

MAKING IMMIGRATION WORK FOR AMERICAN MINORITIES

HEARING
BEFORE THE
SUBCOMMITTEE ON
IMMIGRATION POLICY AND ENFORCEMENT
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
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MAKING IMMIGRATION WORK FOR AMERICAN MINORITIES

TUESDAY, MARCH 1, 2011

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION
POLICY AND ENFORCEMENT,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:04 a.m., in room 2141, Rayburn House Office Building, the Honorable Elton Gallegly (Chairman of the Subcommittee) presiding.

Present: Representatives Gallegly, Smith, King, Gohmert, Poe, Conyers, Lofgren, Jackson Lee, Waters, and Pierluisi.

Staff Present: (Majority) Andrea Loving, Counsel; Marian White, Clerk; and David Shahoulian, Minority Counsel.

Mr. GALLEGLY. Good morning. I call to order the Subcommittee on Immigration Policy and Enforcement.

This morning, we are going to start—I guess we will have an opening. I have long said the way to solve the problem of illegal immigration is fairly simple. First, we must enforce our laws and secure the border. Second, we must remove the magnets that encourage illegal immigration. And finally, we must remove the benefits that make it easy for them to stay.

With nearly 14 million unemployed Americans, removing the magnets—I am sorry, I have got the—excuse me just one moment.

[Pause.]

Mr. GALLEGLY. I am sorry about that. I got just a little bit ahead of myself.

When employers hire foreign workers who will work for less than American workers, Americans lose jobs. So importing millions of poorly educated foreign workers won't help our country. But instead, it will only hinder its growth.

This morning's hearing is the third in a series which this Subcommittee will be examining, the connection between immigration and jobs. Today, we are exploring perhaps one of the most important aspects of that connection—the effect that low-skilled immigrants have on the employment of American minorities.

This topic is often ignored by amnesty supporters. But Republicans held a 2007 forum on the issue, and we invited a witness to discuss it at the 2010 hearing. So I am pleased that the Immigration Subcommittee is taking a formal look at it today.

The 13.9 million unemployed Americans deserve every chance possible to find a job, and our focus should be on ensuring that

every U.S. citizen who is willing to work has a job, instead of giving jobs to foreign laborers.

Many of those impacted by the current job crisis are minorities. The unemployment rates for Blacks and Hispanics are 15.7 and 11.9, respectively. They often compete for jobs with low-skilled immigrant workers.

In 2006, Harvard professor George Borjas researched the effects of immigration and the wages and employment rates of the African-American population. He concluded that a 10 percent immigrant-induced increase in the supply of a particularly skilled group reduced the Black wage by 3.6 percent. And he found that the same increase in labor supply lowered the employment rate of Black men by 2.4 percent.

Using census data from 1960 to 2000, Borjas determined that as immigrants disproportionately increase the supply of workers in a particular skill group, there was a reduction in the wage of Black workers in that group, a reduction in the employment rate, and a corresponding increase in the incarceration rate.

And young people have been hit especially hard by the recession. In fact, of young U.S.-born Blacks ages 18 to 29, 55 percent have no education higher than a high school diploma, and of young U.S.-born Hispanic, 54 percent have no education higher than a high school diploma.

These low-skilled legal workers are the ones who have to compete with the jobs with the three-fourths of illegal immigrants who have no education beyond high school. They are the real victims of the American failed immigration policy. Recent research confirms that assertion.

In August 2010, the report by the Center for Immigration Studies noted that according to the U.S. Census Bureau and Bureau of Labor Statistics data from 2007 to 2010, younger and less educated workers are the most likely to be in competition with immigrants, legal and illegal. And in July 2010, a report by the Center for Labor Market Studies at Northeastern University noted that immigrants—especially less educated, undocumented immigrants—provide fierce competition for jobs for the Black male teens.

Several of our witnesses today have seen firsthand the impact that mass low-skilled immigration has had on minority communities. I look forward to hearing their testimony as we move through the hearing.

And at this point, I would yield to my friend from California, the Ranking Member, Ms. Lofgren.

Ms. LOFGREN. Thank you, Mr. Chairman.

Hopefully, all of us in this room can agree on some things. I am sure we can all agree that our immigration system should be designed to benefit our country, our economy, and all American workers. And I know we agree that a functioning system means stopping illegal immigration. We can agree that unscrupulous employers will exploit immigrant workers and undercut American workers, and that can't be.

I hope we can also agree that our laws should prevent employers from using legal temporary workers to displace American workers. America needs a system that lets in workers only where and when we need them, not where and when we don't.

Where we do disagree is on how to get to such a system. Witness Carol Swain, for example, has often criticized the H-2B visa program, and I agree with her.

Last year, I introduced a bill that would reform that program to prevent employers from using H-2B workers to undercut U.S. workers. Unfortunately, no one on the other side of the aisle joined me in that effort.

That is perhaps because many of my colleagues believe that rather than fix our broken system, we should just keep pressing on the enforcement pedal harder. But increased enforcement is exactly what we have been doing for 20 years, and everyone knows it isn't working.

Most importantly, we know you can't just keep enforcing a broken system. As we have discussed in this Committee's last few hearings, simply enforcing our laws in agriculture, for example, would actually destroy many millions of jobs held by American workers.

We know that even in this economy, Americans are not returning to the fields, and the wage increase necessary to entice them there would make U.S. food products no longer competitive with imported products. The end result would be the closure of America's farms, a less secure America, and the mass offshoring of millions and millions of U.S. jobs. These are not just farm jobs, but jobs supported by agriculture in manufacturing, seed production, processing, packaging, distribution, and accounting.

