AN ANALYSIS OF THE EFFECTIVENESS OF SINO-U.S. LAW ENFORCEMENT COOPERATION TO COMBAT HUMAN SMUGGLING

A Thesis
Presented to
The Academic Faculty

by

Phillip G. Autry

In Partial Fulfillment
of the Requirements for the Degree
Master of Science in International Affairs
in the Ivan Allen College of Liberal Arts

Georgia Institute of Technology
August 2007

AN ANALYSIS OF THE EFFECTIVENESS OF SINO-U.S. LAW ENFORCEMENT COOPERATION TO COMBAT HUMAN SMUGGLING

Approved by:

Dr. John W. Garver, Advisor
School of International Affairs
Georgia Institute of Technology

Dr. Fei-Ling Wang
School of International Affairs
Georgia Institute of Technology

Dr. William Long
School of International Affairs
Georgia Institute of Technology

Date Approved: 9 July 2007

ACKNOWLEDGEMENTS

I am indebted to my thesis advisor, Dr. John Garver, for the guidance, feedback, criticisms, and suggestions that he offered over the months that I worked on this thesis. I am also grateful to Dr. Fei-Ling Wang and Dr. William Long for their service as members of my thesis committee, and for giving time, input, and insights to aid this project. Finally, I wish to thank the U.S. and Chinese officials who graciously agreed to be interviewed for this research in February and March 2007.

TABLE OF CONTENTS

LIST OF TABLES

LIST OF ABBREVIATIONS

BIA	Board of Immigration Appeals (U.S.)
CCP	Chinese Communist Party
CIA	Central Intelligence Agency
DEA	Drug Enforcement Administration
DHS	United States Department of Homeland Security
DRO	Office of Detention and Removal
EO	Executive Order
EOIR	Executive Office of Immigration Review (U.S.)
FBI	Federal Bureau of Investigation
ICE	U.S. Immigration and Customs Enforcement
ILEA	International Law Enforcement Academy
INA	Immigration and Nationality Act of 1965
INL	U.S. State Department Bureau of International Narcotics and Law Enforcement Affairs
INS	Immigration and Naturalization Service
IPR	Intellectual Property Rights
IRCA	Immigration Reform and Control Act of 1986
JLG	Sino-U.S. Joint Liaison Group on Law Enforcement Cooperation
Legat	Federal Bureau of Investigation Legal Attaché
MOU	Memorandum of Understanding
MPS	Ministry of Public Security (China)
NTA	Notice-to-Appear
OTM	Other than Mexican

PDD	Presidential Decision Directive
PRC	People's Republic of China
PSB	Public Security Bureau (China)
SBI	Secure Border Initiative
USBP	United States Border Patrol
USCIS	United States Citizenship and Immigration Services

SUMMARY

This paper analyzes the effectiveness of Sino-U.S. governmental law enforcement cooperation to combat human smuggling. A history of bilateral law enforcement cooperation against human smuggling is presented, with emphasis given to the period since 1993. U.S. immigration statistics, along with statistics from the U.S. Coast Guard, are presented as a measure of the success of law enforcement efforts. In the analysis that follows, identification is made of factors that seem to have hindered and obstructed, or promoted and advanced Sino-U.S. law enforcement cooperation.

This study finds that sudden shifts in the macroclimate of Sino-U.S. relations may positively or adversely affect cooperation on law enforcement matters, including human smuggling. In the current case, bilateral cooperation against human smuggling has been advanced by spillover effects of convergent Sino-U.S. counterterrorism interests that occurred in the wake of September 11. Next, it is found that the creation of formal bilateral institutions for law enforcement cooperation since 1997 has facilitated improved effectiveness in Sino-U.S. work against human smuggling. Finally, this study finds that the effectiveness of bilateral law enforcement cooperation against human smuggling has been substantially undermined by the inability of the two sides to maintain an effective repatriation-based deterrent against human smuggling.

CHAPTER 1

INTRODUCTION

The topic of this thesis is Sino-U.S. cooperation to combat human smuggling. In recent years, numerous works have examined the phenomena of human smuggling and illegal immigration from China.[1] This paper analyzes the effectiveness of Sino-U.S. governmental law enforcement cooperation to address human smuggling. This analysis seeks to answer the question, "What factors have assisted cooperation, and what factors have obstructed cooperation?" This paper will not describe in detail the nature of human smuggling or examine the causes of organized illegal immigration. Rather, it will analyze the history of cooperation between agencies of the U.S. and PRC governments in dealing with human smuggling, and then identify factors that seem to have either hindered and obstructed, or promoted and advanced that cooperation.

I hypothesize that sudden changes in the macroclimate of Sino-U.S. relations, by producing a convergence of high-level interests between the two sides, can bring about improved law enforcement cooperation against numerous criminal activities, including human smuggling. Second, I hypothesize that the creation of a formal mechanism for bilateral law enforcement cooperation has fostered greater cooperation to combat human smuggling. Next, I hypothesize that a failure by the U.S. and the PRC to establish a

---

[1] Ko-Lin Chin, *Smuggled Chinese: Clandestine Immigration to the United States* (Philadelphia: Temple University Press, 2001), examines the motivations for and methods of illegal immigration from China, the social organization of human smuggling, and the experiences of smuggled immigrants after their arrival in the U.S;. Peter Kwong, *Forbidden Workers: Illegal Chinese Immigrants and American Labor* (New York: The New Press, 1997) focuses on the pull factor of demand for illegal immigrant labor, and a volume compiled by Paul Smith, ed., *Human Smuggling: Chinese Migrant Trafficking and the Challenge to America's Immigration Tradition* (Washington: The Center for Strategic and International Studies, 1997), examines the history, geographic sources, and future trends of human smuggling from China.

reliable deterrent based on a high probability of swift repatriation has substantially undermined the effectiveness of Sino-U.S. law enforcement cooperation against human smuggling; the failure of Sino-U.S. coordination on repatriations can, in turn, be traced to Beijing's perception that U.S. asylum policies politicize illegal immigration.

A distinction must here be made between human *smuggling* and human *trafficking*, terms that are often- and mistakably- used interchangeably. Human smuggling involves a transaction between the smuggler and the smuggled, where the smuggler receives a financial or other material benefit. The 2000 Protocol against the Smuggling of Migrants by Land, Sea, and Air, a supplement to the United Nations Convention against Transnational Organized Crime, defines human smuggling as "the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State of a Party of which the person is not a national or a permanent resident."[2] Human trafficking, on the other hand, necessarily involves physical or psychological abuse, exploitation, violation of human rights, fraud, or coercion.[3] Forced prostitution, for example, falls within the realm of human trafficking, not human smuggling.[4] This paper deals only with human smuggling, or "alien smuggling", the term used by both the PRC and U.S. governments.

---

[2] United Nations, "Protocol Against the Smuggling of Migrants by Land, Sea, and Air, Supplementing the United Nations Convention against Transnational Organized Crime," 2000, http://untreaty.un.org/English/TreatyEvent2001/pdf/18e.pdf.

[3] *Glossary on Migration*, Geneva: International Organization for Migration, 2004, p. 60.

[4] Christine Bruckert and Colette Parent, "Trafficking in Human Beings and Organized Crime: A Literature Review," (Royal Canadian Mounted Police, Research and Evaluation Branch, Community, Contract, and Aboriginal Policing Services Department, June 2002, http://www.rcmp-grc.gc.ca.

Structure and Methodology

To test the hypotheses outlined above, I first reconstruct a history of bilateral law enforcement cooperation against human smuggling. While human smuggling from China to the United States began occurring in the late nineteenth century, this paper will focus on how PRC and U.S. authorities have worked together to counter illegal migration since the normalization of diplomatic relations between the two countries in 1979, with greatest emphasis devoted to the period after 1990. The evidence used to construct this history comes from State Department records, U.S. and PRC media reports, PRC government press releases, press releases from the U.S. Department of State, Department of Justice, and the Department of the Treasury, Congressional testimonies, U.S. government research reports, U.S. government statistics, scholarly books, and scholarly journal articles.

After presenting a history of bilateral law enforcement cooperation, I then analyze the effectiveness of this cooperation. This analysis is made possible by a set of interviews conducted by telephone and in person with former and current U.S. and PRC officials in February and March 2007. Interviewees were asked their estimates of factors promoting and/or retarding effective U.S.-PRC cooperation in countering human smuggling. Through work experience in diplomacy and/or law enforcement, each interviewee had accumulated substantial exposure to and knowledge of Sino-U.S. dealings on the matter of human smuggling. The majority of the interviews were conducted in face-to-face meetings in Washington, while the remaining interviews were conducted via telephone and email exchanges. In all, a total of 12 interviews were conducted.

The topic addressed in this work is a highly sensitive one, owing to the law enforcement as well as to the diplomatic aspects of the topic. In conducting research for this study, the author did not have the opportunity to draw on classified materials. The insights, recounting of events, and anecdotal evidence provided by interviewees were

exceptionally instructive; nevertheless, the author's lack of direct access to operational records of law enforcement, classified studies, minutes of meetings, or other like materials limits the scope of conclusions that may be drawn from this study.

The structure of the analysis parallels the sequence of the hypotheses stated above. The paper concludes with a summary of the analysis of Sino-U.S. law enforcement cooperation against human smuggling, and with policy recommendations for strengthening bilateral law enforcement cooperation against human smuggling.

CHAPTER 2

A HISTORY OF SINO-U.S. LAW ENFORCEMENT COOPERATION TO COMBAT HUMAN SMUGGLING

In analyzing the history of bilateral cooperation against human smuggling, it is necessary to look at both the qualitative and quantitative dimensions of bilateral law enforcement cooperation against human smuggling. For the qualitative dimension of cooperation, the history of contacts and coordination between the two sides is examined. In evaluating the quantitative dimension, immigration statistics (from the Immigration and Naturalization Service and Department of Homeland Security) and U.S. Coast Guard migrant interdiction statistics are employed to assess the inflow of illegal immigrants to the U.S. from China, and the number of illegals returned to China. These statistics, in turn, can be taken as a measure of the effectiveness with which the U.S. and the PRC have met their frequently-stated goal of working together to stem the tide of human smuggling.[5] The immigration statistics are used in this study to measure the effectiveness with which PRC and U.S. authorities have worked together to reduce the likelihood that illegal Chinese immigrants can, once apprehended, remain in the U.S. The Coast Guard statistics, meanwhile, can serve as partial indicators of the effectiveness with which the U.S. and PRC cooperated to deter human smuggling.

---

[5] Embassy of the People's Republic of China in the United States of America, "China-U.S. Joint Statement," http://www.china-embassy.org/eng/zmgx/zysj/jzxfm/t36249.htm; U.S. State Department, "Meissner Says Cooperative U.S.-China Anti-Smuggling Efforts Succeeding," *U.S. Official Policy Materials on US-China Relations*, 12 October 2000, http://lists.state.gov/SCRIPTS/WA-USIAINFO.EXE?A2=ind0010b&L=us-china&D=1&H=1&O=D&P=1047, accessed 12 January 2007; Jane Morse, "Homeland Security Chief to Discuss Illegal Migration on Asia Trip: Chertoff Says Cooperation Vital to Control Smuggling, Illegal Immigration," U.S. Department of State, *Washington File*, http://usinfo.state.gov/gi/Archive/2006/Mar/27-458544.html, 24 March 2006, accessed 16 January 2007.

The illegal immigration of Chinese to the United States predates the 20th century. The Chinese Exclusion Act, enacted by Congress in 1882, barred Chinese laborers from entering the U.S. Almost immediately after the ban was enacted, a flow of illegal Chinese immigrants began arriving. In the final years of the nineteenth century, an estimated 20,000 Chinese entered the U.S. with the help of smugglers.[6] Willard Myers reports that from the late nineteenth century until about 1970, Chinese seeking entry into the U.S. relied on the "back door" (*houmen*)- stowaways on merchant vessels jumped ship when the vessels made port in the U.S. Cantonese from Taishan used the routes to join their family members already in the U.S., while Fujianese first began arriving through the back door in 1940. By the close of the 1960s, 90 percent of the Fujianese in the U.S. were married males between the ages of 40 and 55 whose families remained in Fujian. After years of working in Cantonese-owned businesses, by the late 1960s these Fujianese, concentrated in New York and surrounding areas in the northeast U.S., had established an economic base sufficiently large to support the immigration of family members still in the PRC.[7]

The U.S. Immigration and Nationality Act (INA) of 1965 eliminated the national origins quota system and abolished preferences that favored immigrants from Europe.[8] Still, the absence of official diplomatic relations between the U.S. and the People's

---

[6] Ko-Lin Chin, *Smuggled Chinese: Clandestine Immigration to the United States* (Philadelphia: Temple University Press, 1999), 28.

[7] Willard H. Myers III, "Of *Qining, Qinshu, Guanxi,* and *Shetou*," in *Human Smuggling: Chinese Migrant Trafficking and the Challenge to America's Immigration Tradition*, ed. Paul J. Smith (Washington: The Center for Strategic and International Studies, 1997), 98-100; Marlowe Hood, "Sourcing the Problem: Why Fuzhou," in *Human Smuggling: Chinese Migrant Trafficking and the Challenge to America's Immigration Tradition*, ed. Paul J. Smith (Washington: The Center for Strategic and International Studies, 1997), 77.

[8] David M. Reimers, *Still the Golden Door: The Third World Comes to America* (New York: Columbia University Press, 1992), 80.

Republic of China (PRC) meant that even after the passage of the INA, the door remained closed to direct legal immigration from PRC to the U.S. The illegal status of the U.S. Fujianese prevented them from sponsoring immigration of family members, so they instead turned to Hong Kong-based smuggling networks to guide the passage of family members to the U.S.[9] Family members fled the PRC, gained entry into Hong Kong as political refugees, and were issued identity cards. Hong Kong travel agencies then helped the "refugees" obtain entry visas and airline tickets to Central American countries. After flying to Central America, the Fujianese migrants were - for a fee- smuggled across the U.S.-Mexico border by Cantonese-led smuggling organizations.[10]

Before proceeding further in a discussion of the evolution of Chinese human smuggling, an introduction to the organizations profiting from human smuggling is instructive- as is a brief overview of the U.S. policies on asylum.

Composition, structure, and operational characteristics of Chinese human smuggling organizations

Few attempts have been made to scientifically research smuggling organizations, often referred to simply as "smuggling rings" or "criminal gangs" in both U.S. and PRC media reports. Because of the long distances and complex logistics involved with organizing and operating illegal immigration, a very common assumption of U.S. law enforcement has been that traditional Chinese criminal organizations- triads, tongs, street

---

[9] Willard H. Myers III, "Of *Qining, Qinshu, Guanxi,* and *Shetou*," in *Human Smuggling: Chinese Migrant Trafficking and the Challenge to America's Immigration Tradition*, ed. Paul J. Smith (Washington: The Center for Strategic and International Studies, 1997), 93-133.

[10] Peter Kwong, *Forbidden Workers: Illegal Chinese Immigrants and American Labor* (New York: The New Press, 1997), 28-29; According to a high-ranking State Department official familiar with the history of U.S. operations in Hong Kong between 1968 and 1973, there was no U.S.-PRC law enforcement cooperation on the issue of human smuggling in that time. (Author's interview with retired State Department official, 16 February 2007.)

gangs, or a combination thereof- are the key players behind global human smuggling of Chinese, and that a sophisticated international network- a well-oiled supply chain- exists to transport the illegal immigrants from point to point, from China to the United States or other destination.[11]

The findings of Zhang and Chin from interviews conducted with 129 persons participants in planning and execution human smuggling (snakeheads, or *shetou*), however, do not support these assumptions. Rather, the study found that snakeheads are "ordinary individuals" who utilize *guanxi* and other available resources to accomplish the smuggling of individuals from China to the U.S. The groups behind smuggling operations, according to the study, are not traditional Chinese crime organizations (i.e., triads, tongs, or Chinese street gangs), nor do they possess a hierarchical structure characteristic of traditional criminal organizations. Rather, Zhang and Chin find smuggling organizations to be "flexible international networks", analogous in structure to *ad hoc* task forces, or "temporary alliances" are formed to conduct a smuggling operation and dissolved upon completion of an operation. The groups typically contain three to five individuals, all operating on a shared commitment not to an organization, creed, or central figure, but rather to an opportunity for profits. No one figure wields unrivaled

---

[11] Sheldon Zhang and Ko-Lin Chin, "Enter the Dragon: Inside Chinese Human Smuggling Organizations," *Criminology* 40, no. 4 (November 2002), 741; for an example of such an assumption by U.S. law enforcement authorities, see John Marsh and Chris Dobson, "Government Sets Up Taskforce to Stop Triads," *South China Morning Post*, 8 December 1991.

power over others within the group. Chinese smugglers, are not "organized gangs" that will seek to collude with foreign criminal organizations, a recent study found.[12]

Geographically, snakeheads were found to reside in the U.S., Hong Kong, PRC, and Taiwan.[13] The smugglers surveyed by Zhang and Chin represented a diverse array of occupations, from small business owner to farmer, casting doubt on notions of snakeheads as professional full-time criminals.[14]

The work of a smuggling organization, research has found, is divided into several highly-specialized roles, with no apparent hierarchy among them. The positions identified by Zhang and Chin include: *recruiters*, who refer would-be migrants to the smuggling operation. *coordinators*, who utilize connections to obtain whatever services are required for any portions of the operation; *transporters,* who assist illegal immigrants to a ship or plane, or from a ship to a safehouse; *document vendors*, who procure fraudulent or illegally-obtained authentic passports and other necessary documentation; *corrupt public officials*, such as customs inspectors or border police, who receive payments to facilitate safe exits and entries by the illegal immigrants; *guides and crew members*, who work on smuggling ships or accompany immigrants on air flights; *enforcers*, who keep order and

---

[12] Ko-Lin Chin and Roy Godson, "Organized Crime and the Political-Criminal Nexus in China," *Organized Crime* 9, no. 3 (Spring 2006): 7.

[13] Ko-lin Chin and Roy Godson, "Organized Crime and the Political-Criminal Nexus in China," *Organized Crime*, 9, no. 3 (Spring 2006): 22.

[14] Sheldon Zhang and Ko-Lin Chin, "Characteristics of Chinese Human Smugglers: A Cross-National Study," U.S. Department of Justice, National Criminal Justice Research Service (24 June 2003), http://www.ncjrs.gov/pdffiles1/nij/grants/200607.pdf.

distribute food and water to illegals while on ships; *debt collectors*, who detain the illegal immigrants after arrival until the smuggling fee has been paid.[15]

Overview of U.S. asylum policy

Although the issues of asylum and repatriation do not fall entirely within the realm of law enforcement, I believe that they are highly relevant to law enforcement officials from both sides who work to combat human smuggling. Each interviewee spoke about the roles that asylum, detention, and repatriation play in bilateral cooperation on this issue. In the next chapter, I explain why and how the issues of asylum and repatriation have affected law enforcement cooperation on this issue.

Asylum is a type of protection allowing individuals who are physically present in the U.S. (or who are seeking entry at a port of entry) and who meet the 1965 Immigration and Nationality Act's definition of a refugee to remain in the U.S. Thus, in order to be granted asylum, an alien must demonstrate a well-founded fear that if returned to his home country, he would face persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.[16]

There are two paths by which persons in the U.S. may seek asylum. Persons not in removal (deportation) proceedings may seek asylum through the *affirmative* path. This involves applying to a U.S. Citizenship and Immigration Services (USCIS) center and

---

[15] Sheldon Zhang and Ko-Lin Chin, "Enter the Dragon: Inside Chinese Human Smuggling Organizations," *Criminology* 40, no. 4 (November 2002): 751-754.

[16] United States Citizenship and Immigration Services, *Immigration and Nationality Act* §101(a)(42)(A), http://www.uscis.gov/propub/ProPubVAP.jsp?dockey=cb90c19a50729fb47fb0686648558dbe, accessed 27 June 2007; Congressional Research Service Report RL32621, "U.S. Immigration Policy on Asylum Seekers," 25 January 2007, p. 1; United States Citizenship and Immigration Services, "Asylum," http://www.uscis.gov, accessed 27 June 2007.

appearing before a USCIS asylum officer. For illegal immigrants who arrive in the U.S. without proper documents and are found to have credible fears of persecution, or for illegal immigrants who have been placed in removal proceedings, requests for asylum are made *defensively*, before an Immigration Judge with the Executive Office or Immigration Review (EOIR). If the judge rules in favor of the asylum request, then the immigrant is granted the right to remain in the U.S. and to become a Legal Permanent Resident. If the request is denied, the decision may be appealed to the Board of Immigration Appeals (BIA), and BIA rulings may be appealed to U.S. federal courts.[17]

The evolution of human smuggling from China to the U.S., 1978-1993

In January 1978, CCP Central Committee Member Liao Chengzhi announced that overseas Chinese would be welcomed to visit the PRC. At the same time, Liao declared, PRC citizens with relatives and family overseas- a group previously viewed with suspicion and outright hostility for their overseas links- should be allowed to travel out of China for reunions and visits.[18] In Fujian province, a province with rich historical connections to overseas Chinese (40 percent of the then-24 million residents had relatives overseas[19]), Liao's announcement was especially significant. The subsequent granting of the right to travel to the U.S.[20] and other countries unleashed, as Zai Liang writes, a

---

[17] USCIS, "Obtaining Asylum in the United States: Two Paths," http://www.uscis.gov, accessed 27 June 2007.

