

'Organizational Schizophrenia in the I.N.S.'

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Body

To the Editor:

Your Oct. 22 editorial "The Immigration Mess (Both of Them)" and your front-page story on Federal assertions that lawyers are aiding immigration fraud (Oct. 21) need the addition of a chapter on the seeming failure of the Immigration and Naturalization Service to deal with the well-ripened fruits of illegal immigration. I suggest it be titled **"Organizational Schizophrenia in the I.N.S."**

The incredibly mixed signals **I.N.S.** receives from Congress, the Administration and its internal hierarchy (both past and present), has resulted in an agency with a classic split personality, in an identity crisis.

I.N.S. is still reeling from a succession of Presidentially appointed commissioners of diverse backgrounds. The message these appointments sent to the agency, to Congress and to the public was worse than unclear, and the effects are still with us.

The Senate, for all its positive efforts to struggle with illegal immigration, has, in succeeding sessions, passed sanctions provisions to assist **I.N.S.** in dealing with unscrupulous employers of illegal aliens. Simultaneously, however, the Senate, by approval and adoption of the McClure open-fields amendment, would create an absurd inconsistency with those sanctions provisions by imposing an open-field search warrant requirement on **I.N.S.** agents.

The courts are not without their input in warping the **I.N.S.**'s personality. Indeed, we must live with the scars of judicial decrees that under the guise of due process have frustrated the ability of the **I.N.S.** to effect the removal of countless Haitian boat people from this country.

Finally, is it any wonder that this agency and its clients fall prey to schemes and schemers to abuse the system? Some insist there are increasing numbers of dishonest lawyers engaged in the immigration business. It is my feeling, instead, that there are increasing opportunities for abuse created by our unwillingness to simplify our processes.

We somehow attempt to convince ourselves and others of the complexity of our work. At the highest levels we proclaim that **I.N.S.** laws and regulations are at least as complex as the revenue laws. We perpetuate this by insisting that one must hire a lawyer to pursue an entitlement benefit, no matter how simple or pro forma the administrative process. In so doing, we drive the legal or illegal alien, who often is at a tremendous cultural and language disadvantage, to unscrupulous persons (waiting under the umbrella of **I.N.S.** blessing) for assistance.

There is little argument that some issues and cases before **I.N.S.** are complex and should be handled accordingly. However, the vast majority of **I.N.S.** fraud involving lawyer culpability flows from **I.N.S.** administrative proceedings not requiring legal representation. This agency is chartered by Congress to provide benefits to people, regardless of

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whether they are represented and without regard to their ability to pay for such representation. Notwithstanding, we send mixed signals.

While we will not provide counsel to persons filing for benefits, we advise them that they may be represented by a lawyer or a nonlawyer representative specifically approved by the Board of Immigration Appeals, though that nonlawyer representation is generally unavailable or limited to inexperienced personnel. Ironically, **I.N.S.** will not allow unrestricted representation (as does the Internal Revenue Service) by any other nonattorney, regardless of the individual's qualifications. This shortsighted, narrow thinking sanctions and encourages representative fraud.

In summary, **I.N.S.** must cease functioning as a multiple personality to accommodate the shortcomings of each of the branches of government. It is time **I.N.S.** reassessed its role in government as an executive branch agency and shed its dual personality to perform that role effective-ly. WILLIAM H. TRUESDALE JR. Getzville, N.Y., Oct. 30, 1985 The writer was deputy district director of the Immigration and Naturalization Service, Buffalo District.

Graphic

drawing

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