Studies show that for every farm worker we deport, we may be deporting three other jobs held by Americans. This is the real math of our complicated economy. Enforcement without reform may open up a job over here, only to destroy four over there.

These facts can be hard to accept when our country is facing the greatest economic challenge since the Great Depression. People are out of work, and many are out of hope. Unemployment is stubbornly high, especially in communities of color. It is a time when many are eager for answers.

But we need more than sound bites. We know there are unscrupulous employers who capitalize on undocumented workers to undercut other employers, but some may point to instances of displacement and draw a conclusion about all immigration and offer unrealistic prescriptions for mass deportation that will harm and not help our communities.

As policymakers, we need to consider all available information. We need to consider that the vast majority of economists and all of the most recent research in the area confirm that immigrants actually improve the job prospects of U.S. workers. Disinterested economic experts, in report after report, reach such conclusions.

While some economists have found slight negative effects on the small and shrinking number of Americans without high school diplomas, much of the newest research reverses those findings and shows that even such workers have benefited from immigration. A recent study by the Economic Policy Institute finds that workers without high school diplomas saw their wages go up because of immigration. It also shows that similar positive impacts were experienced by White and Black non-Hispanic workers alike.

With African Americans specifically, recent studies by the brightest economic minds show that immigration does not have the negative effects that some would suggest. Economist Steven Pitts of UC-Berkeley, Bernard Anderson of the University of Pennsylvania, Gerald Jaynes of Yale, and Heidi Shierholz of EPI conclude that African Americans have generally benefited from immigration, as many have moved up as immigrants have moved in.

These findings have surprised many, including the economists themselves. Mr. Jaynes, a professor of economics and African-American studies at Yale, himself said—and I quote—“Despite strong convictions for our hypothesis that immigration had large negative effects on Black workers in particular, the data forced us to conclude otherwise. Negative effects were mostly absent and modest at worst for only a small segment of lowest-skilled workers.”

How can this be? It is because although immigrants fill jobs, they also create jobs in various ways. They create jobs by consuming goods and services. They also often fill jobs that an insufficient number of Americans want to fill, resulting in the continued viability of certain industries, like agriculture, that support jobs in other industries, like manufacturing and processing.

The challenge we face as policymakers is to reconcile these facts in order to develop a system that works for America. My colleagues argue that by simply increasing enforcement, we will free up jobs for American workers. But this is no jobs plan.

Their approach may have superficial appeal, but mass deportation is hardly smart economic policy. It is a short-sighted effort that would be costly and would fail. What we need to do is roll up our sleeves and fix our laws. We need to secure our borders and close off magnets for undocumented workers.

We need to be realistic about this population. We can spend billions in a futile attempt to deport them all, or we can require them to register, pay taxes, learn English, and ensure that they are in the system, following the rules. If we level the playing field and prevent exploitation by unscrupulous employers, we can protect all workers.

Our goal must be nothing less than an immigration system that actually responds to our economy and serves the interests of American businesses and workers. That is the work America needs us to do.

And I yield back, Mr. Chairman.

Mr. GALLEGLY. The gentleman from Texas, the Chairman of the full Committee, Mr. Smith.

Mr. SMITH. Thank you, Mr. Chairman.

With unemployment at or over 9 percent for 21 months, jobs are scarce. And that is especially true in minority communities across the United States.

According to the Bureau of Labor Statistics, in January, the unemployment rate for Blacks was 16 percent, and for Hispanics, 12 percent. These unemployment rates are much higher than the national average.

According to the Pew Hispanic Center, 7 million people are working in the U.S. illegally. These jobs should go to legal workers, many of whom will be minorities.

Virtually all credible studies show that competition from cheap foreign labor displaces American workers, including legal immigrants, or depresses their wages. The Center for Immigration Studies found that low-skilled workers lose an average of \$1,800 a year because of competition from illegal immigrants for their jobs. That is a significant economic hit.

A study by Harvard economist George Borjas shows that cheap immigrant labor has reduced the wages of American workers performing low-skilled jobs by 7.4 percent. That is a huge wage cut.

But research is not the only proof. After illegal workers are arrested and detained during Immigration and Customs Enforcement worksite enforcement actions, many businesses replace them with American minorities.

Georgia's Crider, Inc., lost over 600 illegal workers after an ICE worksite enforcement action. The company increased wages a dollar an hour and attracted legal workers, primarily Black Americans.

There are stories like these all over the United States. Enforce immigration laws, and unemployed Americans will be back on the payroll and earning a living for themselves and their families.

Unfortunately, the Administration has almost stopped conducting worksite enforcement actions and prosecuting illegal workers. Instead, they conduct I-9 audits and release the illegal workers so they can walk down the street and take another job from an American worker.

Each time ICE arrests, detains, or deports an illegal worker, it creates a job opportunity for an American worker. Each time the Department of Justice brings a criminal action against an employer who knowingly hired illegal workers, it sends a powerful message that their illegal employment will not be tolerated.

Unfortunately, worksite enforcement has plummeted under the Obama administration. Administrative arrests have fallen 77 percent from 2008 to 2010. Criminal arrests have fallen 60 percent. Criminal indictments have fallen 57 percent, and criminal convictions have fallen 66 percent.

With millions of Americans unemployed, it is hard to imagine a worse time to cut worksite enforcement efforts by more than half. Not only could the Administration enforce immigration laws to help protect jobs for Americans, but they should also expand the use of the E-Verify system. It is the easiest way to help an employer know that their workforce is legal.

