thirdly, the gathering of the adjudicators, physically, in four buildings, means that program managers have a better opportunity to encourage uniform treatment of uniform inputs -- such as data in the old INS files, FBI data, and, of course the basic application. It also means that Central Office staff managers have a much smaller number of actors to relate to, and to coordinate, than in district programs.

2. The RPF system, it can be argued, tends to produce better quality decisions. The decision made by the LO adjudicator, on the spot, during the interview with the applicant may be biased and there is often no immediate second opinion. (The adjudicator may recognize a friend of a friend, or an attractive young woman, and give the applicant an undeserved break; or he can turn down a marginal case for similar human but not appropriate reasons.)

In the RPF system, however, the initial adjudicator is an important part of the process but not the totality of it. This

is by design the systematic second opinion (except in the automatic approval cases). As an AILA spokesperson suggested to us, the case records in legalization cases are usually better records than in other INS cases because the person in the Legalization Office knows that his or her work will be examined by someone in the RPF.

3. The RPF system appears to be an efficient and cost-effective one. The flow of paper and electronic data appears to be better organized that in many district offices, which should lead to program gains (fewer lost files -- a perpetual INS problem) as well financial savings over the long run.

This should be the case because the RPFs are new institutions, designed to do exactly what they are doing, and created from scratch. There were new leaders, new systems, and new structures, and apparently enough money to buy what was needed. The RPFs benefit from the economies of scale, not only in financial terms but in being capable of using broader and more sophisticated public administration techniques, such as in fraud-detection.

Finally, although some would regard this as a mixed blessing, because the RPFs are completely new facilities, they will probably help INS adjust from making decisions based on a paper file to making decisions on the electronic file. (Presumably, if the decision goes against the applicant, the paper file can always be consulted.)

On the other hand:

1. In a program where fraud is a major problem, the RPF system takes away the final decision-making power, and responsibility, from the government employee best able to make that decision -- the first-line adjudicator who talks to the applicant.

2. There is no question that the RPFs are isolated, probably more so than they should be.

3. We continue to wonder why this particular version of a regionally-centralized system continues to risk loss of time, money and (more important) files, by shipping them from the Legalization Office to London, Kentucky, and then back to the RPF.

The advantages, however, clearly outweigh the disadvantages, and the significance of the disadvantages can be diminished by one set of fairly modest system designs, and by one major (if belated investment.)

The problems of isolation could be lessened by opening telephone lines (at least for immigrant-serving agencies and attorneys) in all of the RPFs, as some have done. In retrospect, it might have been useful to assign RPF interviewers to work for a few weeks in the gritty reality of the Legalization Offices.

The principal problem of too little authority for the first-line adjudicator in the SAW program relates, in part, to too little money available to fund that program. We do not have all the numbers but suspect that the amount of money brought in by the SAW applicants, something like $200,000,000, was far larger than the money spent on this program. (SAWs applications were handled with appropriated funds, not, as was the case with 245As, by a fee-funded program, though fees were collected in both instances.) Had enough money been spent on the first-stage of the SAW application-screening process, the inherent difficulty of making the final decision off-stage would have been eased considerably.

Other specific (hind sight) recommendations would include the following:

1. More training of both LO and RPF adjudicators in the specifics of the work practices in SAW-related crops; except in some rural areas, most adjudicators were suburban and city people unknowing about the specifics of farm work, and hence could not detect fraudulent claims of agricultural employment.

2. Better informational materials to help LO staff detect SAW fraud; one LO adjudicator, for example, made up a loose-leaf book filled with dried leaves. If an applicant claimed he had worked in carrots, she would ask the alien to identify the carrot leaf from her collection. INS did not build such practices into the decision-making system.

3. SAW applicants should have been given an opportunity, as they were, to file anywhere in the country. But once they filed an application they should have been restricted in dealing with the same office, and the same adjudicator, if they needed to provide further

documentation. Instead they were allowed to shop around to other LOs, even in other regions.

4. INS should have sought direct electronic assess to California's farm employment (EDD) files, to provide instant verification for SAW applicants with recorded earnings.

5. RPF staffs should have had easier access to legal advice.

6. LO adjudicators should have been allowed an additional category "additional scrutiny" on their legalization case work sheets, so that they did not have to recommend a denial in all cases where they felt more information would be useful.

The Regional Processing Facilities, whether we like them or not, are probably the wave of the future, not only in the Immigration Service, but in other mass decision-making processes as well. If there were several more dollops of the human touch, just a little more contact with the outside world, that prospect would be an acceptable one.

Appendices

Appendix A The Section 245A Application Form [I-687]

Appendix B The SAW Application Form [I-700]

Appendix C The SAW Verification Form [I-705]

Appendix D Application for Waiver of Grounds of Excludability [I-690]

Appendix E The Second Phase Application (for Permanent Residence Status) [I-698]

Appendix A

U.S. Department of Justice
Immigration and Naturalization Service

APPLICATION FOR STATUS AS A TEMPORARY RESIDEN
Under Section 245A of the Immigration and Nationality Ac

I-687 Instructions - Page 1
(Conditions of Application)

Please carefully read all of the instructions: The fee will not be refunded.

Failure to follow instructions may require return of your application and delay final action. If your application is returned, no further action will be taken. You must resubmit your application with the requested documentation or information to renew processing.

Applications for status as a temporary resident as 1) an alien who illegally entered the United States prior to January 1, 1982 or 2) an alien who entered the United States as a nonimmigrant prior to January 1, 1982 and whose authorized stay expired before such date or whose unlawful status was known to the Immigration and Naturalization Service as of January 1, 1982 must be submitted or resubmitted by May 4, 1988. Failure to do so will make the applicant ineligible for the benefit sought.

1. **Preparation of Application:** A separate application for each applicant must be typewritten or printed legibly in ink. Applications by family members must be submitted together in order to receive the reduced family fee structure identified in item #5 of the instructions. The application must be completed in full. If extra space is needed to answer any item, attach a continuation sheet and indicate the item number. Various organizations and individuals. (Qualified Designated Entities) have been designated by the Attorney General to assist applicants in the preparation of their applications. Your application must be submitted to the Immigration Legalization Office having jurisdiction over your place of residence.

2. **Eligibility:** An application may be filed by any alien who would qualify within the following guidelines. If you are not certain that you would qualify, you may contact a Qualified Designated Entity near your place of residence or an Immigration Legalization Office in your area. ***The following aliens may be eligible for temporary resident status.***

   (a) An alien who can establish that he/she entered the United States before January 1, 1982 and that he/she has resided continuously in the United States in an unlawful status since such date.

   (b) An alien who entered the United States as a nonimmi grant prior to January 1, 1982 and whose authorized sta expired before such date or whose unlawful status wa known to the Government as of January 1, 1982 an who has resided continuously in the United States in a unlawful status since such date.

   In order to be eligible for Temporary Resident status unde paragraphs (a) and (b), the applicant must have bee continuously physically present in the United States sinc the date of enactment of the Immigration Reform an Control Act of 1986 (November 6, 1986).

3. **Ineligible Classes:** The following classes of aliens ar ineligible for temporary residence.

   (a) An alien who has been convicted of a felony or three c more misdemeanors committed in the United States.

   (b) An alien who has assisted in the persecution of an person or persons on account of race, religion, nationa ity, membership in a particular social group, or politic opinion.

   (c) An alien who at any time was a nonimmigrant exchang visitor who is subject to the two-year foreign residenc requirement unless the requirement has been satisfie or waived pursuant to the provisions of Section 212(e) the Act.

