

# AILA BACKGROUNDER

## OMBUDSMAN ISSUES

**Background:** The Immigration and Nationality Service (INS) historically was criticized for inefficiency, growing backlogs, lack of a customer service culture, and inefficient use of resources. Any number of Government Accounting Office (GAO) reports addressed issues such as growing backlogs, inconsistent adjudications, INS management issues, and other problems that plagued the Agency. When Congress passed the Homeland Security Act of 2002 (PL 107-296), which abolished the INS and merged our immigration functions within the new Department of Homeland Security, it also created, for the first time, an Office of Ombudsman within the new Bureau of Citizenship and Immigration Services (BCIS).

Section 452 of the Homeland Security Act of 2002 establishes the position of Citizenship and Immigration Services Ombudsman, and requires that the Ombudsman have experience in customer service and immigration law. The Ombudsman will report directly to the department's Deputy Secretary, and will have responsibility, among other things, for identifying problem areas within the BCIS, assisting individuals and employers in resolving problems they encounter, and proposing changes in the administrative practices of the BCIS to mitigate those problems. The Ombudsman also will have responsibility for submitting annual reports to Congress on problems and improvements in services within the BCIS.

**The Problem:** While the Homeland Security Act establishes the position of Ombudsman within BCIS, no comparable position was created within the Bureau of Immigration and Customs Enforcement (BICE) or the Bureau of Customs and Border Protection (CBP). Given the history of problems that have permeated the INS, it is inconceivable that there will not be customer service issues or problems that the public encounters with the each of the new enforcement bureaus that do not have an Ombudsman to serve the public. Such a public service “watchdog” needs to be available to resolve issues with these two enforcement bureaus that could include not only adjudications that are made by CBP at our ports of entry, but also enforcement actions undertaken by BICE.

**AILA’s Position:** An Office of Ombudsman should be created within each of the enforcement bureaus. These ombudsmen, like their counterpart in BCIS, should be empowered to:

- Assist individuals and employers in resolving problems with the BICE and CBP;
- Identify areas in which individuals and employers have problems in dealing with the BICE and CBP; and
- Propose changes in the administrative practices of the BICE and CBP to mitigate identified problems.

Additionally, the Ombudsmen should report directly to the Department's Deputy Secretary, and should submit annual reports to Congress on problems and improvements within the BICE and CBP. Finally, the Ombudsmen in all of these bureaus should be provided with sufficient appropriations to successfully fulfill their obligations.