The Administration needs to be held accountable for not doing more for American workers.

Mr. Chairman, I would also like to welcome all of our witnesses today. They are all experts and all friends, and I appreciate their being here.

I yield back.

Mr. GALLEGLY. Thank you very much, Mr. Chairman.

At this time, I would recognize the Ranking Member of the full Committee, the gentleman from Michigan, Mr. Conyers.

Mr. CONYERS. Thank you, Chairman.

I am very happy to be with you again, Elton Gallegly, on this, the third hearing on this subject. And of course, this is the first day

of the third month of the 112th Congress, and we have had on the floor five bills.

The biggest, of course, was the huge cuts that resulted the week before this one, H.R. 1, the continuing appropriation in which we introduced some 67 amendments and passed the bill at about 4:45 a.m. The second was H.R. 2, the repeal of the healthcare law. And that, again, succeeded.

And the fourth, H.R. 4 was small business paperwork mandate elimination, which also came out of this Committee. And Thursday, we will have H.R. 3 on the floor, No Taxpayer Funding for Abortion Act. And the leadership has now reserved the 6th, 7th, 8th, 9th, and 10th bills to be determined.

If this is the approach toward creating jobs, I don't want to minimize the effort because there are some important issues in this hearing. But remember, both Democrats and Republicans campaigned on the notion that we would create jobs, and we are creating very few jobs.

Now this is a very sensitive subject because if we are not careful—and I have a very optimistic and expanded view of what we can accomplish here today—but the notion that is underneath the surface of pitting African-American workers against Hispanic workers and immigrants is so abhorrent and repulsive to me that I want to get it on the table right now.

And I will be watching very closely for anybody that tries to suggest that we are going to divide these two minorities who have much more things in common than they have in difference. And so, this becomes very, very important.

Now I was hoping that we could get the president of the Coalition of Black Trade Unionists, Bill Lucy, who is, in addition, an executive board member of the AFL-CIO, who spent his whole life working in this. But unfortunately, he wasn't available, and I presume that the Chair would have been appropriately welcoming this witness as well.

But he has a statement to submit.

[The information referred to follows:]

PREPARED STATEMENT OF WILLIAM LUCY, PRESIDENT,
COALITION OF BLACK TRADE UNIONISTS

The Coalition of Black Trade Unionists (CBTU) proudly represents the interests of over 2.5 million black men and women in the labor movement. With one in every five black workers in a union, the labor movement is the single largest organization of African Americans in the nation. Since its founding in 1972, the CBTU has fought for economic, political and social justice for every American and used its powerful voice to demand fairness, equal pay, and a voice on the job for all workers. It is in this spirit that CBTU advocates for comprehensive immigration reform.

CBTU strongly supports the Labor framework for comprehensive immigration reform which calls for: an independent commission to assess and manage future flows, based on labor market shortages that are determined on the basis of actual need; a secure and effective worker authorization mechanism; rational operational control of the border; adjustment of status for the current undocumented population; and improvement, not expansion, of temporary worker programs, limited to temporary or seasonal, not permanent, jobs.¹

IMMIGRATION REFORM SHOULD NOT BE PORTRAYED AS A WEDGE ISSUE

While we appreciate the subcommittee's focus on minority workers, we are deeply concerned the hearing will be used as a forum to blame immigrants for "stealing jobs" and attempt to divide African-American workers from Latino workers and newly-arrived immigrants from earlier-arriving immigrants. We sincerely hope members of the subcommittee and witnesses in today's hearing will rise above such simplistic views and refrain from divisive rhetoric.

Immigration reform is not an "us versus them" issue; it is an issue that impacts all of us. For far too long, unscrupulous employers have manipulated our broken immigration system to exploit undocumented workers, deny workplace protections, depress wages and stifle collective bargaining rights. This abuse has had a detrimental impact on all workers and must be stopped.

IMPROVING WORKERS RIGHTS WILL HELP MINORITY WORKERS

CBTU encourages the subcommittee to look at improving labor, health and safety laws as a way to "make immigration work for minorities." Prioritizing workers' rights and workplace protections will ensure that our immigration system does not depress wages and working conditions for American workers. Promoting the freedom to form union and increasing access to collective bargaining will also benefit minority workers.

By bargaining collectively, union members are often able to negotiate higher wages and better benefits. Union members earn almost 28 percent more than non-union members. The union wage benefit is greatest for people of color and women. Latino union workers earn almost 51 percent more than their nonunion counterparts. Union women earn almost 34 percent more than nonunion women. For African Americans, the union advantage is 31 percent. For Asian American workers the union advantage is close to 1 percent.²

CONCLUSION

CBTU reaffirms its commitment to comprehensive immigration reform, as outlined in the Labor framework. We encourage Congress to take a comprehensive approach to immigration reform and prioritize workers' rights. Ensuring that workers come out of the shadows and participate in the above-ground economy will raise labor standards for all workers.

Mr. CONYERS. Now the NAACP has been working on this issue for decades. The Congressional Black Caucus has been working on this issue for decades. We welcome our Judiciary Committee putting an oar in on this as well.

¹ "The Labor Movement's Framework for Comprehensive Immigration Reform," AFL-CIO and Change to Win, April 2009, available at <http://www.aflcio.org/issues/civilrights/immigration/upload/immigrationreform041409.pdf>

² U.S. Department of Labor, Bureau of Labor Statistics, "Union Members in 2010", January 2011, table 2.

And so, this is a very important hearing, and I know our witnesses are going to be careful about their remarks because they will be scrutinized long after this hearing has ended.