4. **Penalties for False Statements in Applications:** Whoev files an application for adjustment of status under Sectic 245A of the Act and who knowingly and willfully falsifie misrepresents, conceals or covers up a material fact makes any false, fictitious, or fraudulent statements representations, or makes or uses any false writing document knowing the same to contain any false, fictitiou or fraudulent statement or entry will be subject to crimin prosecution and/or deportation.

Authority for Collecting this Information: The authority to prescribe this form is contained in the "Immigration Reform and Control Act of 1986." The information is necessary to determine whether a person is eligible for the immigration benefit sought. Information on race is requested in question #10 for statistical purposes only. You do not have to give this information. All other questions must be answered. Failure to do so may result in the denial of the application.

Confidentiality: The information provided in this application is confidential and may only be used to make a determination on the application or for enforcement of the penalties for false statements referred to in instruction #4. The information provided is subject to verification by the Immigration and Naturalization Service.

I-687

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Washington, DC 20402

5. **Fees:** A fee of one hundred eighty-five dollars ($185.00) for each application, or fifty dollars ($50.00) for each application for a minor child (under 18 years of age) is required at the time of filing with the Immigration and Naturalization Service. The maximum amount payable by a family (husband, wife, and any minor children) shall be four hundred twenty dollars ($420.00). The fee is not refundable regardless of the action taken on the application. A separate cashier's check or money order must be submitted for each application. *All fees must be submitted in the exact amount.* No cash or personal checks will be accepted. The cashier's check or money order must be made payable to "Immigration and Naturalization Service" unless applicant resides in the Virgin Islands or Guam. (Applicants residing in the Virgin Islands make cashier's checks or money orders payable to "Commissioner of Finance of the Virgin Islands". Applicants residing in Guam make cashier's check or money order payable to "Treasurer, Guam".)

6. **Photographs:** Submit two (2) color photographs of yourself taken within thirty (30) days of the date of this application. These photos must have a white background, be glossy, unretouched, and not mounted; dimension of facial image should be about one inch from chin to top of hair; you should be shown in 3/4 frontal view showing right side of face with right ear visible; using pencil or felt pen, lightly print your name on the back of each photograph. Failure to comply with the above instructions will result in the return of the application without further action.

7. **Fingerprints:** A completed fingerprint card (Form FD-258) must be submitted by each applicant 14 years of age or older. Fingerprint cards with instructions for their completion are available at Qualified Designated Entity offices. Applicants may be fingerprinted by law enforcement offices, Outreach Centers, charitable and voluntary agencies, or other reputable persons or organizations. The fingerprint card (FD-258) on which the prints are submitted, the ink used, and the quality and classifiability of the prints must meet standards prescribed by the Federal Bureau of Investigation. The card must be signed by you in the presence of the person taking your fingerprints, who must then sign his/her name and enter the date in the spaces provided. It is important to furnish all the information called for on the card.

8. **Interview:** You will be required to be present for a personal interview by an officer of the Immigration and Naturalization Service. In most locations, interviews will be scheduled subsequent to receipt of the application.

9. **Documents - General:** All documents must be submitted in the original. If the return of original documents is desired, each must be accompanied by copies certified as true and correct by your representative or Qualified Designated Entity in the format prescribed in 8 CFR 204.2 (j)(1) or (2). Certified copies unaccompanied by original documents are unacceptable. All original documents submitted without certified copies become the property of the Attorney General and will be retained by the Service. Any document in a foreign language must be accompanied by a summary translation into English. A summary translation is a condensation or abstract of the document's text but includes all pertinent facts. The translator must certify that he/she is competent to translate into English and that the translation is accurate.

10. **Documents to Establish Identity:** The following list gives examples of the types of documents the Immigration and Naturalization Service will consider as evidence to establish your identity. This list is not all inclusive and other evidence may be considered if none of the following is available:

    - Birth Certificate, Baptismal Certificate, or other evidence of birth
    - Passport
    - National Identification Card from country of origin
    - Driver's License
    - School Identification Card
    - State Identification Card

11. **Documents to Establish Admissibility:**

    (a) Medical Report of Examination (Form I-693).

    (b) Evidence of Income: examples of documents which may be used as evidence of financial support or income include:

    - Letters from employers which illustrate full-time employment.
    - W-2 Tax Records or other wage records.
    - Bank statements or evidence of other assets.
    - Form I-134 (Affidavit of Support) completed by responsible person in the United States.
    - Any other evidence to establish that the applicant not likely to become a public charge.

    (c) An application for a Waiver of Grounds of Excludability (Form I-690) may be required if you answer any of the items 39 through 43 in the affirmative.

12. **Documents to Establish Residence:** Examples of documents which may be submitted to prove continuity of residence include:

    - Leases
    - Rent Receipts
    - Employer, union or other business records
    - Birth certificates of children born in the United States
    - Automobile license receipts
    - Vehicle registrations
    - Deeds
    - Mortages
    - Utility bill receipts
    - Installment loan records
    - Church records
    - Medical records

    Letters from landlords should include the landlord's present address and the beginning and terminating dates of the applicant's residence. Letters from employers' organizations or churches should be on official stationery and include relevant dates, the organization seal (if any) and the signer's name and title.

U.S. Department of Justice
Immigration and Naturalization Service

Application for Status as a Temporary Resident OMB #1115-01
(Under Section 245A of the Immigration and Nationality Act)

Please begin with item #1, after carefully reading the instructions. The block below is for *Government Use Only.*

Name and Location (City or Town) of Qualified Designated Entity	Fee Stamp
	Fee Receipt No. (This application)
	Principal Applicant's File No. A -
Qualified Designated Entity I.D. No.	File No. (This applicant) A -

Applicant: Do not write above this line. See instructions before filling in application. If you need more space to answer fully any question on this form, use a separate sheet and identify each answer with the number of the corresponding question. *Fill in with typewriter or print in block letters in ink.*

1. I hereby apply for status as indicated by the block checked below (check block A or B).

☐ A Temporary Residence as an alien who illegally entered the U.S. prior to January 1, 1982

☐ B Temporary Residence as an alien who entered the U.S. as a nonimmigrant prior to January 1, 1982 and whose authorized stay expired before such date or whose unlawful status was known to the Government as of January 1, 1982.

2. Family Name (Last Name in CAPITAL Letters) (First Name) (Middle Name)	3. Date of Birth (Month/Day/Year)
4. Other Names Used or Known by (including maiden name, if married)	5. Telephone Numbers (Include Area Codes) Home: Work:
6. Home Address in the U.S. (No. and Street) (Apt. No.) (City) (State) (ZIP Code)	
7. Mailing Address in the U.S. (if different from #6.) (Apt. No.) (City) (State) (ZIP Code)	
8. Last Address outside the U.S. (City or Town) (County, Province or State) (Country)	

9. Sex	10. Race			
☐ Male ☐ Female	☐ Asian or Pacific Islander	☐ Black, not of Hispanic origin	☐ Other (specify below)	
	☐ Hispanic	☐ White, not of Hispanic origin		

11. Marital Status				12. Country of Citizenship
☐ Now Married	☐ Never Married	☐ Separated	☐ Divorced	☐ Widowed

13. Place of Birth (City or Town) (County, Province or State) (Country)	
14. Have you previously applied for temporary residence as a legalization applicant? ☐ No ☐ Yes (If "Yes" give date, place of filing, and final disposition, if known)	15. Do you have any other record with I&NS? ☐ No ☐ Yes [If "Yes" give number(s)] A - _____ Other _____
16. When did you last come to the U.S.? (Month/Day/Year)	17. Manner of Entry (Visitor, Student, Crewman, etc.) ☐ With visa (visitor, student, etc.) specify _____ ☐ Without visa
18. Place of Last Entry ☐ U.S. Port of entry (City and State) _____ ☐ Border - Not through port (State) _____	19. List all Social Security Numbers used. (1) (3) (2) (4)
20. Mother's Name (Maiden) (Last) (First) ☐ Living ☐ Deceased (year) _____	21. Father's Name (Last) (First) ☐ Living ☐ Deceased (year) _____