[18] C.Y. Chang, "Overseas Chinese in China's Policy," *China Quarterly* 82 (June 1980): 281-303; Jay Mathews, "Peking Promises to Ease Curbs on Foreign Trips," *Washington Post*, 4 January 1977.

[19] Jay Mathews,"U.S.-Chinese Links Aid Coastal Fuzhou," *Washington Post*, 8 April 1980..

[20] Jay Mathews, "Many Chinese Coming to U.S. in Policy Shift," *Washington Post*, 25 January 1979..

"fever of going abroad" *(chuguo re)* throughout Fujian. The supply of proper channels for emigration allowed by the PRC government**,** however, was far too small to meet the growing demand. Despite Beijing's liberalization of emigration laws that began in 1978, by the mid-1980s the central government had opened only two channels for persons who dreamed of venturing overseas: studying abroad or reuniting with family members. Therefore, all but a small number of Chinese- those with a college degree or with family overseas- were excluded from the option of emigrating legally.[21] To meet the rising demand for passage overseas, Chinese turned to Hong Kong-based smuggling organizations for passage to the U.S. According to Willard Myers, the rates of Fujianese illegal emigration to the U.S. by way of the Hong Kong-to-Central America air route accelerated after 1979. By 1982, most of the separate families of the illegal Fujianese immigrants in New York had been reunited, and the flow of illegal Fujianese to the U.S. slowed measurably. Between 1970 and 1982, the use of the airborne smuggling routes operating from Hong Kong enabled four times the number of Fujianese to arrive illegally in the U.S. as had arrived legally *or* illegally in the preceding three decades.[22]

Taiwanese criminal entrepreneurs began taking over the Fujian-to-U.S. smuggling routes in 1982. Leveraging ancestral connections to Fujianese, along with global distribution capabilities, transportation routes, and a smuggling infrastructure resulting in part from past Taiwanese involvement in smuggling of Golden Triangle heroin, the

---

[21] Zai Liang, "Demography of Illicit Emigration from China: A Sending Country's Perspective," *Sociological Forum* 16, no. 4 (Dec 2001): 680-681.

[22] Willard H. Myers III, "Of *Qining, Qinshu, Guanxi,* and *Shetou*," in *Human Smuggling*, ed. Smith, 100.

Taiwanese began building a global smuggling industry capable of transporting large numbers of Chinese to the U.S. Persons in the U.S. Fujianese community sought out Fujianese "brokers" in the U.S. to arrange the smuggling of friends or relatives. The brokers contacted partners in China to obtain the necessary paperwork for departure, and the illegal migrant would fly from Hong Kong and on to Latin America before being smuggled overland into the U.S.[23]

James Chin cites estimates that illegal PRC immigration to the U.S. occurred at the level of a "few thousand" annually during the mid- to late 1980s.[24] Between 1984 and 1986, media reports on growing numbers of non-Mexican illegal immigrants referenced the increasing presence of illegal Chinese immigrants at U.S. borders; however, these accounts did not include estimates the size of Chinese illegal immigration flow during the 1984 to 1986 period.[25]

The 1986 Immigration Reform and Control Act (IRCA) authorized legal permanent resident status for illegal aliens who could prove residence in the U.S. since 1 January 1982.[26] IRCA, by holding out a path to citizenship for undocumented immigrants submitting applications by 1988, drove a mass influx of illegal Chinese from

---

[23] Willard H. Myers III, "Of *Qining, Qinshu, Guanxi,* and *Shetou*," in *Human Smuggling*, ed. Smith106-111.

[24] James K. Chin, "Reducing Irregular Migration from China," *International Migration* 41, no. 3 (September 2003): 51.

[25] Robert Pear, "Immigration and the Randomness of Ethnic Mix," *New York Times*, 2 October 1984; Robert Lindsey, "Illegal Entry by Non-Mexicans on Rise at Border," *New York Times*, 7 October 1985; John Dillin, "U.S. Hiring Bans on Illegal Aliens Can Work," *Christian Science Monitor*, 8 November 1985; *New York Times* "Canadian Border Faces Alien Problem of its Own," 20 April 1986; John Dillin, "Spies, Terrorists & U.S. Border," *Christian Science Monitor*, 24 March 1986; Robert Reinhold, "Flow of Third World Immigrants Alters Weave of U.S. Society," *New York Times*, 30 June 1986.

[26] David W. Haines and Karen E. Rosenblum, eds., *Illegal Immigration in America* (Westport, CT: Greenwood Press, 1999).

1986 into 1993. In the period between 1988 and 1993, as illegal Chinese immigration into the U.S. peaked, twelve new routes through Central America, Eastern Europe, and the Caribbean opened.[27] In November 1989, responding to the June 1989 crackdown against pro-democracy protesters in Tiananmen Square, President George H.W. Bush issued a directive to the Attorney General and the Secretary of State to prevent the deportation of PRC nationals in the U.S., and to allow them to remain in the U.S. through 1 January 1994.[28] President Bush reiterated this directive in Executive Order (E.O.) 12711, issued 11 April 1990. Moreover, E.O. 12711 directed immigration authorities to give "enhanced consideration" for admission through political asylum to any otherwise deportable individual who feared persecution based on the forced abortion or coerced sterilization policies of that person's home country.[29] The collective effect of IRCA and E.O. 12711 was to offer a window of opportunity for undocumented Chinese to gain legal status. The forced abortion provision in E.O. 12711 provided a basis that any future illegal Chinese immigrants could claim in an effort to gain asylum in the U.S. and block deportation. Repatriation to the PRC, in other words, was a virtual impossibility. IRCA also fueled a rise in illegal immigration through legalizing the undocumented Fujianese already in the U.S., mostly in New York. The newly-legalized status of the U.S.

---

[27] Kwong, *Forbidden Workers,* 31-33.

[28] George Bush, "Memorandum of Disapproval for the Bill Providing Emergency Chinese Immigration Relief," 30 November 1989, http://www.presidency.ucsb.edu/ws/print.php?pid=17883, accessed 4 June 2007.

[29] George Bush, "Executive Order 12711: Policy Implementation with Respect to Nationals of the People's Republic of China," http://www.presidency.ucsb.edu/ws/index.php?pid=23556, accessed 4 June 2007.

Fujianese community freed up economic resources to meet the surge in demand from those in Fujian seeking passage to the U.S.[30]

The number of apprehensions of illegal Chinese immigrants in the U.S. ballooned by 370 percent from 288 arrests in 1988 to 1,353 in 1990.[31] Because statistics on illegal immigration flows are by nature imprecise, and because illegal Chinese immigration received relatively little attention from researches, estimates of the yearly numbers of Chinese smuggled into the U.S. in the early 1990s varied widely. The estimates, notes one analyst, ranged from 10,000 to 100,000 per year. In 1995, an interagency working group of the U.S. government put the figure at 50,000 smuggled Chinese to the U.S. per year.[32] Willard Myers claimed that in each year from 1990 through 1993, over 100,000 Fujianese were smuggled to the U.S. at the average price of $32,000 per person, resulting in earnings of $9 million per day for the smuggling industry.[33] A *San Francisco Chronicle* investigative reporter's account in 1993 stated that "several hundred thousand" Chinese, primarily Fujianese, had arrived as illegal immigrants in the U.S. since the early 1980s.[34]

---

[30] Willard H. Myers III, "Of *Qining, Qinshu, Guanxi,* and *Shetou*," in *Human Smuggling*, ed. Smith, 119-120.

[31] Donatella Lortch, "Immigrants From China Pay Dearly to Be Slaves," *New York Times*, 3 January 1991.

[32] Paul J. Smith, ed., .*Human Smuggling,: Chinese Migrant Trafficking and the Challenge to America's Immigration Tradition*, Washington, D.C: Center for Strategic and International Studies, 1997, x; The report cited, *Presidential Initiative to Deter Alien Smuggling*, was produced by the Interagency Working Group, comprising officials from the State Department, Justice Department, Immigration and Naturalization Service, Coast Guard, Central Intelligence Agency, and Federal Bureau of Investigation.

[33] Willard H. Myers III, "Of *Qining, Qinshu, Guanxi,* and *Shetou*," in *Human Smuggling*, ed. Smith, 113.

In the United States, media coverage and popular debate surrounding illegal immigration had focused overwhelmingly on the entry of Mexican illegals into the country. Thus, the seemingly sudden appearance beginning in 1992 of a large number of dilapidated, migrant-laden boats with Chinese seeking entry into the U.S. surprised and quickly stirred the curiosity of the American media and the general public. The 1993 arrival of the *Golden Venture* was most responsible for alerting the U.S. government and American public to the seriousness of Chinese human smuggling.

In the early morning hours of 6 June 1993, the *Golden Venture*, a 150-foot coastal freighter carrying 286 would-be illegal Chinese immigrants, ran aground off Rockaway Beach in New York City. Desperate to reach U.S. soil, a number of migrants dove into the chilly Atlantic Ocean and attempted to swim the 200 final yards to safety. Eight persons drowned before reaching the shore.[35] By late morning, images of Chinese immigrants huddling in blankets on a New York City beach had been fed to media outlets across the world. The issue of Chinese human smuggling had, quite literally, become front-page news overnight.

Initial attempts at bilateral law enforcement cooperation to combat human smuggling, 1993-1994

This section reviews the development of Sino-U.S. law enforcement cooperation to combat human smuggling in 1993 and 1994, the period in which human smuggling emerged as a significant issue in the two countries' law enforcement relations. The initial

---

[34] Pamela Burdman, "Business of Human Smuggling Tests U.S. Immigration Policies," *San Francisco Chronicle*, 30 April 1993.

[35] Robert D. McFadden, "Smuggled to New York: The Overview—7 Die as Crowded Immigrant Ship Grounds off Queens; Chinese Aboard Are Seized for Illegal Entry," *New York Times*, 7 June 1993.

reactions of and statements by both the PRC and U.S. governments indicated a desire and willingness to work with each other in fighting human smuggling. In the interaction that followed, however, three problematic issues quickly arose. The issues examined here include the PRC's frustration with the U.S. political asylum policy, U.S. complaints of Chinese inaction in fighting human smuggling, and U.S. fears that repatriated illegal migrants would face punishment upon return to the PRC.

A PRC Ministry of Public Security (MPS) official shared with the author that Sino-U.S. law enforcement cooperation began in the early 1980s with meetings between the U.S. Secret Service and the Ministry of Public Security to plan security for high-level visits by leaders from each side.[36] According to a former U.S. Immigration and Naturalization Service (INS) official who investigated Chinese human smuggling cases, very little cooperation occurred in the late 1970s and in the 1980s between the two sides on the issue of human smuggling.[37]

Doris Meissner, INS Commissioner from 1993 to 2000, emphasized that the surge in Chinese human smuggling in 1993 occurred at a time in which illegal immigration from nations other than Mexico had recently begun to receive considerable attention from the White House. Mass numbers of seafaring Haitian migrants attempting to reach U.S. shores were interdicted and detained at U.S. facilities at Guantanamo Bay Naval Base in 1991 and 1992, sparking widespread debate in the U.S. over whether the Haitians should be allowed entry. In early 1993, the involvement of illegal immigrants in two high-profile U.S. crimes- the January shooting outside Central Intelligence Agency headquarters that killed two CIA employees, and the February bombing of the World Trade Center- led to intense pressure on the Clinton Administration to reform the asylum

---

[36] Author's interview with MPS official, 1 March 2007.

[37] Author's interview with Department of Homeland Security official, 2 March 2007.

system; in both cases, the key suspects were living in the U.S. pending resolution of asylum claims.[38] These cases, followed by the appearance of 300 illegal immigrants on the *Golden Venture* off the shores of New York City, drove the Administration to respond quickly to the emerging threat of Chinese human smuggling.[39]

On the day after the *Golden Venture* arrival, the PRC Consulate in San Francisco released a statement saying that the Chinese Government welcomed proposals from President Clinton to strengthen Sino-U.S. cooperation against human smuggling.[40] Speaking just after the incident, an unnamed Foreign Ministry spokesman stated that out of concern for law and order, and out of a desire to ensure the safety of PRC citizens abroad, the PRC was willing to work with U.S. authorities to fight human smuggling.[41] Following the U.S. Coast Guard's seizure of three more smuggling vessels in the Pacific in July 1993, an official at the PRC Consulate General in Los Angeles reiterated the PRC's desire to cooperate with other governments to address the problem.[42]

On 18 June 1993, less than two weeks after the *Golden Venture* landing, President Clinton issued Presidential Decision Directive 9 (PDD 9), a new strategy to combat

---

[38] Irwin Arieff, "CIA Shooting Suspect Was Seeking Asylum in United States," Reuters, 10 February 1993; Larry Neumeister, "Latest Suspect Had Been Released on Asylum Request; Trial Date Set," *Associated Press*, 1 April 1993; John Dillin, "Terrorist Incidents in the US Raise Immigration Concern," *Christian Science Monitor*, 19 March 1993.

[39] Author's interview with Doris Meissner, 21 February 2007

[40] Edward Epstein, "China Promises Cooperation on Immigrants; but Consulate Criticizes U.S. Policy on Asylum," *San Francisco Chronicle*, 8 June 1993.

[41] "Foreign Ministry Holds Weekly News Briefing: On Illegal Emigration to the U.S.," *Xinhua*, 10 June 1993, FBIS.

[42] Pamela Burdman, "Smuggling Boats Seized off Baja with 659 Chinese; Coast Guard Finds 3 Vessels-Hurricane Moving," *San Francisco Chronicle,* 8 July 1993.

human smuggling through preemption, interdiction, and deterrence. An interagency group, composed of representatives from the Departments of Justice, Transportation, Labor, State, and Defense, as well as from the Immigration and Naturalization Service, Coast Guard, and intelligence community, and co-chaired by the Domestic Policy Council and the National Security Council, was organized and given the mission to lead comprehensive U.S. efforts to combat large-scale migrant smuggling by boat. The strategy included four main components: tightening domestic law enforcement efforts by stiffening penalties against smugglers, combating smuggling operations at their source through intelligence collection and policy coordination with foreign governments, Coast Guard interdiction of migrant ships in transit, and modifying procedures for processing entry claims and returns of economic migrants arriving illegally in the U.S.[43]

While responses of both the Chinese and the American governments to this rapidly emerging human smuggling problem in 1993 acknowledged that effective efforts to counter smuggling must involve international law enforcement cooperation, statements from leaders and law enforcement officials on each side revealed potential obstacles to effective cooperation.

In PRC media reports and government statements, declarations of China's willingness to cooperate with the U.S. against human smuggling were tempered by Chinese accusations that U.S policies were partly to blame for the perpetuation of the

---

[43] "Fact Sheet: Alien Smuggling Policy," White House, Office of the Press Secretary, in U.S. Department of State *Dispatch* Washington DC, June 18, 1993, U.S. State Department, *Dispatch* 4 no. 29 (19 July 1993): 17-19, http://dosfan.lib.uic.edu/ERC/briefing/dispatch/1993/html/Dispatchv4no29.html; "Presidential Decision Directive 9: Alien Smuggling," White House, 18 June 1993, http://www.fas.org/irp/offdocs/pdd9.txt.

problem. The PRC Consul General in New York, intended destination of the *Golden Venture*, criticized U.S. authorities for failing to take "proper measures." Although the report did not elaborate on the specifics of this criticism, the Consul General said that the U.S. was not demonstrating a willingness to cooperate with PRC authorities to address illegal immigration.[44] The underlying nature of the Consul General's criticism may be inferred by examining a statement from the leaders of the Fujian CCP Central Committee following the *Golden Venture* landing. This statement was explicit and specific in its criticism of U.S. laws and policies. The problem behind human smuggling was U.S. immigration policy that allowed illegal immigrants to claim political asylum and be released while their claims awaited adjudication. Upon release, illegal PRC immigrants proceeded to flee into U.S. Chinese communities. In order for effective bilateral cooperation to occur, the Fujian leaders said, the U.S. needed to change its laws.

> In asking China for cooperation in preventing illegal human smuggling, the United States should first improve its immigration law, strictly enforce the law, and immediately send back illegal immigrants to their original countries.[45]

In other words, in the viewpoint of these officials, the China-to-U.S. human smuggling problem was at root not a *law enforcement* problem, but rather a *law* problem; namely, the U.S. asylum law.

Statements made by American law enforcement personnel suggested that the cooperation-espousing statements typical of PRC leaders were not commensurate with the actions of Chinese authorities on human smuggling cases. In December 1992, just

---

[44] "Envoy on U.S. Policy on Illegal Immigrants," *Ming Pao*, 8 June 1993, FBIS.

[45] "Daily Urges U.S. to Improve Immigration Laws," *Ta Kung Pao*, 9 June 1993, FBIS.

after a freighter, the *Manyoshi Maru,* landed in San Francisco with 180 Chinese citizens in its cargo hold, a U.S. immigration enforcement official in Hawaii remarked that the PRC government's silence on the case was consistent with its non-responses after four previous similar incidents that same year. The official stated that the Chinese government had not contacted U.S. authorities after any of the ship apprehensions in his district.[46] These complaints of systematic PRC silence, along with accusations by U.S. officials of PRC inaction on enforcement,[47] amounted to U.S. skepticism that PRC authorities viewed human smuggling as a problem. Various motives offered at the time to explain this pattern of PRC silence included embarrassment at the conditions of the migrants and ships, frustration with U.S. asylum policies, or official complicity.[48]

State Department spokesman Michael McCurry revealed that even before the *Golden Venture* incident in June1993, the U.S. had sought unsuccessfully in bilateral meetings to discuss the problem of law enforcement cooperation on human smuggling.[49] After the *Golden Venture*, on at least four occasions between 25 July 1993 and 20 November 1996[50], Secretary of State Warren Christopher raised the issue in discussions

---

[46] April Lynch and Pamela Burdman, "China is Silent About Smuggler Ship," *San Francisco Chronicle*, 25 December1992.

[47] Pamela Burdman, "Business of Human Smuggling Tests U.S. Immigration Policies," *San Francisco Chronicle*, 30 April 1993.

[48] Pamela Burdman, "Web of Corruption Ensnares Officials Around the World," *San Francisco Chronicle*, 28 April 1993.

[49] U.S. Department of State, "Daily Press Briefing," 7 June1993, http://dosfan.lib.uic.edu/ERC/briefing/daily_briefings/1993/9306/930607db.html, accessed 11 February 2007.

[50] 25 July 1993, 24 January 1994, 13 April 1995, 20 November 1996.

with his Chinese counterpart, PRC Vice Premier and Foreign Minister Qian Qichen. When the two officials met on the sidelines of a July 1993 meeting in Singapore of Asian foreign ministers, combating human smuggling was one of three issues that dominated their discussions.[51] In this meeting, Christopher urged the Chinese to investigate the smuggling and ensure the fair treatment of illegal migrants returned by the U.S. Christopher's urging was prompted by U.S. concerns over the case of the *East Wood*, a cargo ship carrying 524 Chinese would-be illegal immigrants that was interdicted by the U.S. Coast Guard near the Marshal Islands in February 1993.[52] After repatriating the Chinese in March 1993 following assurances from the PRC that none of the migrants would be persecuted for leaving China illegally, the U.S. received a report that same month that PRC authorities had in fact detained more than 100 of the migrants upon their return to Fujian.[53] Most passengers, according to a U.S. newspaper account, were fined the equivalent of $1,250 by PRC authorities, and unconfirmed reports said that other *East Wood* returnees were sentenced to forced labor on a new airport project.[54]

In the view of Chinese officials, the assurances given to the U.S. that returnees would not be punished or fined had not been violated. A Fujian Province official,

---

[51] The other two issues on the agenda for discussions were U.S. concerns over possible PRC exports of M-11 missile parts to Pakistan, and bilateral trade. Steven A. Holmes, "China Denies Violating Pact by Selling Arms to Pakistan," *New York Times*, 26 July 1993.

[52] "Coast Guard Boards 'Hijacked' Ship," *San Francisco Chronicle,* 5 February 1993.

[53] "Undocumented Chinese to be Repatriated," *San Francisco Chronicle*, 6 March 1993; Michael Chugani, "US Reassured over *East Wood* Illegals," *South China Morning Post*, 18 March 1993.

[54] Pamela Burdman, "Business of Human Smuggling Tests U.S. Immigration Policies," *San Francisco Chronicle*, 30 April 1993.

speaking about a group of returnees who had been repatriated via Mexico in July 1993, acknowledged that authorities were "accommodating" returnees in custody for the purpose of ascertaining migrants' identities, investigating their links with snakeheads, and conducting medical checks. Repeat offenders were being sent to re-education through labor (*laojiao*) programs. The Fujian official claimed that both the accommodating in custody of first offender returned migrants and the reeducation through labor for repeat offenders differed from imprisonment or detention. In addition, returned migrants were made to pay "cash penalties" of 15,000 *yuan* to the Fuzhou Branch of the People's Armed Police. Half the amount served as a penalty, while the other half covered the costs of each migrant's food, transportation, and accommodations.[55]

The U.S. asylum policy, in the PRC view, was a fundamental source of the human smuggling problem. Now, the U.S. was requesting that the PRC accord returned illegal migrants treatment that the U.S. found acceptable. Thus, the U.S. requests that China treat returnees well and step up enforcement appeared quite presumptive to PRC officials. Nevertheless, in response to Christopher's urging, Qian promised that the PRC would not punish returnees, and that smuggling boats would be banned from PRC harbors.[56]

A State Department briefing memorandum for a 24 January 1994 Christopher-Qian luncheon in Paris reported that following the Qian assurances from the July 1993 meeting in Singapore, the PRC did in fact crack down on human smuggling, arresting

---

[55] "Fujian Defends Treatment of IIs," *South China Morning Post*, 22 July 1993.