Now the one thing that I want to clear up, if I can, with the Chairman of the Judiciary Committee, Lamar Smith, is that the numbers of people being arrested at the borders and the enforcement of our borders is, as I interpret what he said, more lax than ever. Or that the numbers are not proving what—they are proving that there needs to be more work on it.

But that, Chairman Smith, is only if you take out the number of helicopter raids and big, mass busts, when they go into one plant and arrest everybody in sight. That is true that that sort of conduct is not going on. But we are enforcing our border security laws more effectively, from my point of view, than ever before.

Last year, we deported a record number of immigrants. We have now more Border Patrol officers at our U.S.-Mexican border than ever before. And border crossings are at the lowest level since the year 1972. And there are all sorts of statistics that will be brought forward.

But let us agree that we will work toward the accuracy of what is going on at the border because I think there is agreement that that is the key to cutting down and reducing to the maximum illegal entry into this country through our U.S.-Mexican border. And so, I am very much committed to this hearing.

But there is a suggestion that somehow if we cut off immigrants, we will then be able to hire, particularly for farm workers, my Subcommittee Chair mentioned, we will be able to hire African Americans. Well, I have got a half dozen or more States that we can pay a visit to, and we might want to take a little trip out to these areas and find out from the farmers themselves what they are saying.

If you really want to scare our agriculture industry in a new and different way, tell them that you are going to eliminate the immigrants that work in these fields at stoop labor at cheap wages, under deplorable conditions, I think you will find that their anticipation of being replaced by unemployed African Americans at this field will not be zero. It might be 1 or 2 percent. And so, I hope that this discussion comes out in what we will be doing here today.

The way we are going to deal with creating jobs is to stimulate the economy and create some jobs. I have heard it said from my friends here in the Judiciary Committee that we should collect up every illegal immigrant and send them out of this country, and I will probably hear that again today, which is a point of view that is permissible under democratic discussion of how we should govern.

But I hope that we will get past that. That is not what this country is about, and an immigration policy, which this Committee has jurisdiction over, we have got people now born in this country whose parents were immigrants and who may not have been here legally and who are now citizens. And that is another big challenge that awaits, Chairman Gallegly, this distinguished Subcommittee's work.

And so, I thank you very much for giving me the opportunity to join in this discussion in the hearing today.

Mr. GALLEGLY. Thank the gentleman for his opening statement.

We are fortunate to have a very distinguished panel of witnesses with us today. Each of the witnesses' written statement will be entered into the record in its entirety, and I would ask that each witness summarize his or her testimony in 5 minutes, if possible, to help stay within the time constraints that we have here today.

We have the lights that will help as an indication of the amount of time that has been taken, and I would ask that everybody be sensitive to that.

Our first witness is Dr. Carol Swain. Dr. Swain is a professor at Vanderbilt University Law School and was a tenured associate professor of politics and public policy at Princeton University's Woodrow Wilson School of Public and International Affairs. Her work on representation and race relations has earned her national and international accolades.

Dr. Swain, welcome?

TESTIMONY OF CAROL M. SWAIN, Ph.D., PROFESSOR OF POLITICAL SCIENCE AND LAW, VANDERBILT UNIVERSITY

Ms. SWAIN. Good morning.

President Obama's failure to enforce Federal immigration laws raises the question of whether we are a nation of laws or a nation without the courage of its convictions. This failure to enforce many of the congressionally enacted laws of our Nation places our citizens at risk, and it damages our national sovereignty and standing in the world.

Under our constitutional system, the President and Members of Congress and other officers take an oath of office where they swear to defend the U.S. against all foreign and domestic threats. The failure to enforce immigration laws means that the American public is unprotected from a massive influx of millions of foreign-born persons who have entered this country without authorization and have taken jobs and opportunities from law-abiding American citizens.

It does not matter that some of these unauthorized foreigners are otherwise good people. Maybe most of them are good people. What matters is their choice to enter this country unlawfully, in open violation of our laws.

By not defending our laws, the President risks the kinds of lawlessness that we find rampant in other parts of the world. It dishonors us, and it dishonors our Nation when the chief executive sends the signal to the world that laws no longer matter.

The American people have spoken. Poll after poll has shown that the American people would like immigration laws enforced and current levels of immigration reduced. All Americans are suffering from unemployment, job displacement, and stagnant or declining wages. But some Americans suffer more than other Americans.

The unemployment data show that native-born Blacks and Hispanics with a high school education or less have been harmed the most by the oversupply of cheap, low-skilled foreign labor. Unfortunately, a lack of opportunities in the legal job market has pushed more and more minorities into illegal activities.

Harvard economist George Borjas conducted a study of Black male employment and found a precipitous decline in Black employment between 1960 and 2009 that was accompanied by a sharp in-

crease in their incarceration rate. This decline in Black employment and the rise in incarceration rates cannot be explained by the prevalence of crack cocaine or other factors.

Borjas concluded that a 10 percent immigration-induced increase in the supply of a particular skill group reduced the Black employment wage by 3 percent, lowered the employment rate of Black men by about 5 percentage points, and increased the incarceration rate of Blacks by a percentage point.

Congress can address these issues. Lawlessness has no place in America. Congress should take immediate steps to regain the confidence of the American people in the rule of law. Congress should use its oversight authority to ensure that Homeland Security is enforcing existing Federal laws and not using our Federal dollars to sue States.

Congress should increase workplace verification and enforcement, a restoration of the Social Security no-match regulation, a return to workplace raids, detention of unauthorized foreigners who pose a flight risk, and stiff penalties for employers who repeatedly hire illegal aliens.