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If you were admitted as a nonimmigrant, complete items 22 through 30; if not, leave blank and continue on item 31

22 Passport Number	23 Country that Issued Passport	24 Location Visa Issued (City and Country of U.S. Consul)
25 Type of Visa Issued (B-2, F-1, etc.)	26 Date Visa Issued (Month/Day/Year)	27 Authorized Stay in U.S. Expired (Month/Day/Year)
28 Visa Class (Student, visitor, etc.)	29 Did you violate your legal status? ☐ No ☐ Yes If "Yes" explain violation and date	30 Were you notified of your violation? ☐ No ☐ Yes If "Yes" explain how notified

31 I have been married _____ times.

I have (fill in *total number* now living, whether in the U.S. or not.) _____ sons and daughters, and _____ brothers and sisters.

32 Complete all columns below for your spouse, each former spouse, and each son, daughter, brother and sister. Under Name, give first name and middle initial (give last name only if it differs from your own). Under Relationship, fill in spouse, former spouse, son, daughter, brother or sister. Under Date of Birth, give month, day, and year of birth. Under Place of Birth, give city, state and country of birth. Under Location Where Now Living, give city, state and country of current residence (if living with you, write "with me" in the column). In the last column write "Yes", "No", or "Unknown" to indicate if each is applying for residence in the U.S. If more space is needed, attach an additional sheet. Indicate on the sheet that the information refers to question #32.

Full Name (Include maiden name if applicable)	Relationship	U.S. Citizen?	Date of Birth	Place of Birth	Location Where Now Living	Applying?
		☐ Yes ☐ No				
		☐ Yes ☐ No				
		☐ Yes ☐ No				
		☐ Yes ☐ No				
		☐ Yes ☐ No				
		☐ Yes ☐ No				
		☐ Yes ☐ No				
		☐ Yes ☐ No				
		☐ Yes ☐ No				
		☐ Yes ☐ No				
		☐ Yes ☐ No				
		☐ Yes ☐ No				
		☐ Yes ☐ No				

33 List all of your residences in the United States since your first entry, beginning with your present address (attach an additional sheet, if necessary)

Street Name and Number (Apt. No.)	City	State and ZIP Code	From (Month/Year)	To (Month/Year)
				Present

34 To assist in establishing the required residence, please list all affiliations or associations with clubs, organizations, churches, unions, businesses, e

Name of Organization	Location	From (Month/Year)	To (Month/Year)

35 Absences from the United States since entry. (List most recent absence first and list absences back to January 1, 1982)

Country	Purpose of Trip	From (Month/Year)	To (Month/Year)

36 Employment in the United States since first entry. (List present or most recent first and list back to date of entry; if none since entry, write "None")

Full Name and Address of Employer (with ZIP Code) (or Self employed and business address)	Your Occupation	Annual Wages	Wages per Hour	From (Month/Year)	To (Month/Year)

37 ☐ I have registered under the Military Selective Service Act. My Selective Service No. is _____
☐ I am a male over the age of 17 and under the age of 26 required to register under the Military Selective Service Act and have not done so. I wish to register at this time. SSS Form 1 is attached.
☐ I am a male born after 1959 and over the age of 26 and cannot now register.
☐ I am exempt from Selective Service Registration either because I am a female or I was born before 1960.

38.I ☐ have I ☐ have not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group or political opinion.

39 I ☐ have I ☐ have not been treated for a mental disorder, drug addiction or alcoholism.

40 I ☐ have I ☐ have not been arrested, convicted or confined in a prison.

41 I ☐ have I ☐ have not been the beneficiary of a pardon, amnesty, rehabilitation decree, other act of clemency or similar action.

42 I ☐ have I ☐ have not received public assistance from any source, including, but not limited to, the United States Government, any state, county, city or municipality. (If you have, explain including the name(s) and Social Security number(s) used.)

43 Applicants for status as Temporary Residents must establish that they are admissible to the United States. Except as otherwise provided by law, aliens within any of the following classes are not admissible to the United States and are therefore ineligible for status as Temporary Residents.

A. Aliens who have committed or who have been convicted of a crime involving moral turpitude (does not include minor traffic violations).

B. Aliens who have been engaged in or who intend to engage in any commercialized sexual activity.

C. Aliens who are or at anytime have been anarchists, or members of or affiliated with any Communist or other totalitarian party, including any subdivision or affiliate thereof.

D. Aliens who have advocated or taught, either by personal utterance, or by means of any written or printed matter, or through affiliation with an organization:
1) "Opposition to organized government;
2) The overthrow of government by force or violence;
3) The assaulting or killing of government officials because of their official character;
4) The unlawful destruction of property;
5) Sabotage, or;
6) The doctrines of world communism, or the establishment of a totalitarian dictatorship in the United States.

E. Aliens who intend to engage in activities prejudicial to the national interests or unlawful activities of a subversive nature.

F. Aliens who, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with:
1) The Nazi government in Germany;
2) Any government in any area occupied by the military forces of the Nazi government in Germany;
3) Any government established with the assistance or cooperation of the Nazi government of Germany;
4) Any government which was an ally of the Nazi government of Germany;
ordered, incited, assisted or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion.

G. Aliens who have been convicted of a violation of any law or regulation relating to narcotic drugs or marihuana, or who have been illicit traffickers in narcotic drugs or marihuana.

H. Aliens who have been involved in assisting any other aliens to enter the United States in violation of the law.

I. Aliens who have applied for exemption or discharge from training or service in the Armed Forces of the United States on the ground of alienage and who have been relieved or discharged from such training or service.

J. Aliens who are mentally retarded, insane, or who have suffered one or more attacks of insanity.

K. Aliens afflicted with psychopathic personality, sexual deviation, mental defect, narcotic drug addiction, chronic alcoholism or any dangerous contagious disease.

L. Aliens who have a physical defect, disease or disability affecting their ability to earn a living.

M. Aliens who are paupers, professional beggars or vagrants.

N. Aliens who are polygamists or advocate polygamy.

O. Aliens likely to become a public charge.

P. Aliens who have been excluded from the United States within the past year, or who at any time within 5 years have been deported from the United States.

Q. Aliens who have procured or have attempted to procure a visa by fraud or misrepresentation.

R. Aliens who are former exchange visitors who are subject to but have not complied with the two-year foreign residence requirement.

Do any of the above classes apply to you? ☐ No ☐ Yes (If "Yes", explain on a separate sheet of paper.)

