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HOMELAND SECURITY

INS Cannot Locate Many Aliens Because It Lacks Reliable Address Information





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Highlights of [GAO-03-188](#), a report to the Honorable Strom Thurmond, United States Senate, and George W. Gekas, Chairman, Subcommittee on Immigration, Border Security, and Claims, Committee on the Judiciary, House of Representatives

Why GAO Did This Study

Following the terrorist attacks of September 11, 2001, the federal government's need to locate aliens in the United States was considerably heightened. Without reliable alien address information, the government is impeded in its ability to find aliens who represent a national security threat or who could help with the nation's anti-terrorism efforts. Requesters from both the Senate and House asked GAO to review the reliability of INS's alien address information and identify the ways it could be improved.

What GAO Recommends

GAO recommendations to the Attorney General include instructing the Commissioner of INS to do the following:

- Publicize the change of address notification requirement.
- Establish procedures and controls to ensure that alien address information in all automated databases is complete, consistent, accurate, and current.
- Establish procedures and controls that permit INS to enforce the penalty provisions for noncompliance with the change of address notification requirement.
- Evaluate alternative approaches and their costs for obtaining or assembling complete alien address information.

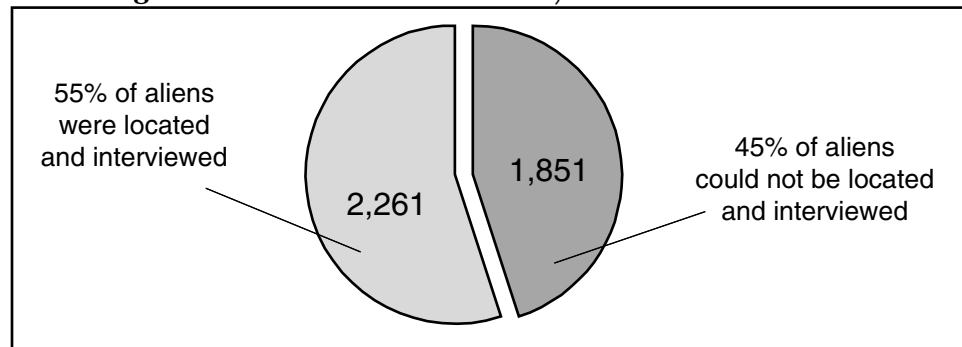
What GAO Found

Recent events have shown that INS's alien address information could not be fully relied on to locate many aliens who were of interest to the United States. For example, the Department of Justice sought to locate and interview 4,112 aliens who were believed to be in the country and who might have knowledge that would assist the nation in its anti-terrorism efforts. However, as shown below, almost half of these aliens could not be located and interviewed because INS lacked reliable address information.

The reliability of INS's alien address information is contingent, in part, on aliens' compliance with the requirement that they notify INS of any change of address. However, lack of publicity about the requirement that aliens should file change of address notifications, no enforcement of penalties for noncompliance, and inadequate processing procedures for changes of address also contribute to INS's alien address information being unreliable. Because INS does not publicize the change of address requirement, some aliens may not be aware of it and may not comply with it. Alternatively, some aliens who are aware of the requirement may not comply because they do not wish to be located. These aliens have little incentive to comply given that INS does not enforce the penalties for noncompliance. On the basis of our review of available data, INS does not appear to have enforced the removal penalty for noncompliance since the early 1970s. When aliens do comply with the requirement, INS lacks adequate processing procedures and controls to ensure that the alien address information it receives is recorded in all automated databases.

Addressing these problems should help improve the reliability of INS's alien address information but would not necessarily result in a system that would allow INS to reliably locate all aliens, because some aliens will not likely comply. INS has recognized the need to increase the reliability of its alien address information and is taking some steps to improve it.

DOJ Sought to Locate and Interview 4,112 Aliens



Source: GAO's analysis of the Executive Office for U.S. Attorneys' interview project data as of March 20, 2002.

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Abbreviations

| | |
|----------|---|
| CLAIMS 3 | Computer Linked application Information Management System |
| DACS | Deportable Alien Control System |
| DOJ | Department of Justice |
| FBI | Federal Bureau of Investigation |
| INS | Immigration and Naturalization Service |
| NIIS | Nonimmigrant Information System |
| SSN | Social Security number |



G A O

Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

November 21, 2002

The Honorable Strom Thurmond
United States Senate

The Honorable George W. Gekas
Chairman, Subcommittee on Immigration, Border Security, and Claims
Committee on the Judiciary
House of Representatives

Following the terrorist attacks of September 11, 2001, the federal government's need to locate aliens who represented a national security threat or who could help with the nation's anti-terrorism efforts was considerably heightened.¹ The Immigration and Naturalization Service (INS) is the federal agency that is responsible for maintaining address information for aliens who are in the United States and was called upon to help by providing current addresses for aliens who were being sought by the Department of Justice (DOJ). However, efforts to locate these aliens were impeded by INS's lack of current address information.

Because of growing concern over the government's need to locate aliens, you asked us to determine what was impeding INS from using its alien address information to reliably locate aliens in the United States. This report discusses (1) the statutory framework that requires aliens to report their addresses and any address changes, (2) the reliability of INS's alien address records to locate aliens who were sought by DOJ, and (3) the principal factors affecting the reliability of INS's alien address records. You further asked for historical background information on prior alien registration requirements and programs, which is included in appendix II.

To determine the statutory framework that requires aliens to report their addresses and any address changes, we identified and reviewed the laws and regulations, congressional testimony and reports, and prior GAO reports. To determine whether INS's alien address information can be used to reliably locate aliens in the United States, we reviewed INS documentation and data, observed processing of the change of address

¹References in this report to aliens, unless otherwise specified, refer to those immigrants and nonimmigrants in the United States who are required to provide address information.

forms in INS headquarters, and interviewed INS managers and staff and a representative of the U.S. Postal Service. We also interviewed senior representatives from the Executive Office for U.S. Attorneys, Federal Bureau of Investigation (FBI), the Secret Service, and the Foreign Terrorist Tracking Task Force.² To identify the principal factors affecting the reliability of INS's alien address records, we analyzed the information we obtained during the review. To obtain information on the historical background of the alien registration requirement and programs, we reviewed INS historical documentation and data and interviewed INS managers and staff. See appendix I for a more detailed discussion of our scope and methodology.

We performed our work from October 2001 through September 2002 in accordance with generally accepted government auditing standards. We requested comments on a draft of this report from the Attorney General.

Results in Brief

Since 1940, the Congress has provided a statutory framework that requires aliens entering or residing in the United States to provide identifying and address information. This information is provided to INS. While the law requires aliens who remain in the United States for 30 days or longer to apply for registration, INS usually registers aliens at the time of their entry into the country. Registration documents provide an alien's identity and address where the alien can be located. The law requires that an alien report any change of address within 10 days of moving. Thus, if aliens comply with the requirement, INS should be able to record and maintain an address history for each alien, including their current address. If an alien fails to comply with the change of address notification requirement, it can result in the alien's prosecution for a misdemeanor. As provided in law, irrespective of whether the alien is charged with or convicted of a misdemeanor, an alien, who fails to notify the Attorney General in writing of each change of address and new address within 10 days from the date of such change, shall be taken into custody and removed from the United States unless the alien can establish to the satisfaction of the Attorney General that the failure was reasonably excusable or was not willful.

²On October 29, 2001, the President directed the Attorney General to create the Foreign Terrorist Tracking Task Force (Homeland Security Presidential Directive – 2, National Security Presidential Directives). The task force is to ensure that federal agencies coordinate their programs so that aliens associated with, suspected of being engaged in, or supporting terrorist activity are to be denied entry into and removed from the United States.

Recent events have shown that INS's alien address information cannot be relied on to locate aliens. For example, as part of the nation's anti-terrorism effort, the Attorney General directed all U.S. Attorneys in November 2001 to locate and request voluntary interviews with about 4,800 nonimmigrant aliens who were believed to be in this country. U.S. Attorneys, in cooperation with the Foreign Terrorist Tracking Task Force, obtained the names and addresses for these aliens from INS. The task force further supplemented INS's alien address information by obtaining address information from public source databases. The aliens' names and addresses were then forwarded to the U.S. Attorneys in order that they could locate and request interviews with them. U.S. Attorneys determined that 681 aliens had left the country. By the end of February 2002, even with the information from public source data bases, 1,851, or about 45 percent, of the 4,112 aliens who were believed to still be in the country had not been located and interviewed. Two other DOJ efforts to locate aliens have met with even less success.

Lack of publicity, no enforcement of penalties for not filing change of address notifications, and inadequate processing procedures and controls explain in part why INS's alien address information is unreliable. Unreliable address information can also be attributed, in part, to aliens' failure to report changes of address to the INS. Some aliens may be unaware that they need to file a change of address form and do not comply. This may be understandable given that INS does not publicize the change of address requirement. Aliens may be aware that they need to file but do not comply because they have little incentive to do so. On the basis of our review of available data, INS does not appear to have enforced the removal penalty for noncompliance since the early 1970s. According to INS officials, INS cannot and does not enforce the penalty provisions of the law because it cannot determine and certify from its change of address records whether an alien failed to file the change of address notification. When aliens are aware of and comply with the requirement to file a change of address notification, INS's address information may still be unreliable. INS lacks adequate procedures and controls to ensure that the alien address information it receives is completely processed. Addressing these problems should help improve the reliability of INS's address information but would not necessarily result in a system that would allow INS to reliably locate all aliens. This is because the accuracy and reliability of INS's address information is contingent on aliens' compliance and some aliens may not comply.

In April 2002, INS established an Address Issues Task Force to review and assess how alien address information is processed. The task force

recommended a multi-phased strategy to improve operational efficiency. As of September 11, 2002, INS had accepted the task force's recommendations. The Executive Associate Commissioner for Management was designated as the lead agency official for address issues, an Address Issues Office was established, and the Commissioner approved a Senior Level Advisory Group for address issues. INS has also taken the first steps toward establishing a centralized address repository and plans to implement the task force's other recommendations.

We are making seven recommendations to the Attorney General to promote compliance through publicity and enforcement and to improve INS's identification and processing of aliens' address information. We provided DOJ with a draft of this report for comment, and it generally concurred with five, and did not comment on two of them. DOJ's comments are included as appendix III.

Background

INS regulates immigration to the United States and oversees immigrants, who intend to remain permanently in the United States, and nonimmigrants, who intend to remain in the United States temporarily. INS receives and maintains alien address information for benefits administration, law enforcement, and national security purposes. Through registration and change of address notifications, aliens provide their identity and an address where they can be located while in the United States to INS, which can share this information to help law enforcement officials identify and locate aliens.³

Generally, INS registers aliens at the time of their entry, using 1 of 12 different INS forms, including the Arrival and Departure Record (Form I-94). For example, aliens arriving in the United States are generally required to complete a two-part Form I-94. The first part records aliens' arrivals. The second part is to be surrendered when aliens leave the country. INS is to match the first and second parts of the Form I-94 to identify those aliens who have left the country. However, as reported by DOJ's Inspector General in 1997 and 2002, INS lacked many Form

³Registration is a shared responsibility between the Departments of State and Justice. The Attorney General is responsible for registering aliens who remain in the United States for 30 days or more and who have not otherwise registered, such as during the visa application process administered by the Department of State. The Attorney General is also responsible for collecting change of address information and issuing certificates of registration.