Right now, there is a bill before Congress that would make E-Verify permanent and mandatory for all businesses. H.R. 800 would require employers to check the eligibility status of new and existing employees, and it would establish penalties for noncompliance. H.R. 800 needs to be passed quickly and signed into law.

Congress also needs to strengthen the hands of local law enforcement officials and give them the authority to assist with enforcement of immigration laws. Sanctuary cities, towns, and States should lose their Federal funding.

These difficult measures are necessary if we are to protect the health and well-being of the American public while maintaining our national sovereignty and the rule of law.

Thank you.

[The prepared statement of Ms. Swain follows:]

Dr. Carol M. Swain

Testimony for the

**House Judiciary Committee on Immigration Policy and Enforcement's Subcommittee
Hearing on Making Immigration Work for American Minorities**

March 1, 2011

Rayburn Room 2138

The Rule of Law

President Obama's failure to enforce federal immigration laws raises the question of whether we are a nation of laws or a nation without the courage of its convictions. This dereliction of duties places our citizens at risk, and it damages our national sovereignty and standing in the world. Under our Constitutional system, the President, members of Congress, the Supreme Court, other elected and appointed officials take an oath of office where they solemnly swear to faithfully execute the duties of office "to the best of my ability, preserve, protect and defend the Constitution of the United States." Defending the United States includes taking action against all foreign and domestic threats. The failure to enforce immigration laws means that American citizens are unprotected from a massive influx of millions of foreign-born persons who have entered the country without authorization and have openly stolen jobs, goods, and opportunities from law-abiding American citizens. It does not matter that some of the unauthorized foreigners are otherwise good people. What matters is their choice to enter the country unlawfully and thumb their noses at the laws and regulations that Congress has enacted to protect the people. By not defending our laws, the president risks and encourages the kinds of lawlessness that we find rampant in other parts of the world. It dishonors us, and it dishonors our nation when the Chief Executive sends the signal to the world that duly enacted laws no longer matter.

I will address the preferences of the American people for immigration enforcement and the harmful impact that high levels of legal and illegal immigration have had on segments of Americans that include poor whites, blacks, and native-born Hispanics. I conclude my testimony by focusing on the need for workplace verification and enforcement that includes employee sanctions, raids, and stiffer penalties for persons found living and working in the country illegally. If we want to solve the problem of illegal immigration, then the country has to get

serious about increasing the penalties for persons found residing in the country illegally. Congress needs to pass legislation requiring current illegal immigrants to register their presence in the country with state, local, and federal officials within six months of the passage of the legislation or suffer the consequences of immediate deportation proceedings if they fail to comply. This may seem harsh but there is no other way to get a handle on the problem of illegal immigration and the dereliction of duties that have occurred at the highest levels of government.

The American people have spoken

Poll after poll has shown that the American people would like to see levels of legal and illegal immigration reduced. Despite their preferences, elected leaders have looked in the other direction.¹ A February 10-11, 2011 Rasmussen Poll found that 67 percent of Americans given a choice between the passage of new immigration laws and enforcement preferred the enforcement of existing immigration laws.² Enforcement of federal laws is something that rarely happens or when it does happen, it happens in a haphazard manner. Not only is the current presidential administration not adequately enforcing immigration laws, it has used the power of the federal government to fight states and localities who have made good faith efforts to assist the federal government in performing its constitutional duties to protect the citizenry against domestic and foreign threats. The politically correct, non-enforcement approach to immigration enforcement that has also characterized some other presidential administrations has led to an estimated 8 million illegal aliens holding jobs in a labor market³ while 14 million Americans remain unemployed: millions of other Americans have simply given up on looking for work.

Who suffers the most?

Americans of all races are suffering from unemployment, job displacement, and stagnant or declining wages. But some suffer more than others. Unemployment has not affected the foreign born to the same extent as the native born. A study at the Pew Hispanic Center found that during the current recession foreign born workers have gained employment while native workers continued to lose jobs.⁴ In February 2011, the Bureau of Labor Statistics (BLS) placed the percentage of unemployed Americans at 9 percent down from 9.4 percent in December. But, the Gallup Poll survey of households, which is not seasonally adjusted, places the unemployment rate at 9.8 percent with 18.9 percent underemployed. Of course, these figures do not include the unknown millions of Americans who have abandoned the labor force. The black unemployment rate stands at 15.7 percent and the Hispanic rate at 11.9 percent compared with the white rate of

8 percent. Unfortunately, black Americans have not had effective representation on the issue of how competition with the illegal immigrant work force impacts their employment and educational opportunities.⁵

Unemployment data show that it is native-born blacks and Hispanics with a high school education or less who suffer the most in the current economic situation. These are the groups that compete directly with illegal aliens for a dwindling supply of employment opportunities. Unfortunately, a lack of opportunities in the legal jobs market has pushed and it will continue to push more and more minorities into illegal activities. The exact correlation between immigration and black unemployment and incarceration rates can be measured using econometric models. Harvard economist George Borjas's research team conducted a longitudinal study of black male employment and found a precipitous decline between 1960 and 2009 that was accompanied by a sharp rise in their incarceration rate that cannot be explained by the prevalence of crack cocaine or other factors. The Borjas team concluded that a "10% immigration-induced increase in the supply of a particular skill group reduced the black wage by 3%, lowered the employment rate of black men by about 5 percentage points, and increased the incarceration rate of blacks by a percentage point."⁶ In the 2nd quarter of 2010, only 51.4 percent of blacks were employed even though the economy was improving for some groups.⁷

The U-6 Measure

The U-6 measure includes unemployed people who would like to have a job but have not looked recently and persons with part-time jobs who would like to work full-time. It does not include those who have totally abandoned the labor force. Using U-6 as our measure, we find that the overall unemployment rate for native-workers in the third quarter of 2009 was 15.9 percent. (In February 2011, the U-6 was 16.5 percent.) The 2009 data shows that native-born workers with less than high school education have an overall unemployment rate of 20.5 percent and a U-6 rate of 32.4 percent. That represents a lot of people out of work. If we look at the unemployment rate for young native-born Americans (18-29) with only a high school education, their rate is 19 percent with a U-6 rate of 31.2 percent.