44. If your native alphabet is in other than Roman letters, write your name in your native alphabet.			45. Language of native alphabet
46. Signature of Applicant - *I CERTIFY*, under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I hereby consent and authorize the Service to verify the information provided, and to conduct police, welfare and other record checks pertinent to this application.			47. Date (Month/Day/Year)
48. Signature of person preparing form, *if other than applicant. I DECLARE that this document was prepared by me at the request of the applicant and is based on all information of which I have any knowledge.*			49. Date (Month/Day/Year)
50 Name and Address of person preparing form, *if other than applicant (type or print).*			51. Occupation of person preparing form
QUALIFIED DESIGNATED ENTITY USE ONLY			
52 Reviewed by (Print or Type Name)	53. Signature		54. Date
IMMIGRATION AND NATURALIZATION SERVICE USE ONLY			
55. Recommended re: Temporary Residence ☐ Approved ☐ Denied	56. Waiver of Excludability under Section 212 (a) _____ is ☐ Approved ☐ Denied		
57 Class of Admission	58. Place of Adjustment		59. Date of Adjustment
60 Recommended by (Print or type Name and Title)	61. Signature	62. ID No.	63. Date
64 Final Action: Temporary Residence ☐ Approved ☐ Denied	65. Director Regional Processing Facility	66. ID. No.	67 Date

Form I-687 (04/01/87) Page 4

U.S. GOVERNMENT PRINTING OFFICE : 1987 O - 179-675

Appendix B

U.S. Department of Justice
Immigration and Naturalization Service

Application for Temporary Resident Status as a Special Agricultural Worker (SAW
(Section 210 of the Immigration and Nationality Ac

I-700 Instructions - Page 1
(Conditions of Application)

Please carefully read all of the instructions: The fee will not be refunded.

Failure to follow instructions may require return of your application and delay final action. If your application is returned, no further action will be taken. You must resubmit your application with the requested documentation or information to renew processing.

Applications for temporary resident status as a special agricultural worker must be submitted (or resubmitted) by November 30, 1988. Failure to do so will make the applicant ineligible for the benefit sought.

1. **Preparation of Application and Filing:** A separate application for each applicant must be typewritten or printed legibly in ink. Applications by family members must be submitted together in order to receive the reduced family fee structure identified in item #5 of the instructions. The application must be completed in full. If extra space is needed to answer any item, attach a continuation sheet and indicate the item number. Various organizations and individuals (Qualified Designated Entities) have been designated by the Attorney General to assist applicants in the preparation of their applications.

   Applicants who have been in the United States since November 6, 1986 may file their applications in the United States with a legalization office of the Immigration and Naturalization Service or with a Qualified Designated Entity. All others must file their applications outside the United States at a location designated by the nearest American Consulate.

2. **Penalties for False Statements in Applications:** Whoever files an application for adjustment of status under Section 210 of the Act and who knowingly and willfully falsifies, conceals or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry or creates or supplies a false writing or document for use in making such an application will be subject to criminal prosecution and/or deportation.

3. **Eligibility:** Applicants may be eligible for temporary residenc in either the Group I or Group II classification

   (a) Group I
   An applicant who can establish that he/she has performe seasonal agricultural services (field work in perish able commodities) in the United States for at least 9 man days during each of the 12 month periods endin on May 1, 1984, 1985, and 1986, and resided in th United States for an aggregate of 6 months in each 1 month period.

   (b) Group II
   An applicant who can establish that he/she ha resided and performed seasonal agricultural service (field work in perishable commodities) in the Unite States for at least 90 man days during the 12 mont period ending on May 1, 1986.

4. **Ineligible Classes:** The following classes of aliens ar ineligible for temporary residence as special agricultur workers:

   (a) An alien who has assisted in the persecution of ar person or persons on account of race, religio nationality, membership in a particular social grou or political opinion;

   (b) An alien who at any time was a nonimmigra exchange visitor under Section 101(a)(15)(J) of th Act who is subject to the two year foreign residenc requirement unless the alien has complied with th requirement or the requirement has been waive pursuant to the provisions of Section 212(e) of th Act.

Authority for Collecting this Information: The authority to prescribe this form is contained in the "Immigration Reform and Control Act of 1986." The information is necessary to determine whether a person is eligible for the immigration benefit sought. Information on race is requested in question #9 for statistical purposes only. You do not have to give this information. All other questions must be answered. Failure to do so may result in the denial of the application.

Confidentiality: The information provided in this application is confidential and may only be used to make a determination on the application or for enforcement of the penalties for false statements referred to in instruction #2. The information provided is subject to verification by the Immigration and Naturalization Service.

I-700

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Washington, DC 20402

5. **Fees:** A fee of one hundred eighty-five dollars ($185.00) for each application, or fifty dollars ($50.00) for each application for a minor child (under 18 years of age) is required at the time of filing with the Immigration and Naturalization Service. The maximum amount payable by a family (husband, wife, and any minor children) shall be four hundred twenty dollars ($420.00). The fee is not refundable regardless of the action taken on the application. A separate cashier's check or money order must be submitted for each application. ***All fees must be submitted in the exact amount.*** No cash or personal checks will be accepted. The cashier's check or money order must be made payable to "Immigration and Naturalization Service" unless applicant resides in the Virgin Islands or Guam. (Applicants residing in the Virgin Islands make cashier's checks or money orders payable to "Commissioner of Finance of the Virgin Islands". Applicants residing in Guam make cashier's check or money order payable to "Treasurer, Guam".)

6. **Photographs:** Submit two (2) color photographs of yourself taken within thirty (30) days of the date of this application. These photos must have a white background, be glossy, unretouched, and not mounted; dimension of facial image should be about one inch from chin to top of hair; you should be shown in 3/4 frontal view showing right side of face with right ear visible; using pencil or felt pen, lightly print your name on the back of each photograph. Failure to comply with the above instructions will result in the return of the application without further action.

7. **Fingerprints:** A completed fingerprint card (Form FD-258) must be submitted by each applicant 14 years of age or older. Fingerprint cards with instructions for their completion are available at Qualified Designated Entity offices. Applicants in the United States may be fingerprinted by law enforcement offices, Qualified Designated Entities, or other reputable persons or organizations. Applicants outside of the United States may be fingerprinted at an American Consulate. The fingerprint card (FD-258) on which the prints are submitted, the ink used, and the quality and classifiability of the prints must meet standards prescribed by the Federal Bureau of Investigation. The card must be signed by you in the presence of the person taking your fingerprints, who must then sign his/her name and enter the date in the spaces provided. It is important to furnish all the information called for on the card.

8. **Interview:** You will be required to be present for a personal interview by either an officer of the Immigration and Naturalization Service or an American consul. In most locations, interviews will be scheduled subsequent to receipt of the application.

9. **Documents - General:** All documents must be submitted in the original. If the return of original documents is desired, each must be accompanied by copies certified as true and correct by your representative or designated Qualified Designated Entity in the format prescribed in 8 CFR 204.2 (j)(1) or (2). Certified copies unaccompanied by original documents are unacceptable. All original documents submitted without certified copies become the property of the Attorney General and will be retained by the Service. Any document in a foreign language must be accompanied by a summary translation into English. A summary translation is a condensation or abstract of the document's text but includes all pertinent facts. The translator must certify that he/she is competent to translate into English and that the translation is accurate.

10. **Documents to Establish Identity:** The following list gives examples of the types of documents the Immigration and Naturalization Service will consider as evidence to establish your identity. This list is not all inclusive and other evidence may be considered if none of the following is available:

    - Birth Certificate, Baptismal Certificate, or other evidence of birth
    - Passport
    - National Identification Card from country of origin
    - Driver's License
    - School Identification Card
    - State Identification Card

11. Documents to Establish Admissibility:

    (a) Medical Report of Examination (Form I-693).

    (b) Evidence of Income: During periods of residence in the United States examples of documents which may be used as evidence of financial support or income include:

    - Documents listed in item #13.
    - Letters from employers which illustrate full-time employment.
    - W-2 Tax Records or other wage records.
    - Bank statements or evidence of other assets.
    - Form I-134 (Affidavit of Support) completed by a responsible person in the United States.
    - Any other evidence to establish that the applicant is not likely to become a public charge.