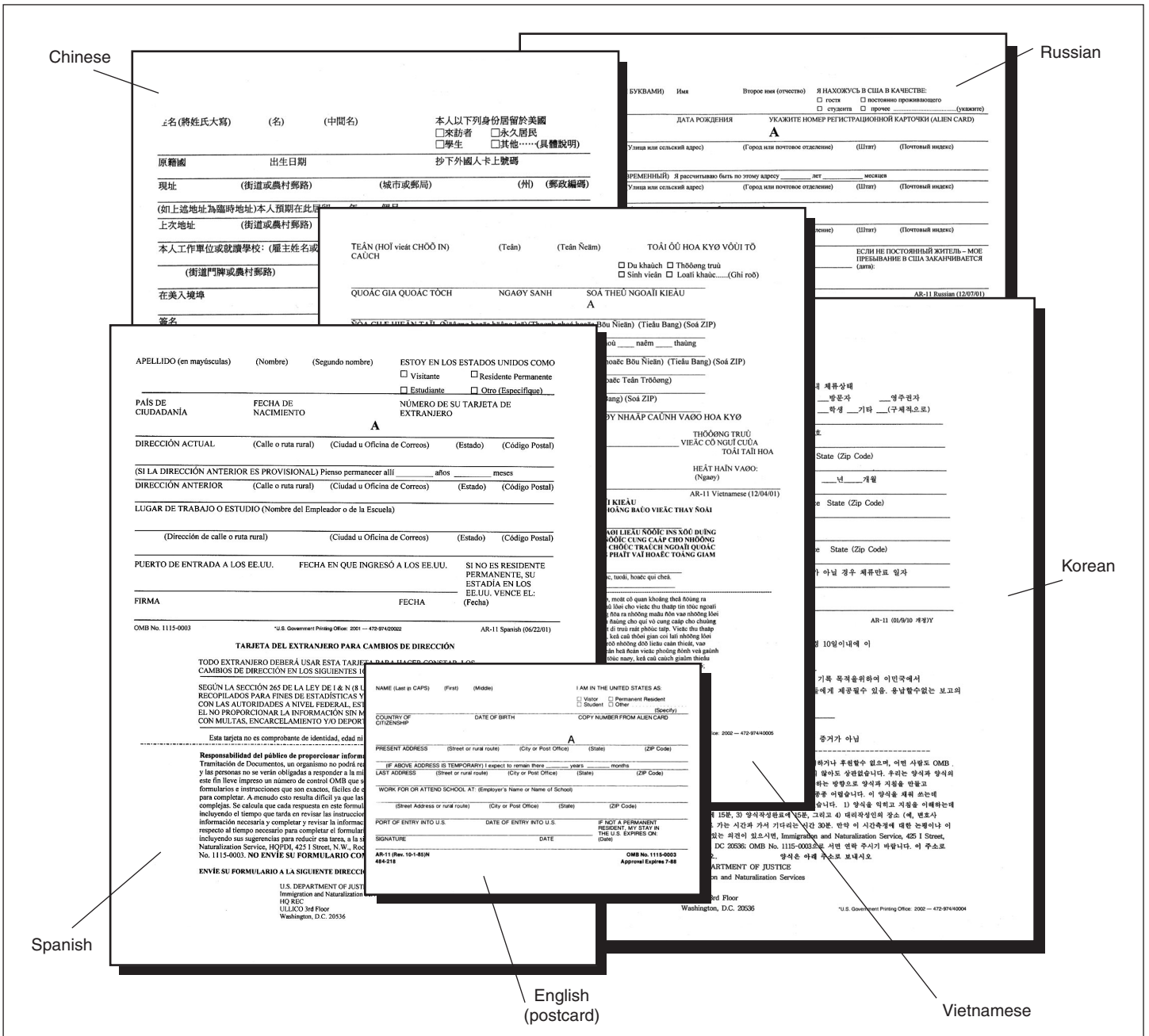
I-94 departure records, and as a result, INS could not identify all of the aliens who had left the country.⁴

Aliens are required to report their change of address to INS within 10 days of moving. Failure to report a change of address can result in an alien being taken into custody and placed in removal proceedings before an immigration judge with the Executive Office for Immigration Review. To place an alien in proceedings, INS is to serve the alien with a Notice to Appear, which cites the charge(s) and the date and location where the hearing is to be held. At the conclusion of the hearing, the immigration judge may order the alien to be removed or may grant relief from removal. Either INS or the alien may appeal the immigration judge's decision to the Board of Immigration Appeals.

As shown in figure 1, INS has a prescribed change of address form, (i.e., Form AR-11) that is available in six languages (English, Spanish, Chinese, Russian, Korean, and Vietnamese) and is to be used by all aliens to report their new addresses.

⁴See Department of Justice, Office of the Inspector General, *Immigration and Naturalization Service Monitoring of Nonimmigrant Overstays*, Report Number I-97-08 (Washington, D.C.: Sept. 1997); and *Follow-Up Report On INS Efforts To Improve The Control of Nonimmigrant Overstays*, Report No. I-2002-006, (Washington, D.C.: Apr. 2002).

Figure 1: INS's Form AR-11 Is Available in Six Languages



Source: INS.

Prior to the terrorist attacks on September 11, 2001, the Congress mandated that INS improve its ability to identify aliens who arrive and depart the United States and who overstay their visas. In Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996⁵ and amendments to that section, the Congress reinforced the importance of the government being able to identify which lawfully admitted nonimmigrants remained in the United States beyond their authorized period. This section directs the Attorney General to develop an integrated entry and exit control system that will collect the records of arrival and departure for every alien entering and leaving the United States. The 1996 act also authorized the establishment of an electronic student tracking system to verify and monitor the foreign student and exchange visitor information program.⁶ The deadline for implementing the new electronic student tracking system is January 1, 2003.

According to proposed rules issued by DOJ on June 13, 2002, the events of September 11 point to the need to implement measures that would provide the government with information on certain aliens who are in the country, whether they are in compliance with their authorized limits of stay, and their activities and whereabouts. The USA Patriot Act (P.L. 107-56), enacted in October 2001, directs the Attorney General to implement the entry-exit system “with all deliberate speed and as expeditiously as practicable” and authorized funds to fully implement INS’s new foreign student tracking system. The Enhanced Border Security and Visa Entry Reform Act (P.L. 107-173), enacted in May 2002, also authorized funds for implementing the foreign student tracking system.⁷ The Congress has required that the entry-exit system be implemented at airports and seaports by December 31, 2003.

⁵P.L. 104-208, codified at 1365a.

⁶Section 641, codified at 8 U.S.C. 1372.

⁷The Congress is considering the inclusion of INS in the Office of Homeland Security.

Congress Provided the Framework for INS to Locate Aliens

Since the 1940 passage of the Alien Registration Act, the Congress has required aliens to register and provide address information so that the government can track aliens' past and current locations and locate aliens when necessary.⁸ As part of the effort to protect the nation in anticipation of World War II, the Congress required aliens to register, be fingerprinted, and notify the Attorney General of each change of address, thereby providing INS with the means to identify, track, and locate aliens while they are in the United States. According to the legislative history of the Alien Registration Act, the act was considered to be "a measure of self-defense to provide for the fingerprinting and registration of all aliens in the United States...(and)...a safeguard to know something about their activities and their movements here."⁹

Although some requirements of the law have varied since 1940, the Congress has continuously required immigrant and nonimmigrant aliens entering or living in the United States to provide identifying and current address information and has provided penalties for failing to register or file address information. As shown in figure 2, the Alien Registration Act of 1940 required immigrant and nonimmigrant aliens to register with the government.¹⁰ Immigrants were required to report changes of address within 5 days, and nonimmigrants were required to report their address every 90 days irrespective of whether they had moved. In 1950, the Congress increased the reporting requirements for immigrants by requiring them to annually report their addresses.¹¹ In 1952, the Congress extended the annual address reporting and change of address notification requirements to all aliens and also extended from 5 to 10 days the amount of time aliens were provided to file a change of address.¹² In 1981, the Congress eliminated the requirements that aliens annually report their addresses and that nonimmigrants report their address every 90 days.¹³

⁸Diplomats, representatives of international organizations and their families, and individuals remaining in the United States for less than 30 days are not required to register.

⁹86 Cong. Rec. H. 9033 (June 22, 1940) (statement of Rep. C.E. Hancock, one of the House managers).

¹⁰Ch. 439, 54 Stat. 670 (1940).

¹¹The Internal Security Act of 1950 required alien residents to annually report their addresses. Ch. 1024, 64 Stat. 987. The law also extended coverage to nonimmigrants who had overstayed their visas and any alien in an illegal status.

¹²Immigration and Nationality Act, Ch. 477, 66 Stat. 163 (1952).

¹³Immigration and Nationality Act Amendments of 1981, P.L. No. 97-116, 95 Stat. 1611 (1981).

Although the Congress eliminated these requirements, it vested the Attorney General with discretionary authority, upon 10 days' notice, to require aliens from any country or countries, or any class or group, who are required to be registered, to provide their current address and such additional information as may be required.¹⁴ These changes represent the latest amendments to the laws governing alien registration and address reporting. The Congress currently requires aliens to provide address information through registration and change of address reporting requirements.¹⁵


In addition to the registration and change of address requirements, the Congress has continuously provided penalties for aliens who failed to comply with these requirements, as shown in figure 2. The misdemeanor penalty enacted in 1940 for failing to file a change of address notice was a fine of up to a \$100 and/or imprisonment for up to 30 days. In 1952, the misdemeanor penalty was increased to a \$200 fine and/or imprisonment for up to 30 days and a removal penalty was added, irrespective of whether the alien is charged with or convicted of a misdemeanor. The law provides that an alien, who fails to notify the Attorney General in writing of each change of address and new address within 10 days from the date of such change, shall be taken into custody and removed from the United States unless the alien can establish to the satisfaction of the Attorney General that the failure was reasonably excusable or was not willful. As of September 2002, this penalty remained in effect.¹⁶






¹⁴The Attorney General's discretionary authority in 8 U.S.C. 1305(b) extends to "the natives of any one or more foreign states, or any class or group thereof" referred to here as aliens.

¹⁵The current requirements for alien registration and change of address are codified at 8 U.S.C. 1301-1306.

¹⁶The current penalties for noncompliance with registration and change of address requirements are codified at 8 U.S.C. 1306.

Figure 2: Requirements and Penalties for Registration and Address Reporting from June 28, 1940 to June 28, 2002

|  Legislation and dates of applicability | Immigrants | | | Nonimmigrants | | | |
|---|-----------------------|-------------------------------|-------------------------------|-----------------------|-------------------------------|-------------------------------|------------------------------|
| | Register ^a | File change of address notice | Annually report their address | Register ^a | File change of address notice | Annually report their address | Report address every 90 days |
| Alien Registration Act of 1940 (June 28, 1940 to September 22, 1950) | Yes | Within 5 days | No requirement | Yes | No | No requirement | Yes |
| Internal Security Act 1950 (September 23, 1950 to June 26, 1952) | Yes | Unchanged | Within 10 days of January 1st | Yes | No | Unchanged | Yes ^b |
| Immigration and Naturalization Act (June 27, 1952 to December 28, 1981) | Yes | Within 10 days | Within 30 days of January 1st | Yes | Within 10 days | Within 30 days of January 1st | Yes |
| Immigration and Nationality Act Amendments of 1981 (Dec. 29, 1981 to June 28, 2002) | Yes | Unchanged | No requirement | Yes | Unchanged | No requirement | No requirement |

|  | Penalties for noncompliance | | | |
|---|---|---|---|---|
| | Failure to register | Failure to file change of address notice | Failure to annually report address | Failure to report address every 90 days |
|  | Fine not to exceed \$1,000 and/or imprisonment not more than 6 months for willful failure or refusal to comply with the registration requirements | Fine not to exceed \$100 and/or imprisonment for not more than 30 days | No requirement | No penalty |
|  | Unchanged | Unchanged | Fine not to exceed \$100 and/or imprisonment for not more than 30 days | Deportation ^c |
|  | Unchanged | Fine not to exceed \$200 and/or imprisonment not more than 30 days. Removal of the alien from the United States. ^d | Fine not to exceed \$200 and/or imprisonment not more than 30 days. Removal of the alien from the United States. ^d | Fine not to exceed \$200 and/or imprisonment not more than 30 days. Removal of the alien from the United States. ^d |
|  | Unchanged | Unchanged | No requirement | No requirement |

^aAll aliens 14 years of age or older who remain in the United States for 30 days or more must register. A parent or legal guardian must register an alien who is under 14 years of age. Exceptions to the registration requirements are provided for aliens who remain in the United States for less than 30 days, foreign government officials and their family members, and representatives of international organizations and their family members.