The February 2011 unemployment rate for blacks is 15.7% and native-born Hispanics 11.7, whereas the rate for whites is 8%. The overall unemployment situation for minorities has not changed much since the 3rd quarter of 2009. Native-born blacks with less than a high school education have an unemployment rate of 28.8 percent and a U-6 measure of 42.2 percent.⁸

Almost half of the people who would like to be working full-time are either unemployed or underemployed. As is always the case, young people are the most affected. Young native-born blacks (18-29) with a high school education have an unemployment rate of 27.1 percent and a U-6 rate of 39.8 percent. Black men are the group most adversely impacted by competition from illegal workers and guest worker programs that bring low-skilled workers into the country.

When we look at the unemployment rates for native-born Hispanics, their numbers look slightly better than blacks. But both groups have serious unemployment issues, especially the native-born Hispanics with less than a high school education. This group has an unemployment rate of 23.2 percent and a U-6 rate of 35.6 percent. Young Hispanics (18-29) with a high school degree do better than blacks. Their overall unemployment rate is 20.9 percent and their U-6 rate is 33.9 percent.

The Educational Factors

In 2008, blacks had a worsening high school dropout rate of 9.9 percent up from 8.4 percent the previous year. Dropout rates are calculated on the basis of the number of persons between the ages of 16-24 not in school who have not earned a high school diploma or equivalency. Hispanics had a dropout rate of 18.3 percent down from 21.4 percent the previous year. The Native Americans rate had improved from 19.3 percent in 2007 to 14.6 percent in 2008. Whites had the lowest dropout rate of 4.8 percent down from 5.3 percent the previous year.⁹ So once again blacks face a worsening situation. Nevertheless, a recent Washington Post-Kaiser Family Foundation Poll found blacks and Hispanics more optimistic about their futures than white Americans. Despite losing their homes to foreclosures and their jobs at a greater rate than any other group, a majority of blacks Americans felt that the economy was improving and so would their own personal circumstances.¹⁰

What Congress can and should do?

Lawlessness has no place in America. Congress should take immediate steps to regain the confidence of the American people in the rule of law and the faithful execution of Constitutional values and principles. Congress should use its oversight authority to ensure that Homeland Security is enforcing existing federal laws and not using governmental resources to sue Border States that have been left on their own to defend and protect the well-being of its residents.

Congress should encourage increased workplace verification and enforcement, a restoration of the social security no-match regulation, a return to workplace raids, detention of unauthorized foreigners who pose a flight risk, and stiff penalties for employers who repeatedly hire illegal aliens.

Congress also needs to encourage and demand that state, federal, and local authorities take aggressive steps to ensure that all businesses, public and private, participate in the now voluntary federal E-Verify Program. Currently, there is a bill before Congress that would make E-verify permanent and mandatory for all businesses. H.R. 800 would require employers to check the eligibility status of new and existing employees, and would establish penalties for non-compliance. H.R. 800 needs to be passed quickly and signed by the President. In addition, Congress should allocate more funds to improve E-Verify, so that it can more easily detect identity fraud and employer circumvention.¹¹

Lastly, Congress needs to strengthen the hands of local law enforcement officials and give them the authority to assist with enforcement of immigration laws. Sanctuary cities, towns, and states should lose their federal funding. Most importantly, we need new legislation requiring every person in the country unlawfully to register their presence with authorities within a six-month period after passage of the legislation. Anyone caught deliberately ignoring the new law would be subject to immediate deportation. These difficult measures are necessary if we are to protect the health and well-being of our citizens and permanent residents, while maintaining our national sovereignty and the rule of law established by the U.S. Constitution.

¹ Peter H. Schuck, "The Disconnect between Public Attitudes and Policy Outcomes," in Carol M. Swain (ed.) *Debating Immigration* (New York, NY: Cambridge University Press, 2007), 17-31; Lymari Morales, "Americans Return to Tougher Immigration Stance: More want immigration decreased than kept the same," Gallup Poll, August 5, 2009.

² Question wording: "In order to combat illegal immigration in the United States do we need new immigration laws or do we need to enforce the existing immigration laws?" Rasmussen Poll, February 16-17, 2011.

³ Jeffrey Passel and D'Vera Cohn, "Unauthorized Immigrant Population: National and State Trends, 2010," Pew Hispanic Center's Annual Report, February 1, 2011.

⁴ Rakesh Kochhar, C. Soledad Espinoza, and Rebecca Hinze-Pifer, "After the Great Recession, Foreign Born Gain Jobs; Native Born Lose Jobs," Pew Hispanic Center, Washington, D.C. (October 29, 2010).

⁵ Carol M. Swain, "The Congressional Black Caucus and the Impact of Immigration on Black Unemployment," in Swain (ed.) *Debating Immigration* (New York, NY: Cambridge University Press, 2007), 175-188.

⁶ Borjas et al, 277.