[56] Ruth Sinai, "China Ready To Consult on Nuclear Test Ban," *Associated Press*, 25 July 1993; Warren Strobel, "U.S. Warns of Sanctions for China's Missile Sales," *Washington Times*, 26 July 1993.

smugglers and corrupt local officials. Most significantly, the PRC had agreed to receive the first mass repatriation from the U.S. of Chinese whose asylum claims had been turned down by U.S. courts[57] On 18 January 1994, 118 PRC citizens were flown from California to Fujian.[58] Background notes for an April 1995 Christopher-Qian meeting, however, made clear that although the PRC government had continued cracking down on snakeheads and local corruption in Fujian, the Chinese had not shown an ability to act quickly to make arrangements for accepting returned illegal immigrants. As a result, the deterrent effect of repatriations had been weakened.[59]

Meanwhile, the two sides were relatively successful at arranging the returns of would-be illegal immigrants interdicted in international waters (and thus not legally eligible for asylum). In April 1994, a senior INS official led a delegation from the State Department and Department of Justice to Beijing for four days of talks with PRC officials on law enforcement cooperation against human smuggling. In an interview with the author, the official recalled that after two days of negotiations, the two sides were able to work out an agreed-upon process to govern repatriations of migrants interdicted at sea. In light of the difficulties that had plagued U.S.-PRC efforts to accomplish repatriations

---

[57] U.S. Department of State, "Briefing Memorandum: Secretary of State Warren Christopher's Luncheon with Foreign Minister Qian Qichen at PRC Embassy in Paris," 24 January 1994, National Security Archive document 01666.

[58] Pamela Burdman, "U.S. Deports 118 Smuggled Chinese," *San Francisco Chronicle*, 18 January 1994; On 10 December 1993, Attorney General Janet Reno announced that with regard to asylum claims citing the PRC's one-child-policy,the Department of Justice would follow a 1989 ruling, *Matter of Chang*, which held that to receive asylum, a claimant must demonstrate that he or she would be singled out for extraordinary persecution. Use of this interpretation effectively prevented across-the-board eligibility for asylum by illegal PRC immigrants. See Caryl Clarke, "Reno Steps to Side on Refugee Decision," *York Daily Record*, 11 December 1993.

[59] U.S. Department of State, "Briefing Memorandum: Secretary of State Christopher's Meeting with Foreign Minister Qian at the UN," 13 April 1995, National Security Archive document 01828.

of illegal Chinese immigrants from the U.S., the U.S. diplomats and law enforcement officials were pleased with the outcome of the talks on interdicted migrants.[60]

Statistical measures of the progress of cooperation against human smuggling, 1982-2005

What do statistics say about the effectiveness of Sino-U.S. cooperative efforts to combat human smuggling after the early 1990s? First, U.S. Coast Guard statistics show that interdiction of PRC migrants in smuggling vessels at sea leveled off after a steep rise in the early 1990s. Between 1982 and 1990, as depicted in Table 1 below, the Coast Guard intercepted only 28 smuggling vessels with Chinese. Then, between 1991 and 1993, a documented total of 2,830 such interdictions were made. While the total of 861 interdictions between 1994 and 1996 was far greater than the minimal pre-1991 incident total, this three-year figure was a 70 percent decline from the 1991-1993 surge.

Table 1. Illegal PRC Migrants Interdicted and Apprehended, 1982-2005

FISCAL YEAR	PRC MIGRANTS INTERDICTED BY U.S. COAST GUARD	DEPORTABLE PRC ALIENS LOCATED BY U.S. AUTHORITIES
1982	**0**	**2,226**
1983	**0**	**2,717**
1984	**0**	**2,002**
1985	**12**	**(no data)**
1986	**11**	**1,757****
1987	**0**	*

[60] Interview with former INS official, 28 February 2007.

Table 1 (continued)

FISCAL YEAR	PRC MIGRANTS INTERDICTED BY U.S. COAST GUARD	DEPORTABLE PRC ALIENS LOCATED BY U.S. AUTHORITIES
1988	0	*
1989	5	*
1990	0	1,353
1991	138	5,764
1992	181	1,392
1993	2,511	1,767
1994	291	1,168
1995	509	759
1996	61	692
1997	240	656
1998	212	1,145
1999	1,092	2,585
2000	261	1,810
2001	53	1,297
2002	80	1,753
2003	15	1,190
2004	68	1,560
2005	32	2,890

*Data not available

**Includes PRC and Taiwan

SOURCES: U.S. Coast Guard, Office of Law Enforcement, Alien Migrant Interdiction Statistics, http://www.uscg.mil/hq/g-o/g-opl/amio/FlowStats/FY.htm, accessed 17 March 2007; U.S. Immigration and Naturalization Service, *Statistical Yearbook of the Immigration and Naturalization Service*, U.S. Government Printing Office: Washington, D.C., 1982-2001 editions; United States Department of Homeland Security. *Yearbook of Immigration Statistics,* Washington, D.C.: U.S. Department of Homeland Security, Office of Immigration Statistics, 2002, 2003, 2004, 2005 editions.

These figures lead to several inferences. First, the decline in the number of Coast Guard interdictions between 1994 and 1996 suggests that the stepped-up law enforcement efforts of President Clinton's anti-smuggling strategy, introduced in 1993, effectively deterred would-be illegals from undertaking the sea journeys. Another possibility, however, is that for every smuggling vessel that the Coast Guard interdicted or for every migrant apprehended by another agency, many more vessels and migrants escaped undetected. Thus, while absolute levels of interdiction and apprehension may suggest a shrinking flow from 1994, these yearly totals were negligible in comparison to the sum of migrants who managed to complete their journeys by ship or by other means. Supporting this conclusion is the widely agreed-upon view that seaborne migrant smuggling, though highly visible, is not nearly the most popular method employed by snakeheads. Analysts believe that more illegal Chinese immigrants reach the U.S. by a combination of air and land routes than by sea.[61] For purposes of this paper, however, the absolute volume is not most important. Either flow- by sea or by land- would be satisfactory as an indicator of "effectiveness". Coast Guard data is used here because it is available and consistent over the last 25 years.

How accurately does the sharp downward trend in interdictions and apprehensions that began in 1994 reflect changes in the total number of Chinese who sought to enter the U.S. through human smuggling? Willard Myers, who reported annual arrivals of 100,000

---

[61]Pamela Burdman, "More Sneak Into U.S. By Airplane Than by Boat," *San Francisco Chronicle*, 10 June 1993; "Smuggler Methods Get Sophisticated," *Associated Press*, 3 July 2000.; Chin, *Smuggled Chinese: Clandestine Immigration to the United States*.

Fujianese to the U.S. between 1990 and 1993, writes that only around 15,000 Fujianese made the journey in 1994, and that the number fell further to around 5,000 in 1995.[62] If these figures are reasonably accurate, then the success rate of interdictions improved markedly from 1993 to 1995. In 1993, 4,278 migrants were interdicted or apprehended while approximately 100,000 reached the U.S., meaning that for every 23 illegal immigrants who successfully completed the journey, one illegal immigrant was caught. This ratio fell to 10 to 1 in 1994, before falling further to 4 to 1 in 1995.

With the exception of a surge in FY1999, the annual number of ship interdictions of smuggled Chinese by the U.S. Coast Guard continued to decline from the one-year high of 2,511 in 1993. The statistics in Table 1 show that the total number (248) of PRC citizens interdicted by the Coast Guard between FY2001 and FY2005 was less than the number of persons interdicted in FY2000 alone. The number of deportable PRC aliens located by U.S. authorities in 2005, meanwhile, was the highest total since 1983, thus suggesting that human smugglers continue to shift toward other means of attempted entry to the U.S.

Were the shifts attributable to more effective Sino-U.S. cooperation against human smuggling? INS Commissioner Doris Meissner said in 2000 that the sharp decline in the number of smuggling vessels intercepted by the Coast Guard was the "best measure of how effective our cooperative efforts have been."[63]

---

[62] Willard H. Myers III, "Of *Qining, Qinshu, Guanxi,* and *Shetou*," in *Human Smuggling*, ed. Smith, 118.

[63] U.S. Department of State, **"**Traveling Illegally to the United States Risky by Air, Sea or Land," *U.S. Official Policy Materials on US-China Relations,* 6 October 2000, http://lists.state.gov/SCRIPTS/WA-USIAINFO.EXE?A2=ind0010a&L=us-china&D=1&H=1&O=D&P=655, accessed 15 January 2007.

To what extent was the substantial drop between 1993 and 1996 in the numbers of attempts at China-to-U.S. human smuggling the result of effective deterrence? And, if effective deterrence was a factor, was the deterrence a product of law enforcement cooperation between China and the U.S.? Did U.S. pressure on the PRC lead to successful enforcement? In 1997, Jonathan Winer, then the Deputy Assistant Secretary of State for International Narcotics Matters and Law Enforcement Affairs, attributed the decrease in the number of Chinese vessels interdicted- from seven in 1993 to three in 1995- to the enforcement and deterrent measures, including closer international cooperation, prescribed by the 1993 Clinton directive detailing the U.S. government's response to human smuggling.[64]

While deterrence may have successfully reduced the frequency of seaborne migrant smuggling after 1993, deterrence against migrants traveling by other means was much less successful. Since 1993, U.S. strategies to combat illegal immigration have stressed the deterrent value of a high likelihood of detentions and repatriations. As the likelihood that an illegal alien will face detention and removal upon apprehension increases, the incentive for attempting illegal immigration decreases.[65] Thus, the INS Commissioner's judgment that Sino-U.S. cooperation had been "effective" tells only part of the story. In the case of Chinese illegal immigration to the U.S., the two nations have

---

[64] Jonathan M. Winer, "Alien Smuggling: Elements of the Problem and the U.S. Response," paper presented at the U.S. Working Group on Organized Crime, National Strategy Information Center, Washington, D.C., 1997.

[65] Author's interview with Doris Meissner, 21 February 2007; author's interview with Department of Homeland Security official, 2 March 2007.

not successfully worked together to build and maintain a credible deterrent based on a high probability of detention and removal.

Table 2 illustrates the disparity between the inflow and outflow of undocumented PRC immigrants to the U.S. between 1981 and 2005. The sum of deportable aliens and individuals filing for asylum provides a rough number for the yearly inflow of undocumented PRC migrants in the U.S. "Asylum cases" may represent more than one person; in past years, between 1.2 and 1.4 persons are included in the average case.

Table 2. Inflow and Outflow of Undocumented PRC Immigrants to U.S., 1981-2005

YEAR	Deportable PRC aliens located in U.S.	Asylum cases filed by PRC aliens	PRC asylum cases pending at end of year	PRC asylum cases granted	PRC asylum cases denied	Formal Removals of PRC aliens	"Return ratio" of PRC aliens
1981	*	*	*	*	*	34	n/a
1982	2,226	**	**	**	**	45	n/a
1983	2,217	25	**	25	42	43	1.8%
1984	2,002	56	94	56	192	27	1.3%
1985	(no data)	(no data)	(no data)	(no data)	(no data)	41	n/a
1986	1,757*	47	32	47	10	73	4.0%
1987	(not available)	75	52	75	12	38	n/a
1988	(not available)	205	142	205	13	42	n/a
1989	(not available)	561	526	561	23	65	n/a
1990	1,353	1,287	763	1,287	49	30	1.1%

Table 2 (continued)

YEAR	Deportable PRC aliens located in U.S.	Asylum cases filed by PRC aliens	PRC asylum cases pending at end of year	PRC asylum cases granted	PRC asylum cases denied	Formal Removals of PRC aliens	"Return ratio" of PRC aliens
1991	5,764	(no data)	(no data)	(no data)	(no data)	43	n/a
1992	1,392	3,464	4,344	3,464	37	77	1.6%
1993	1,767	14,433	17,827	14,433	254	94	1.6%
1994	1,168	10,839	27,076	10,839	704	448	3.7%
1995	759	4,822	26,240	4,822	290	308	5.5%
1996	692	1,976	15,133	1,976	230	517	19.4%
1997	656	2,377	6,681	404	186	488	16.1%
1998	1,145	3,075	4,833	508	399	571	13.5%
1999	2,585	4,209	4,333	940	494	428	6.3%
2000	1.810	5,745	***	2,514	293	549	7.3%
2001	1,297	8,137	***	4,07	188	503	5.3%
2002	1,753	10,522	***	5,030	253	494	4.0%
2003	1,190	4,750	***	2,024	219	717	12.1%
2004	1,560	2,839	***	737	101	705	16.0%
2005	2,890	**	***	**	**	594	n/a

*Statistics only available for PRC+Taiwan
**Statistics not available
***Statistics not reported after 1999
SOURCES: U.S. Immigration and Naturalization Service, *Statistical Yearbook of the Immigration and Naturalization Service*, U.S. Government Printing Office: Washington, D.C., 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001 editions; United States. Department of Homeland Security. *Yearbook of Immigration Statistics.* Washington, D.C.: U.S. Department of Homeland Security, Office of Immigration Statistics, 2002, 2003, 2004, 2005 editions.

The number of annual formal removals of PRC aliens is extremely small relative to the inflow of PRC aliens, taken as a sum of deportable aliens apprehended and asylum cases filed. The ratio of removals to arrivals is taken as the "return ratio." Between 1983

and 1995, the return ratio never exceeded 5.5% in the years for which data were available. The odds of a PRC illegal migrant facing deportation, then, were very low through 1996. These low odds of removal strongly counteract- or even nullify- the deterrent value that the threat of deportation might have to snakeheads and would-be illegal immigrants. The low return rate caused the pending caseload for PRC asylum seekers, very small in the early- to mid 1980s, to swell to over 26,000 at the end of 1995 before falling to 15,000 by the end of 1996.

The return ratio more than tripled from 1995 to 1996, pointing to vastly improved cooperation to effect repatriations. By 2001, however, the ratio had fallen to 5.3%, below the 1995 level. The outflow of PRC aliens, measured through formal removals, has remained quite low relative to the inflow of PRC aliens, taken as a sum of deportable aliens located and asylum cases filed by PRC aliens. Despite the 1998 establishment of a bilateral mechanism for law enforcement cooperation, discussed below, there has been no accompanying sustained increase in the annual outflow rates of PRC illegal aliens from the U.S. The overwhelming majority of undocumented arrivals from the PRC are remaining in the U.S., as evidenced both by the low return ratio and the number of pending asylum cases.

The total of pending cases did show a decline from 1997 to 1999, the last year in which the U.S. immigration statistics published the figure. This trend may reflect an increasing number of aliens whose cases have been fully adjudicated, and who have been placed under a final order of removal (i.e., they have exhausted their appeals through immigration courts). No historical figures are publicly available, however, for the number of PRC aliens under final order of removal. Media reports, government studies,

and the author's personal interviews from 2006 and 2007 have approximated this figure at 40,000.[66]

Formalizing bilateral law enforcement cooperation, 1997-present

Before 1997, there was no formal mechanism to facilitate Sino-U.S. bilateral law enforcement cooperation against human smuggling. Rather, according to a State Department official, cooperation took place on a case-by-case basis, without any agreed-upon procedures, regular consultations or ongoing interaction between law enforcement authorities from the two sides. Communications on law enforcement matters were handled by a Deputy Assistant Secretary of State for Law Enforcement and Narcotics, and by the PRC Ministry of Foreign Affairs.[67] No extradition treaty between the U.S. and the PRC existed- a condition that continues today. As a result, criminal suspects apprehended in either the U.S. or the PRC could not be sent to the other country for prosecution.

In June 1997, the U.S. announced that offices for the Immigration and Naturalization Service would open in the Beijing embassy and the Guangzhou consulate. The establishment of the two offices in China was part of Operation *Global Reach*,

---

[66] "China, US Near Deal on Illegal Migrants," *China Daily*, 5 April 2006, http://www.chinadaily.com.cn/china/2006-04/05/content_560152.htm; Kari Huus, "Chinese Migrants in U.S. Limbo," MSNBC, 18 April 2006, http://www.msnbc.com/id/12174500/print/1/displaymode/1098/; June Kronholz, "China Tests U.S. Immigration Plan," *The Wall Street Journal*, 31 July 2006; "China Turns Away Deportees from United States," *NPR: Day to Day* transcript, 12 January 2007.

[67] Author's interview with State Department officials, 28 February 2007; author's interview with Ministry of Public Security officials, 1 March 2007.

launched in 1995 and expanded in 1997.[68] Overall, 45 new INS agents would be posted to 13 new offices worldwide. The purpose of these offices and personnel was to enhance INS overseas intelligence gathering capabilities, conduct fraudulent document training, and assist investigative efforts.[69] Stationing U.S. agents in international locations was also intended to strengthen working-level cooperation between INS agents and their foreign law enforcement counterparts.[70] The U.S. had long sought Beijing's approval to station of immigration agents in China.[71]

In a joint statement issued by President Clinton and PRC President Jiang Zemin at their October 1997 summit meeting in Washington, the two leaders formally declared their intention to strengthen bilateral cooperation in law enforcement matters. The scope of criminal activity targeted by these cooperative efforts was to include international organized crime, drug trafficking, and human smuggling. Law enforcement officials from the two sides, the statement read, were to begin sharing information and engaging in regular consultations.[72] A "joint liaison group for law enforcement cooperation" would be created to address the three crimes listed above, as well as money laundering and

---

[68] The report, "Presidential Initiative to Deter Alien Smuggling," was produced by the Interagency Working Group, comprising officials from the State Department, Justice Department, Immigration and Naturalization Service, Coast Guard, Central Intelligence Agency, and Federal Bureau of Investigation. William Branigan, "Report to Clinton Urges Global Attack on Growing Trade in Alien Smuggling," *Washington Post*, 28 December 1995.

[69] U.S. Department of Justice: Office of the Inspector General, Inspections Division, "Immigration and Naturalization Service: Efforts to Combat Harboring and Employing Illegal Aliens in Sweatshops," May 1996, Report Number I-96-08, http://www.usdoj.gov/oig/reports/INS/e9608/index.htm.

[70] Author's interview with Doris Meissner, 21 February 2007.

[71] Simon Beck, "U.S. Opens Offices to Combat II Smugglers," *South China Morning Post*, 21 June 1997.

[72] "Transcript of Clinton-Jiang News Conference," *The Washington Post*, 30 October 1997.

counterfeiting. The Jiang-Clinton talks set in motion bilateral negotiations for reaching a mutual legal assistance agreement.[73] The two sides also agreed to an exchange of law enforcement officers; the U.S. would post Drug Enforcement Administration liaison officers in Beijing, while the PRC would post an official from the Ministry of Public Security in Washington to serve as a drug liaison officer.[74]

The Joint Liaison Group on Law Enforcement Cooperation: Leadership, Organization, and Participants

The first meeting of the Joint Liaison Group (JLG) on Law Enforcement Cooperation came in Beijing in May 1998 to work out the details of the leaders' agreement.[75] A memorandum of understanding was signed by State Department and PRC Foreign Ministry officials to formally establish the JLG, and preliminary discussions were held on cooperation against the five transnational crimes specified in the October 1997 agreements from the Clinton-Jiang summit.[76]

As shown below in Table 3, the major national-level law enforcement agencies from each side are represented in the JLG. The Department of State and the Department of Justice are the lead agencies for the U.S., while the MPS is the chief representative from the PRC. At the JLG's formal meetings, U.S. delegations are co-chaired by a

---

[73] "China-U.S. Joint Statement," Embassy of the People's Republic of China in the United States of America, 29 October 1997, http://www.china-embassy.org/eng/zmgx/zysj/jzxfm/t36249.htm..

[74] Author's interview with Ministry of Public Security officials, 1 March 2007.

[75] "Fact Sheet: Achievements of U.S.-China Summit," The White House: Office of the Press Secretary 27 June 1998, http://www.fas.org/news/china/1998/prcfact1.htm.

[76] "PRC, U.S. Establish Joint Liaison Group on Law Enforcement," *Xinhua*, 14 May 1998, FBIS.

Deputy Assistant Secretary of State for International Narcotics and Law Enforcement Affairs.

Table 3. Agencies Represented in the Sino-U.S. Joint Liaison Group for Law Enforcement Cooperation

U.S. AGENCIES		**PRC AGENCIES**
Department of State, Bureau of International Narcotics and Law Enforcement Affairs (lead agency)		Ministry of Foreign Affairs (lead agency)
Department of Justice (lead agency)		Ministry of Public Security (lead agency)
Federal Bureau of Investigation		Ministry of Justice
Drug Enforcement Administration		
Immigration and Customs Enforcement		
U.S. Customs and Border Patrol		
Treasury Department		
Bureau of Alcohol, Tobacco, Firearms, and Explosives		
Office of National Drug Control Policy		
Secret Service		

Source: Author's interviews with JLG participants, 28 March-2 February 2007; media reports.

The first meeting of the JLG was held in 1999. After meeting in 2000, the JLG did not hold another formal meeting until February 2005. At the 2005 meeting, both sides agreed that future meetings would be held annually, with expert groups also meeting yearly between the larger plenary meetings. Table 4 lists the dates and highlights of JLG plenary meetings.