^bRequired by regulation 8 C.F.R. 119.3 (1950).

^cThe requirement to report an address every 90 days was by regulation (8 C.F.R. 119.3), a condition of entry. Violation of a condition of entry could result in an alien's deportation.

^dAn alien is to be removed from the United States unless the alien establishes to the satisfaction of the Attorney General that the violation was reasonably excusable or was not willful.

Source: GAO's analysis.

On June 13 and July 26, 2002, DOJ reiterated that certain aliens are legally obligated to file a change of address form with INS within 10 days of moving to a new address to be used for enforcement and other purposes. On June 13, 2002, DOJ issued a proposed rule concerning the registration and monitoring of certain nonimmigrants.¹⁷ Specifically, the proposed rule would impose registration requirements on nonimmigrants from Iran, Iraq, Libya, Sudan, and Syria; certain nonimmigrant aliens from other countries that the State Department and INS determine to be an elevated national security risk; and aliens fitting specific criteria who are identified by INS inspectors at points of entry into the United States. Individuals falling into these categories would be required to provide specific information at regular intervals to ensure that they were in compliance with the terms of their visas and admission and that they departed at the end of their authorized stay. The proposed rule reminded aliens that they are required to submit to INS changes of address and that failure to do so could result in their removal. The final rule was published and became effective on September 11, 2002.¹⁸

On July 26, 2002, INS issued a proposed rule requiring every alien who is applying for immigration benefits to acknowledge having received notice of the requirement to provide a valid current address to INS, including any change of address within 10 days of the change.¹⁹ INS plans to use the most recent address information for all purposes, including the service of a Notice to Appear if INS initiates removal proceedings.

¹⁷67 Fed. Reg. 40581 (June 13, 2002).

¹⁸67 Fed. Reg. 52584 (August 12, 2002).

¹⁹67 Fed. Reg. 48818 (July 26, 2002).

INS's Alien Address Records Are Not Reliable

Despite these laws and regulations, INS's address information cannot be relied upon to locate many aliens who are in the United States. Since September 11, 2001, DOJ has made several different attempts to locate aliens as part of its anti-terrorism efforts. These efforts have not been fully successful. In addition, the alien identifying and address information maintained by INS may not allow law enforcement officials to verify the identity of an alien being sought in cases where several aliens have the same name but are located at different addresses. Senior representatives of the FBI, the Secret Service, and the Foreign Terrorist Tracking Task Force told us that the ability to locate aliens within the United States is crucial to their respective missions. According to a senior representative of the task force, the ability to locate aliens in this country is also crucial to the nation's success in fighting the war on terrorism.

On November 9, 2001, as part of the nation's anti-terrorism effort, the Attorney General directed all U.S. Attorneys to locate and request voluntary interviews with 4,793 nonimmigrant aliens who might have had knowledge of foreign terrorists or their organizations. To assist the U.S. Attorneys, the Foreign Terrorist Tracking Task Force asked INS to provide current address information for the aliens who were to be sought for interviews. INS obtained the address information from the Nonimmigrant Information System (NIIS), an automated database that contains address and identity information on nonimmigrants who were inspected upon their entry into the United States. Because the task force considered INS's address information to be of questionable reliability, it consulted public source databases and supplemented INS's information in order to provide the most current address information for these aliens to the U.S. Attorneys. U.S. Attorneys determined that 681 aliens had left the country. As of February 26, 2002, even with the information from public source data bases, 1,851, or 45 percent, of the 4,112 aliens believed to be in the country had not been located and interviewed while 2,261, or 55 percent, had been located and interviewed.²⁰

As a second example, INS investigators determined that INS's address information was inaccurate for 45 aliens who may have known some of the terrorists responsible for the September 11th attacks. According to the Assistant District Director for Investigations in San Diego, he was advised that at least two of the terrorists had student visas and were supposed to

²⁰According to an Executive Office for U.S. Attorneys' report, "a small percentage" of aliens were located and declined to be interviewed.

be attending school in the San Diego area. He requested that INS headquarters provide him with a list of aliens with student visas who had entered the United States within the last 2 years and, at the time of their entry, indicated they were going to the San Diego area. From a list of 700 aliens, INS investigators identified 45 whom they wanted to locate. According to INS investigators who sought to locate these aliens, INS's address information for all 45 student aliens was inaccurate as none of them were located at the addresses that INS had provided. Efforts to supplement INS's address information with the schools' address information provided accurate addresses for 10 students. It is possible that some or all of the 35 aliens that INS could not locate had left the country.

As a third example, in January 2002, the Deputy Attorney General directed INS and other DOJ components to establish an Absconder Apprehension Initiative to locate and remove aliens who had been ordered removed but who had failed to leave the United States. Of the estimated 314,000 aliens with final orders of removal still at large in the United States, INS identified 5,046 who were from countries in which there has been an Al Qaeda terrorist presence or activity. To locate and apprehend these aliens, INS, in cooperation with the FBI, the Foreign Terrorist Tracking Task Force, and U.S. Attorneys, used INS address data and supplemented these data with address information from public source databases. According to a senior INS official, as of June 24, 2002, 4,334, or 86 percent, of the 5,046 alien absconders had not been apprehended, while 712, or 14 percent, had been apprehended. It is possible that some of the aliens who had not been located may have left the country.

These examples illustrate one inherent limitation of an address reporting requirement that relies on self reporting, as the reliability and completeness of the address information is dependent on the extent to which aliens comply with the reporting requirement. Those aliens who wish to remain illegally in the country would not likely comply as it could lead to their removal. In these examples, many aliens were not found even after INS's address information was supplemented with address information from public source databases or schools, which could indicate that some aliens may be able to avoid detection.

In addition, aliens' identifying and address information maintained by INS may not allow law enforcement officials to verify the identity of an alien being sought in cases where several aliens have the same name but are located at different addresses. Senior officials from the FBI, the Secret Service, and the Foreign Terrorist Tracking Task Force stressed the need to be able to verify an alien's identity in order to determine the correct

address. These officials recommended that INS collect aliens' Social Security numbers (SSNs) in order to verify an alien's identity. The law provides authority for the Attorney General to require aliens to provide their SSNs.²¹ As shown in figure 3, INS formerly collected aliens' SSNs on the Form I-53 as part of the alien address reporting program.

²¹8 U.S.C. 1304(f).

Figure 3: INS's Alien Address Report Provided for Collecting Aliens' SSNs

ALIEN ADDRESS REPORT COMPLETE ALL ITEMS - PRINT IN BLOCK LETTERS WITH BALL-POINT PEN OR USE TYPEWRITER

1. (LAST NAME) _____ (FIRST) _____ (MIDDLE) _____

2. ADDRESS IN THE U.S. (EXCEPT COMMUTERS—SHOW ADDRESS IN MEXICO OR CANADA, SEE ITEM 10)

CITY OR TOWN _____ STATE _____ ZIP CODE _____ CHECK HERE IF ADDRESS IS CURRENT

3. COPY NO. FROM ALIEN CARD _____ 4. PLACE ENTERED THE U.S. _____ 5. DATE ENTERED U.S. (MO/DAY/YR) _____ 6. DATE OF ADMISSION TO PRESENT IMMIGRATION STATUS (MO/DAY/YR) _____

7. SEX MALE FEMALE 8. DATE OF BIRTH (MO/DAY/YR) _____ 9. COUNTRY OF BIRTH _____ 10. NATIONALITY _____ 11. SOCIAL SECURITY NO. (IF ANY)* _____

12. ARE YOU PRESENTLY EMPLOYED IN THE U.S. YES NO 13. FOR GOVERNMENT USE ONLY _____

14. PRESENT OR MOST RECENT OCCUPATION IN U.S. (MAIN JOB) _____ 15. TYPE OF FIRM OR BUSINESS OF PRESENT OR MOST RECENT EMPLOYMENT (MAIN JOB) _____

16. STATUS (CHECK APPROPRIATE BOX)

1 IMMIGRANT (PERMANENT RESIDENT) 3 VISITOR 4 CREWMAN 5 STUDENT

2 IMMIGRANT (COMMUTER WORKER—CHECK THIS BLOCK IF YOU ENTER THE U.S. DAILY OR AT LEAST TWICE A WEEK) 6 EXCHANGE ALIEN 7 REFUGEE

8 OTHER (SPECIFY) _____

17. I CERTIFY THAT THE STATEMENTS ON THIS CARD ARE TRUE TO THE BEST OF MY KNOWLEDGE. _____ DATE _____

SIGNATURE (IF UNDER 14 YEARS OLD, SIGNATURE OF PARENT OR GUARDIAN) _____

THIS CARD MUST BE MAILED PLACE A TEN CENT U.S. POSTAGE STAMP ON REVERSE AND DROP IN NEAREST MAIL BOX . . . IF NOT MAILED DURING JANUARY, PLACE IN ENVELOPE AND MAIL TO U.S. IMMIGRATION AND NATURALIZATION SERVICE, WASHINGTON, D.C. 20536.

FORM I-53 (Rev. 1-1-79)N U.S. DEPARTMENT OF JUSTICE - IMMIGRATION AND NATURALIZATION SERVICE
FORM APPROVED OMB NO. 43-R0306

U.S. DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
WASHINGTON, D.C. 20536

Required by Sec. 265 I & N Act (8 U.S.C. 1305) data including social security number used by INS for statistical and records purposes and may be furnished federal, state, local and foreign law enforcement officials. Inexcusable failure to report punishable by fine or imprisonment and/or deportation

Do not mail correspondence, application fees, or other mail with this card. If not mailed during January, place in an envelope and mail to Immigration and Naturalization Service, Washington, D.C. 20536

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U. S. Immigration & Naturalization Service
Arlington, Va. 22218

Source: INS.

When the program ended in 1981,²² INS eliminated the Form I-53 and did not revise the change of address form (Form AR-11) to provide for aliens to report their SSNs. Collecting aliens' SSNs can help verify an individual's identity and provide ready access to records, such as drivers licenses and financial records, that are searchable using SSNs. Having aliens' SSNs would also afford the federal government a better opportunity to locate aliens through automated databases that are searchable using SSNs.²³ Revising the Form AR-11, to include a field that an alien can use to report a SSN or indicate that he or she does not have one, would provide one method for collecting this information.

Lack of Publicity, No Enforcement of Penalties, and Inadequate Processing Procedures Contribute to INS's Unreliable Address Information

Lack of publicity, no enforcement of penalties for not filing a change of address notification, and inadequate procedures and controls for processing change of address notifications explain in part why INS cannot maintain current and reliable address information. Unreliable address information can also be attributed, in part, to aliens' failure to report changes of address to the INS. Since INS does little to actively publicize the requirement, aliens may not know of the requirement and may not file the notification. Alternatively, aliens may know of the requirement and choose not to file the notification. INS is not in a position to enforce the penalty, and aliens who knowingly do not file change of address notifications are not likely to face any adverse consequences. When aliens file the notification, INS may have unreliable address information because it lacks adequate procedures and controls to ensure that aliens' address information is processed properly so that all automated databases are updated.

INS Does Not Publicize the Address Notification Requirement

Aliens cannot comply with the requirement to file a change of address notification if they are not aware of the need to file or if they lack ready access to the form. To promote compliance with the change of address notification requirement, INS needs to make aliens aware that the requirement exists. However, according to INS officials, INS does not publicize the requirement, and INS does not inform aliens of the requirement when they enter the country. Furthermore, for those aliens who know about and seek to comply with the filing requirement, INS has not made the Form AR-11 available at post offices as required by the Code

²²INS collected but did not process alien address reports in 1981.

²³Not every alien is required to have an SSN.

of Federal Regulations.²⁴ According to a senior postal service official, INS's change of address notification forms are not available in post offices because INS has not made arrangements with the U.S. Postal Service to provide and distribute the form. INS provides the Form AR-11 at its field offices, through its form centers, and on its Web site at www.ins.usdoj.gov.