    (c) An application for a Waiver of Grounds of Excludability (Form I-690) may be required if you answer any of the items 26 through 29 in the affirmative.

12. **Documents to Establish Residence:** Examples of documents which may be submitted to establish residence in the United States during the requisite period(s) include:

    - Employment records
    - Leases
    - Birth certificates of children born in the United States
    - Church records
    - Medical records

13. **Documents to Establish Qualifying Employment:** Examples of documents which may be submitted to prove employment as a Seasonal Agricultural Worker include;

    - Government employment records.
    - Employment records kept by growers, their foremen, farm labor contractors, unions.
    - Affidavits executed under oath by persons with specific knowledge of the applicant's employment.
    - Other reliable documentation as the alien may provide, such as pay stubs, work receipts and worker identification cards.

    Documentation provided by Special Agricultural Workers is subject to employer corroboration.

U.S. Department of Justice
Immigration and Naturalization Service

Application for Temporary Resident Status as a Special Agricultural Worker (Section 210 of the Immigration and Nationality Act)

OMB #1115-0

Please begin with item #1, after carefully reading the instructions.

The block below is for *Government Use Only.*

Name and Location (City or Town) of Qualified Designated Entity	Fee Stamp
	Fee Receipt No. (This application)
	Principal Applicant's File No. A -
Qualified Designated Entity I.D. No.	File No. (This applicant) A -

Applicant: Do not write above this line. See instructions before filling in application. If you need more space to answer fully any question on this form, use a separate sheet and identify each answer with the number of the corresponding question. *Fill in with typewriter or print in block letters in ink.*

1. I hereby apply for status as indicated by the block checked below (check block A or B)

☐ A Group I: Temporary Residence as an alien who has performed seasonal agricultural services in the U.S. for at least 90 days during each of the 12 month periods ending on May 1, 1984, 1985, and 1986.

☐ B Group II: Temporary Residence as an alien who has performed seasonal agricultural services in the U.S. for at least 90 days during the 12 month period ending on May 1, 1986.

2. Family Name (Last Name in CAPITAL Letters) (First Name) (Middle Name)	3. Date of Birth (Month/Day/Year)

4. Other Names Used or Known by (Including maiden name, if married)	5. Telephone Numbers (Include Area Codes) Home: Work:

6. Address (No. and Street) (Apt. No.) (Town or City) (State/Country) (ZIP/Postal Code)

7. Last Address outside the U.S. (City or Town) (County, Province or State) (Country)

8. Sex ☐ Male ☐ Female

9. Race ☐ Asian or Pacific Islander ☐ Black, not of Hispanic origin ☐ Other (specify below) ☐ Hispanic ☐ White, not of Hispanic origin

10. Marital Status	11. Country of Citizenship
☐ Never Married ☐ Divorced ☐ Now Married ☐ Separated ☐ Widowed	

12. Place of Birth (City or Town) (County, Province or State) (Country)

13. Have you previously applied for temporary residence as a Special Agricultural Worker? ☐ No ☐ Yes (If "Yes" give date, place of filing, and final disposition, if known)	14. Do you have any other record with I&NS? ☐ No ☐ Yes [If "Yes" give number(s)] A - _____ Other _____
15. When did you last come to the U.S.? (Month/Day/Year)	16. Manner of Entry (Visitor, Student, Crewman, etc.) ☐ With visa (visitor, student, etc.) specify _____ ☐ Without visa
17. Place of Last Entry ☐ U.S. Port of entry (City and State) _____ ☐ Border - Not through port (State) _____	18. List all Social Security Numbers used. (1) (3) (2) (4)
19. Mother's Name (Maiden) (Last) (First) ☐ Living ☐ Deceased (year) _____	20. Father's Name (Last) (First) ☐ Living ☐ Deceased (year) _____

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Form I-700 (04/01/87) Page 1

21 To assist in establishing the required residence, please list all affiliations or associations with clubs, organizations, churches, unions, businesses, etc.

Name of Organization	Location	From (Month/Year)	To (Month/Year)

22 Fieldwork in perishable commodities from May 1, 1983 through May 1, 1986 (List most recent first)
Information concerning employment in the United States is subject to corroboration by the employer

Name of Employer	Farm Name and Location (State and County)	From (Month/Year)	To (Month/Year)	.Days Worked	Type of Field Work	Type of Crop	Documentation

23 List all periods of residence in the United States since May 1, 1983 and means of support. Begin with your present address (attach an additional sheet if necessary).

Street Name and Number (Apt. No.)	City	State and ZIP Code	Means of Support	From (Month/Year)	To (Month/Year)
					Present

24 I ☐ have I ☐ have not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

25 I ☐ have I ☐ have not received public cash assistance from any source, including, but not limited to, the United States Government, any state, county, city or municipality. (If you have, explain; including the name(s) and Social Security number(s) used.)

26 I ☐ have I ☐ have not been treated for a mental disorder, drug addiction or alcoholism.

27 I ☐ have I ☐ have not been arrested, convicted or confined in a prison.

28 I ☐ have I ☐ have not been the beneficiary of a pardon, amnesty, rehabilitation decree, other act of clemency or similar action.

29 Applicants for status as Temporary Residents must establish that they are admissible to the United States. Except as otherwise provided by law, aliens within any of the following classes are not admissible to the United States and are therefore ineligible for status as Temporary Residents.

A. Aliens who have committed or who have been convicted of a crime involving moral turpitude (does not include minor traffic violations).

B. Aliens who have been engaged in or who intend to engage in any commercialized sexual activity.

C. Aliens who are or at any time have been anarchists, or members of or affiliated with any Communist or other totalitarian party, including any subdivision or affiliate thereof

D. Aliens who have advocated or taught, either by personal utterance, or by means of any written or printed matter, or through affiliation with an organization:
1) Opposition to organized government;
2) The overthrow of government by force or violence;
3) The assaulting or killing of government officials because of their official character;
4) The unlawful destruction of property;
5) Sabotage, or;
6) The doctrines of world communism, or the establishment of a totalitarian dictatorship in the United States.

E. Aliens who intend to engage in activities prejudicial to the national interests or unlawful activities of a subversive nature.

F. Aliens who, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with:
1) The Nazi government in Germany;
2) Any government in any area occupied by the military forces of the Nazi government in Germany;
3) Any government established with the assistance or cooperation of the Nazi government of Germany;
4) Any government which was an ally of the Nazi government of Germany;
ordered, incited, assisted or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion.

G. Aliens who have been convicted of a violation of any law or regulation relating to narcotic drugs or marihuana, or who have been illicit traffickers in narcotic drugs or marihuana.

H. Aliens who have been involved in assisting any other aliens to enter the United States in violation of the law.

I. Aliens who have applied for exemption or discharge from training or service in the Armed Forces of the United States on the ground of alienage and who have been relieved or discharged from such training or service.

J. Aliens who are mentally retarded, insane, or who have suffered one or more attacks of insanity.

K. Aliens afflicted with psychopathic personality, sexual deviation, mental defect, narcotic drug addiction, chronic alcoholism or any dangerous contagious disease.

L. Aliens who have a physical defect, disease or disability affecting their ability to earn a living.

M. Aliens who are paupers, professional beggars or vagrants.

N. Aliens who are polygamists or advocate polygamy.

O. Aliens likely to become a public charge.

P. Aliens who have been excluded from the United States within the past year, or who at any time within 5 years have been deported from the United States.

Q. Aliens who have procured or have attempted to procure a visa by fraud or misrepresentation.

R. Aliens who are former exchange visitors who are subject to but have not complied with the two-year foreign residence requirement.