⁷ Ibid, 13.

⁸ The employment figure in this report for natives are from the public use files of the Current Population Survey for third quarter of 2009 and are seasonally unadjusted. They were provided to the author by Dr. Steven Camarota at the Center for Immigration Studies and are part of a forthcoming study on the employment patterns of native-born Americans. Data are available upon request from the Dr. Camarota.

⁹ National Center for Educational Statistics Fast Facts

<http://nces.ed.gov/fastfacts/display.asp?id=16>

¹⁰ Michael A. Fletcher and Jon Cohen, "Poll Finds Minorities more Optimistic About the Economy Despite Losses, *The Washington Post*, February 20, 2011.

¹¹ Marc Rosenblum, "E-Verify: Strengths, Weaknesses, and Proposals for Reform," Migration Policy Institute, February 2011, 1-23.

Mr. GALLEGLY. Thank you very much, Dr. Swain.

Our next witness is Dr. Frank Morris. Dr. Morris is retired from the University of Texas at Dallas and was previously the dean of graduate studies and research at Morgan State University. He is a former executive director of the Congressional Black Caucus and

is a founding board member of Progressives for Immigration Reform.

Welcome, Dr. Rodgers—Morris. I am sorry.

**TESTIMONY OF FRANK L. MORRIS, SR., Ph.D.,
PROGRESSIVES FOR IMMIGRATION REFORM**

Mr. MORRIS. Thank you so much, Mr. Chairman and Members of the Subcommittee.

I believe that I will point out why this particular relation of jobs and immigrants and low-wage workers is a particularly important subject for the Judiciary Committee.

Now, basically, to make sure I get my main point in, which I think I already heard well, that current immigration and labor laws, the necessity to enforce them, along with E-Verify, must be vigorously enforced, at a time when all American workers, and especially African-American workers, are so economically vulnerable.

Now, in the immigration debate, one of the things that we consistently see through the press and others, the focus that somehow it is the immigrants, and I hear it here today, that are the real victims. What we do not really point out is that in many ways in our labor market, the immigrants are the privileged workers, and we don't talk about the real victims being the low-wage African-American workers, especially subject to substitution pressures, which, Congressman Lofgren didn't talk about, but I can elaborate in the questioning area.

The privilege basically is the availability of jobs and a preference for jobs. Less than one-quarter of the jobs that immigrants hold are in agriculture. To say that Americans won't do or can't do or low-wage workers or low-wage Black workers are not available for jobs in light manufacturing or janitorial services or food preparation or cleaning or health services is just simply not true. These are supposedly the fields—jobs which Americans won't do, and the majority of Americans in these fields do them.

Now, further evidence of this, once again, comes from Andrew Sum at Northeastern. He points out that at the time where we have had this great economic loss of jobs, the great recession of 2008 to '10, while we have had nearly double-digit unemployment, over a million new foreign workers have found jobs. Now this is why we have lost 6.2 million jobs for the economy as a whole.

Andrew Sum, the really prominent labor economist at Northeastern, has been quoted as saying, "Employers have chosen to use new immigrants over native-born workers and continue to displace large numbers of blue-collar workers and young adults without college degrees. One of the advantages of hiring, particularly young, undocumented immigrants, is the fact that employers do not have to pay health benefits or payroll taxes."

One of the things I want to point out—I need to move quickly here—is that the differences in the way laws are administrated. We have African Americans not benefiting from stringent enforcement of laws that protect workers. Whereas, we have had in our history, and we have to the present, the intensive administration of drug laws that have a disproportionate impact on African Americans.

And I point out the statistics in my written presentation that are really, really extensive. This double standard, this double standard of loss, and I point out that now we cannot continue this.

You know, one of the other benefits that many in the immigration debate has had is the comparison that somehow immigrants or undocumented immigrants are in an analogous position to African Americans in the civil rights struggle. I point out clearly at least four reasons why that is simply in error.

The analogy implies that current employer preferences to pay workers is the same as African Americans. When we African Americans were the employed workers, it was during slavery. It was during times of chain gangs, and it was during times of agricultural sharecropping. The slogan "last hired and first fired" still has meaning.

And this is the critical effect, the substitution effect. The fact that the only times when African-American workers really have a shot, especially African-American workers who have criminal records, who have gone through the criminal justice system, is when there are times of full employment. And we are a long way from that.

The statistics, I have got to really move very quickly to point out. I point out whole sections in my written statement of why deteriorating economic conditions require that we give a preference to American workers, not just even bring them up to the speed. But American workers clearly need the preference.

And I point out at the end, because my time is short, that there are three market trends that really require that we once again focus on our American workers—the fact of more jobs that are subject to offshoring, the fact that reductions in State and local employment where African Americans are overrepresented, and last, but not least, the fact that many of our major corporations get their revenues and their employment from outside.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Morris follows:]

**THE CASE FOR CITIZEN, NOT IMMIGRANT, PREFERENCE FOR A
DECLINING NUMBER OF AMERICAN JOBS**

Testimony of Frank L. Morris Sr., Ph.D
Progressives for Immigration Reform

House of Representatives
Committee on the Judiciary

Subcommittee on Immigration Policy and Enforcement

2141 Rayburn HOB

March 1, 2011

Frank L. Morris Sr. Ph. D

Mr. Chairman and members of the Subcommittee, it is my honor to testify on the subject of making immigration "work" for American minorities. The answer can be summarized in one sentence. Current American immigration and labor laws, plus the mandatory application of E-verify procedures, should and must be vigorously enforced, especially at a time when all American workers, and especially African American workers, are so economically vulnerable.