INS Is Not in a Position To Enforce the Removal Penalty

According to INS officials, INS is not in a position to place aliens in removal proceedings for failing to file a change of address notification because their address records are not maintained in a manner that will permit INS to certify that an alien has not complied with the law. Aliens may be aware of the requirement but may have little incentive to comply given that, based on our review of available data, INS does not appear to have enforced the removal penalty for noncompliance since the early 1970s.

INS's historical records from 1950 through 2002 do not provide the number of aliens who were placed in removal proceedings for failing to file a change of address notification. According to an official with the Executive Office for Immigration Review, its records date from 1988 and contain no cases where aliens were charged and placed in removal proceedings for failing to file a change of address notification. A review of federal cases and cases brought on appeal from the Executive Office for Immigration Review to the Board of Immigration Appeals indicates just a few instances where INS charged an alien with failure to file a notification of address or change of address in a removal proceeding.²⁵ We also found a few cases where an alien was prosecuted for failure to give notice of an address or change of address.²⁶

Senior INS investigators cited two reasons for INS's lack of enforcement. The principal reason cited was that INS's change of address records are

²⁴8 C.F.R. 265.1.

²⁵For example, *Matter of Winter*, 12 I. and N. 638, (BIA, Feb. 9, 1968), *Sevitt v. Del Guercio*, 150 F. Supp. 56 (S.D. Cal. 1957).

²⁶For example, *U.S. v. Ushi Shiroma*, 123 F. Supp. 145 (D. Haw. 1954), *U.S. v. Ginn*, 222 F. 2d 289 (3rd Cir. 1955). In addition, during the period of time when annual address report requirements were in effect, we identified several Board of Immigration Appeals and federal court cases relating to the enforcement of this provision. See *U.S. v. Sacco*, 428 F. 2d 264 (9th Cir. 1970), *Patsis v. Immigration & Naturalization Service*, 337 F2d 733 (8th Cir. 1964), *Matter of S*, 7 I. and N. 536, (BIA, Aug. 19, 1957), *Matter of M*, 5 I. and N. 216, (BIA, May 6, 1953), *Matter of B*, 5 I. and N. 692, (BIA, Mar. 2, 1954).

not maintained in a manner that permits the agency to determine whether an alien has complied with the requirement. In order to place an alien in removal proceedings, INS is required to certify that the alien did not comply with the filing requirement by issuing a certificate of no record. According to a senior official with INS's Office of General Counsel, if the certificate is to be legally sustainable, INS must be able to check all change of address records to be certain that the alien did not comply. However, INS lacks procedures and controls for maintaining complete and current change of address records. As a result, INS cannot determine whether an alien has complied and, therefore, cannot issue certificates of no record with the required degree of certainty. According to a 1944 INS report, INS was able to determine if an alien had complied with the change of address requirement because it maintained all address verification cards within the Alien Registration Division in headquarters. As a result, INS personnel could review the change of address records to determine if an alien had provided a change of address. If no change of address card for a specific alien was in INS's centralized file, INS could determine that it did not have a record showing that the alien had reported a change of address. Senior INS records officials said that it would be impossible to reliably reconstruct years of change of address records in order to create a complete, current, and centralized system of address records because they could not be certain that some change of address records had not been lost, misplaced, misfiled, or destroyed.

The second reason cited for INS's lack of enforcement was that the agency's internal policy discourages enforcement of this type of case. INS's Operations Instructions provide internal guidance to its employees. The Operations Instructions governing the enforcement of the penalties for failure to comply with the reporting requirement states that noncompliance shall not normally serve as the sole basis for initiating prosecution or removal proceedings.²⁷ In contrast, under the law, noncompliance can be the sole basis for removal unless the alien can establish that the violation was not willful or was reasonably excusable. This internal policy has been in effect since March 8, 1972. According to a senior INS investigative official, this policy may have been established because INS could not reliably determine if an alien had or had not filed a change of address notification. Senior INS investigative officials said they interpret the instruction as preventing enforcement of the penalties.

²⁷INS Operations Instructions 265.1(a), TM 105 revised 11/17/82, p. 4341.

INS Lacks Procedures and Controls Needed To Ensure Alien Address Information Is Complete

INS Does Not Update Address Information in All Automated Databases

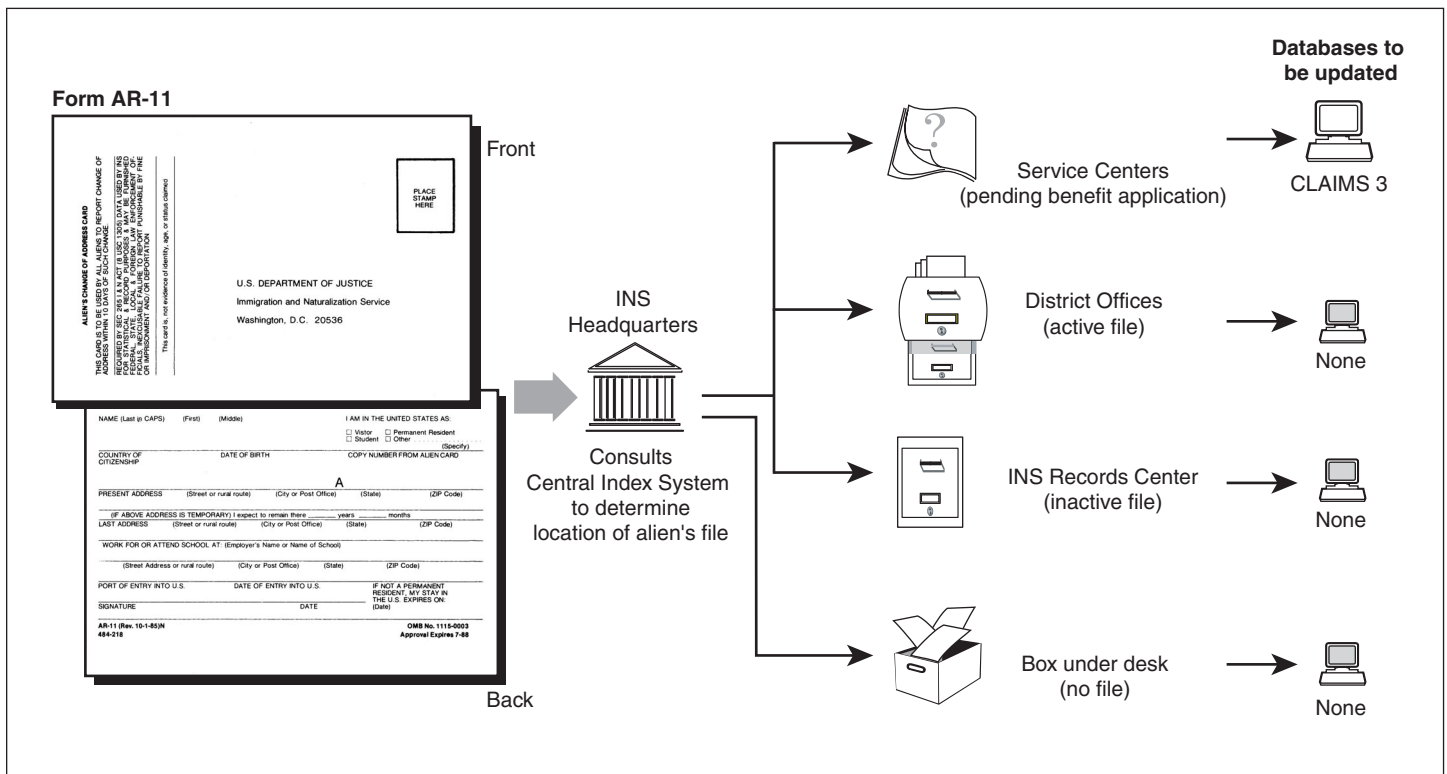
When aliens do submit Forms AR-11, INS must update its automated databases for the estimated 111,500 change of address notifications it receives annually.²⁸ However, INS lacks written procedures and automated controls to help ensure that reported changes of address are recorded in all automated databases.

INS has at least 16 different automated databases that capture alien identity and address information.²⁹ For example, when an alien enters the country as a visitor, his or her name and intended address are to be recorded in the automated NIIS. If the alien subsequently applies to adjust his or her visa status, the application for adjustment is to be recorded in the automated Computer Linked Application Information Management System (CLAIMS 3). Consequently, an alien's name and address may appear in more than one INS automated system. In this example, if the alien then moved and filed a change of address notification, INS would have to update both NIIS and CLAIMS 3 to ensure that the most current address information was recorded and that the address data across different automated databases was consistent. However, INS does not update all databases that contain alien address information and does not have the ability to update address information in NIIS.

²⁸The Comptroller General's standards for federal internal controls specify that control activities should be established to ensure transactions are completely and accurately recorded in a timely manner.

²⁹Some of the automated databases that contain address information are: the Employment Authorization Document System; Marriage Fraud Amendment System; Computer Linked Application Information Management System 3 and 4; Deportable Alien Control System; Re-engineered Naturalization Application Casework System; Refugees, Asylum, and Parole System; Integrated Card Production System; Global Enrollment System; Arrival Departure Information System; Enforcement Case Tracking System; Student and Schools System; General Counsel Electronic Management System; Student Exchange Visitor Information System; Asylum Pre-screening System; and the Nonimmigrant Information System.

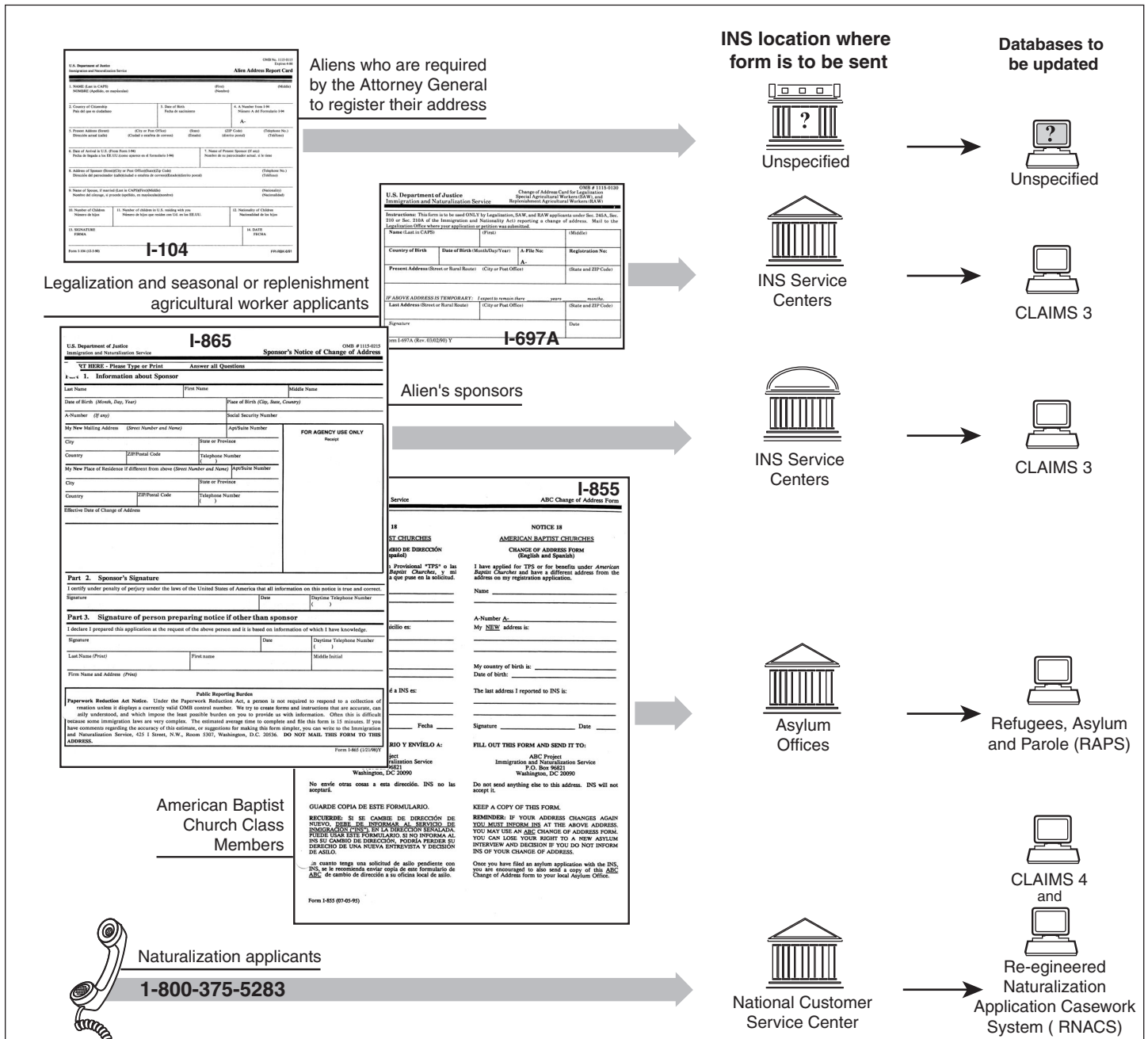
Figure 4: INS's Processing of the Form AR-11



Source: GAO's analysis.