Table 4. Plenary Meetings of the Sino-U.S. Joint Liaison Group for Law Enforcement Cooperation

DATE	LOCATION	HIGHLIGHTS
1998 (May 13-14)	**Beijing**	JLG officially established
1999	**Washington**	*
2000 (June 18-20)	**Beijing**	Mutual Legal Assistance Agreement signed (Allows the two sides to begin sharing information and forensic evidence in criminal investigations)[77]
2005 (February 23-25)	**Beijing**	Expert groups on fugitives/repatriation, computer crimes, and anticorruption established
2006 (May)	**Washington**	Expert group on IPR established
2007 (June 13-14)	**Beijing**	FBI offers to provide security assistance to PRC for 2008 Beijing Summer Olympics[78]

*Information not available.
Source: Author's interviews with JLG participants, 28 March-2 February 2007; media reports.

Three expert groups- fugitives and repatriation, computer crimes, and anticorruption- were created in 2005. In 2006, at U.S. initiative, an expert group on intellectual property rights enforcement was added. The expert groups are charged with ongoing implementation of law enforcement goals set forth in the plenary session, and the groups also are responsible for facilitating increased information sharing by the two sides in the various issues represented. Participants in the expert groups from the U.S. side are drawn from multiple agencies. For example, the Department of Homeland

---

[77] General Barry R. McCaffrey, White House Office of National Drug Control Policy, Press Conference at U.S. Embassy Beijing, 19 June 2000, http://www.usembassy-china.org.cn/press/release/2000/ptr/mccaffrey.html; "China, United States to Step Up Cooperation in War on Drugs," *Agence France-Presse*, 19 June 2000.

[78] "FBI Willing to Help China with Olympic Security," *Xinhua*, 13 June 2007, FBIS; Edward Lanfranco, "FBI Offers Beijing Help on Olympic Security," *United Press International*, 14 June 2007, http://www.upiasiaonline.com/security/2007/06/14/analysis_fbi_offers_beijing_help_on_olympics_security/.

Security and the FBI account for U.S. representation in the expert group on fugitives and repatriations.

In addition, some agencies from the two sides hold formal bilateral meetings outside the auspices of the JLG plenary meetings or expert group meetings. Since 2004, a working group comprising FBI and MPS representatives have met annually to evaluate progress in (and identify opportunities for improvement in) information sharing on counterterrorism and transnational organized crime matters, while a working group of officials from the DEA and the MPS Narcotics Control Commission meets yearly for the same purpose of improving information sharing in international narcotics investigations.[79]

The stationing of full-time personnel as liaisons in the respective countries has expanded dramatically since the formation of the JLG. From one DEA agent and one INS agent in 1998, the total of U.S. law enforcement-related personnel in Beijing grew to around 20 by 2007, including persons from FBI, Homeland Security (DHS), Immigration and Customs Enforcement (ICE, established in 2003 as a successor to INS), Department of State Bureau of Diplomatic Security, and Department of Justice, as well as DEA. Meanwhile, the Chinese law enforcement liaison contingent in the Washington embassy grew as well. A police liaison office was established in 2004, and now the MPS posts three liaison officers in Washington. The PRC law enforcement liaison office in

---

[79] Author's interview with Department of Homeland Security official, 1 March 2007; author's interview with Ministry of Public Security officials, 1 March 2007.

Washington, while much smaller than the U.S. law enforcement liaison presence in Beijing, is the largest overseas MPS presence.[80]

The participation of several key agencies in the JLG has led to a string of visits by high-profile law enforcement leaders- including leaders in anti-smuggling enforcement- from both countries in the years since the group's establishment. Commissioner Doris Meissner led a team of U.S. immigration and law enforcement officials in July 2000 to Beijing and Fujian. PRC and U.S. law enforcement faced the challenge of countering evolving methods from human smugglers. By 2000, far fewer illegal immigrants were now attempting the transoceanic journey to the U.S. on board overcrowded trawlers. The most common ways of passage to the U.S. for smuggled Chinese by 2000 were overland journeys through Russia and Europe before connecting by air to the U.S.; or through Southeast Asia by land, then by air to Latin America where they remained for four or five months, and from there overland into the U.S. In addition to the land routes, a rapidly growing number of Chinese were using fake passports to fly directly from Asia to U.S. The U.S. expected to repatriate 4,000 undocumented Chinese arriving by air in the U.S. in 2000, as compared to only 1,000 seaborne travelers returned in 1999.[81] The meetings between PRC and U.S. immigration enforcement authorities in July 2000 reached

---

[80] Author's interview with PRC officials, 1 March 2007.

[81] Paul Eckert, "U.S. Says Money Drives Human Trafficking from China," *Reuters*, 3 July 2000.

agreements for the U.S. officers to train PRC counterparts to detect and prevent document fraud.[82]

Meissner also sought to improve bilateral cooperation on repatriations of illegal migrants. This was to be accomplished through the establishment of standard procedures to govern the repatriation process. According to Meissner, cooperation from the PRC to allow the repatriation of its nationals had been uneven and sporadic, coming occurring irregularly rather than on the basis of agreed-upon processes between governments. Meissner remarked to the author that although international norms of diplomacy called for the PRC to repatriate Chinese nationals who had immigrated illegally to the U.S., cooperation from the PRC on repatriations occurred only haltingly.[83]

During the George W. Bush presidency, one of the most visible aspects of Sino-U.S. law enforcement relations has been an unprecedented number of bilateral meetings involving high-level U.S. and PRC law enforcement officials. Since 2002, three cabinet-level officials and the director of the FBI- all with law enforcement portfolios- have traveled to the PRC, and the top-ranking law enforcement official in the PRC has held talks with U.S. counterparts in Washington. Agreements reached in these meetings have played an important part in the evolution of bilateral law enforcement cooperation on multiple issues, one of which has been human smuggling.

---

[82] "Smuggler Methods Get Sophisticated," *Associated Press*, 3 July 2000.; Chin, *Smuggled Chinese: Clandestine Immigration to the United States*.

[83] Elisabeth Rosenthal, "U.S. Seeks China's Help in Slowing the Flood of Illegal Immigrants," *New York Times*, 4 July 2000; Author's interview with Doris Meissner, 21 February 2007.

Attorney General John Ashcroft's October 2002 trip to Beijing had two chief purposes: consulting with State Councilor Luo Gan and Minister of Justice Zhang Fusen on bilateral counterterrorism efforts, and presiding over the formal opening of an FBI Legal Attaché (Legat) office in the U.S. Embassy. The Legat office, staffed by one FBI agent, would promote cooperation with PRC counterparts through information sharing and coordinating investigations, while also following leads in China- contingent upon approval from the PRC Ministry of Public Security- for FBI offices in the U.S. The work of the Legat would support the Sino-U.S. counterterrorism partnership, and the new office was also intended enable the U.S. to work more closely and effectively with PRC authorities to fight organized and transnational crimes, including money laundering, narcotics, and human smuggling.[84] More than 40 FBI Legat offices were operating worldwide, and the Beijing office would be the first of its kind in the PRC. Approval for the office's opening had been formally granted by the PRC during a February 2002 meeting in Beijing between President Bush and PRC President Jiang Zemin, indicating the office's importance to high-level leaders.

Talks in Beijing in April 2004 between FBI Director Robert Mueller and PRC Public Security Minister Zhou Yongkang, as well as with officials from the Ministry of State Security, also focused on issues of terrorism and international crime. Agreements- the specifics of which were not publicly disclosed- were reached to enhance bilateral

---

[84] Attorney General John Ashcroft, "Press Conference: Conclusion of China Visit," Beijing, China, 24 October 2002, http://www.usembassy-china.org.cn/press/release/2002/1024ASHpress.html; "Ashcroft to open China FBI office in war on terror," *Reuters*, 22 Oct 2002; "US Attorney General Announces New FBI Office In China," *Dow Jones International News*, 24 October 2002; "Foreign Ministry Spokesman's Press Conference," PRC Foreign Ministry, October 24, 2002, http://www.fmprc.gov.cn/ce/cegv/eng/xwdt/t88367.htm; Author's interview with U.S. Department of Justice official, 2 March 2007.

cooperation in investigations in international crime and counterterrorism.[85] Though counterterrorism cooperation was the top item on the agenda for the meetings, such cooperation touched on issues related to human smuggling; for example, persons crossing borders for purposes of illegal migration may also be crossing borders for terrorist purposes.

Two days before Mueller's arrival in Beijing, U.S. authorities had repatriated Yu Zhendong, a fugitive accused by the PRC of embezzling $485 million from a Bank of China sub-branch in Guangdong.[86] This marked the first repatriation of a corrupt PRC official who had absconded to the U.S. Mueller offered assurance that despite the lack of an extradition treaty between the U.S. and the PRC corrupt absconders would not find safe refuge in the U.S.[87]

A leading priority for U.S. Attorney General Alberto Gonzales for his talks in Beijing in November 2005 was to encourage PRC law enforcement leaders to strengthen criminal enforcement of laws protecting intellectual property rights (IPR). In meetings with Minister of Public Security Zhou Yongkang, CCP Standing Committee Politburo member Luo Gan, and Jia Chunwang, the Procurator-General of the PRC, Gonzales called for an increase in the number of joint U.S.-PRC anti-piracy law enforcement

---

[85] "U.S. Sends Banker Back to China Over $485 Million Embezzlement," *Wall Street Journal*, 19 April 2004.

[86] "Corrupt Chinese Official Repatriated from US," *Xinhua*, 16 April 2004, FBIS; "U.S. Sends Banker Back to China Over $485 Million Embezzlement," *Wall Street Journal*, 19 April 2004.

[87] "FBI Director Looks Forward to Building Strong Ties with Beijing," U.S. State Department, *U.S. Official Policy Materials on US-China Relations*, 23 April 2004, http://lists.state.gov/SCRIPTS/WA-USIAINFO.EXE?A2=ind0404d&L=us-china&D=1&H=1&O=D&P=1593; "Extradition Treaty Will Strengthen Corruption Fight, Says FBI Chief," *South China Morning Post*, 22 April 2004.

operations. PRC media reports, while containing no details of the measures involved in the two agreements reached by the U.S. and PRC, did announce that the talks had resulted in concrete agreements to further bilateral work in the areas of counterterrorism, IPR violations, information sharing by law enforcement authorities, and training of security personnel. [88]

Michael Chertoff in April 2006 became the first Homeland Security Secretary to visit the PRC. According to a U.S. Embassy spokeswoman and a Department of Homeland Security official, illegal Chinese immigration was the most important topic in Chertoff's meetings with senior PRC leaders.[89] In discussions with Luo Gan, Zhou Yongkang, and Vice Foreign Minister Yang Jiechi, Chertoff pressed his counterparts to address the issue of illegal Chinese immigrants in the U.S. awaiting repatriation to the PRC. Just over 39,000 Chinese in the U.S. at the time of Chertoff's visit were under final orders of deportation by U.S. immigration authorities: legally, they could be deported at any time. The problem, however, was that PRC authorities had not issued travel documents (necessary under U.S. law) to the U.S. to authorize the repatriation of the

---

[88] "US Attorney General Says Corrupt Officials Should be Brought Under Justice," *Xinhua*, 19 November 2005, Factiva; "Luo Gan Meets US Attorney General," 19 November 2005, http://english.gov.cn/2005-11/19/content_103317.htm; "China to Discuss Fighting Cross-Border Crime, Terror when U.S. Attorney General Visits," *Associated Press*, 17 November 2005; "Foreign Ministry Spokesperson Liu Jianchao's Press Conference on 17 November 2005," 18 November 2005, http://www.fmprc.gov.cn/ce/ceee/eng/ztlm/twwt/wjbfyrth/t222083.htm; "United States and China Must Intensify Joint Fight Against Piracy," 21 November 2005, http://tcc.export.gov/News/Archive/2005/November/index.asp; "Prepared Remarks for Attorney General Alberto R. Gonzales at U.S. Chamber of Commerce in Beijing," *States News Service*, 18 November 2005; "China, US Sign Agreements on Law Enforcement," *Press Trust of India Limited*, 18 November 2005,; "China, U.S. Agree to Enhance Cooperation in Law Enforcement Effort," *Xinhua*, 18 November 2005, Factiva.

[89] "China, U.S. Working on Mechanism for Repatriating Illegal Chinese," *Kyodo News*, 4 April 2006; Author's interview with Homeland Security official, 1 March 2007.

Chinese to the PRC. Until the issuance of the requisite documents, the U.S. would be unable not only to deport the aliens, but also to hold them in detention beyond 180 days. Court-ordered restrictions that prevent the detention of illegals for more than 180 days meant that only about 600 of the 39,000 were being held in U.S. facilities; the remaining 38,000, though under removal orders, were living openly in the U.S.

Reaching an agreement with the PRC to hasten the repatriation of illegal immigrants, remarked Chertoff before his travel to Beijing, was essential to deterring would-be human smugglers.[90] From the standpoint of U.S. leaders, Beijing displayed an unparalleled lack of cooperation on the repatriation matter. In an April 2006 Homeland Security Inspector General report on the detention and removal of illegal aliens in the U.S., the PRC was listed as the largest among eight countries classified as "blocking or inhibiting repatriation" of nationals who had been detained as unauthorized immigrants. The report cited the PRC for blocking repatriations by "imposing a slow and problematic travel document issuance process," referring to the required documents that the U.S. had been unable to obtain. As of June 2004, 136,000 illegal aliens under final orders for removal from the U.S. were citizens of countries that block or inhibit repatriations; 73,000 of these illegal aliens were PRC citizens.[91]

---

[90] Michael Chertoff, transcript of remarks before Council on Foreign Relations, http://www.cfr.org/publication/10233/michael_chertoff_rush_transcript_federal_news_service_inc.html?breadcrumb=%2Fissue%2Fpublication_list%3Fgroupby%3D0%26id%3D51%26page%3D1, 23 March 2006,.

[91] The other seven countries cited for blocking repatriation were Vietnam, Jamaica, Iran, India, Ethiopia, Eritrea, and Laos. U.S. Department of Homeland Security, Office of Inspector General, "Detention and Removal of Illegal Aliens," 14 April 2006, http://www.dhs.gov/xoig/assets/mgmtrpts/OIG_06-33_Apr06.pdf.

In the Beijing discussions, Chertoff and PRC leaders reportedly worked out a framework to expedite the process by which Chinese in the U.S. illegally were repatriated.[92] A senior official in U.S. Immigration and Customs Enforcement said that the bilateral discussions had produced an agreement whereby the PRC government would accept a charter flight repatriation in May or June 2006 of 300 to 350 Chinese nationals- a "good first step," in the U.S. official's words, in to address the problem of the backlog of Chinese awaiting deportation from the U.S.[93] Previous repatriations, according to U.S. officials, had been limited to individuals or pairs, traveling on commercial flights at U.S. expense. [94]

In its press statements, the PRC Foreign Ministry restated its position that the government would accept repatriations of illegal Chinese from the U.S. only after verifying the identity and residence of each migrant.[95] This verification process entailed comparing the name, birth date, and hometown information collected by U.S. investigators against the PRC's household registration (*hukou*) records. Nearly all *hukou* records in the PRC are now stored electronically.[96] However, according to both PRC and

---

[92] "PRC FM Spokesman: PRC , US Reach Agreements on Anti-Terrorism, Illegal Migration," *Xinhua*, 4 April 2006, FBIS.

[93] John Torres, Director of Office of Detention and Removal, U.S. Immigration and Customs Enforcement, "Foreign Repatriation Refusals Cost US Millions of Dollars," *Voice of America* Press Releases and Documents, 20 April 2006.

[94] Author's interview with Department of Homeland Security official, 2 March 2007.

[95] "PRC FM Spokesman Says China, US to Cooperate on Illegal Immigration," *Zhongguo Xinwen She*, 4 April 2006, FBIS.

[96] Fei-Ling Wang, *Organizing Through Division and Exclusion: China's Hukou System* (Stanford, CA: Stanford University Press, 2005), 52.

U.S. officials, incomplete information received from U.S. investigators often necessitated that PRC officials personally visit the hometowns or families of migrants in order to confirm the migrants' identities. Because many of the migrants came from remote rural areas, the identity verification process could become quite time-consuming.[97] On 28 June 2006, the first-ever repatriation of illegal Chinese aliens to be carried out by charter flight from the U.S. transported 119 PRC nationals from El Paso to Fuzhou.[98]

One month after the charter flight repatriation, PRC Minister of Public Security Zhou Yongkang arrived in the U.S. for follow-up meetings with Gonzales, Chertoff, and Mueller on the issues covered during their previous meetings in Beijing, including counterterrorism, IPR enforcement, counternarcotics, and money laundering. This time, not only Chertoff, but also Stephen Hadley, National Security Advisor to President Bush, raised the issue of repatriations of illegal immigrants again to Zhou. No reported agreements were reached to further expediting or streamlining procedures for future repatriations.[99] Since the actual number of deportees on the June 2006 charter flight- 119- represented fewer than half of the previously agreed upon figure of 300 to 350, it is likely that Hadley's involvement was intended to reflect growing concern from the highest levels of the Bush Administration.

---

[97] Author's interview with Ministry of Public Security officials, 2 March 2007; Author's interview with Department of Homeland Security official, 2 March 2007.

[98] "China, US Jointly Deal with Illegal Immigrants," 22 July 2006, http://english.gov.cn/2006-07/22/content_342651.htm; "China, US Joint to Repatriate Illegal Immigrants," *China Daily*, 22 July 2006, http://www.chinadaily.com.cn/china/2006-07/22/content_647139.htm.

[99] "State Councilor Zhou Yongkang Makes an Official Visit to the United States," *Xinhua*, 30 July 2006, FBIS.

Clearly, both sides have, since 1997, placed emphasized the development of more cooperative law enforcement relations. Nevertheless, bilateral agreement and coordination on the repatriations remains elusive. What explains the ongoing difficulties in establishing effective deterrence to human smuggling through regular repatriations? The following chapter discusses factors responsible for shaping the progress of bilateral cooperation against human smuggling.

CHAPTER 3

FACTORS RESPONSIBLE FOR ADVANCING AND OBSTRUCTING SINO-U.S. LAW ENFORCEMENT COOPERATION AGAINST HUMAN SMUGGLING

This chapter presents factors that have been most influential in shaping the evolution of Sino-U.S. law enforcement cooperation against human smuggling. The first section discusses the means by which formal bilateral law enforcement institutions have advanced cooperation on human smuggling. Next, the effect on law enforcement relations of changes in the macroclimate of Sino-U.S. relations is explained. For this analysis, a change in the macroclimate of bilateral relations is defined as the emergence of high-level conflict or the convergence of high-level interests that result from high-profile events. Two cases- high level efforts by both sides in 1997 to improve broader Sino-U.S. relations, and the convergence of U.S. PRC and counterterrorism interests in the aftermath of September 11- are analyzed in order to illustrate the effect that changes in the macroclimate of bilateral relations have on law enforcement cooperation, including cooperation to combat human smuggling. In the third section below, the undermining of law enforcement cooperation by an ineffective repatriation-based deterrent against human smuggling is examined. A brief review of U.S. immigration enforcement policies is presented in order to spotlight the precise difficulties that the U.S. has encountered in the case of repatriating Chinese illegal immigrants. Drawing from the interviews, the sources of these difficulties are then discussed. Finally, conclusions and policy recommendations follow the analysis.

The effect of shifts in the macroclimate of Sino-U.S. relations: High-level moves toward cooperation in the broader bilateral relationship positively influence law enforcement relations

The macroclimate of U.S.-PRC relations has at times been extremely influential in helping to shape the nature and extent of bilateral law enforcement cooperation, namely in instances where sudden high-profile events have effected a rapid change in the nature of high-level bilateral relations. The effect of such shifts on law enforcement cooperation is straightforward. If the change brings about a crisis between the two nations, law enforcement relations are adversely affected by the fallout from above. If, however, the change in the macroclimate of bilateral relations presents urgent opportunities for high-level Sino-U.S. cooperation, the overall value of cooperative law enforcement relations may receive a considerable boost. Since 1997, the effect on bilateral law enforcement cooperation (including work on human smuggling) from sudden shifts in the macroclimate of Sino-U.S. relations has been visible in four instances. In two cases, the May 1999 NATO bombing of the PRC Embassy in Yugoslavia, and the April 2001 midair collision between a U.S. Navy EP-3 plane and a PRC J-8 Fighter, Sino-U.S. diplomatic crises adversely affected Sino-U.S. law enforcement cooperation. In the other two cases, high-level moves to stress shared interests in the relationship served as positive influences on bilateral law enforcement cooperation. In the first of these latter two cases, efforts in 1997 by the leaders of both sides to move the U.S.-PRC relationship from deepening conflict to cooperation fostered great progress in bilateral law enforcement cooperation. In the second case, the aftermath of the 11 September 2001 terrorist attacks on the U.S., converging U.S. and PRC interests

in counterterrorism were instrumental in bringing about a newfound commitment by both sides to achieving increasingly cooperative law enforcement relations. These latter two cases are examined below.

A review of the largely troubled course of Sino-U.S. law enforcement cooperation between 1988 and 1997 helps to highlight the effect on law enforcement relations of the 1997 high-level moves at improving bilateral relations. One particular incident in U.S.-PRC law enforcement contact near the beginning of the 1988 to 1997 period adversely affected the entire context of bilateral law enforcement efforts. In 1988, the U.S. Drug Enforcement Administration and the Chinese Ministry of Public Security broke a smuggling ring responsible for transporting heroin from Shanghai to the West Coast of the U.S. When arrested while attempting to board a flight to San Francisco, the smugglers were found to be hiding small bags of heroin inside goldfish, hence the case became known as the "Goldfish case."[100] This case marked the first cooperative effort between U.S. and PRC authorities in a criminal case.[101] In December 1989, PRC authorities took the extraordinary step of sending one of those arrested in China, Wang Zongxiao, to the U.S. to testify in the heroin smuggling trial of three men in a U.S. District Court in San Francisco. In February 1990, the witness Wang claimed political asylum in the U.S., and a federal court eventually blocked his return to China.[102]

---

[100] Daniel Southerland, "Chinese Crack International Drug Ring," *Washington Post*, 19 March 1988.