Do any of the above classes apply to you? ☐ No ☐ Yes (If "Yes", explain on a separate sheet of paper.)

30. If your native alphabet is in other than Roman letters, write your name in your native alphabet.	31. Language of native alphabet
32. Signature of Applicant - *I CERTIFY*, under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I hereby consent and authorize the Service to verify the information provided, and to conduct police, welfare and other record checks pertinent to this application.	33. Date (Month/Day/Year)
34. Signature of person preparing form, *if other than applicant. I DECLARE* that this document was prepared by me at the request of the applicant and is based on all information on which I have any knowledge.	35. Date (Month/Day/Year)
36. Name and Address of person preparing form, *if other than applicant (type or print).*	37. Occupation of person preparing form

QUALIFIED DESIGNATED ENTITY USE ONLY

38. Reviewed by (Print or Type Name)	39. Signature	40. Date

IMMIGRATION AND NATURALIZATION SERVICE USE ONLY

41. Recommendation: Temporary Residence ☐ Approved ☐ Denied	42. Waiver of Excludability under Section 212 (a) _____ is ☐ Approved ☐ Denied		
43. Class of Admission	44. Place of Adjustment		45. Date of Adjustment
46. Recommended by (Print or type Name and Title)	47. Signature	48. ID No.	49. Date
50. Final Action: Temporary Residence ☐ Approved ☐ Denied	51. Director Regional Processing Facility	52. ID. No.	53. Date

I-700

Form I-700 (07/01/87) Page 3 U.S. GOVERNMENT PRINTING OFFICE : 1987 O - 178-9

Appendix C

OMB# 1115-0137

U.S. Department of Justice
Immigration and Naturalization Service

Affidavit Confirming Seasonal Agricultural Employment of an Applicant for Temporary Residence Status Under Section 210 of the Immigration & Nationality Act

Please begin with item #1, after carefully reading the instructions.

A. INFORMATION ABOUT APPLICANT—To be completed by the applicant.

1 Name (Family Name in CAPITAL Letters) (First Name) (Middle Name)	2. Date of Birth (Month/Day/Year)
3 Address (No. and Street) (Apt. No.) (City or Town) (State) (ZIP Code)	4 Telephone Number (Include Area Code)
5 Place of Birth (City or Town) (Country, Province or State) (Country)	6. Country of Citizenship

B. INFORMATION ABOUT YOU, THE PERSON MAKING THE AFFIDAVIT.

7 Name (Family Name in CAPITAL Letters) (First Name) (Middle Name)	8. Telephone Number (Include Area Code)
9 Address (No. and Street) (Apt. No.) (City or Town) (State) (ZIP Code)	
10 Relationship to Applicant (Check which block(s) applies) ☐ Grower ☐ Foreman ☐ Farm Labor Contractor ☐ Union Official (Title) _____ ☐ Other (explain) _____	

C. FIELD WORK IN PERISHABLE COMMODITIES

11 Name of Farm _____ Name of Employer _____ Dates Employed From _____ To _____
County _____ State _____
Phone No. ( ) _____

Man Days Worked	Type of Fieldwork	Type of Crop	Name Used By Applicant If Other Than Name In Block 1.	Social Security Number Used

12 Name of Farm _____ Name of Employer _____ Dates Employed From _____ To _____
County _____ State _____
Phone No. ( ) _____

Man Days Worked	Type of Fieldwork	Type of Crop	Name Used By Applicant If Other Than Name In Block 1.	Social Security Number Used

13. Name of Farm _____ Name of Employer _____ Dates Employed From _____ To _____
County _____ State _____
Phone No. ( ) _____

Man Days Worked	Type of Fieldwork	Type of Crop	Name Used By Applicant If Other Than Name In Block 1.	Social Security Number Used

I-705

Form I-705 (02/13/87)

Continued on other side

C AGRICULTURAL EMPLOYMENT (Continued)

14 Identify the source of this information by checking the appropriate blocks below and state how you know the information to be true. Records kept by:	15. Please sign and submit copies of the documents identified in item #14 or state the reason(s) for not supplying such documents.
☐ Grower, ☐ Union, ☐ Farm Labor Contractor or ☐ Personal Knowledge Statement	☐ Signed, supporting documentation is attached ☐ Supporting documentation is not attached (explain) Statement:
16 If the name of the applicant in block #1 is not the name under which the applicant worked as shown in Section C, please: (a) attach a recognizable photograph of the applicant and sign your name in ink across the back of the photograph, or (b) explain how you know that the applicant is, in fact, the person who performed the work.	

D. I am willing to personally confirm this information, if requested. I declare and affirm under penalty of perjury that the information on this affidavit is true and correct to the best of my knowledge and belief.

Signature of Affiant

Signature of Applicant

Form I 705 (02/21/87)

Instructions for Form I-705
Affidavit of Seasonal Agricultural Employment

1. Preparation of Affidavit:
This affidavit is to be completed under oath by agricultural producers, their foremen, union officials, farm labor contractors, or other persons with specific knowledge of the employment history of a person seeking temporary residence status as a Special Agricultural Worker (SAW). A separate affidavit must be completed for each applicant and must be typewritten or printed legibly in ink. The affidavit must be completed in full. If extra space is needed to answer any item, attach a continuation sheet and indicate the item number. Affiants may provide other information not requested on this form which may help to establish the performance of qualifying employment by the applicant.

2. Eligibility Criteria for Special Agricultural Workers:
Section 210 of the Immigration and Nationality Act provides for the granting of temporary residence status to aliens who have performed field labor in perishable agricultural commodities in the United States for at least 90 man-days during the twelve month period ending May 1, 1986. Aliens who can also document performance of field work in perishable commodities for at least 90 man-days in the years ending May 1, 1984 and May 1, 1985 will be adjusted to permanent resident status one year earlier than those who cannot. A man-day is any day in which not less than one hour of the requisite labor is performed for one or more employers.

3. Confidentiality:
As required by section 210 of the Act, the information provided in this affidavit is confidential and may only be used by the Immigration and Naturalization Service in making a determination on the application for temporary resident status filed by a special agricultural worker. The information furnished shall not be made available to any other government agency.

4. Work Performed Under an Assumed Name:
(a). Instructions for Applicant:
In cases where you worked under an assumed name, you must prove that you are, in fact, the person who used that name. To do this, you should provide a recognizable photograph of yourself for identification by the affiant.
(b). Instructions for Affiant:
If you recognize the applicant from the photograph as the person who performed the work, sign the back of the photograph in ink and attach it to the affidavit.

5. Penalties for False Statements:
Whoever provides information in support of an application under section 210 of the Act and who knowingly and willfully conceals or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or freudulent statement or entry or creates or supplies a false writing or document for use in making such application will be subject to criminal prosecution. Such false information is not protected by the confidentiality provisions of section 210 of the Act.

GPO : 1987 O - 178-784

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Appendix D

Application for Waiver of Grounds of Excludability
Under Sections 245A or 210 of the Immigration and Nationality Act

I-690 Instructions

Please carefully read all of the instructions.
The fee will not be refunded.

1. *Filing the Application*
The application and supporting documentation should be taken or mailed to an American Consulate if the applicant is outside of the United States and is applying for temporary resident status as a Special Agricultural Worker.

If the applicant is in the United States, a participating Qualified Designated Entity near your place of residence, or

The Service legalization office having jurisdiction over the applicant's place of residence or employment.

2. *Fee*
A fee of thirty-five dollars ($35.00), is required at the time of filing. The fee is not refundable regardless of the action taken on the application.