As shown in figure 4, INS's prescribed change of address form is the Form AR-11 that is to be used by all aliens to report their new address. Aliens are to complete a Form AR-11 and mail it to INS headquarters in Washington, D.C. Upon receipt, INS staff determine where each alien's file is located and forward the change of address card to the appropriate INS office. INS does not create paper-based files for most nonimmigrant aliens. Consequently, if INS headquarters staff cannot associate a Form AR-11 with an alien's file, the card is placed in a box and held until a technician can do further research on them. These cards are not forwarded to any INS office and are not used to update automated databases. The forms that are sent to district offices or INS's National Records Center may not be used to update any database as there are no written procedures or automated controls that require or would provide for updating all databases. Change of address forms that are sent to the service centers are to be used to update the CLAIMS 3 database. No other databases that may also contain the alien's address are updated.

Figure 5: INS's Processing of Other Change of Address Forms



Source: GAO's analysis.

In addition to the Form AR-11, INS has four other change of address forms and a 1-800 telephone number that are generally to be used by aliens who qualify or have applied for a specific immigration benefit. As shown in figure 5, the different forms are to be sent to INS's service centers or asylum offices for processing. At the service centers and asylum offices, some but not all automated databases are required to be updated with the new address information.³⁰ Consequently, for those aliens who submit a change of address form, the consistency of their address information may vary between or among different INS automated databases.

Irrespective of the change of address form that is used, all databases are not updated because INS does not have adequate written procedures or automated controls that require or provide for updating address information in all automated databases in which the alien's name and address information appears. INS could establish automated controls such as a single automated address database from which other INS databases download alien address information. Alternatively, INS could establish automated linkages whereby updating address information in one automated database would automatically update address information in all databases. In either case, INS would need to record the date that the change of address was received in order to identify which address was most current and to determine whether an alien had filed a change of address within the required 10 days. Furthermore, INS's written procedures do not require all databases with address information to be updated. INS has drafted but not yet implemented field office processing procedures for the Form AR-11. These draft procedures do not require that all automated databases be updated.

Potential alien address inconsistencies among INS databases may have hampered DOJ's efforts to locate aliens. For example, if any of the 4,793 aliens who were being sought for interviews by U.S. Attorneys had submitted changes of address, their new addresses would not have been recorded in the database that was used to search for their current addresses. These aliens' address information was provided to the Foreign Terrorist Tracking Task Force by INS from the NIIS database that is not updated when INS receives changes of address. Consequently, these 4,793 aliens' address information was only as current as the date of their last entry into the United States. In a similar example, the Alien Absconder

³⁰The majority of alien sponsors, who are to complete Form I-865, are U.S. citizens. Only those sponsors who are aliens would need to have their addresses updated.

Initiative obtained address information on aliens who were ordered removed but who failed to depart the country from INS's Deportable Alien Control System (DACS). As with the NIIS database, change of address information submitted to INS is not used to update address information in DACS. As a result, INS may have had current address information for some of these aliens, but was not able to provide it because all INS databases are not updated.

INS's Actions to Improve Alien Address Reliability

In April 2002, INS established an Address Issues Task Force to review and assess how alien address information is processed. The task force identified numerous issues regarding the capture, processing, and recording of aliens' addresses. In May 2002, the task force prepared a White Paper that developed a concept of operations for handling address information and recommended a multi-phased strategy to improve operational efficiency. INS's concept of operations includes capturing and electronically storing alien address information in a timely manner, providing access to appropriate personnel through a single facility that provides easy sharing and updating of address information, and providing clear direction to aliens concerning their responsibility to provide current address information. To implement this concept of operations, the task force recommended a short-, medium-, and long-term strategy including the designation of a lead agency official for address issues, a reduction in the number of change of address forms, making the updating of address information a priority, issuing a request for information to identify best practices, developing a single centralized address repository, and developing compliance policies to monitor the process.

As of September 11, 2002, INS had accepted the task force's recommendations. The Executive Associate Commissioner for Management was designated as the lead agency official for address issues, an Address Issues Office was established, and the Commissioner approved a Senior Level Advisory Group for address issues. INS has also taken the first steps toward establishing a centralized address repository and plans to implement the task force's other recommendations. According to the Executive Associate Commissioner for Management, INS has received about 700,000 change of address notifications since July 22, 2002, when the Attorney General announced the planned publication of a proposed rule that, in part, restated that aliens are required to notify INS of changes of address. To handle this unexpected deluge of change of address forms, INS has made arrangements with one of its contractors to electronically image and capture these forms. INS expects that the changes of address it has received will form the basis for a new central address repository.

Conclusions

The Congress has provided a statutory framework that requires aliens entering or residing in the United States to provide identifying and address information to INS. If aliens comply with the requirement, INS should be able to record and maintain an address history for each alien and locate the alien if needed. If an alien fails to comply with the change of address notification requirement, it can result in the alien's prosecution for a misdemeanor and removal from the country.

INS should have a practical, reliable system to ensure that it has current address information for aliens in the United States who are required to register and provide any address changes. However, INS has not taken steps to ensure that aliens know about their responsibility to notify INS of new addresses, does not have an adequate system for handling change of address forms it receives, cannot determine whether aliens are in compliance, and has not sought to enforce the removal penalty against violators.

Since the events of September 11, 2001, it may be even more important for the federal government to know where aliens are located. Without this information, INS and law enforcement officials cannot quickly locate certain aliens who could help with the nation's anti-terrorism efforts or who represent a national security threat. Because its alien address information is unreliable, INS has had numerous difficulties locating aliens who represented a national security threat or who could help with the nation's anti-terrorism efforts.

There are several steps that INS can take to begin the process of improving its system for maintaining alien address information. These involve implementing a publicity campaign to make more aliens aware of their responsibilities; making arrangements with the U.S. Postal Service to make forms available in post offices; establishing internal controls for ensuring that data from aliens' change of address forms are consistent in all automated databases and permit the issuance of a certificate of no record; and clarifying internal guidance to establish that noncompliance can be the sole basis for removal. INS has begun to take action to implement the Address Issues Task Force recommendations that will help to improve INS's alien address information. As of October 2002, INS had designated a lead agency official for address issues. Furthermore, INS planned to reduce the number of change of address forms, make the updating of address information a priority, issue a request for information to identify best practices, develop a centralized address repository, and develop compliance policies to monitor the process.

Taking these steps should help improve the reliability of INS's address information, but they would not likely result in a system that would allow INS to locate all aliens. To a large extent, the accuracy and reliability of INS's address information is contingent on aliens' compliance. It is reasonable to assume that INS will never be able to know where every alien is located at any point in time because some aliens who are in the United States illegally may not want INS to know where they are and, therefore, will not likely comply with the address reporting requirement. It is also likely that some aliens will not know about the requirement or may simply forget to file the forms. Moreover, for INS to maintain a reliable system that is based solely on alien self-reporting would seem an almost impossible task without a significant infusion of resources. There may be alternative cost-effective approaches for obtaining or assembling more complete and accurate alien address information, particularly for those aliens who do not comply with the change of address notification requirement, that meets the needs of INS and the law enforcement community. These approaches include, but are not limited to, conducting a nationwide alien address registration pursuant to the Attorney General's discretionary authority, requesting legislative reinstatement of the alien address reporting program, matching INS address data with those of federal and/or state agencies, and purchasing address information from commercially available sources. These approaches may expedite the acquisition and/or reduce the cost of acquiring complete and reliable alien address information.

Recommendations for Executive Action

In order to promote compliance with the change of address notification requirements through publicity and enforcement and to improve the reliability of its alien address data, we recommend that the Attorney General direct the INS Commissioner to:

- Identify and implement an effective means to publicize the change of address notification requirement nationwide. As part of its publicity effort, INS should make sure that aliens have information on how to comply with this requirement, including where information may be available and the location of change of address forms.
- Develop procedures for distributing change of address forms to include making arrangements with the U.S. Postal Service to provide for placing change of address forms in all post offices, as required by the Code of Federal Regulations.

-
- Establish written procedures and controls to ensure that alien address information in all automated databases is complete, consistent, accurate, and current.
 - In connection with updating automated databases, establish procedures and controls that permit INS to verify receipts of change of address records and issue a certificate of no record, when aliens do not comply with the change of address notification requirement.
 - Revise INS's operating instructions to make clear that noncompliance with address reporting requirements can be the sole basis for removal, as provided at 8 U.S.C. 1306(b).
 - Provide a field on change of address forms that an alien can use to report a SSN or indicate that they do not have one, with the appropriate notifications and safeguards required by law.
 - Evaluate alternative approaches and their associated costs for obtaining or assembling complete alien address information, particularly for those aliens who do not comply with the change of address notification requirement.

Agency Comments and Our Evaluation

DOJ's Acting Assistant Attorney General for Administration provided us with written comments on a draft of this report. In its comments, DOJ generally concurred with five of our seven recommendations and will proceed in accordance with them. Specifically, DOJ agreed to publicize address notification requirements; widely distribute change of address forms, which would include U.S. post offices; establish procedures and controls to permit INS to enforce the penalty provisions for noncompliance with the change of address notification requirement; revise INS's internal operating instructions; and provide for aliens to report their Social Security number or indicate they do not have one on the change of address form. DOJ also described actions it has already taken and some of the more significant constraints in proceeding with the recommendations we proposed.

The constraints DOJ cited included (1) the need to revise the change of address form and renegotiate an agreement with the U.S. Postal Service before distributing the forms; (2) the need to develop a comprehensive address file system to ensure that record keeping will support removal proceedings, and (3) the likelihood that revising internal operating instructions will not result in additional criminal prosecutions for failing to

file a change of address notice because U.S. Attorneys generally decline to prosecute minor offenses.

We recognize that there are practical and time sequential considerations associated with implementing our recommendations; however, these considerations should not obviate the need to improve the government's ability to locate aliens by increasing the reliability of INS's alien address information. We agree that change of address forms should be revised before they are distributed and that an agreement with the U.S. Postal Service needs to be reached before the forms can be placed in post offices. We further agree that INS's alien address records need to be complete, consistent, accurate, and current before they can reasonably be expected to support removal proceedings. Also, we would not expect an increase in criminal prosecutions for failing to file a change of address notice. However, INS investigative officials viewed the revision of INS's internal operating instructions as a necessary condition precedent to placing noncomplying aliens in removal proceedings. We view these considerations not as constraints but as reasonable steps that must be taken to implement our recommendations.

DOJ did not comment on our recommendations to (1) establish written procedures and controls to ensure that alien address information in all automated databases is complete, consistent, accurate, and current or (2) evaluate alternative approaches and their associated costs for obtaining or assembling complete alien address information, particularly for those aliens who do not comply with the change of address notification requirement.

DOJ provided us with technical comments, which we incorporated in the report as appropriate. DOJ's comments are reproduced in appendix III.