[101] Harriett Chiang, "Trial Witness Afraid to Return to China," *San Francisco Chronicle,* 7 February 1990.

[102] "Drug Witness 'Tortured in China,'" *South China Morning Post*, 10 October 1993.

The PRC was outraged by the events, A Foreign Ministry spokesman called U.S. District Judge William Orrick's agreement to hear Wang's case a "wanton violation of China's judicial sovereignty in an attempt to grant political asylum to a proven criminal." China would no longer send any witnesses to the U.S. to assist the U.S. in similar cases, the spokesman said. The U.S., according to the spokesman, was "utterly defying basic international laws" by refusing to return the suspect to the PRC.[103] As one U.S. official accurately characterized the Chinese anger, "The Chinese went out on a limb and it blew up in their faces."[104] The events of the Wang affair from the Goldfish case caused a deep, lingering irritation among Chinese leaders toward the U.S.[105] After more than six years in detention, Wang was allowed to go free in the U.S. in 1996.[106]

According to one former high-ranking State Department official and National Security Council (NSC) staff member, the Goldfish case cast a cloud that persisted through 1997 over Sino-U.S. law enforcement cooperation not just in narcotics investigations, but in all fields- including human smuggling.[107] What had seemed like an

---

[103] Harriet Chiang, "China Assails U.S. for Allowing Drug Witness to Seek Asylum," *San Francisco Chronicle*, 9 February 1990.

[104] "Sino-US Drugs Battle Stumbles Against Bizarre 'Goldfish Case,'" *South China Morning Post*, 14 June 1992.

[105] "US Secretary of State Warren Christopher's Talks with Qian Qichen in Beijing," *Xinhua*, 14 March 1994, BBC Monitoring; Giles Campion, "China's Top Cop Hits Out at US Cooperation over Heroin Network," *Agence France-Presse*, 26 September 1995.

[106] "Chinese Witness in Drug Case Gains Freedom After 7 Years," *San Francisco Chronicle*, 20 November 1996.

[107] Interview with Jeffrey Bader, 23 February 2007; also, John Pomfret, "U.S.-China Cooperation Leads to Capture in Heroin Case," *Washington Post,* 27 May 2003.

opportune case on which the U.S. and PRC could begin building cooperative efforts instead fell apart and caused such collaboration to whither.

In 1997, while Sino-U.S. law enforcement cooperation remained at a standstill, the broader bilateral relationship had been strained by one crisis after since the beginning of the decade: the aftermath of the 1989 Tiananmen Square massacre, U.S. linkage of Most Favored Nation status to the PRC's human rights record from 1993 to 1994, and the confrontation between PRC and U.S. in the Taiwan Strait in 1995 and 1996. PRC leaders, fearing that a continuing deterioration of Sino-U.S. relations may have drastic consequences for China, decided in 1997 to substantially change course and actively pursue improved relations with the U.S.[108]

At the same time, U.S. leaders were also seeking to repair long-stressed Sino-U.S. relations. Jeffrey Bader, a member of the NSC at the time, was closely involved in the planning for the October 1997 summit meeting between PRC President Jiang Zemin and U.S. President Bill Clinton in Washington. The bilateral Sino-U.S. relationship had been "in the dumps," most recently as a result of the accelerated deterioration of relations that occurred in the wake of the near-confrontation in the Taiwan Strait in March 1996.[109] The Clinton team was searching for areas outside of business on which to build cooperation. Although a legacy of non-cooperation on law enforcement matters between the U.S. and PRC persisted from the Goldfish case, there were signs that the field may be

---

[108] John W. Garver, *China & Iran: Ancient Partners in a Post-Imperial World* (Seattle: University of Washington Press, 2006), 115.

[109] For more on the context of this period in Sino-American relations, refer to David M. Lampton, *Same Bed, Different Dreams: Managing U.S.-China Relations, 1989-2000* (Berkeley: University of California Press, 2001).

ripe for renewed Sino-U.S. cooperative efforts. In the Clinton-Jiang summit, the two leaders agreed to establish the Joint Liaison Group (JLG) on Law Enforcement Cooperation. The inclusion of the JLG on the agenda for the summit was, said Bader, the first step toward rebuilding the sizeable damage to bilateral law enforcement relations that had been done by the Goldfish case.[110] The formal establishment of the JLG and its first meeting came in Beijing in May 1998, with the two sides holding initial discussions on cooperation in fields such as combating international organized crime, narcotics trafficking, human smuggling, counterfeiting, and money laundering.[111] Thus, changes in the macroclimate of Sino-U.S. relations in 1997- resulting, in this case, from efforts by both sides to move the broader bilateral relationship away from deepening conflict and toward cooperation- carried a positive influence on Sino-U.S. law enforcement cooperation.

Bilateral law enforcement cooperation, in the view of three U.S. officials involved with the JLG, has become less politicized since the creation of the JLG.[112] Nevertheless, such cooperation remains politicized to a significant degree; that is, the extent of PRC participation- or *non*participation- in the JLG closely reflects the depth of political support from Beijing for cooperative Sino-U.S. law enforcement relations. Naturally, then, when political support in Beijing for cooperation with the U.S. runs low, one effect will be a sharply reduced level of PRC participation in the JLG.

---

[110] Interview with Jeffrey Bader, 23 February 2007.

[111] PRC, U.S. Establish Joint Liaison Group on Law Enforcement," *Xinhua*, 14 May 1998, FBIS.

[112] Interview with two State Department officials, 28 February 2007.

This view would explain the PRC's non-participation in the JLG after two events triggered crises in Sino-U.S. relations in 1999 and 2001. First, in May 1999, a U.S. B-2 stealth bomber on a sortie in the NATO air campaign over Kosovo bombed the PRC Embassy in Belgrade. The U.S. had improperly labeled the embassy on a targeting map as the headquarters office for Serbian military procurement.[113] The bombing resulted in widespread outpouring of popular anti-U.S. rage in the PRC, and PRC leaders refused to believe President Clinton's insistence that the bombing had been accidental.[114] According to four U.S. officials who take part in JLG meetings, the PRC ceased participation in the JLG framework for over a year after the bombing. Not until General Barry McCaffrey, director of the U.S. Office of National Drug Control Policy, visited China in June 2000- with a delegation from the Department of Defense, DEA, and the Coast Guard- did high-level bilateral law enforcement dialogue resume.[115]

The second event to trigger a bilateral crisis was the midair collision of a U.S. EP-3 spy plane with a PRC J-8 jet on 1 April 2001.[116] After an emergency landing at a Chinese airbase, the U.S. Navy crew of 24 men and women were detained for 11 days on

---

[113] Steven Lee Myers, "Chinese Embassy Bombing: A Wide Net of Blame," *New York Times*, 17 April 2000.

[114] David M. Lampton, *Same Bed, Different Dreams: Managing U.S.-China Relations, 1989-2000* (Berkeley: University of California Press, 2001), 59-61.

[115] "China, United States to Step Up Cooperation in War on Drugs," *Agence France-Presse*, 19 June 2000; "U.S. Drug Policy Maker Comes to China to Fight Trafficking," *Associated Press*, 17 June 2000; "General McCaffey Holds News Conference on Drug Use in China," *Federal Document Clearing House*, 16 June 2000; Matt Forney, "U.S. Offers China Help Against Drug Smuggling," *Asian Wall Street Journal*, 20 June 2000; "China, U.S. to Further Cooperate in Cracking Down on Drugs," *Xinhua*, 19 June 2000, Factiva; Erik Eckholm, "U.S. and China Agree on Steps to Fight Drugs," *New York Times*, 20 June 2000.

[116] Elisabeth Rosenthal and David E. Sanger, "U.S. Plane in China After it Collides with Chinese Jet," *New York Times*, 2 April 2001.

Hainan Island before their release by the PRC.[117] Just as it had done in response to the embassy bombing, the PRC again effectively halted its participation in law enforcement cooperation with the U.S. Sino-U.S. law enforcement relations sank to their "low water mark" in the months that followed the EP-3 incident, in the words of a Homeland Security official involved in the JLG processes.[118] When high-level incidents such as these occur, explained a Justice Department JLG participant with a long history of involvement in bilateral law enforcement ties, law enforcement cooperation between the PRC and the U.S. "shuts down."[119]

Most germane to the present condition of Sino-U.S. law enforcement cooperation is the shift that followed the terrorist attacks of 11 September 2001. Counterterrorism quickly emerged as a critically important mutual interest between China and the U.S, and this common ground served as the basis for new Sino-U.S. security cooperation. Because law enforcement agencies play a central role in counterterrorism efforts, shared Sino-U.S counterterrorism interests caused closer bilateral law enforcement cooperation. Moreover, both counterterrorism and anti-smuggling work involve controlling flows illicit flows of persons across borders. Thus, bilateral counterterrorism cooperation since September 11 has stimulated closer cooperation by the U.S. and the PRC to combat human smuggling.

---

[117] Craig S. Smith, "China Releases U.S. Plane Crew 11 Days After Midair Collision," *New York Times*, 12 April 2001.

[118] Interview with Department of Homeland Security participant in JLG meetings, 1 March 2007.

[119] Interview with Department of Justice participant in JLG meetings, 2 March 2007.

President Jiang Zemin phoned President Bush on September 12 to express his condolences for the attack on America, and Jiang informed Bush that China was prepared to cooperate with the U.S. to combat terrorism.[120] In the United Nations Security Council, China voted in support of Resolution 1368, an unequivocal condemnation of the attacks.[121] Appearing at a joint news conference with Jiang in Shanghai in October 2001, Bush reported that the China would assist the U.S. war on terrorism through intelligence sharing and terrorist finance interdiction.[122]

Beijing's interest in counterterrorism derived largely from leadership's perception of internal and external threats posed to China by terrorism. The most potent domestic terror threat, in the central government's view, has come from militant separatists in Xinjiang Uighur Autonomous Region.[123] A state media report in January 2002 reported that terrorists in western China had been responsible for over 200 "terror incidents" inside Xinjiang from 1990 to 2001, resulting in 162 deaths and 440 injuries.[124] The leading external threat to China from terrorism involves Muslims in the Central Asian countries bordering the PRC. In Beijing's eyes, interaction between the internal and

---

[120] "Chinese, U.S. Presidents Talk over Phone," *Xinhua*, 12 September 2001.

[121] "Security Council Condemns, 'In Strongest Terms', Terrorist Attacks on United States," M2 Presswire, 13 September 2001.

[122] David E. Sanger, "Bush Meets China's Leader and Emphasizes Need to Fight Terrorism Together," *New York Times*, 19 October 2001.

[123] Craig S. Smith, "Fearing Unrest, China Presses Muslim Group," *New York Times*, 5 October 2001.

[124] "East Turkistan Terrorist Forces Cannot Get Away with Impunity," *Xinhua*, 21 January 2002, FBIS.

external threats could be explosive in force, presenting a direct challenge to the CCP's hold on power.[125]

Thus, the PRC, like the U.S., had a deeply held interest in combating Islamic terrorism. Chinese cooperation with the U.S. in its war on terrorism offered two clear benefits: an opportunity to improve Sino-American relations, and justification for taking firm action against Uighur separatists in Xinjiang.

The emergence of common ground between the U.S. and PRC on counterterrorism has brought law enforcement concerns to a place of great importance in bilateral relations since September 11. Because the work of counterterrorism draws heavily on law enforcement methods, an unprecedented number of bilateral meetings between top officials in law enforcement-related circles from the PRC and the U.S. have been held since 2001 to discuss issues and concerns related to the War on Terror. Six such meetings that were earlier described in detail include the December 2001 visit to Beijing by State Department Counterterrorism Coordinator Francis X. Taylor; Attorney General John Ashcroft's October 2002 visit to Beijing; a visit to Beijing by FBI Director Robert Mueller in April 2004; a visit to Beijing by Attorney General Alberto Gonzales in November 2005; a trip to Beijing by Homeland Security Secretary Michael Chertoff in April 2006; and a visit to Washington by PRC Minister of Public Security Zhou

---

[125] This analysis of China's terror threat is found in Andrew Scobell, "Terrorism and Chinese Foreign Policy," in *China Rising: Power and Motivation in Chinese Foreign Policy*, eds. Yong Deng and Fei-Ling Wang (Lanham, MD: Romwan & Littlefield, 2005), 305-323.

Yongkang in July 2006. A broad range of law enforcement issues have figured prominently in the agendas of these meetings.

The subject of counterterrorism did not merely *reshape* the agendas for these discussions among senior law enforcement leaders from both sides, as if such visits and meetings were already occurring before this new shared interest in fighting terror emerged. Rather, jointly held counterterrorism concerns since 2001 have prompted bilateral meetings and exchanges whose occurrences would have otherwise been highly unlikely. In fact, the visits have included several historic "firsts": Ashcroft, Mueller, and Chertoff became the first Attorney General, FBI Director, and Homeland Security Secretary, respectively, to visit the PRC, while Zhou Yongkang became the first PRC Minister of Public Security to visit the U.S.[126], counterterrorism issues occupied a central purpose in all the meetings.

These exchanges have played a critical role in the restoration of Sino-U.S. law enforcement cooperation since 2001. Before the counterterrorism-driven exchanges began, law enforcement cooperation had been at a low point and the JLG had been in hiatus, according to one U.S. participant in the mechanism's yearly meetings.[127] The inclusion of law enforcement issues (issues in addition to counterterrorism) on the agendas of these meetings between policymakers from the two sides has given new

---

[126] Interview with Ministry of Public Security officials, 1 March 2007.

[127] Interview with Department of Homeland Security participant in JLG meetings, 1 March 2007.

prominence to the area in bilateral relations, thereby stimulating Sino-U.S. law enforcement cooperation.

One example of the profoundly positive effect that these counterterrorism-driven contacts have had on broader bilateral law enforcement cooperation involves the case of the establishment of the FBI Legal Attaché office in the U.S. Embassy, Beijing. Throughout the 1990s, the U.S. made repeated efforts to obtain Chinese permission to open an FBI Legal Attaché office in Beijing. The responsibilities of such an office would include coordinating international investigations with other FBI offices, following leads for domestic U.S. investigations, effecting information sharing, and leading FBI training classes for foreign law enforcement officers.[128] In 1996, FBI and State Department officials confirmed that the Bureau had begun negotiations with the PRC Ministry of Public Security over the Bureau's request to post an officer to the U.S. Embassy in Beijing.[129] A Deputy Assistant FBI Director testified in April 1997 that the proposal for a joint FBI-DEA office in Beijing received approval from the U.S. State Department, U.S. Embassy, Department of Justice, and Congress. When, however, the U.S. Embassy sought final approval from the PRC Ministry of Foreign Affairs, the reply was, "Not at this time."[130]

---

[128] "Legal Attache Offices," Federal Bureau of Investigation, http://www.fbi.gov/contact/legat/legat.htm. As of June 2007, the FBI maintains Legal Attachés in 60 embassies worldwide.

[129] Sarah Jackson-Han, "US Steps up International Efforts to Fight Asian Crime," *Agence France-Presse*, 30 January 1996; "FBI Wants to Open Beijing Office," *Agence France-Presse*, 23 June 1996.

[130] Statement of Alan G. Ringgold, Deputy Assistant Director FBI, before the Senate Committee on Foreign Relations, Subcommittee on East Asian and Pacific Affairs, Hearing on U.S. Law Enforcement Interests in Hong Kong, 10 April 1997, http://www.globalsecurity.org/security/library/congress/1997_h/s970410r.htm.

A former American diplomat who was closely involved with U.S.-PRC relations attributed the refusal of the request for a joint office to the PRC's views of the two U.S. agencies involved in the request, the DEA and the FBI. In the case of the DEA, PRC anger over the earlier-discussed Goldfish case had persisted since a U.S. judge agreed to hear Chinese prisoner Wang Zongxiao's asylum request in the U.S. in 1990. In the PRC's view, the U.S. had betrayed China's cooperation on drug matters by refusing to send Wang back to China. China's position was straightforward: bilateral antidrug cooperation could not resume until Wang was returned to China to face charges.[131] Regarding the FBI, in the diplomat's view, the PRC was deeply suspicious of the Bureau, fearing that a Beijing Embassy office's real purpose would involve covert intelligence gathering.[132] A Hong Kong newspaper quoted a PRC dissident and China scholars as saying that the PRC viewed the FBI as a "spy" agency and was therefore unlikely to grant permission for an FBI office in Beijing.[133]

A joint statement issued by Bill Clinton and Jiang Zemin at their October 1997 summit meeting in Washington announced that the U.S. and PRC would station counternarcotics officers in each other's embassies. As a result, the U.S. opened a DEA office in Beijing in 1998, and the Ministry of Public Security stationed a police liaison in

---

[131] Constance L. Hays, "Drug Case Derails U.S.-China Law Tie," *New York Times*, 20 February 1994.

[132] Interview with Jeffrey Bader, 23 February 2007.

[133] "FBI Launches Plan to Open Beijing Bureau," *The Standard* (Hong Kong), 23 June 1996, http://www.thestandard.com.hk; Greg Heakes, "Business as Usual Despite Consular Name Changes," *The Standard*, 20 October 1996, http://www.thestandard.com.hk.

Washington that same year.[134] Still, however, the request for an FBI office was not approved.[135] When Gen. Barry R. McCaffrey, director of the White House Office of National Drug Control Policy (ONDCP), met with PRC officials in Beijing in June 2000, he again put forth the U.S. proposal to post an FBI agent to a Legal Attaché office in Beijing. The PRC, however, did not immediately respond to Gen. McCaffrey's request.[136]

When, in the context of post-September 11 counterterrorism talks the request was next presented, the PRC was significantly more receptive to the possibility of an FBI office in Beijing. Ambassador Francis X. Taylor, State Department Coordinator for Counterterrorism, traveled to Beijing in December 2001 for two days of talks with PRC officials. Taylor and his delegation of officials from the FBI, Department of Defense, and Treasury Department met with top officials from the Foreign Ministry, People's Liberation Army, Ministry of Public Security, and People's Bank of China to arrange ongoing consultations, and to set up plans for a bilateral financial counterterrorism working group. As he outlined the swiftness with which the PRC government had replied to U.S. requests for assistance since the September 11 terrorist attacks, Taylor cited as an example of that swiftness the reply to yet another U.S. proposal to establish an

---

[134] Simon Beck, "Beijing Asked to Assist US Poll Inquiry," *South China Morning Post*, 19 November 1997; Author's interview with Ministry of Public Security officials, 1 March 2007; U.S. State Department, "History of the Department of State During the Clinton Presidency," http://www.state.gov/r/pa/ho/pubs/8523.htm.

[135] "Reno Asks Chinese Counterpart to Aid Campaign Donor Inquiry," *New York Times*, 18 November 1997.

[136] Bill Savadove, "United States, China to Cooperate on Anti-Drug Fight," *Reuters*, 19 June 2000.

FBI Legal Attaché office in Beijing. According to Taylor, the PRC had agreed to give "positive consideration" to the U.S. request that had been presented *that very day*, 6 December 2001.[137] In contrast, after Gen. McCaffrey raised the question to PRC officials in June 2000, the request had simply lingered without a reply for *18 months*.[138] As Taylor noted, an FBI office in Beijing, if allowed by the PRC government to open, would strengthen the efficiency of bilateral law enforcement cooperation.

Only two months later, when President George W. Bush came to Beijing in February 2002 for a working visit with President Jiang Zemin, the PRC announced that the request for the Legal Attaché office had been approved.[139] In October that same year, Attorney General John Ashcroft visited Beijing for talks with PRC Minister of Public Security Luo Gan and Justice Minister Zhang Fusen that focused mainly on counterterrorism issues. While in Beijing, Ashcroft announced the formal establishment of the FBI office in the Beijing embassy. Although the shared Sino-U.S. counterterrorism interests were the key factor in determining the PRC's hasty approval of the Legal Attaché office, the new office's scope would also encompass law enforcement issues beyond terrorism, including organized crime, transnational crime, and other unspecified "threats to the rule of law." The cooperative work on countering terrorism had shown PRC and U.S. leaders, Ashcroft said, opportunities to extend such productive

---

[137] "Statement by Ambassador Francis X. Taylor," United States Embassy to the People's Republic of China, 6 December 2001, http://www.usembassy-china.org.cn/press/release/2001/ptr/06dec01.html,.

[138] Charles Hutzler, "U.S., China to Coordinate Antiterrorism Efforts," *Asian Wall Street Journal,* 7 December 2001.

[139] Joe McDonald, "Official: China Wants U.S. Action to Break Deadlock in Nonproliferation Talks," *Associated Press*, 26 February 2002.

cooperation to focus on these other types of international crimes. In his statement to reporters at the opening of the Legal Attaché office, Ashcroft stated that he saw the new office as a core ingredient of not only a potent U.S.-China counterterrorism capacity, but of a prosperous law enforcement partnership that would target money laundering, migrant smuggling, narcotics, and other transnational crimes.[140] Although Ashcroft did not discuss specifics of how U.S.-China law enforcement would occur, his strong support for an increasingly cooperative bilateral law enforcement relationship was clear and explicit.