A separate cashier's check or money order must be submitted for each application. ***All fees must be submitted in the exact amount.*** The fee must be in the form of a cashier's check or money order. No cash or personal checks will be accepted. The cashier's check or money order must be made payable to "Immigration and Naturalization Service" unless applicant resides in the Virgin Islands or Guam. (Applicants residing in the Virgin Islands make cashier's check or money order payable to "Commissioner of Finance of the Virgin Islands." Applicants residing in Guam make cashier's check or money order payable to "Treasurer, Guam."

A fee is not required if this application is filed for an alien who:

Is afflicted with tuberculosis;
Is mentally retarded; or
Has a history of mental illness.

3. *Applicants with Tuberculosis.*
An applicant with active tuberculosis or suspected tuberculosis must complete Statement A on page two of this form. The applicant and his or her sponsor is also responsible for having:

Statement B completed by the physician or health facility which has agreed to provide treatment or observation, and

Statement C, if required, completed by the appropriate local or state health officer.

This form should then be returned to the applicant for presentation to the consular office, or to the appropriate office of the Immigration and Naturalization Service.

Submission of the application without the required fully executed statements will result in the return of the application to the applicant without further action.

4. *Applicants with Mental Conditions.*
An alien who is mentally retarded or who has a history of mental illness shall attach a statement that arrangements have been made for the submission of a medical report, as follows, to the office where this form is filed:

The medical report shall contain:

A complete medical history of the alien, including details of any hospitalization or institutional care or treatment for any physical or mental condition;

Findings as to the current physical condition of the alien, including reports of chest X-rays and a serologic test if the alien is 15 years of age or older, and other pertinent diagnostic tests; and

Findings as to the current mental condition of the alien, with information as to prognosis and life expectancy and with a report of a psychiatric examination conducted by a psychiatrist who shall, in case of mental retardation, also provide an evaluation of intelligence.

For an alien with a past history of mental illness, the medical report shall also contain available information on which the United States Public Health Service can base a finding as to whether the alien has been free of such mental illness for a period of time sufficient in the light of such history to demonstrate recovery.

The medical report will be referred to the United States Public Health Service for review and, if found acceptable, the alien will be required to submit such additional assurances as the United States Public Health Service may deem necessary in his or her particular case.

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OMB #1115-0132

U.S. Department of Justice
Immigration and Naturalization Service

Application for Waiver of Grounds of Excludability
(Sec. 245A or Sec. 210 of the Immigration and Nationality Act)

Please begin with item #1, after carefully reading the instructions. The block below is for *Government Use Only*

Name and Location (City or Town) of Qualified Designated Entity	Fee Stamp
	Fee Receipt No. (This application)
Qualified Designated Entity I.D. No.	File No. (This applicant) A -

Applicant: Do not write above this line. See instructions before filling in application. If you need more space to answer fully any question on this form, use a separate sheet and identify each answer with the number of the corresponding question. *Fill in with typewriter or print in block letters in ink.*

1. Family Name *(Last Name in CAPITAL Letters)* *(First Name)* *(Middle Name)*	2. Date of Birth *(Month/Day/Year)*
3. Address *(No. and Street)* *(Apt. No.)* *(City/Town)* *(State/Country)* *(ZIP/Postal Code)*	
4. Place of Birth *(City or Town and County, Province or State)* *(Country)*	5. Social Security Number
6. Date of visa application *(Month/Day/Year)*—for: ☐ Permanent ☐ Temporary Residence	7. Visa applied for at:

8. I am inadmissable under Section(s): ☐ 212 (a) (1) ☐ 212 (a) (3) ☐ 212 (a) (6) ☐ 212 (a) (12) ☐ 212 (a) (19) ☐ Other 212 (a) *Specify Section (* _____ *)*

9. List reasons of excludability; if active or suspected tuberculosis, the reverse of the page must be completed.

10. List all immediate relatives in the United States (parents, spouse and children):

Name	Address	Relationship	Immigration Status

11. I should be granted a waiver because: *(Describe family unity considerations or humanitarian or public interest reasons for granting a waiver)* If more space is needed attach an additional sheet.

12. Applicant's Signature	13. Date *(Month/Day/Year)*

I&NS USE ONLY
Recommended by:
(Print or Type Name and Title) _____ *Date* _____

Signature _____ *I.D.#* _____ *Director, Regional Processing Facility* _____

Form I-690 (02/14/87)

A. APPLICANT

Instructions: Leave this side *blank* if your Application for Waiver of Grounds of Excludability is for any reason *other than* active or suspected tuberculosis. If your application is due to active or suspected tuberculosis, take this form to any physician or medical facility under contract with the Immigration and Naturalization Service. Have the physician complete Section B. You must sign Section A (below) *in the presence of the physician.*

If medical care will be provided by a physician who checked Box 3 or 4 in Section B, have Section C completed by the local or State Health Officer who has jurisdiction in the area where you reside. Present the form to the Health Officer after Sections A and B on this side, and *all sections on the other side* have been completed.

Statement: I have reported to the physician or health facility named in Section B; have presented all X-Rays used in the Legalization medical examination to substantiate diagnosis; will submit to such examinations, treatment, isolation, and medical regimen as may be required, and will remain under the prescribed treatment or observation whether on inpatient or outpatient basis, until discharged at the discretion of the physician named, or a physician representing the facility named in Section B. Satisfactory financial arrangements have been made. (NOTE: This statement does not relieve you from submitting evidence to establish that you are not likely to become a public charge.)

A. Signature of Applicant	*Date*

B. PHYSICIAN OR HEALTH FACILITY

Instructions: This section of Form I-690 may be executed by a physician in private practice (under contract with the Immigration and Naturalization Service), or a physician employed by a health department, other public health facility, or military hospital.

Complete Section B (below) of this form, and have alien sign and date Section A (above) *in your presence. Please be sure the alien's signature above, and the alien's signature on the other side of this form are identical.*

Statement: I agree to supply any treatment or observation necessary for the proper management of the alien's tuberculous condition. I agree to submit Form CDC 75.18 to the health officer named below ("Section C) within thirty (30) days of the alien's reporting for care, indicating presumptive diagnosis, test results, and plans for future care of the alien. Satisfactory financial arrangements have been made.

I represent *(enter X in the appropriate box and type or legibly print name and address of facility):*

1. ☐ Local Health Department
2. ☐ Military Hospital
3. ☐ Other Public Health Facility
4. ☐ Private Practice or Private Health Facility under contract with the Immigration and Naturalization Service.

B. Signature of Physician	*Date*
Print or Type Name and Address of Physician and Facility. (If military, enter name and address of receiving hospital and mail directly to Centers for Disease Control, Atlanta, GA 30333.)	

C. LOCAL OR STATE HEALTH OFFICER

Instructions: If the facility or physician who signed in Section B is not in your health jurisdiction and is not familiar to you, you may wish to contact the health officer responsible for the jurisdiction of the facility or physician prior to endorsing this document.

Statement: This endorsement signifies recognition of the physician or facility for the purpose of providing care for tuberculosis.

C. Signature of Health Officer	*Date*
Print or Type Name of Health Officer*, and Offical Name and Complete Address of Local Health Department.	