We are sending copies of the report to the Chairmen and Ranking Minority Members of the Senate and House Committees on the Judiciary; the Chairman and Ranking Minority Member of the Subcommittee on Immigration, Senate Committee on the Judiciary; the Ranking Minority Member of the Subcommittee on Immigration and Claims, House Committee on the Judiciary; the Attorney General; the Commissioner of INS; the Director of the FBI; the Director of the Secret Service; the Director of the Foreign Terrorist Tracking Task Force; the Director of the Office of Management and Budget; the Director of the Office of Homeland Security; and other interested parties. We will also make copies available

to others upon request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staffs have any questions about this report, please contact Evi Rezmovic or me at (202) 512-8777. Key contributors to this report are listed in appendix IV.



Richard M. Stana
Director, Justice Issues

Appendix I: Scope and Methodology

To determine the statutory framework that requires aliens to report their addresses and any changes, and to provide historical background information on prior alien registration requirements and programs, we reviewed laws, regulations, and Immigration and Naturalization Service (INS) publications and reports, including 8 U.S.C. 1301-1306 from 1940 to 2002, 8 C.F.R. 264-5; INS Annual Reports from 1941 to 1982; the Administrative History of the INS During World War II; a 1943 Report to the Attorney General on Alien Registration; a 1944 Report of Survey of the Alien Registration Division; the INS Monthly Review from May 1944 to April 1952; the I&N Reporter from January 1956 to Winter 1977-1978¹; the INS Information Bulletin from August 22, 1951, through January 28, 1953; INS's Operating Instructions from April 19, 1954, to January 2002; and INS's internal publicity and operation files for the Alien Address Report Program for 1977 through 1982. We reviewed prior reports on alien address information issued by the Congressional Research Service, the Department of Justice (DOJ) Office of the Inspector General, and us. We interviewed a representative of the U.S. Postal Service to determine if change of address forms were available in post offices. We also observed and documented the processing of change of address forms in INS headquarters, reviewed documentation from a 1995 INS task force that was responsible for identifying ways to improve the change of address program, and interviewed INS records and computer managers and senior representatives of the Executive Office for U.S. Attorneys.

To determine whether INS's alien address information can be used to reliably locate aliens in the United States, we reviewed documentation and interviewed senior investigators in INS's National Security Unit and the San Diego District and senior representatives from the Federal Bureau of Investigation (FBI), the Secret Service, and the Foreign Terrorist Tracking Task Force. We did not independently review the accuracy and reliability of INS's databases, nor did we independently review the task forces' attempts to locate aliens. We also did not independently verify the data provided to us by (1) INS on the numbers of alien absconders who were sought and apprehended, and (2) the Executive Office for U.S. Attorneys on the numbers of nonimmigrants who were sought, had departed the country, or who were located and interviewed.

¹In 1976, the I&N Reporter was renamed the "INS Reporter."

To identify the principal factors affecting the reliability of INS's alien address information, we developed audit findings by analyzing the information we obtained during the review.

We performed our work from October 2001 through September 2002 in accordance with generally accepted government auditing standards.

Appendix II: An Historical Overview of INS's Alien Registration Programs, 1940-1981

From 1940 through 1944, INS's Alien Registration Division administered the registration provisions of the Alien Registration Act of 1940. The act required all aliens, except for foreign government officials and their families, to be registered and fingerprinted. In 1950, the Congress established an annual address reporting requirement for resident aliens that was expanded in 1952 to cover all aliens who were required to be registered. INS assigned responsibility for the Alien Address Report Program to the Records Division, which administered the program until it was ended in 1981.

The Alien Registration Program of 1940

In implementing the Alien Registration Act of 1940, INS sought to create an inventory of aliens in the United States to include their locations and to maintain current address information. Beginning August 27, 1940, INS, in cooperation with the Post Office Department, registered and fingerprinted aliens in the United States who were required to register. As of December 31, 1940, 4,921,452 aliens had been registered. Aliens in the United States were required to submit (1) an official registration form, which contained information such as name, country of birth, address, occupation, and immigration status, and (2) a fingerprint card. INS reviewed the registration documents and if they were found acceptable, a registration receipt card bearing the individual number, name, and address of the registrant was issued and mailed. Fingerprint cards were forwarded to the FBI to identify aliens with criminal records. INS considered the requirement that resident aliens notify of a change of address within 5 days to be important because it provided the only statutory method for keeping these aliens' locations current. As of February 1, 1943, INS received about 1,850,000 notifications of changes of address. In a 1943 report to the Attorney General on alien registration, the INS Commissioner reported that the information collected by the Alien Registration Program had been essential to preserving the nation's internal security.

In 1944, the Commissioner requested that a survey of the Alien Registration Division be undertaken to determine if the division's functions should be integrated into the central office or should continue to be maintained separately. The survey concluded that it would be more efficient to integrate the division's functions into the central office, and accordingly, the division was eliminated on December 31, 1944. One of the reasons cited for eliminating the division was the inability to maintain current address information for aliens who were in the country. According to the survey report, an estimated 5 to 40 percent of the registered aliens had moved without filing changes of address as required, and the U.S.

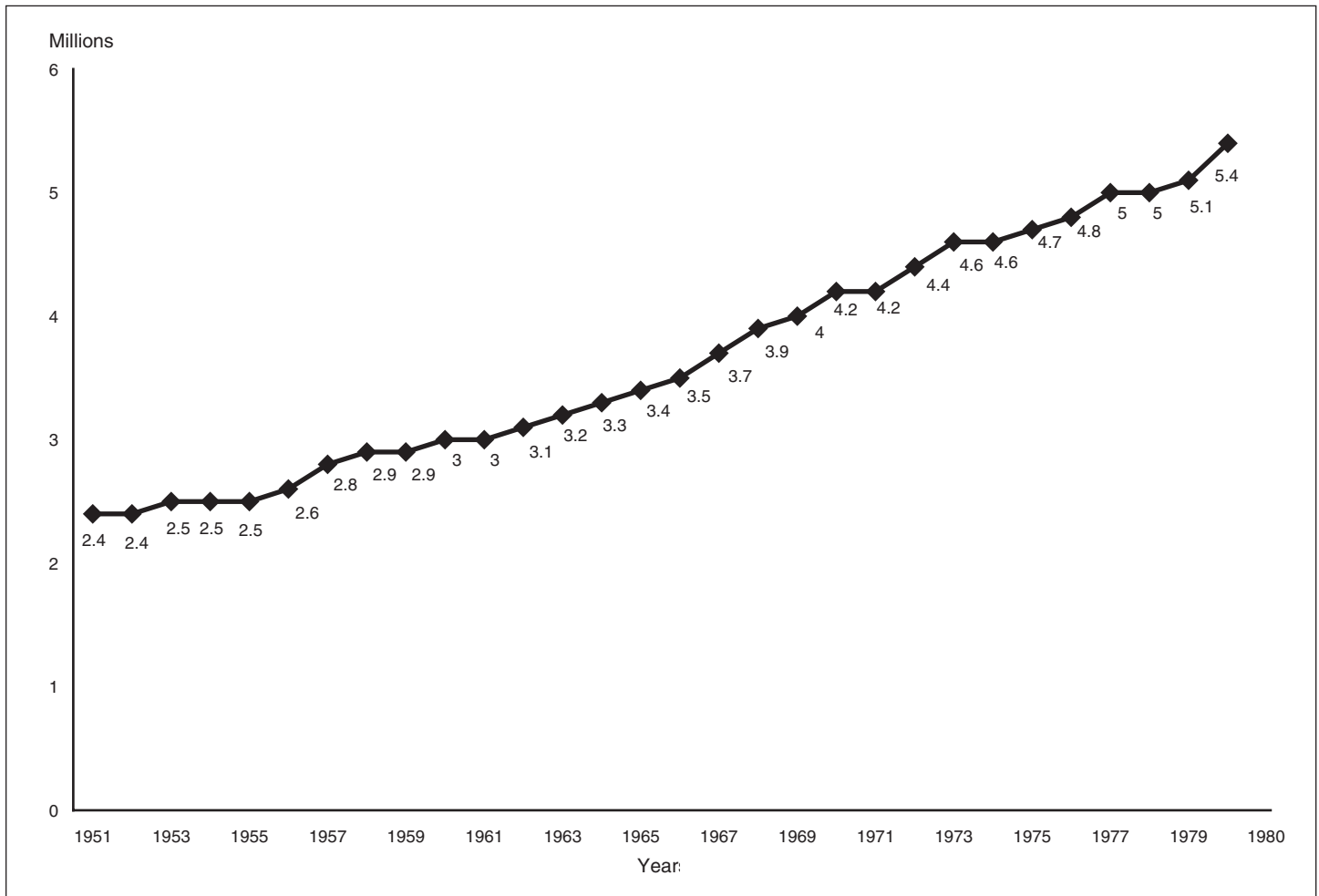
Attorneys had refused to prosecute these violations. In addition, the act did not require that aliens' deaths and departures be reported to the Alien Registration Division and many were not reported. As a result, the survey concluded that it was impossible to maintain a file of aliens' address cards with any degree of accuracy.

The Alien Address Report Program of 1950

Prior to 1950, INS had reported that aliens' address information, gathered during the 1940 registration, was out of date because aliens were not filing change of address notices, as required. In 1950, the Congress required all resident aliens in the United States on January 1st to report their addresses to INS. In addition, resident aliens were still required to file a change of address notice if they moved. INS established the Alien Address Report Program. INS created Alien Address Report Cards (Form I-53) and placed them in about 42,000 U.S. Post Offices and 450 Immigration offices nationwide, so aliens could report their addresses to INS. In 1951, nearly 2.4 million resident aliens reported. Of that number, INS identified over 50,000 individual aliens for whom INS had no record. These cases were referred to INS field offices for investigation. INS also found a fairly high incidence of noncompliance by comparing the address reports to alien records at the central office. INS referred at least 120,000 noncompliance cases to its field offices for investigation. By 1980, aliens who annually reported their addresses to INS had increased to nearly 5.4 million.¹ Figure 6 shows the number of annual address reports INS received between 1951 and 1980, the last year that complete data were available before the annual address reporting requirement was eliminated.

¹INS received annual address reports in 1981, but did not process them.

Figure 6: Number of Aliens Who Reported During the Alien Address Report Program, 1951-1980



Note: The 1952 data are approximate.

Source: GAO's analysis of INS's data.

According to congressional and internal INS documentation, the program was eliminated (1) to save between \$542,000 and \$800,000, (2) because the address information was used primarily for statistical purposes, and (3) because the Office of Management and Budget wanted to reduce the public's annual reporting burden by about 470,000 person-hours.