Altogether, the U.S. had wanted an FBI Legal Attaché office in Beijing for more than 10 years before the 2002 opening.[141] After years of refusal and silence, the request was well received and granted almost immediately. Foreign Ministry Spokesman Liu Jianchao indicated the sensitivity with which the PRC viewed the matter when he responded to a question about the new office that the office "is not the establishment of an FBI office *in* China, but rather *inside* the U.S. Embassy in China."[142] The magnitude of the change of official PRC views on the presence of the Legal Attaché office was even more visible in April 2004, when Robert Mueller became the first FBI Director to visit China. A key purpose of Mueller's time in the PRC was to permanently open the office.[143]

---

[140] Attorney General John Ashcroft, "Conclusion of China Visit," Press Conference, United States Embassy to the People's Republic of China, 24 October 2002, http://www.usembassy-china.org.cn/press/release/2002/1024ASHpress.html.

[141] H.D.S. Greenway, "Our New Asian Partner," *Boston Globe*, 10 January 2003.

[142] "PRC Foreign Ministry Spokesman's Press Conference," 24 October 2002, http://www.fmprc.gov.cn/ce/cegv/eng/xwdt/t88367.htm.

The new Sino-U.S. common ground on counterterrorism overrode the importance of the PRC's deeply-held suspicions and concerns, creating a political context that made possible PRC acceptance of such a sensitive, long-rejected proposal. Thus, by enabling the location of an FBI office in Beijing, the urgency of counterterrorism concerns strengthened the likelihood of effective Sino-U.S. cooperation on a broad range of law enforcement issues.

Another example of how Sino-U.S. counterterrorism cooperation, rooted in the post-September 11 change in the relational macroclimate, has brought a restoration of broader law enforcement relations has been through helping to rejuvenate and to shape the agenda of the Sino-U.S. Joint Liaison Group (JLG) for Law Enforcement Cooperation. The interactions and working agreements between high-level law enforcement leaders from the U.S. and the PRC have necessitated, as a JLG participant from the U.S. explained, that bureaucrats in the JLG operate with an increased strategically-driven (and, correspondingly, less tactically-driven) focus- thereby raising the incentive to participants on both sides of the JLG to break bilateral impasses or overcome misunderstandings. As a result, improved effectiveness in bilateral cooperation against human smuggling and other crimes follows.[144]

The JLG had, of course, been created with the intent of facilitating regular dialogue and cooperation between U.S. and PRC law enforcement agencies. When the

---

[143] "FBI Director Looks Forward to Building Strong Ties with Beijing," U.S. State Department Press Release, 22 April 2004.

[144] Author's interview with Department of Homeland Security JLG participant, 1 March 2007.

embassy bombing and the EP-3 collision led to a halt in JLG action, the envisioned forum for dialogue instead became a dormant organ with no momentum.[145]

Sino-U.S. counterterrorism cooperation after September 11 led to high-level discussions, as discussed above, about many types of law enforcement cooperation. As a consequence- whether direct or secondary- of these high-level talks, new bilateral initiatives have been launched, and agreements have been reached, all with the affect of advancing Sino-U.S. law enforcement cooperation. The need for action on these agreements, according to participants, has necessitated renewed interactions between participants in the formerly inactive JLG. According to a Justice Department official involved in the JLG meetings, the spillover effect of counterterrorism cooperation was such that in his view, Sino-U.S. law enforcement cooperation and the JLG are best understood in terms of "pre-September 11" and "post-September 11." [146]

The July 2006 visit to the U.S. by PRC State Councilor and Minister of Public Security Zhou Yongkang offers a telling example of how high-level contacts since September 11 have revived the function and importance of the JLG as a key vehicle for broad Sino-U.S. law enforcement cooperation. In Zhou's three days of meetings with leading U.S. officials, he signed six Memoranda of Understanding (MOU) between PRC and U.S. law enforcement agencies, all aimed at strengthening PRC-U.S. law enforcement cooperation. Seven months later, a PRC official was still working on the follow up from the Zhou visit, implementing the MOUs that were signed and trying to

---

[145] Author's interviews with U.S. and PRC JLG participants, 28 February-2 March 2007.

[146] Author's interview with Justice Department JLG participant, 2 March 2007.

develop more working mechanisms- within and outside the JLG- to follow the agreements reached in the MOUs[147]

In effect, the shared PRC and U.S. interest in counterterrorism since September 11 has given law enforcement cooperation an important place in high-level bilateral discussions. Problems discussed and agreements reached in such meetings have advanced counterterrorism cooperation and broader areas of law enforcement cooperation. The revived effectiveness of the JLG can be attributed in large part to the new basis for Sino-U.S. cooperation against counterterrorism. This trajectory of increased effectiveness contrasts sharply with the standstill in law enforcement relations that existed prior to the terrorist attacks. Thus, the convergence of U.S. and PRC counterterrorism interests since September 11 has been and continues to be a driver of improved bilateral cooperation in law enforcement affairs, and the climate of deepening law enforcement relations creates fertile ground for growing cooperation against human smuggling.

As long as counterterrorism remains an overriding common interest between the two sides, then Sino-U.S. law enforcement cooperation should continue to prosper and expand for the reasons described in this section. If and when, however, counterterrorism interests cease being a significant shared interest between the two sides, it is possible that law bilateral enforcement cooperation may experience stagnation or even setbacks.

---

[147] Author's interview with PRC official, 1 March 2007.

The creation of formal bilateral institutions for law enforcement cooperation

The development of institutionalized mechanisms for bilateral law enforcement cooperation has been vitally important in fostering cooperation on human smuggling issues. These mechanisms have assisted cooperation in two ways. First, the collective scope of these institutional mechanisms ensures that human smuggling is addressed not as a stand-alone matter, but rather as one among a range of issues on which the two sides seek cooperation. Second, these coordination mechanisms have facilitated the development of mutual familiarity and trust-based relationships between U.S. and PRC law enforcement personnel.

Bilateral institutional mechanisms created for the purpose of fostering Sino-U.S. law enforcement cooperation have proliferated since first emerging in 1997. The most well known of these structures is the Sino-U.S. Joint Liaison Group on Law Enforcement Cooperation (JLG), but other mechanisms for cooperation and coordination exist. These other mechanisms include: annual bilateral working group meetings between the MPS and the FBI regarding counterterrorism and transnational organized crime; annual meetings between the MPS and DEA on drug enforcement matters of bilateral interest; as of 2006, cooperative agreements between the MPS and FBI on exchanges of law enforcement personnel; MPS and ICE on combating illegal migration; PRC Narcotics Control Commission and the White House Office of National Drug Control Policy (ONDCP) on counternarcotics cooperation.[148] Additionally, the PRC and the U.S. work

---

[148] Author's interview with Ministry of Public Security officials, 1 March 2007; Author's interview with Department of Homeland Security JLG participant, 1 March 2007; "China and the United States Step up

together in multilateral cooperative law enforcement mechanisms, including the Container Security Initiative and the North Pacific Coast Guard Forum.[149] Together, these mechanisms have created a multi-issue field for bilateral interaction. As a result, bilateral contact on the human smuggling issue benefits a broader context of cooperative efforts between U.S. and PRC law enforcement authorities.

In the absence of a formal mechanism for addressing bilateral concerns in multiple law enforcement issue areas, human smuggling was addressed either in special visits (such as a 1994 delegation of INS and State Department officials that traveled to Beijing for talks on the emerging threat of seaborne migrant smuggling) or in talks between high-level policymakers (such as a 1994 meeting between Secretary of State Warren Christopher and Foreign Minister Qian Qichen) in which discussions focused on principles without discussing finer points and operational matters. Such irregularity of dialogue left little possibility for a convergence of U.S. and PRC views on human smuggling issues up to 1997. A current State Department official pointed out that prior to 1998, the year the JLG was established, the U.S. was unable to succeed in making a case for "why human smuggling should matter to the Chinese," primarily because almost no opportunity for ongoing dialogue or interaction on the matter existed. In short, U.S.-PRC cooperation on human smuggling before 1997-1998, coming as it did in a broader

---

Cooperation in the Field of Security and Law Enforcement," *Zhongguo Tongxun She*, 1 August 2006, FBIS.

[149] Author's interview with Department of Homeland Security official, 1 March 2007.

context of non-cooperation on bilateral law enforcement issues, was "uneven, at best" in the words of former INS Commissioner Doris Meissner.[150]

The inception of mechanisms for bilateral law enforcement cooperation in 1997 created structures and fora for regular Sino-U.S. collaboration and communication on multiple law enforcement issues. The most notable of these mechanisms, the JLG, as mentioned above, initially encompassed the issues of international organized crime, narcotics trafficking, human smuggling, counterfeiting, and money laundering.[151] Collectively, measures taken in 1997 and 1998- the establishment of the JLG, the posting of U.S. immigration officers to China, and the exchange of counternarcotics officers- had the effect of placing human smuggling in a portfolio as one of several issues to which each side had allocated personnel and resources to address with the other side. A Department of Homeland Security official whose involvement in bilateral anti-human smuggling work dates from the mid-1980s, explained how the expanding issue scope of the JLG continues to bring about more effective bilateral cooperation against human smuggling. As the JLG's focus encompasses a growing number of law enforcement issues, the deepening level of commitment by both sides has brought about out greater participation in the JLG meetings by decisionmakers and persons close to decisionmakers.[152] Thus, by empowering participants in JLG meetings, the expanding

---

[150] Author's interview with Doris Meissner, 21 February 2007.

[151] "PRC, U.S. Establish Joint Liaison Group on Law Enforcement," *Xinhua*, 14 May 1998, FBIS.

[152] Author's interview with former INS and current Department of Homeland Security official, 2 March 2007.

scope of the JLG itself positively affects cooperation on discrete issues, including human smuggling.

According to two participants in JLG consultations on human smuggling matters, ongoing interaction through the JLG between officials from the two sides has enabled bilateral work on human smuggling (and on other issues as well) to move from a myopic focus on short-term issues and problems- the norm prior to the establishment of the JLG- to a longer-term focus in which expert group meetings and working group meetings enable specialists from the two sides to develop common understandings of transnational criminal issues. For example, PRC and U.S. participants in the human smuggling working group have begun to work together to produce joint studies and reports on human smuggling-related issues.[153]

A second main way that institutional mechanisms have assisted bilateral law enforcement cooperation against human smuggling has been through the establishment of personal contacts. Participation in meetings and working groups through these mechanisms have resulted in familiarity and increasingly close working relationships between U.S. and PRC law enforcement personnel. Closer working relationships have in turn enabled cooperative work against all forms of law enforcement, including work on human smuggling.

Before the JLG, each side's unfamiliarity with the system and processes of the other side was a sizeable roadblock to effective cooperation. One interview subject who took part in negotiations with the Chinese regarding the interdiction of ships and the

---

[153] Author's interview with Department of Homeland Security official, 1 March 2007.

return of illegal migrants in 1993 and 1994 reported that at that time, U.S. officials had no knowledge of the processes which the PRC followed in such situations. After three days of negotiations in Beijing between a U.S. delegation from INS and the State Department and the PRC Ministry of Public Security and Ministry of Foreign Affairs, an understanding was finally reached by the two sides on the necessary legal processes that needed to occur in order for an agreement to be reached.[154]

The familiarity and understanding developed by the two sides through interactions within the JLG mechanism breeds trust among participants for individuals from the opposite side. By no means has trust been fully achieved through the JLG interactions. Rather, the initiation and development of trust-based relationships among JLG members is a learning process at work. As one U.S. official who has been closely involved with the JLG commented, "Mutual confidence-building is a long, time-consuming process."[155] Nevertheless, in interviews with the author, JLG participants from both sides shared the view that the development of personal connections and relationships within the JLG has been a very important factor in improved cooperation on human smuggling in the last decade.

Sources of ineffective repatriation-based deterrence against human smuggling

In the preceding chapter we saw that China and the U.S. have not succeeded in establishing and maintaining a credible repatriation-based deterrent to human smuggling.

---

[154] Author's interview with retired INS official, 28 February 2007.

[155] Author's interview with Homeland Security JLG participant, 1 March 2007.

The processes involved in repatriation (or, *removal*) do not fall entirely within the realm of law enforcement work. Judicial organs serve important functions in authorizing repatriations. Despite the fact that repatriations are not the exclusive domain of law enforcement authorities, however, all interview subjects who take part in the JLG told the author that repatriations are the main problem issue affecting Sino-U.S. cooperation against human smuggling. Cooperation against human smuggling, said one JLG participant, is a largely "straightforward matter."[156] Yet, discord between the two sides on the repatriation issue persists. From the time that human smuggling from the PRC to the U.S. became highly visible in the first Clinton Administration, the two sides have been unable to work together to ensure a working system for the quick return of detained illegal immigrants.

The presence or absence of a reliable deterrent has a clear effect on the success of bilateral law enforcement cooperation against human smuggling. In order for a deterrent against human smuggling to work effectively, would-be illegal immigrants must believe that the probability for success is too low (or that probability for failure is too high), and the costs too great to justify such a risky venture. By reducing the demand for human smuggling, therefore, a strong deterrent under supports the work of bilateral law enforcement cooperation. In the presence weak or ineffective deterrent, meanwhile, the demand for human smuggling will rise. An ineffective deterrent, then, serves to undermine the success of Sino-U.S. law enforcement cooperation against human smuggling.

---

[156] Author's interview with Department of Homeland Security JLG participant, 1 March 2007.

The difficulties in establishing an effective deterrent against human smuggling and illegal immigration from the PRC to the U.S. have become especially visible since the introduction of a new border and immigration security strategy in the U.S. for fiscal year 2006. An overview of the U.S. border control strategy is therefore instructive. The first subsection below describes how, in accordance with the new U.S. border security policies, the processes of detention and removal are to be applied to illegal immigrants apprehended while attempting to cross into the United States between official ports of entry. The subsection that follows, drawing on interviews conducted with U.S. and PRC officials, examines the application of the detention and removal process to illegal Chinese aliens, in order to highlight surface-level causes of the repatriation problems identified in the previous chapter. The third section discusses underlying factors responsible for these problems. These factors, it is argued, are root causes of ineffective deterrence against illegal Chinese immigration to the U.S.

Expedited Removal of Aliens Entering the United States

In fiscal year 2004, agents of the United States Border Patrol (USBP) apprehended 1,158, illegal aliens attempting to cross into the U.S. between official points of entry. More than 93 percent of these aliens were Mexican nationals. The remainder of the apprehended illegals are classified by the USBP as "Other Than Mexican," or OTM.[157] Upon apprehension by USBP agents, almost all Mexicans are voluntarily returned across the border. OTMs, however, cannot be returned to Mexico. After

[157] Congressional Research Service Report RL33097, "Border Security: Apprehensions of 'Other Than Mexican' Aliens,", (22 September 2005), 1.

determination is made of the OTM's country of origin, the alien is placed in the formal removal process.[158]

The Immigration and Nationality Act of 1965 extends to the Attorney General (and now, to the Secretary of Homeland Security) the authority to detain any alien who has been designated for removal.[159] Until 2006, however, a shortage of bed space in the detention facilities of the Office of Detention and Removal (DRO) of U.S. Immigration and Customs Enforcement (ICE) necessitated that the majority of illegal aliens not requiring mandatory detention were issued notices-to-appear (NTA) before immigration judges, and were released on their own recognizance into the interior of the U.S.[160] In July 2005, for example, 80 percent of all OTMs were released on account of a shortage of bed space.[161] Most released aliens would fail to appear in immigration court for their scheduled removal hearings. In fact, in fiscal year 2005, 60 percent of OTM aliens who had been released after apprehension failed to show in immigration court, and only 18 percent of released aliens with final orders for removal actually left the U.S.[162]

---

[158] Congressional Research Service Report RL33097, "Border Security: Apprehensions of 'Other Than Mexican' Aliens,", (22 September 2005), 2.

[159] Congressional Research Service Report RL32369, "Immigration-Related Detention: Current Legislative Issues," (28 April 2004), 2.

[160] Congressional Research Service Report RL33097, "Border Security: Apprehensions of 'Other Than Mexican' Aliens," (22 September 2005), 5.

[161] "Statement of the Honorable Michael Chertoff, Secretary U.S. Department of Homeland Security Before the United States Senate Judiciary Committee," 28 February 2007, http://www.dhs.gov/xnews/testimony/testimony_1172853501273.shtm.

[162] Congressional Research Service Report RL33351, "Immigration Enforcement Within the United States," (6 April 2006)21.

The Secure Border Initiative (SBI), a new border security and immigration strategy presented by Homeland Security Secretary Michael Chertoff in November 2005, called for an end to the practice of releasing aliens into the interior U.S. after the aliens had been designated for removal.[163] In its place, Homeland Security would seek to achieve by the end of fiscal year 2006 a 100 percent "catch-and-return" rate, in which all apprehended aliens remained in detention while awaiting removal.[164] To facilitate the accomplishment of this goal, Secretary Chertoff expanded the application of "Expedited Removal" to cover all points on the U.S.-Mexico border. Under the Immigration and Nationality Act, Expedited Removal allows USBP officers to deny admission to and order removal of any alien arriving in the U.S. without proper documentation; the denial is not subject to further hearings or review, unless the alien indicates a fear of persecution or an intention to seek asylum.[165] If the alien does seek asylum, he is interviewed by an asylum officer to determine if the alien's claim meets the legal standard, set forth in the Immigration and Nationality Act, of a "credible fear" of persecution.[166] Those immigrants whose claims are determined to have merit are referred to a hearing before an immigration judge in the Executive Office of Immigration Review (EOIR). If the request

---

[163] "DHS Announces Long-Term Border and Immigration Strategy," 2 November 2005, http://www.dhs.gov/xnews/releases/press_release_0795.shtm.

[164] "Remarks by Homeland Security Secretary Michael Chertoff on ICE and CBP 2006 Fiscal Year Enforcement Numbers," 30 October 2006, http://www.dhs.gov/xnews/releases/pr_1162293386835.shtm.

[165] Congressional Research Service Report RL33109, "Immigration Policy on Expedited Removal of Aliens," (30 September 2005), 1.

[166] The INA states that a "credible fear" exists if "there is a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum..." INA §235(b)(1)(B)(v); 8 U.S.C. §1225, referenced in Congressional Research Service Report RL33109, "Immigration Policy on Expedited Removal of Aliens, (30 September 2005), 1.

for asylum is accepted by the judge, then the alien goes free; if not, the alien is ordered removed from the U.S.[167]

The drive to reach a no-exceptions catch-and-return record also entailed expanding the capacity of U.S. detention facilities. In addition, the cooperation of foreign governments was deemed critical to the success of the new strategy: In order for the U.S. to remove an illegal alien to his country of origin (or to a third country), the government of that destination country must issue to the U.S. travel documents authorizing the illegal alien to be sent to that country. [168]

In July 2006, the Department of Homeland Security reported that the U.S. had achieved for the first time a 100 percent catch-and-return rate for OTMs. The average time spent in detention by each illegal alien, meanwhile, fell from 90 days to 21 days.[169] In the third and fourth quarters of 2006, after the implementation of SBI had begun, the number of apprehensions of illegal aliens attempting to cross the border- a statistic taken as reflective of the number of *successful* border crossing attempts- declined by 13 percent and 38 percent, respectively, from the previous year's figures.[170] Leaders of the

---

[167] Congressional Research Service Report RL32621, "U.S. Immigration Policy on Asylum Seekers," (25 January 2007), 10.

[168] "DHS Announces Long-Term Border and Immigration Strategy," U.S. Department of Homeland Security, 2 November 2005, http://www.dhs.gov/xnews/releases/press_release_0795.shtm.

[169] "Remarks by Secretary of Homeland Security Michael Chertoff, ICE Acting Director of Detention and Removal John Torres and CBP Border Patrol Chief David Aguilar on the Secure Border Initiative," U.S. Department of Homeland Security, 23 August 2006, http://www.dhs.gov/xnews/releases/pr_1158351672542.shtm.

[170] "Remarks by Homeland Security Secretary Michael Chertoff on ICE and CBP 2006 Fiscal Year Enforcement Numbers," U.S. Department of Homeland Security, 30 October 2006, http://www.dhs.gov/xnews/releases/pr_1162293386835.shtm.

Department of Homeland Security attributed these declines to a deterrent effect of the catch-and-return practice of handling apprehended illegal aliens.[171]

Application of U.S. border control policies to illegal immigrants from the PRC

According to U.S. Customs and Border Protection, the U.S. Border Patrol apprehended 1,653 illegal aliens from the PRC attempting to cross into the U.S. between official ports of entry in fiscal year 2005.[172] This figure represented 57 percent of the total number of removable PRC aliens located by U.S. authorities during that period.[173] Before the implementation of the current U.S. border security strategy, PRC illegal aliens- because they almost never fell within the category of illegal aliens requiring mandatory detention (criminals and terrorists)- were normally issued a notice-to-appear and released into the U.S. Once released, almost none of the Chinese illegals appeared in court for removal proceedings.

Beginning in fiscal year 2006, as noted above, all apprehended OTMs have been subject to Expedited Removal and mandatory detention while awaiting removal. In a large number of cases with Chinese illegal aliens, however, the Expedited Removal process is slowed because the alien files a claim for asylum. If the alien is found to have

---

[171] "Remarks by Homeland Security Secretary Michael Chertoff on ICE and CBP 2006 Fiscal Year Enforcement Numbers," 30 October 2006, http://www.dhs.gov/xnews/releases/pr_1162293386835.shtm.