Form I-690 (02/14/87)

Appendix E

OMB No. 1115-0155

U.S. Department of Justice
mmigration and Naturalization Service

Application to Adjust Status from Temporary to Permanent Resident
(Under Section 245 A of Public Law 99-603)

Please read instructions: fee will not be refunded.	Fee Stamp
INS Use: Bar Code	
Address Label	
(Place adhesive address label here from booklet or fill in name and address, and A 90 million file number in appropriate blocks.)	Applicant's File No. A - 9 __ __ __ __ __ __ __

1. Family Name *(Last Name in CAPITAL Letters) (See instructions)* *(First Name)* *(Middle Name)*

2. Sex ☐ Male ☐ Female

3. Name as it appears on Temporary Resident Card *(I-688)* if different from above.

4. Phone No.'s *(Include Area Codes)*
Home:
Work:

5. Reason for difference in name *(See instructions)*

6. Home Address *(No. and Street)* *(Apt. No.)* *(City)* *(State)* *(Zip Code)*

7. Mailing Address *(if different)* *(Apt. No.)* *(City)* *(State)* *(Zip Code)*

8. Place of Birth *(City or Town)* *(County, Province or State)* *(Country)*

9. Date of Birth *(Month/Day/Year)*

10. Your Mother's First Name

11. Your Father's First Name

12. Enter your Social Security Number
__ __ __ - __ __ - __ __ __ __

13. Absences from the United States since becoming a Temporary Resident Alien. *(List most recent first.)* *(If you have a single absence in excess of 30 days or the total of all your absences exceeds 90 days, explain and attach any relevant information).*

Country	Purpose of Trip	From *(Month/Day/Year)*	To *(Month/Day/Year)*	Total Days Absent

14. When applying for temporary resident alien status, I
☐ did ☐ did not submit a medical examination form (I-693) with my application that included a serologic (blood) test for human immunodeficiency virus (HIV) infection. *(If you did not, submit a medical examination form (I-693) with this application that includes a serologic test for HIV.)*

15. Since becoming a temporary resident alien, I
☐ have ☐ have not been arrested, convicted or confined in a prison. *(If you have, provide the date(s), place(s), specific charge(s) and attach any relevant information.)*

16. Since becoming a temporary resident alien, I
☐ have ☐ have not been the beneficiary of a pardon, amnesty (other than legalization), rehabilitation decree, other act of clemency or similar action. *(If you have, explain and attach any relevant documentation.)*

17. Since becoming a temporary resident alien, I
☐ have ☐ have not received public assistance from any source, including but not limited to, the United States Government, any state, county, city or municipality. *(If you have, explain, including the name(s) and Social Security Number(s) used and attach any relevant information.)*

Form I-698 (08/10/88) Page 1

18. Concerning the requirement of minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States: *(Check appropriate block under Section A or B.)*

A. I will satisfy these requirements by:
- ☐ Examination at the time of interview for permanent residence.
- ☐ Satisfactorily pursuing a course of study recognized by the Attorney General.

B. I have satisfied these requirements by:
- ☐ Having satisfactorily pursued a course of study recognized by the Attorney General *(please attach appropriate documentation)*.
- ☐ Exemption, in that I am 65 years of age or older, under the age of 16, or I am physically unable to comply. *(If physically unable to comply, explain and attach relevant documentation.)*

19. Applicants for status as Permanent Residents must establish that they are not excludable from the United States under the following provisions of section 212 of the INA. An applicant who is excludable under a provision of section 212 (a) which may not be waived is ineligible for permanent resident status. An applicant who is excludable under a provision of section 212 (a) which may be waived may, if otherwise eligible, be granted permanent resident status, if an application for waiver on form I-690 is filed and approved.

A. Grounds for exclusion which *may not be waived:*
- Listed by paragraph number of section 212 (a);

___ (9) Aliens who have committed or who have been convicted of a crime involving moral turpitude (does not include minor traffic violations).
___ (10) Aliens who have been convicted of two or more offenses for which the aggregate sentences to confinement actually imposed were five years or more.
___ (15) Aliens likely to become a public charge.
___ (23) Aliens who have been convicted of a violation of any law or regulation relating to narcotic drugs or marihuana, or who have been illicit traffickers in narcotic drugs or marihuana.
___ (27) Aliens who intend to engage in activities prejudicial to the national interests or unlawful activities of a subversive nature.
___ (28) Aliens who are or at any time have been anarchists, or members of or affiliated with any Communist or other totalitarian party, including any subdivision or affiliate thereof.
___ (29) Aliens who have advocated or taught, either by personal utterance, or by means of any written matter, or through affiliation with an organization:
1) Opposition to organized government;
2) The overthrow of government by force or violence;
3) The assaulting or killing of government officials because of their official character;
4) The unlawful destruction of property;
5) Sabotage, or;
6) The doctrines of world communism, or the establishment of a totalitarian dictatorship in the United States.
___ (33) Aliens who, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, and in association with:
1) The Nazi government in Germany;
2) Any government in any area occupied by the military forces of the Nazi government in Germany;
3) Any government established with the assistance or cooperation of the Nazi government of Germany;
4) Any government which was an ally of the Nazi government of Germany;
ordered, incited, assisted or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion.
- Provisions of 212 (e):

___ Aliens who at any time were exchange visitors subject to the two-year foreign residence requirement unless the requirement has been satisfied or waived pursuant to the provisions of section 212 (e) of the Act. (Does not apply to the Extended Voluntary Departure (EVD) class of temporary resident aliens).

Do any of the above classes apply to you?
☐ No ☐ Yes *(If "Yes", attach an explanation, and any relevant documentation. Place mark (X) on line before ground(s) of exclusion.)*

B. Grounds for exclusion which *may be waived:*
- Listed by paragraph number of section 212 (a);

___ (1) Aliens who are mentally retarded.
___ (2) Aliens who are insane.
___ (3) Aliens who have suffered one or more attacks of insanity.
___ (4) Aliens afflicted with psychopathic personality, sexual deviation, or a mental defect.
___ (5) Aliens who are narcotic drug addicts or chronic alcoholics.
___ (6) Aliens who are afflicted with any dangerous contagious disease.
___ (7) Aliens who have a physical defect, disease or disability affecting their ability to earn a living.
___ (8) Aliens who are paupers, professional beggars or vagrants.
___ (11) Aliens who are polygamists or advocate polygamy.
___ (12) Aliens who are prostitutes or former prostitutes, or who have procured or attempted to procure or to import, prostitutes or persons for the purpose of prostitution or for any other immoral purpose, or aliens coming to the United States to engage in any other unlawful commercialized vice, whether or not related to prostitution.
___ (13) Aliens coming to the United States to engage in any immoral sexual act.
___ (16) Aliens who have been excluded from admission and deported and who again seek admission within one year from the date of such deportation.
___ (17) Aliens who have been arrested and deported and who reentered the United States within five years from the date of deportation.
___ (19) Aliens who have procured or have attempted to procure a visa or other documentation by fraud, or by willfully misrepresenting a material fact.
___ (22) Aliens who have applied for exemption or discharge from training or service in the Armed Forces of the United States on the ground of alienage and who have been relieved or discharged from such training or service.
___ (31) Aliens who at any time shall have, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law.

Do any of the above classes apply to you?
☐ No ☐ Yes *(If "Yes", attach an explanation, and any relevant documentation and submit Form I-690. Place mark (X) on line before ground(s) of exclusion.)*

20. If your native alphabet is other than Roman letters, write your name in your native alphabet.	21. Language of native alphabet
22. Signature of Applicant - *I CERTIFY*, under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I hereby consent and authorize the Service to verify the information provided, and to conduct record checks pertinent to this application.	23. Date *(Month/Day/Year)*
24. Signature of person preparing form, if other than applicant. I DECLARE that this document was prepared by me at the request of the applicant and is based on all information of which I have any knowledge.	25. Date *(Month/Day/Year)*
26. Name and Address of person preparing form, if other than applicant *(type or print)*.	27. Occupation