Alien Registration Programs Shared Common Program Elements

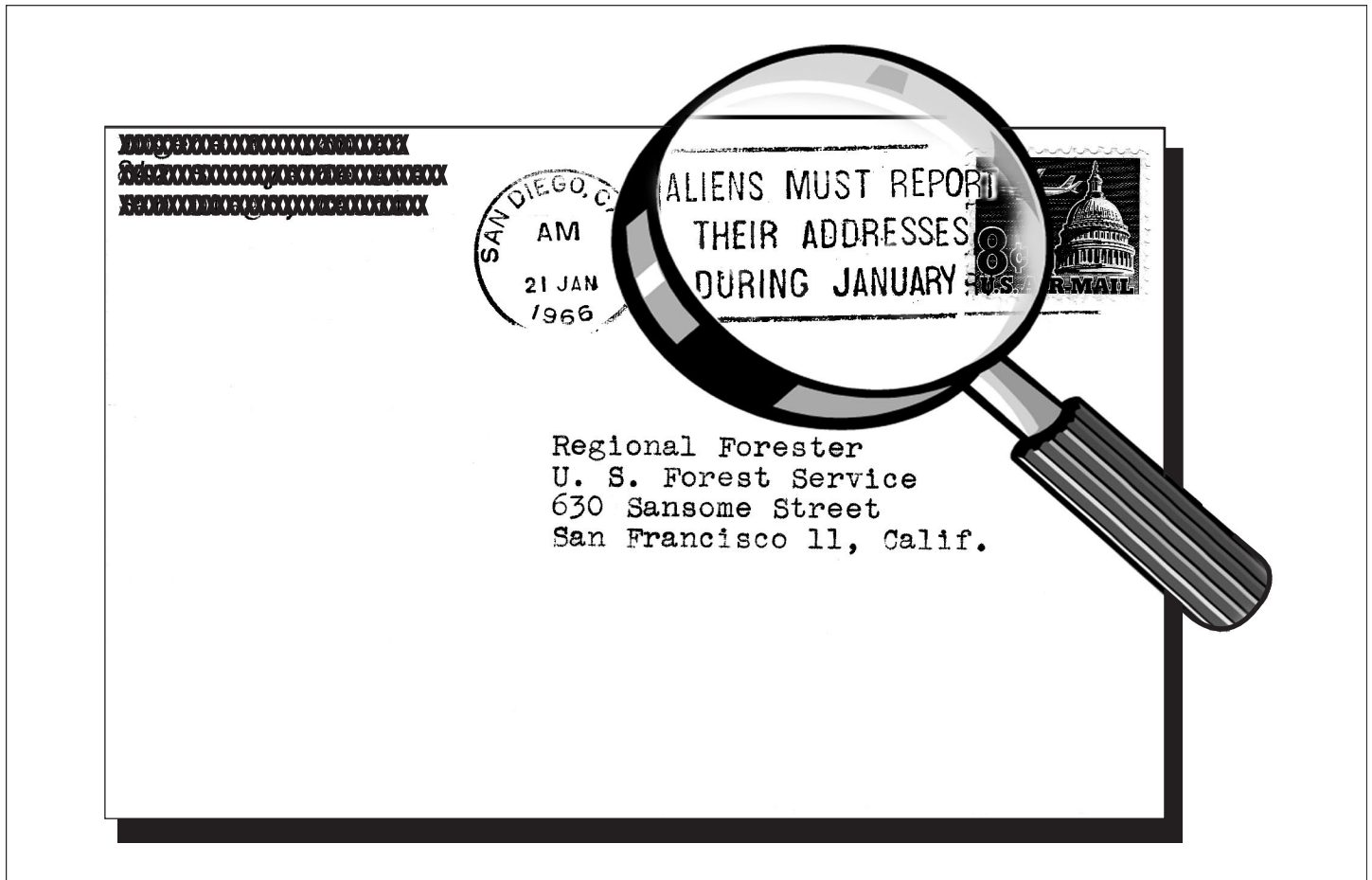
Both the Alien Registration Program and the Alien Address Report Program shared common program elements, including (1) publicizing the program requirements nationwide, (2) centralizing management responsibility, (3) centralizing nationwide alien address information which provided the capability to conduct searches, and (4) investigating cases of alleged violations of the requirements to file a change of address notification and/or an annual address report.

Program Requirements Were Publicized Nationwide

INS had about 2 months to publicize the registration requirements from the time the law was enacted on June 28, 1940, until registration commenced on August 27, 1940. In congressional testimony, the Director of the Alien Registration Division said that government and private organizations conducted an educational campaign to publicize the registration requirements. Furthermore, according to the Director, the education effort was deemed to be effective because most aliens were found to have registered. In many cases, those who failed to register misunderstood the requirement.

For the Alien Address Report Program, INS undertook extensive publication of the filing requirements each year. Through a memorandum of understanding with the U.S. Postal Service, INS placed forms and signs in about 42,000 post offices nationwide to instruct aliens about the annual address reporting requirement. In addition, as shown in figure 7, the Post Office Department cancelled postage stamps with a cancellation that read, "Aliens must report their addresses during January." Further, INS placed public service advertisements on radio and television to remind aliens of the annual filing requirement. INS also prepared a poster to remind aliens of the reporting requirement and placed it in railroad, airline, and bus terminals. According to an INS official who worked in the program, the nationwide publicity was responsible for ensuring that there was broad public awareness that aliens were required to report their addresses to INS during January of each year.

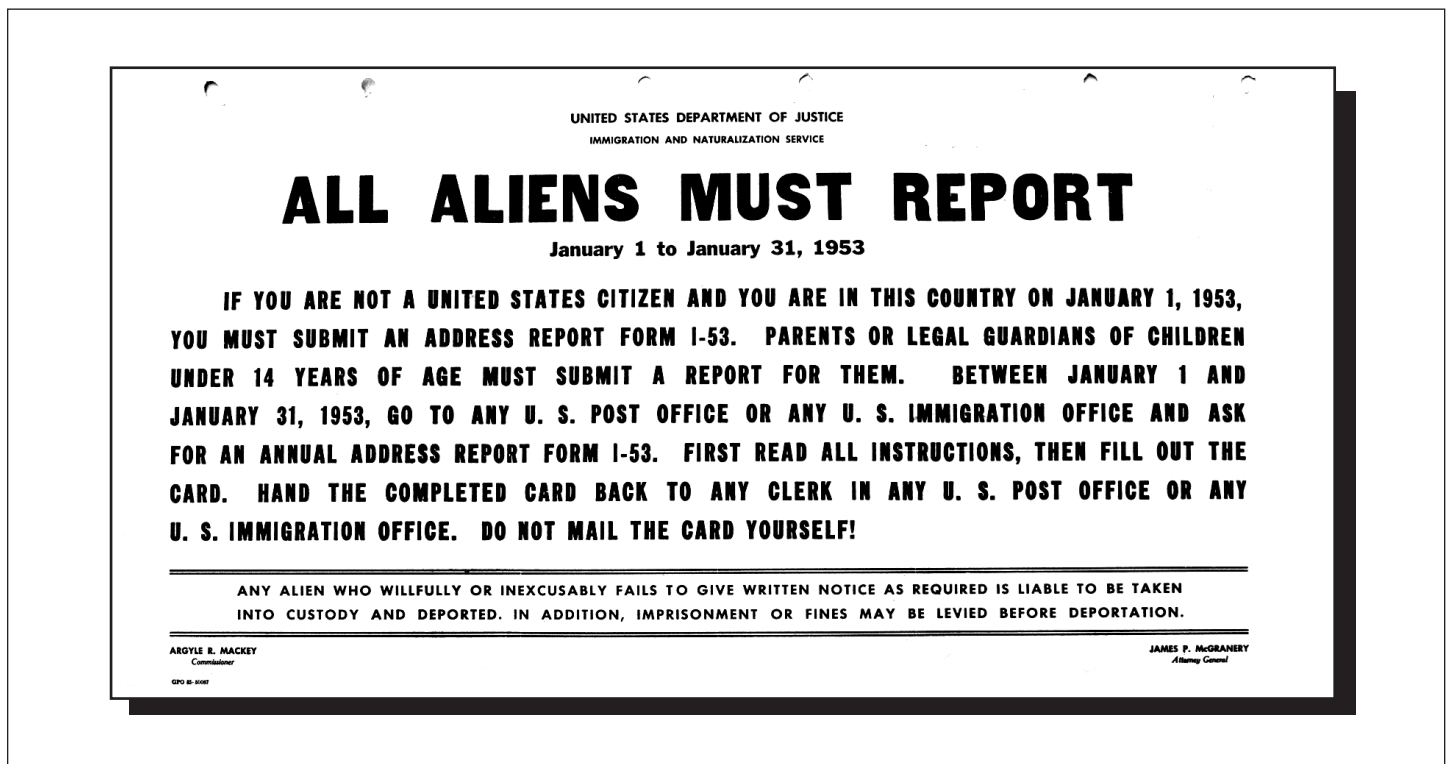
Figure 7: The Post Office Department Cancelled Stamps with a Reminder That Aliens Must Report Their Addresses



Note: This is a copy of the original envelope; however, the name and return address have been redacted for privacy reasons.

Source: Provided courtesy of John Hotchner, Past President, American Philatelic Society.

Figure 8: INS's 1953 Sign Placed in Post Offices Instructing Aliens to Report Their Addresses



Source: GAO photograph of the original in the INS History Office Library.

Program Responsibility and Data Were Centralized

To administer the provisions of the Alien Registration Act, INS established the Alien Registration Division, which was responsible for managing all aspects of the alien registration program. The four principal objectives of the division were to

- develop and maintain an index of information on aliens,
- verify the accuracy of information provided by aliens,
- maintain the currency of the records, and
- produce requested or required data.

The Alien Registration Division received and processed the forms required by the act. Registration forms were inspected upon arrival and, if they were complete, they were numbered, coded, and microfilmed for

preservation. On December 31, 1944, the Alien Registration Division was disbanded, and the alien registration files were forwarded to INS's field offices.

In 1950, when INS established the Alien Address Report Program, it placed responsibility for administering the program in the office with responsibility for records administration. This office, the Records, Administration and Information Branch, was responsible for receiving and processing all annual reports and responding to inquiries from within and outside the agency. By 1978, INS had automated the processing of the annual address reports using a contractor.

Alien Registration Information Was Searchable

Requiring all aliens to register in 1940 was intended to enable the government to obtain comprehensive and detailed information on all noncitizens in the United States for the first time in the history of the nation. The nationwide information could be searched using different criteria and was used by INS for purposes such as conducting background checks on naturalization applicants. According to an internal INS report, prior to alien registration, INS was hampered in these investigations by a lack of sufficient information. The alien registration information remedied this situation. In addition to using the data for their own purposes, INS began receiving war time requests for information from other federal agencies. However, before information could be released, it required the approval of the Attorney General as the act required that all registration information be kept confidential.

Examples of the requests that INS received and were granted by the Attorney General are shown in table 1.

Table 1: Examples of Requests for Alien Registration Data INS Approved and Their Intended Use

| Requesting agency | Intended use |
|--|---|
| Treasury Department | Freeze funds of aliens with enemy nationalities |
| Federal Communications Commission | Identify licensed radio operators |
| Civil Aeronautics Board | Identify alien pilots |
| Selective Service System | Identify aliens who failed to register for the draft |
| War and Navy Departments | Identify aliens applying for employment in wartime industries |
| Office of Export Control and Defense Board | Identify aliens engaged in exporting |
| Securities and Exchange Commission | Identify aliens in violation of securities acts |

Note: Information on the date the specific request was made and the specific information that was requested were not available.

Source: GAO's analysis of INS data.

However, all requests for alien registration data were not granted. Table 2 shows some examples of requests that were denied. INS documentation does not provide the reasons for the denials.

Table 2: Examples of Requests for Alien Registration Data INS Denied and Their Intended Use

| Requester | Intended use |
|-----------------------|---|
| Welfare organizations | Citizenship and nationality of persons applying for aid |
| Relatives | Locate missing relatives who were aliens |
| Creditors | Locate alien debtors |
| Attorneys | Divorce and/or custody proceedings |
| Prisoners of war | Locate relatives |

Note: Information on the date the specific request was made and the specific information that was requested were not available.

Source: GAO's analysis of INS data.

In cases where relatives were trying to find an alien, INS would notify the alien that his or her relatives were seeking to locate him or her. They would not release the alien's location to the relatives. In a 1943 report to the Attorney General on the alien registration program, the INS Commissioner said,

“Primarily intended as a safeguard, the Act has made it possible to provide war agencies and agencies concerned with the internal security of the nation with the specific and essential information about individual aliens and groups of aliens. At the same time, it has afforded the Government an opportunity to gather basic sociological data about our alien population that has long been needed for legislative and educational purposes.”

As with the 1940 alien registration program, INS centrally received and processed the alien address report program information. However, where the 1940 registration program sorted punched cards using tabulation equipment, the 1950 program eventually established an automated database and entered nationwide address-related information into it, thus enabling INS to readily conduct searches. INS collected information that was used by agencies to locate aliens, identify alien migration patterns, develop investigative leads, estimate the naturalization workload, correspond with aliens, and plan resource allocation. As shown in table 3, INS also received requests from the Congress and federal, state, and local government agencies.