[172] Congressional Research Service Report RL33097, "Border Security: Apprehensions of 'Other Than Mexican' Aliens," (22 September 2005), 19.

[173] United States Department of Homeland Security. *Yearbook of Immigration Statistics: 2005,* Washington, D.C.: U.S. Department of Homeland Security, Office of Immigration Statistics, 2006. The figure of 1,653 represents only apprehensions by USBP between U.S. ports of entry, while the figure of 2,890 also includes illegal PRC aliens detained through entry at official U.S. ports of entry.

a "credible fear" of persecution, he is referred to an immigration judge with the Executive Office of Immigration Review (EOIR). The alien is detained while awaiting the judge's decision on whether the alien's claim meets the legal standard of "well-founded fear" that warrants the granting of asylum.[174] The 8,946 claims filed by PRC citizens surpassed the number of claims filed by the nationals of any other country. In fiscal year 2005, 7,540 Chinese in the removal process filed for asylum. This figure for 2005, when added to the 2,890 Chinese who were classified as "deportable aliens located," means that nearly three-quarters of Chinese apprehended in the U.S. claimed asylum.[*] Although no statistics are available on the number of Chinese apprehended by USBP between ports of entry that ultimately file for asylum, the prevalence of Chinese asylum claims and the statements of interviewees suggest that most Chinese apprehended in this manner claim asylum.

If the judge grants the claim for asylum, the alien is allowed to remain in the U.S. If, however, the claim is rejected, the removal process moves forward. As described in Chapter 1,in order to remove Chinese aliens, the U.S. law must receive travel documents from the PRC authorizing the aliens to be sent to China. Before these documents can be issued to the U.S., PRC officials must confirm the identities and hometowns of the illegal aliens, using information that the U.S. government has transmitted to the PRC government. Only after these identities have been confirmed can the travel documents be

---

[174] Congressional Research Service Report RL32621, "U.S. Immigration Policy on Asylum Seekers," (25 January 2007), 10.

[*] Aliens whose asylum claims were referred to an immigration judge are not classified as "deportable aliens," hence the reason that the number of asylum requests by Chinese in FY2005 (7,540) exceeded the number of deportable Chinese aliens located (2,890).

issued. According to interviewees from both sides, breakdowns in this process of obtaining travel documents based on confirmed identities have been a major factor behind the inability of the U.S. and the PRC to establish a practice of regular, swift repatriations of illegal aliens. Although the two sides disagreed on causal factors, they agreed that the investigation process is exceptionally time-consuming and frustrating.

Officials from the PRC attributed the problems partly to the remote locales involved in the process. After receiving the names, hometowns, and other identifying information on the illegal aliens from U.S. investigators by way of the U.S. Embassy in Beijing, PRC authorities disseminate the information to the relevant provincial Public Security Bureau (PSB). The PSB then conducts an investigation in order to verify the identities and information for the illegal aliens. For illegal migrants who are urban residents, PSB authorities can check the identities against automated *hukou* records. The confirmation of identities for rural residents, however, is much more complicated, claimed PRC officials, because relatives and family members in remote villages or sparsely populated mountainous areas must be located and interviewed.

The factor most responsible for slowing the investigations, in the opinion of one PRC official, is incomplete and inaccurate information that PRC law enforcement officials receive from the U.S. When U.S. investigators collect information from the Chinese illegal aliens, the Americans have no way of gauging the information's veracity. Not until the information is in the hands of Chinese investigators can its accuracy be tested. Without accurate information, the identity of an illegal Chinese alien in the U.S.

cannot be confirmed, so there is no place to which that person may be repatriated, said a PRC official.[175]

Interviewees from the U.S. side readily acknowledge that while the information they submit often contains errors or problems, similar issues with countries of origin of other illegal immigrants have been addressed and overcome. The PRC, in the eyes of U.S. officials, has not demonstrated a commitment to improve the speed and efficiency of the verification and confirmation process. Instead, said multiple persons, the PRC verification process is extremely slow and inefficient. Indeed, a 2006 report on detention and removal of illegal aliens by the Department of Homeland Security Office of the Inspector General cited China- along with Iran, Jamaica, and India- as a country that blocks or inhibits the repatriation of illegal aliens through "imposing a slow and problematic travel document process."[176] Some U.S. officials see the Chinese as overly fixated on the process and driven by rigid adherence to bureaucratic processes.

The slowness in the issuance of travel documents not only delays the return of some PRC illegal aliens; the slowness renders highly unlikely the chances that most of the illegals will *ever* be repatriated. A Supreme Court ruling forbids the U.S. government, except in special circumstances, from detaining an illegal immigrant with a final order of removal beyond the 180 days. If the alien cannot be removed after this

---

[175] Author's interview with Ministry of Public Security officials, 1 March 2007.

[176] United States Department of Homeland Security, Office of Inspector General, "Detention and Removal of Illegal Aliens: U.S. Immigration and Customs Enforcement," (April 2006), 17.

period, he must be released on parole.[177] If the PRC, therefore, does not issue travel documents within 180 days after a Chinese illegal alien receives a final order of removal, then the U.S. must release that alien from detention- thus negating the U.S. goal of detaining all illegal aliens until their removal. According to a former U.S. official closely involved in repatriation matters, the PRC's slowness in issuing travel orders over the years, leading to the releases of Chinese illegal aliens in accordance with court orders, is the primary cause behind the problem that Homeland Security Secretary Michael Chertoff stated in June 2006 that the population of illegal Chinese aliens in the U.S. was "the largest population that we've had difficulty in returning."[178] Thus, by creating a near-certainty that detained illegal Chinese aliens will be released into the U.S., the inability to effect repatriations encourages Chinese to attempt to immigrate illegally to the U.S., thereby undermining repatriation-based deterrence while at the same time boosting the demand for human smuggling to the U.S.

Remote villages, inaccurate information, failure to issue travel documents in a timely manner, and a seemingly rigid adherence to bureaucratic processes all have played clear roles in obstructing bilateral cooperation on the repatriation issue. There are, however, deeper causes that underlie the inaction on repatriations. Anecdotal evidence from interviews and prior research suggest that these factors may include PRC frustration with the U.S. asylum policy, corruption and complicity of local officials, a link between repatriations and fugitives, and the ability of local governments in the source

---

[177] *Zadvydas* v. *Davis* 533 U.S. 678, 682, 690 (2001).

[178] "Remarks by Homeland Security Secretary Michael Chertoff to the American Enterprise Institute," 29 June 2006, http://www.dhs.gov/xnews/speeches/speech_0285.shtm.

communities of human smuggling and illegal immigration to hinder or obstruct implementation of central government directives; additional research into the internal dynamics of the PRC is needed to uncover these factors.

CHAPTER 4

CONCLUSIONS

From the time of its creation in 1997, the JLG's advancement of Sino-U.S. law enforcement cooperation against human smuggling has underscored the important role that bilateral institutions play to help the two sides combat security threats posed by transnational crime. Meanwhile, however, the cessation or intensification of law enforcement cooperation in response to sudden changes in the macroclimate of Sino-U.S. relations indicates that bilateral law enforcement cooperation rests on a rather unstable footing; relations that are cooperative today could be ridden with conflict tomorrow. The likelihood of successful future Sino-U.S. law enforcement cooperation against human smuggling, therefore, will be enhanced by a commitment from both sides to strengthen cooperative law enforcement institutions, and by a joint effort to stabilize the foundation that supports such cooperation. That is, both sides must work to make law enforcement cooperation more regularized and less susceptible to higher-level political shifts.

Human smuggling from China directly involves many nations in addition to the U.S. and the PRC. Smugglers may route migrants through multiple regions of the world, including Europe, Southeast Asia, South America, and Central America, as they make their way from China to the U.S. In addition, the U.S. is one of many nations that commonly serve as final destination countries for smuggled Chinese migrants. While the JLG has indeed enabled closer cooperation between PRC and U.S. authorities to combat human smuggling, the anti-smuggling efforts of a *bilateral* institution can be only partially effective against smugglers operating in small, flexible transnational networks.

The effectiveness of the JLG working group on human smuggling could be improved by the inclusion of other states in a multilateral working group, with representation from multiple countries through which smuggling routes pass; this group would include both transit countries and destination countries, with leadership of the group coming from PRC and U.S. officials. A multilateral working group would position law enforcement authorities from the PRC, the U.S., and other participating countries to coordinate policies and develop anti-smuggling strategies that more adequately meet the transnational operations and network-centric structures of Chinese human smuggling organizations.

A strong multilateral working group on Chinese human smuggling can also help accomplish another need identified in the findings of this study: the task of rendering the Sino-U.S. cooperation less subject to political shifts in the overall bilateral relationship. Peter Haas writes that regimes can have a transformative effect on state behavior: as a group of actors from different countries working together on an issue are empowered, the actors can change the practices of their states. In this "epistemic community," participants' shared knowledge and beliefs about an issue become the common bond among in the group; the actors do not merely reflect the domestic interests of their respective nations. The actors' recognized expertise in a particular policy area is the basis for the actors' authority with policy makers from their respective countries.[179]

---

[179]Peter M. Haas, "Do Regimes Matter? Epistemic Communities and Mediterranean Pollution Control," *International Organization* 43, no. 3 (Summer 1989): 380; Susan L. Woodward, "Enhancing Cooperation against Transborder Crime in Southeast Europe: Is There an Emerging Epistemic Community?," *Southeast European and Black Sea Studies* 4, no. 2 (May 2004): 226.

How could a multilateral working group on Chinese human smuggling be, as Haas describes, a community of experts who help shape the policies and behaviors of their respective states' law enforcement leaders?

To empower the working group participants and minimize the possibility that cooperation between states will be influenced disproportionately by high-level political factors (rather than by shared views among experts of the transnational smuggling problem), representation on the working group should draw from leading practitioners as well as from scholars in the fields of criminal justice and international migration. Instead of seeking to most effectively coordinate existing policies of the various states represented, a multilateral working group of experts on Chinese human smuggling could develop strategies and approaches to combat smuggling that follow from the group's analysis of human smuggling's core causes. In short, a multilateral working group of law enforcement practitioners and scholars with expertise in transnational crime and Chinese human smuggling can play a major role in assisting not only Sino-U.S. law enforcement cooperation to combat smuggling, but cooperation among all other affected nations as well.

Finally, additional research is needed to uncover the deeper sources of the repatriation problem. Preliminary information indicates that there are political and economic motives behind the PRC's hesitancy to accept repatriations of illegal Chinese immigrants from the U.S. On the political side, one researcher reports that the PRC's policy of calling upon other countries to conduct indiscriminate repatriations of illegal migrants (rather than returning some migrants while granting asylum to others) is rooted in Beijing's opposition to the politicization of migration issues by other states. The

PRC's position is that selective repatriations only serve to attract more illegal migrants. In the case of illegal Chinese immigrants to the U.S., for example, the U.S. seeks to return only those immigrants who asylum claims have been adjudicated and rejected. Such a practice, in the view of the PRC, fuels more attempts at illegal immigration.[180]

On the economic side, the significance of illegal immigrants' remittances as a contributor to the economic development of native villages and towns in Fujian has been well documented.[181] The benefits that illegal emigration can bring to local economies gives local officials in Fujian the incentive to ensure that the flow of illegal migrants from Fujian to the U.S. (or to other parts of the world) continues uninterrupted and unhindered. What is the nature of the relationship between Beijing's political stance against partial repatriations and local economic incentives against repatriations? Which factor, political or economic, is more important as an ultimate influence on the acceptance (or *non*-acceptance) by the PRC of repatriated illegal migrants from the U.S.? Future research in this area should seek to understand the political economy of the PRC's decision-making on receiving repatriated illegal immigrants. The findings of the study would form the basis of a U.S. plan to achieve regular repatriations to the PRC of illegal Chinese immigrants.

---

[180] Xiang Biao, "Emigration from China: A Sending Country Perspective," *International Migration* 41, no. 1 (September 2003): 36.

[181] David Kyle and Zai Liang, "Migration Merchants: Human Smuggling from Ecuador and China," The Center for Comparative Immigration Studies, Working Paper 43 (October 2001): 14; Chin, *Smuggled Chinese: Clandestine Immigration to the United States*; Xiang Biao, "Emigration from China: A Sending Country Perspective," *International Migration* 41, no. 1 (September 2003): 24.

Policy Recommendations

1. The U.S. and PRC should take the lead in the creation of a multilateral working group on Chinese human smuggling. The working group would bring together law enforcement officials and scholars (in law, criminal justice, sociology, and international migration) from nations affected by Chinese human smuggling, including transit countries and destination countries. The governments represented in the working group should empower their group's expert members to develop a comprehensive international law enforcement strategy to combat Chinese human smuggling, with the assurance that the resulting strategy will provide a framework for international cooperation among the various governments.

   The JLG working group on human smuggling could form the initial core of this new multilateral group. The Department of State's Bureau of International Narcotics and Law Enforcement Affairs (INL) would be the lead agency supporting this group, and meetings of the group could be held at the INL-supported International Law Enforcement Academy for Southeast Asia in Bangkok, or at the ILEA graduate facility in Roswell, New Mexico.

2. PRC authorities and consular officials in the U.S. should conduct interviews of apprehended illegal immigrants who are under final orders for removal to the PRC. Direct involvement in the interview process by PRC officials, including the collection of names, hometowns, and birthdates, could expedite the process of

identity confirmation in the PRC by eliminating the possibility that U.S. officials will transmit inaccurate information to PRC authorities. An expedited identity confirmation process could hasten the completion of repatriations. Likewise, the expedited identity confirmation process could help reveal the true reasons for the repatriation difficulties.

3. The JLG currently maintains an expert group on "fugitives and repatriations." These issues- fugitives and repatriations- should be de-linked, and the group should be split into two groups. According to several JLG participants, the PRC's main interest in fugitives through the JLG involves securing the return of corrupt CCP officials who have absconded to the U.S. with exorbitant sums of money. The main interest of the U.S. with respect to repatriations, meanwhile, is the acceptance by the PRC of the nearly 40,000 Chinese citizens whom the U.S. seeks to deport. The linking of the fugitives and repatriations issues in one working group has created an implicit connection between the two issues, such that securing the apprehension and repatriation to the PRC of Chinese fugitives by the U.S. may be seen by PRC authorities as a prerequisite for accepting the repatriations of illegal immigrants. The lack of a U.S.-PRC extradition treaty and the legal rights of individuals to due process, however, prevent the U.S. from simply trading fugitives for compliance with illegal immigrant repatriations. Dividing the fugitives and repatriations group into two groups could therefore help to prevent complications in cooperation that result from connecting these two distinct issues.

4. Taiwan's experience with repatriating illegal immigrants should be studied by U.S. diplomats and U.S. immigration authorities. The PRC had long shown reluctance to accept the repatriation of its citizens detained by Taiwan as illegal immigrants. By February 2007, however, successful repatriations brought the number of Chinese citizens awaiting deportation from Taiwan to zero. In the view of the Vice Chairman of Taiwan's Mainland Affairs Council, the PRC's acceptance of repatriations signified that Beijing was facing up to the problem of illegal emigration and showing concern for its citizens.[182] U.S. State Department officials, along with officials from Immigration and Customs Enforcement, should meet with their Taiwan counterparts in order to understand the factors that influenced the PRC's policy change on receiving returned illegal immigrants from Taiwan. Taiwan's experience may prove to offer lessons for U.S. authorities on effecting a change in the PRC's willingness to receive repatriations of illegal Chinese immigrants in the U.S.

---

[182] Y.C. Jou, "370 Chinese Illegal Migrants Sent Home Over 11 Days," *Central News Agency*, 5 February 2007, FBIS.

BIBLIOGRAPHY

Agence France-Presse. "China, United States to Step Up Cooperation in War on Drugs," 19 June 2000. Factiva.

Agence France-Presse. "FBI Wants to Open Beijing Office," 23 June 1996. Factiva.

Arieff, Irwin. "CIA Shooting Suspect Was Seeking Asylum in United States," *Reuters,* 10 February 1993. Factiva.

Associated Press. "China to Discuss Fighting Cross-Border Crime, Terror when U.S. Attorney General Visits," 17 November 2005. Factiva.

Associated Press. "Smuggler Methods Get Sophisticated," 3 July 2000. Factiva.

Associated Press. "U.S. Drug Policy Maker Comes to China to Fight Trafficking," 17 June 2000. Factiva.

Beck, Simon. "Beijing Asked to Assist US Poll Inquiry," *South China Morning Post*, 19 November 1997. Factiva.

Beck, Simon. "U.S. Opens Offices to Combat II Smugglers," *South China Morning Post*, 21 June 1997. LexisNexis.

Branigan, William. "Report to Clinton Urges Global Attack on Growing Trade in Alien Smuggling," *Washington Post,* 28 December 1995. Factiva.

Bruckert, Christine, and Colette Parent. "Trafficking in Human Beings and Organized Crime: A Literature Review." Research and Evaluation Branch, Community, Contract, and Aboriginal Policing Services Department, Royal Canadian Mounted Police, June 2002. http://www.rcmp-grc.gc.ca, accessed 7 January 2007.

Burdman, Pamela. "Business of Human Smuggling Tests U.S. Immigration Policies," *San Francisco Chronicle*, 30 April 1993. LexisNexis.

Burdman, Pamela. "More Sneak Into U.S. By Airplane Than by Boat," *San Francisco Chronicle*, 10 June 1993. LexisNexis.

Burdman, Pamela. "Smuggling Boats Seized off Baja with 659 Chinese," *San Francisco Chronicle,* 8 July 1993. LexisNexis.

Burdman, Pamela. "U.S. Deports 118 Smuggled Chinese," *San Francisco Chronicle*, 18 January 1994. Factiva.

Burdman, Pamela. "Web of Corruption Ensnares Officials Around the World," *San Francisco Chronicle*, 28 April 1993. LexisNexis.

Bush, George. "Executive Order 12711: Policy Implementation with Respect to Nationals of the People's Republic of China," 11 April 1990. http://www.presidency.ucsb.edu/ws/index.php?pid=23556, accessed 4 June 2007.

Bush, George. "Memorandum of Disapproval for the Bill Providing Emergency Chinese Immigration Relief," 30 November 1989, http://www.presidency.ucsb.edu/ws/print.php?pid=17883, accessed 4 June 2007.

Campion, Giles. "China's Top Cop Hits Out at US Cooperation over Heroin Network," *Agence France-Presse*, 26 September 1995. Factiva.

Chang, C.Y. "Overseas Chinese in China's Policy," *China Quarterly*, no. 82 (June 1980): 281-303.

Chertoff, Michael. "Remarks before Council on Foreign Relations," 23 March 2006. http://www.cfr.org/publication/10233/michael_chertoff_rush_transcript_federal_news_service_inc.html?breadcrumb=%2Fissue%2Fpublication_list%3Fgroupby%3D0%26id%3D51%26page%3D1, accessed 21 January 2007.

Chiang, Harriet. "China Assails U.S. for Allowing Drug Witness to Seek Asylum," *San Francisco Chronicle*, 9 February 1990. Factiva.

Chiang, Harriet. "Trial Witness Afraid to Return to China," *San Francisco Chronicle,* 7 February 1990. LexisNexis.

Chin, James K. "Reducing Irregular Migration from China," *International Migration* 41, no. 3 (September 2003): 49-72.

Chin, Ko-Lin. *Smuggled Chinese: Clandestine Immigration to the United States*. Philadelphia: Temple University Press, 2001.

Chin, Ko-Lin, and Roy Godson. "Organized Crime and the Political-Criminal Nexus in China," *Organized Crime* 9, no. 3 (Spring 2006): 5-44.

China Daily. "China, US Join to Repatriate Illegal Immigrants," 22 July 2006. http://www.chinadaily.com.cn/china/2006-07/22/content_647139.htm, accessed 7 January 2007.

China Daily. "China, US Near Deal on Illegal Migrants," 5 April 2006. http://www.chinadaily.com.cn/china/2006-04/05/content_560152.htm, accessed 21 January 2007

Chinese Government's Official Web Portal. "China, US Jointly Deal with Illegal Immigrants," 22 July 2006. http://english.gov.cn/2006-07/22/content_342651.htm, accessed 7 January 2007.

Chinese Government's Official Web Portal. "Luo Gan Meets US Attorney General," 19 November 2005. http://english.gov.cn/2005-11/19/content_103317.htm, accessed 15 January 2007.

Chugani, Michael. "US Reassured over *East Wood* Illegals," *South China Morning Post*, 18 March 1993, Factiva.

Clarke, Caryl. "Reno Steps to Side on Refugee Decision," *York Daily Record*, 11 December 1993. Factiva.

Congressional Research Service. "Border Security: Apprehensions of 'Other Than Mexican' Aliens," Report RL33097, 22 September 2005.

Congressional Research Service. "Immigration Enforcement Within the United States," Report RL33351, 6 April 2006.

Congressional Research Service. "Immigration Policy on Expedited Removal of Aliens," Report RL33109, 30 September 2005.

Congressional Research Service. "Immigration-Related Detention: Current Legislative Issues," Report RL32369, 28 April 2004.

Congressional Research Service. "U.S. Immigration Policy on Asylum Seekers," Report RL32621, 25 January 2007.

Dillin, John. "Spies, Terrorists & U.S. Border," *The Christian Science Monitor*, 24 March 1986. LexisNexis.

Dillin, John. "Terrorist Incidents in the US Raise Imigration Concern," *Christian Science Monitor*, 19 March 1993. Factiva.

Dillin, John. "U.S. Hiring Bans on Illegal Aliens Can Work," *The Christian Science Monitor*, 8 November 1985. LexisNexis.

Dow Jones International News. "US Attorney General Announces New FBI Office In China," 24 October 2002. Factiva.

Eckert, Paul. "U.S. Says Money Drives Human Trafficking from China," *Reuters*, 3 July 2000. Factiva.

Eckholm, Erik. "U.S. and China Agree on Steps to Fight Drugs," *New York Times*, 20 June 2000. Factiva.

Embassy of the People's Republic of China in the United States of America. "China-U.S. Joint Statement," 29 October 1997. http://www.china-embassy.org/eng/zmgx/zysj/jzxfm/t36249.htm, accessed 15 January 2007.

Epstein, Edward. "China Promises Cooperation on Immigrants, but Consulate Criticizes U.S. Policy on Asylum," *San Francisco Chronicle*, 8 June 1993. LexisNexis.

Federal Bureau of Investigation. "Legal Attache Offices." http://www.fbi.gov/contact/legat/legat.htm, accessed 20 May 2007.

Federal Document Clearing House. "General McCaffey Holds News Conference on Drug Use in China," 16 June 2000. Factiva.

Foreign Ministry of the People's Republic of China. "Foreign Ministry Spokesman's Press Conference," 24 October 2002. http://www.fmprc.gov.cn/ce/cegv/eng/xwdt/t88367.htm, accessed 15 January 2007.

Foreign Ministry of the People's Republic of China. "Foreign Ministry Spokesperson Liu Jianchao's Press Conference on 17 November 2005," 18 November 2005. http://www.fmprc.gov.cn/ce/ceee/eng/ztlm/twwt/wjbfyrth/t222083.htm, accessed 29 May 2007.

Forney, Matt. "U.S. Offers China Help Against Drug Smuggling," *Asian Wall Street Journal*, 20 June 2000. Factiva.

Garver, John W. *China & Iran: Ancient Partners in a Post-Imperial World*. Seattle: University of Washington Press, 2006.

Glossary on Migration. Geneva: International Organization for Migration, 2004.

Greenway, H.D.S. "Our New Asian Partner," *Boston Globe*, 10 January 2003. Factiva.

Haas, Peter M. "Do Regimes Matter? Epistemic Communities and Mediterranean Pollution Control," *International Organization* 43, no. 3 (Summer, 1989): 377-403.

Haines, David W., and Karen E. Rosenblum, eds. *Illegal Immigration in America*. Westport, CT: Greenwood Press, 1999.

Hays, Constance. "Drug Case Derails U.S.-China Law Tie," *New York Times*, 20 February 1994. Factiva.

Heakes, Greg. "Business as Usual Despite Consular Name Changes," *The Standard* (Hong Kong), 20 October 1996. http://www.thestandard.com.hk, accessed 27 June 2007.

Holmes, Steven A. "China Denies Violating Pact by Selling Arms to Pakistan," *New York Times*, 26 July 1993. LexisNexis.

Hood, Marlowe. "Sourcing the Problem: Why Fuzhou," in Paul J. Smith, ed., *Human Smuggling: Chinese Migrant Trafficking and the Challenge to America's Immigration Tradition*. Washington: The Center for Strategic and International Studies, 1997, 76-92.

Hutzler, Charles. "U.S., China to Coordinate Antiterrorism Efforts," *Asian Wall Street Journal,* 7 December 2001. Factiva.

Huus, Kari. "Chinese Migrants in U.S. Limbo," MSNBC, 18 April 2006. http://www.msnbc.com/id/12174500/print/1/displaymode/1098, accessed 17 January 2007.

Jackson-Han, Sarah. "US Steps up International Efforts to Fight Asian Crime," *Agence France-Presse*, 30 January 1996. Factiva.

Jou, Y.C. "370 Chinese Illegal Migrants Sent Home Over 11 Days," *Central News Agency*, 5 February 2007. FBIS.

Kronholz, June. "China Tests U.S. Immigration Plan," *Wall Street Journal*, 31 July 2006. ProQuest.

Kwong, Peter. *Forbidden Workers: Illegal Chinese Immigrants and American Labor*. New York: The New Press, 1997.

Kyle, David, and Zai Liang. "Migration Merchants: Human Smuggling from Ecuador and China," The Center for Comparative Immigration Studies, Working Paper 43, October 2001.

Kyodo News. "China, U.S. Working on Mechanism for Repatriating Illegal Chinese," 4 April 2006. Factiva.

Lampton, David M. *Same Bed, Different Dreams: Managing U.S.-China Relations, 1989-2000.* Berkeley: University of California Press, 2001.

Lanfranco, Edward. "FBI Offers Beijing Help on Olympic Security," *United Press International*, 14 June 2007. http://www.upiasiaonline.com/security/2007/06/14/analysis_fbi_offers_beijing_help_on_olympics_security/, accessed 15 June 2007.

Liang, Zai. "Demography of Illicit Emigration from China: A Sending Country's Perspective," *Sociological Forum* 16, no. 4 (Dec. 2001): 677-701.

Lindsey, Robert. "Illegal Entry by Non-Mexicans on Rise at Border," *New York Times*, 7 October 1985. LexisNexis.

Lortch, Donatella. "Immigrants From China Pay Dearly to Be Slaves," *New York Times*, 3 January 1991. LexisNexis.

Lynch, April, and Pamela Burdman, "China is Silent About Smuggler Ship," *San Francisco Chronicle*, 25 December1992. LexisNexis.

M2 Presswire. "Security Council Condemns, 'In Strongest Terms', Terrorist Attacks on United States," 13 September 2001. Factiva.

Marsh, John, and Chris Dobson. "Government Sets Up Taskforce to Stop Triads," *South China Morning Post*, 8 December 1991. Factiva.

Mathews, Jay. "Many Chinese Coming to U.S. in Policy Shift," *Washington Post*, 25 January 1979. LexisNexis.

Mathews, Jay. "Peking Promises to Ease Curbs on Foreign Trips," *Washington Post*, 4 January 1977. LexisNexis.

Mathews, Jay. "U.S.-Chinese Links Aid Coastal Fuzhou," *Washington Post*, 8 April 1980. LexisNexis.

McDonald, Joe. "Official: China Wants U.S. Action to Break Deadlock in Nonproliferation Talks," *Associated Press*, 26 February 2002. Factiva.

McFadden, Robert D. "Smuggled to New York: The Overview—7 Die as Crowded Immigrant Ship Grounds off Queens; Chinese Aboard Are Seized for Illegal Entry," *New York Times*, 7 June 1993. LexisNexis.

Ming Pao. "Envoy on U.S. Policy on Illegal Immigrants," 8 June 1993. FBIS.

Morse, Jane. "Homeland Security Chief to Discuss Illegal Migration on Asia Trip: Chertoff Says Cooperation Vital to Control Smuggling, Illegal Immigration," U.S. Department of State, *Washington File*, 24 March 2006. http://usinfo.state.gov/gi/Archive/2006/Mar/27-458544.html, accessed 16 January 2007.

Myers, Steven Lee. "Chinese Embassy Bombing: A Wide Net of Blame," *New York Times*, 17 April 2000. Factiva.

Myers, Willard H. III. "Of *Qining, Qinshu, Guanxi,* and *Shetou*," in Paul J. Smith ed., *Human Smuggling: Chinese Migrant Trafficking and the Challenge to America's Immigration Tradition*. Washington: The Center for Strategic and International Studies, 1997, 93-133.

National Public Radio. "China Turns Away Deportees from United States," *NPR: Day to Day* transcript, 12 January 2007. Factiva.

Neumeister, Larry. "Latest Suspect Had Been Released on Asylum Request; Trial Date Set," *Associated Press*, 1 April 1993. Factiva.

New York Times. "Canadian Border Faces Alien Problem of its Own," 20 April 1986. LexisNexis.

New York Times. "Reno Asks Chinese Counterpart to Aid Campaign Donor Inquiry," 18 November 1997. Factiva.

Nyíri, Pál. "Chinese Migration to Eastern Europe," *International Migration* 41, no. 3 (September 2003): 239-265.

Pear, Robert. "Immigration and the Randomness of Ethnic Mix," *New York Times*, 2 October 1984. LexisNexis.

Pomfret, John. "U.S.-China Cooperation Leads to Capture in Heroin Case," *The Washington Post,* 27 May 2003. LexisNexis.

Press Trust of India Limited, "China, US Sign Agreements on Law Enforcement," 18 November 2005. Factiva.

Reimers, David M., *Still the Golden Door: The Third World Comes to America*. New York: Columbia University Press, 1992.

Reinhold, Robert. "Flow of Third World Immigrants Alters Weave of U.S. Society," *New York Times*, 30 June 1986, LexisNexis.

Reuters. "Ashcroft to open China FBI office in war on terror," 22 Oct 2002. Factiva.

Rosenthal, Elisabeth. "U.S. Seeks China's Help in Slowing the Flood of Illegal Immigrants," *New York Times*, 4 July 2000. LexisNexis.ß

Rosenthal, Elisabeth and David E. Sanger. "U.S. Plane in China After it Collides with Chinese Jet," *New York Times*, 2 April 2001. Factiva.

San Francisco Chronicle. "Chinese Witness in Drug Case Gains Freedom After 7 Years," 20 November 1996. Factiva.

San Francisco Chronicle. "Coast Guard Boards 'Hijacked' Ship," 5 February 1993. Factiva.

San Francisco Chronicle. "Undocumented Chinese to be Repatriated," 6 March 1993. Factiva.

Sanger, David E. "Bush Meets China's Leader and Emphasizes Need to Fight Terrorism Together," *New York Times*, 19 October 2001. Factiva.

Savadove, Bill. "United States, China to Cooperate on Anti-Drug Fight," *Reuters*, 19 June 2000. Factiva.

Scobell, Andrew. "Terrorism and Chinese Foreign Policy," in Yong Deng and Fei-Ling Wang, eds., *China Rising: Power and Motivation in Chinese Foreign Policy*. Lanham, MD: Romwan & Littlefield, 2005, 305-323.

Sinai, Ruth. "China Ready To Consult on Nuclear Test Ban," *Associated Press*, 25 July 1993. Factiva.

Smith, Craig S. "China Releases U.S. Plane Crew 11 Days After Midair Collision," *New York Times*, 12 April 2001. Factiva.

Smith, Craig S. "Fearing Unrest, China Presses Muslim Group," *New York Times*, 5 October 2001. Factiva.

Smith, Paul ed. *Human Smuggling: Chinese Migrant Trafficking and the Challenge to America's Immigration Tradition*. Washington: The Center for Strategic and International Studies, 1997.

South China Morning Post. "Drug Witness 'Tortured in China,'" 10 October 1993. Factiva.

South China Morning Post. "Extradition Treaty Will Strengthen Corruption Fight, Says FBI Chief," 22 April 2004. Factiva.

South China Morning Post. "Fujian Defends Treatment of IIs," 22 July 1993. LexisNexis.

South China Morning Post. "Sino-US Drugs Battle Stumbles Against Bizarre 'Goldfish Case,'" 14 June 1992. Factiva.

Southerland, Daniel. "Chinese Crack International Drug Ring," *Washington Post*, 19 March 1988. LexisNexis.

The Standard (Hong Kong). "FBI Launches Plan to Open Beijing Bureau," 23 June 1996. http://www.thestandard.com.hk, accessed 27 June 2007.

States News Service, "Prepared Remarks for Attorney General Alberto R. Gonzales at U.S. Chamber of Commerce in Beijing," 18 November 2005. Factiva.

Strobel, Warren. "U.S. Warns of Sanctions for China's Missile Sales," *Washington Times*, 26 July 1993. Factiva.

Ta Kung Pao. "Daily Urges U.S. to Improve Immigration Laws," 9 June 1993. FBIS.

United Nations. "Protocol Against the Smuggling of Migrants by Land, Sea, and Air, Supplementing the United Nations Convention against Transnational Organized

Crime," 2000. http://untreaty.un.org/English/TreatyEvent2001/pdf/18e.pdf, accessed 7 January 2007.

United States Citizenship and Immigration Services. "Asylum." http://www.uscis.gov, accessed 27 June 2007.

United States Citizenship and Immigration Services. *Immigration and Nationality Act of 1965* http://www.uscis.gov, accessed 27 June 2007.

United States Citizenship and Immigration Services. "Obtaining Asylum in the United States: Two Paths." http://www.uscis.gov, accessed 27 June 2007.

United States Department of Commerce. "United States and China Must Intensify Joint Fight Against Piracy," Trade Compliance Center, 21 November 2005. http://tcc.export.gov/News/Archive/2005/November/index.asp, accessed 30 May 2007.

United States Department of Homeland Security. "DHS Announces Long-Term Border and Immigration Strategy," 2 November 2005. http://www.dhs.gov/xnews/releases/press_release_0795.shtm, accessed 25 May 2007.

United States Department of Homeland Security, Office of Inspector General. "Detention and Removal of Illegal Aliens," 14 April 2006. http://www.dhs.gov/xoig/assets/mgmtrpts/OIG_06-33_Apr06.pdf, accessed 5 March 2007.

United States Department of Homeland Security. "Remarks by Homeland Security Secretary Michael Chertoff to the American Enterprise Institute," 29 June 2006. http://www.dhs.gov/xnews/speeches/speech_0285.shtm, accessed 7 January 2007.

United States Department of Homeland Security. "Remarks by Homeland Security Secretary Michael Chertoff on ICE and CBP 2006 Fiscal Year Enforcement Numbers," 30 October 2006. http://www.dhs.gov/xnews/releases/pr_1162293386835.shtm, accessed 25 May 2007.

United States Department of Homeland Security. "Remarks by Secretary of Homeland Security Michael Chertoff, ICE Acting Director of Detention and Removal John Torres and CBP Border Patrol Chief David Aguilar on the Secure Border

Initiative," 23 August 2006. http://www.dhs.gov/xnews/releases/pr_1158351672542.shtm, accessed 29 May 2007.

United States Department of Homeland Security. "Statement of the Honorable Michael Chertoff, Secretary U.S. Department of Homeland Security Before the United States Senate Judiciary Committee," 28 February 2007. http://www.dhs.gov/xnews/testimony/testimony_1172853501273.shtm, accessed 3 May 2007.

United States Department of Homeland Security. *Yearbook of Immigration Statistics: 2005.* Washington, D.C.: U.S. Department of Homeland Security, Office of Immigration Statistics, 2006.

United States Department of Justice: Office of the Inspector General, Inspections Division. "Immigration and Naturalization Service: Efforts to Combat Harboring and Employing Illegal Aliens in Sweatshops," Report Number I-96-08, May 1996. http://www.usdoj.gov/oig/reports/INS/e9608/index.htm, accessed 19 March 2007.

United States Department of State. "Briefing Memorandum: Secretary of State Warren Christopher's luncheon with Foreign Minister Qian Qichen at PRC Embassy in Paris," 24 January 1994. National Security Archive, document 01666.

United States Department of State. "Briefing Memorandum: Secretary of State Christopher's Meeting with Foreign Minister Qian at the UN," 13 April 1995. National Security Archive, document 01828.

United States Department of State. "Daily Press Briefing," 7 June1993. http://dosfan.lib.uic.edu/ERC/briefing/daily_briefings/1993/9306/930607db.html, accessed 11 February 2007.

United States Department of State. "FBI Director Looks Forward to Building Strong Ties with Beijing," State Department Press Release, 22 April 2004. Factiva.

United States Department of State. "History of the Department of State During the Clinton Presidency." http://www.state.gov/r/pa/ho/pubs/8523.htm, accessed 15 January 2007.

United States Department of State. "Meissner Says Cooperative U.S.-China Anti-Smuggling Efforts Succeeding," *U.S. Official Policy Materials on US-China Relations*, 12 October 2000. http://lists.state.gov/SCRIPTS/WA-USIAINFO.EXE?A2=ind0010b&L=us-china&D=1&H=1&O=D&P=1047, accessed 12 January 2007.

United States Department of State. "Traveling Illegally to the United States Risky by Air, Sea or Land," *U.S. Official Policy Materials on US-China Relations,* 6 October 2000. http://lists.state.gov/SCRIPTS/WA-USIAINFO.EXE?A2=ind0010a&L=us-china&D=1&H=1&O=D&P=655, accessed 15 January 2007.

United States Embassy to the People's Republic of China. "Attorney General John Ashcroft: Press Conference at Conclusion of China Visit," 24 October 2002. http://www.usembassy-china.org.cn/press/release/2002/1024ASHpress.html, accessed 28 May 2007.

United States Embassy to the People's Republic of China. "General Barry R. McCaffrey, White House Office of National Drug Control Policy, Press Conference," 19 June 2000. http://www.usembassy-china.org.cn/press/release/2000/ptr/mccaffrey.html, accessed 17 January 2007.

United States Embassy to the People's Republic of China. "Statement by Ambassador Francis X. Taylor," 6 December 2001. http://www.usembassy-china.org.cn/press/release/2001/ptr/06dec01.html, accessed 17 January 2007.

United State Senate. "Statement of Alan G. Ringgold, Deputy Assistant Director FBI, before the Senate Committee on Foreign Relations, Subcommittee on East Asian and Pacific Affairs, Hearing on U.S. Law Enforcement Interests in Hong Kong," 10 April 1997. http://www.globalsecurity.org/security/library/congress/1997_h/s970410r.htm, accessed 5 June 2007.

Voice of America. Interview with John Torres, Director of Office of Detention and Removal, U.S. Immigration and Customs Enforcement, "Foreign Repatriation Refusals Cost US Millions of Dollars," 20 April 2006, Factiva.

Wall Street Journal. "U.S. Sends Banker Back to China Over $485 Million Embezzlement,"19 April 2004. Factiva.

Wang, Fei-Ling. *Organizing Through Division and Exclusion: China's Hukou System*. Stanford, CA: Stanford University Press, 2005.

Washington Post. "Transcript of Clinton-Jiang News Conference," 30 October 1997. LexisNexis.

White House. "Presidential Decision Directive 9: Alien Smuggling," 18 June 1993. http://www.fas.org/irp/offdocs/pdd9.txt, accessed 16 March 2007.

White House, Office of the Press Secretary. "Fact Sheet: Achievements of U.S.-China Summit," 27 June 1998. http://www.fas.org/news/china/1998/prcfact1.htm, accessed 20 January 2007.

White House, Office of the Press Secretary. "Fact Sheet: Alien Smuggling Policy," *U.S. Department of State Dispatch* 4, no. 29 (19 July 1993): 17-19. http://dosfan.lib.uic.edu/ERC/briefing/dispatch/1993/html/Dispatchv4no29.html, accessed 15 January 2007.

Winer, Jonathan M. "Alien Smuggling: Elements of the Problem and the U.S. Response," paper presented at the U.S. Working Group on Organized Crime, National Strategy Information Center, Washington, D.C., 1997.

Woodward, Susan L. "Enhancing Cooperation against Transborder Crime in Southeast Europe: Is There an Emerging Epistemic Community?," *Southeast European and Black Sea Studies* 4, no. 2 (May 2004): 223-240.

Xiang Biao. "Emigration from China: A Sending Country Perspective," *International Migration* 41, no. 1 (September 2003): 21-48.

Xinhua. "China, U.S. Agree to Enhance Cooperation in Law Enforcement Effort," 18 November 2005. Factiva.

Xinhua. "China, U.S. to Further Cooperate in Cracking Down on Drugs," 19 June 2000. Factiva.

Xinhua. "Chinese, U.S. Presidents Talk over Phone," 12 September 2001. Factiva.

Xinhua. "Corrupt Chinese Official Repatriated from US," 16 April 2004. FBIS.

Xinhua. "East Turkistan Terrorist Forces Cannot Get Away with Impunity," 21 January 2002. FBIS.

Xinhua. "FBI Willing to Help China with Olympic Security," 13 June 2007. FBIS.

Xinhua. "Foreign Ministry Holds Weekly News Briefing: On Illegal Emigration to the U.S.," 10 June 1993. FBIS.

Xinhua. "PRC FM Spokesman: PRC, US Reach Agreements on Anti-Terrorism, Illegal Migration," 4 April 2006. FBIS.

Xinhua. "PRC, U.S. Establish Joint Liaison Group on Law Enforcement," 14 May 1998. FBIS.

Xinhua. "State Councilor Zhou Yongkang Makes an Official Visit to the United States," 30 July 2006. FBIS.

Xinhua. "US Attorney General Says Corrupt Officials Should be Brought Under Justice," 19 November 2006. Factiva.

Xinhua. "US Secretary of State Warren Christopher's Talks with Qian Qichen in Beijing," 14 March 1994. BBC Monitoring.

Zhang, Sheldon and Ko-Lin Chin. "Characteristics of Chinese Human Smugglers: A Cross-National Study," U.S. Department of Justice, National Criminal Justice Research Service, Document No. 200607, 24 June 2003. http://www.ncjrs.gov/pdffiles1/nij/grants/200607.pdf, accessed 7 January 2007.

Zhang, Sheldon, and Ko-Lin Chin. "Enter the Dragon: Inside Chinese Human Smuggling Organizations," *Criminology*, 40, no. 4 (November 2002): 737-768.

Zhongguo Tongxun She. "China and the United States Step up Cooperation in the Field of Security and Law Enforcement," 1 August 2006. FBIS.

Zhongguo Xinwen She. "PRC FM Spokesman Says China, US to Cooperate on Illegal Immigration," 4 April 2006. FBIS.