Table 3: Examples of Requests for Alien Address Report Program Data INS Approved and the Intended Uses

| Requesting agency | Intended use |
|--|---|
| Congress | About 100 requests per year for alien data |
| State and local governments | Requests for alien data |
| Department of Justice: Office of Special Investigations FBI Drug Enforcement Administration | Locate aliens |
| Department of Treasury: Customs Service Secret Service | |
| Department of State: Cuban/Haitian Task Force | Allocate state refugee funding, identify unaccompanied minors, and validate and correct refugees' files |
| Department of Health and Human Services: Office of Refugee Resettlement | Allocate state and local refugee funding |
| Department of Commerce: Bureau of the Census | Estimate illegal alien population, identify Cuban refugee locations, and track alien migration |

Note: Information on the date the specific request was made and the specific information that was requested were not available.

Source: GAO's analysis of INS data.

Change of Address and Annual Address Reporting Violations Were Investigated

In 1941, INS organized the Special Inspections Division to enforce the Alien Registration Act of 1940. The Division was responsible, among other things, for identifying aliens who had failed to register or report a change of address. However, enforcing the change of address provisions proved difficult for INS because U.S. Attorneys generally declined to prosecute the cases.

One potential method used by INS investigators to identify possible violators of the change of address requirement involved mail that was returned to INS by the Post Office Department. For example, INS mailed registration receipt cards to aliens who had submitted acceptable registration documents. Of about 5 million cards that were sent out, 480,000 were returned by the Post Office. Following a second mailing, 160,000 of the 480,000 were again returned by the Post Office. The 160,000 aliens, whose cards were returned, could have been investigated as potential violators of the change of address filing requirement. INS identified many violations of the change of address requirement; however, U.S. Attorneys generally refused to prosecute the offenders. According to the INS Commissioner in a letter to the Bureau of the Budget at that time,

“Although a penalty is provided for failure to notify change of address, practically every United States Attorney has refused to prosecute unless it is shown that such failure was willful. As a matter of fact, the majority of the United States Attorneys have issued blanket waivers of prosecution in these cases and have requested this Service not to present them unless it is shown that the violation was willful. During the calendar year 1943, some 7,488 investigations were conducted of aliens who failed to notify change of address; 4,287 such cases were presented to the United States Attorneys, and only 19 convictions were obtained. It is not possible to make an accurate estimate of how many registrants have failed to report changes of address.”² According to the 1944 Survey of the Alien Registration Division to the INS Commissioner, INS staff estimated that between 5 and 40 percent of the registered aliens had not notified INS of their new address.

INS does not appear to have enforced the removal penalty for noncompliance since the early 1970s. INS's historical records from 1950 to 2002 do not identify the number of aliens who were placed in removal proceedings for failing to file a change of address notification. According to an official with Executive Office for Immigration Review, their records date from 1988 and contain no cases where aliens were charged and

²“Survey of the Alien Registration Division,” letter of Commissioner Harrison to E.B. Wilber, Bureau of the Budget, March 6, 1944.

placed in removal proceedings for failing to file a change of address notification. A review of federal cases and cases brought on appeal from the Executive Office for Immigration Review to the Board of Immigration Appeals indicates just a few instances where INS charged an alien with failure to file a notification of address or change of address in a removal proceeding.³ We also found a few cases where an alien was prosecuted for failure to give notice of an address or change of address.⁴

³For example, Matter of Winter, 12 I. and N. 638, (BIA, Feb. 9, 1968), *Sevitt v. Del Guercio*, 150 F. Supp. 56 (S.D. Cal. 1957)

⁴For example, *U.S. v. Ushi Shiroma*, 123 F. Supp. 145 (D. Haw. 1954), *U.S. v. Ginn*, 222 F. 2d 289 (3rd Cir. 1955). In addition, during the period of time when annual address report requirements were in effect, we identified several BIA and federal court cases relating to the enforcement of this provision. See *U.S. v. Sacco*, 428 F. 2d 264 (9th Cir. 1970), *Patsis v. Immigration & Naturalization Service*, 337 F2d 733 (8th Cir. 1964), Matter of S, 7 I. and N. 536, (BIA, Aug. 19, 1957), Matter of M, 5 I. and N. 216, (BIA, May 6, 1953), Matter of B, 5 I. and N. 692, (BIA, Mar. 2, 1954).

Appendix III: Comments from the Department of Justice



U.S. Department of Justice

Washington, D.C. 20530

November 7, 2002

Mr. Richard M. Stana
Director, Justice Issues
Tax Administration and Justice Team
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Stana:

On October 9, 2002, the General Accounting Office (GAO) provided the Department of Justice (DOJ) copies of its draft report entitled "HOMELAND SECURITY: INS Cannot Locate Many Aliens Because It Lacks Reliable Address Information." The Immigration and Naturalization Service (INS) is pursuing vigorously a long-range strategy to manage alien addresses. These efforts include establishing an Address Issues Task Force, designating a specific unit to handle address issues, and conducting a study of the operational and functional address needs of the INS in order to develop and maintain an address repository of alien addresses. While the INS and the Department generally concur with the report recommendations and will proceed in accordance with them, we would like to describe actions already taken and discuss some of the more significant constraints in proceeding with the recommendations as proposed.

Recommendation: Identify and implement an effective means to publicize the change of address notification requirements nationwide. As part of its publicity effort, INS should make sure aliens have notification on how to comply with this requirement, including where information is available and the location of change of address forms.

The INS concurs with this recommendation. As previously discussed with GAO representatives, INS' long-term strategy includes a nation-wide effort to publicize the address reporting requirements.

The GAO draft report, however, does not appear to recognize past efforts by the Department of Justice and the INS to publicize the change of address requirements of the Act. For example, the GAO draft report points to the NPRM published by the Department of Justice on June 13, 2002, as indicative of the need for nation-wide publicity of these requirements. The proposed rule establishing the National Security Entry - Exit Registration System set out the address notification requirements. 67 FR 40581, 40583 (June 13, 2002). The final rule, promulgated on August 12, 2002, reiterated this requirement and further explained the requirements and how those requirements related to the National Security Entry - Exit Registration System. 67 FR 52584, 52587-52588 (Aug. 12, 2002). These points were reiterated in the Attorney General's implementing Notices published pursuant to the final rule.

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Moreover, the Attorney General has promulgated a specific NPRM to ensure that aliens are aware of and comply with the change of address notification requirements in light of a Board of Immigration Appeals decision that pointed out the shortcomings of the current system. 67 FR 48818 (July 26, 2002). This proposed rule would amend the regulations of the INS by requiring every alien who is applying for immigration benefits to acknowledge having received notice that he or she is required to provide a valid current address to the Service, including any change of address within 10 days of the change; that the Service will use the most recent address provided by the alien for all purposes, including the service of a Notice to Appear if the Service initiates removal proceedings; and, if the alien has changed address and failed to provide the new address to the Service, that the alien will be held responsible for any communications sent to the most recent address provided by the alien. This rule will satisfy the requirements for advance notice to the alien of the obligation to provide a current address to the Service, and of the consequences that may result for failure to do so, including the entry of an *in absentia* removal order against the alien in accordance with 8 CFR 3.26 if the alien fails to appear at a removal hearing. This advance notice will avoid the kind of problems that have arisen in the past where aliens have failed to provide a new address. See *Matter of G-Y-R-*, 23 I&N Dec. 181 (BIA 2001). The INS is currently analyzing the comments received on this NPRM, but the type and number of comments received clearly indicates that this NPRM and other actions already taken, have made the requirements of the law very clear to the immigration community.

In each of these instances, both the Department and the INS have publicized the requirements that aliens report changes of address to the INS, not only through official statements and press releases directed to a wide range of media outlets, but through community relations efforts directed to the specific immigrant populace. We believe that the GAO report would be more informative if it reflected more of the efforts that have already been undertaken.

Recommendation: Develop procedures for distributing change of address forms to include making arrangements with the U.S. Postal Service to provide for placing change of address forms in all post offices, as required by the CFR.

The INS generally concurs with this recommendation. As previously discussed with GAO representatives, INS' long-term strategy includes wide distribution of change of address forms and the submission of forms through the Internet and other media. INS will examine all possible distribution sources, including the United States Postal Service.

GAO should understand that the requirements of the law have been widely publicized in recent months, with, as GAO correctly points out, over 700,000 forms being filed within the two months following the publication of the notification of address requirements rule. Form AR-11 is currently available on the internet through the INS website. See <http://www.ins.usdoj.gov/graphics/formsfee/forms/files/ar-11.pdf> (English edition). We should note that this form is also available in Spanish, Chinese and Russian.

The INS also agrees that it is prudent and efficacious to provide the forms at all United States Post Offices. However, that process is one that will require renegotiation with the United States Postal Service. Although current INS regulations recognize this process, the provision of large numbers of forms at this moment may not be the most efficient means of gathering the information. As noted in the proposed rules cited above, the INS is currently revising a number of forms, including Form AR-11, to ensure better compliance. After that revision takes place and the Attorney General approves a final rule, it will be important to ensure that the new forms are distributed as widely as possible and to assist aliens in complying with the law.

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Recommendation: In connection with updating automated databases, establish procedures and controls that permit INS to verify receipts of change of address records and have a certificate of no record, when aliens do not comply with the change of address notification requirement.

The INS concurs. When in place, the alien address repository will provide a confirmation of receipt to aliens submitting change of address information. When conducting a search within the system, INS will have the address repository return the alien's last recorded address or an appropriate "no record" certification to the searcher when the system does not contain an address for the given alien. INS agrees that the address repository must provide accurate and timely information to search requests.

Recommendation: Revise INS' operation instructions to make clear that noncompliance with address reporting requirements can be the sole basis for removal, as provided in 8 USC 1306(b).

The INS concurs, but for different reasons than underlie the recommendation. INS agrees that failure to report changes of address under 8 USC 1306(b) can form the sole basis for removal. However, recognizing the shortcomings of the current address file, INS believes it is more important to develop a comprehensive address file system and ensure that recordkeeping will support removal before attempting to undertake removals solely on this basis.

Congress has mandated the development of a comprehensive, universal entry - exit system by 2005. The INS supports that goal and believes that management information must be brought into line with that goal. At the point that at which adequate assurance that an alien is on sufficient Notice of the responsibility to file a change of address, together with adequate assurance that any change of address has been properly accounted for, the INS will consider revisiting internal operating instructions and more aggressive enforcement of 8 USC 1306(b). At this time, it would be premature to change the operating instructions and invite unnecessary litigation.

We should also note that section 266(b) includes a criminal sanction and that the revision of these internal operating procedures, when they are implemented, will not *per force* result in additional criminal prosecutions. The penalties for willful failure to file a notice of a change of address are generally not conducive to the filing of criminal charges. Section 266(b) of the Immigration and Nationality Act (8 U.S.C. § 1306(b)) provides that an alien who willfully fails to file a notice of change of address may be imprisoned for 30 days and fined \$200. In light of ever increasing demands for the scarce prosecutorial resources of the United States Attorneys and judicial resources of the United States District Courts, merely changing internal operating instructions and making referrals will not provide greater enforcement or deterrent and compliance value. As a general rule, the United States Attorneys will decline to prosecute such minor offenses. If enforcement of the requirement to file a notice of change of address is to be effective, these penalties would need to be substantially increased. Only then will a change in operating procedures and referring cases to the United States Attorneys be effective.

Mr. Richard M. Stana

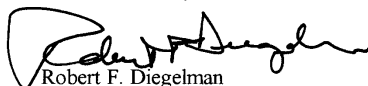
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Recommendation: Provide a field on the address change form that an alien can use to report an SSN or indicate that they do not have one, with appropriate certifications and safeguards as required by law.

The INS concurs. The INS is currently reviewing and revising Form AR-11, as well as other forms for collection of changes of address information. Many aliens in the United States do not have a social security number, so inclusion of a social security number in these forms will have a limited benefit. However, INS believes that this added identifying is worth making the change and will attempt to do so, consistent with all of the legal requirements for utilizing social security numbers.

I hope you will consider our concerns in preparing the final GAO report on this subject. If you have any questions regarding the Department's comments, you may contact Vickie L. Sloan, Director, Audit Liaison Office, on (202) 514-0469.

Sincerely,



Robert F. Diegelman
Acting Assistant Attorney General
for Administration

Appendix IV: GAO Contacts and Staff Acknowledgments

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