I will first note that immigrant workers have a privileged status in the American economy. They are privileged as preferred job applicants; they benefit from the non enforcement of laws for which there is no parallel for American workers; and last but not least, they benefit from a false immigrant/US civil rights struggle analogy. I will then point out that this privilege differential should not be maintained because of very negative present and future economic and labor market trends for American workers, which require that the shrinking supply of American jobs, especially jobs that require less education and skill, should be reserved for American workers, or at a minimum, should not place American workers at a disadvantage because of the non enforcement of laws and policies which could help them.

Immigrant Privilege

This hearing is timely because our immigration and labor law enforcement practices reinforce what is a de facto privileged status in favor of immigrant workers, especially illegal immigrant workers compared to American minority workers, and especially less educated and skilled minority workers. While the conservative number of unemployed Americans exceeds 14 million, more than 7 million illegal alien immigrants hold American jobs. Less than one quarter of these jobs held by immigrants are in agriculture. Americans are the overwhelming majority of workers nationwide in sectors where the majority of illegal alien immigrants are employed in fields such as light manufacturing, health, construction, cleaning including janitorial services, and food preparation. These are supposedly jobs which Americans will not do, in spite of the fact that the overwhelming numbers of workers in these job fields, are Americans. These workers have escaped the scrutiny of identification documents subject to verification through E-verify.

¹ Jeffery S. Passel, "The Size and Characteristics of the Unauthorized Migrant Population in the U.S." Pew Hispanic Center, Washington D.C. March 7,2006

There is no greater evidence of immigrant employment privilege than the latest figures which show that over the past two years (2008-2010) while US unemployment remained near double-digit levels, and the economy shed jobs in the wake of the financial crisis, over a million foreign born workers, many of whom were and are illegal, found work.² These 1.1 million new migrants who have come since 2008, found jobs while US household employment declined by 6.26 million over the same period.³ Andrew Sum the well respected director of the Center for Labor market Studies at Northeastern University has been quoted as concluding.... "Employers have chosen to use new immigrants over native born workers and have continued to displace large numbers of blue-collar workers and young adults without college degrees....One of the advantages of hiring, particularly young, undocumented immigrants, is the fact that employers do not have to pay health benefits or basic payroll taxes."⁴

As an African American, I am sensitive and outraged when non citizens have the benefit of not having American laws enforced against them, especially American laws with the intent to help American workers. African Americans have long suffered from the stringent enforcement of American laws such as those enforcing segregation, and American terrorism like lynching, and racial profiling which were enforced as law, but were not official law. African Americans continue to suffer the disproportionate effects of the intensive enforcement of American drug laws. American prison population has increased sevenfold in less than 30 years going from about 300,000 to more than 2 million. More than two million African Americans are currently under the control of the criminal justice system. African Americans make up 80 to 90% of the non violent drug offenders in some states, despite the fact that studies continually show that people of all races use and sell drugs at remarkably similar rates.⁵ No principle of justice can be considered fair when laws which negatively impact them are strictly enforced while laws meant to protect their workplace rights are not enforced or minimally enforced to the benefit of non citizens who have broken multiple other American laws.

² Ed Stoddard, "More than a million land U.S. jobs: Stepped-up enforcement is not deterring trend of foreign born employment." Reuters. January 20, 2011 at <http://www.msnbc.com/id/41182482/ns/business-u...>

³ Ibid.

⁴ Ibid.

⁵ Michelle Alexander. "The New Jim Crow: How mass incarceration turns people of color into permanent second class citizens." The American Prospect. Vol.22 number 1, January/February 2011, pp A 19-21.

In contrast to African American workers, immigrant workers benefitted from the lax enforcement of immigration laws at both border and internal enforcement. They also have benefitted from not automatically becoming at risk of immediate deportation from interactions and even convictions in the criminal justice system. Many immigrant advocates attempt to imply that these justice system interactions are congruent with the Black civil rights struggle.

Let me now address why the false comparisons of privileged immigrants, including illegal alien immigrants, with the Black Civil Rights movement is in error. The most benign interpretation devalues the magnitude of the civil rights struggle, and in its most reprehensible comparison, mocks the struggle by implying that citizens who have suffered for centuries, had a privileged place in the American workforce enhanced by the non enforcement of American law. Specifically and briefly, the comparisons are not valid for the following reasons.

1. The analogy implies that actions of American citizens to challenge the constitutionality laws at personal risk of life in some cases, are equivalent to advocating the lax or none enforcement of laws for non citizens, some of which have violated and ignored numerous laws for personal benefit.
2. The analogy implies that the current employer preference to hire and pay immigrant workers in a modern American economy is equivalent for employment preferences the last time African Americans were the preferred "employees" during slavery, contract exploitation in chain gangs or agriculture sharecropping. Last hired and first fired is still a meaningful slogan and reality for African American workers.
3. In contrast to immigrants, African Americans did not have another home nation to return to for jobs that pay less than in America, nor did African Americans have diplomatic representatives from another nation monitoring any potential US human rights violations against them or to keep them from being extradited to the US to face the death penalty US citizens must face.
4. In contrast to the often mentioned "merit principles used to deny African Americans employment, immigrants with less education and deficient English language skills have been given employment preferences over American workers with more education and better English language skills. Education and deficient English language skills (Ebonics) deficits have been constantly used to exclude African

American workers as being less or unqualified for employment.

It is relevant to note here that charges of racism during immigration debates are always leveled toward those in favor of reduced immigration regardless of their reasons. Ironically we Americans deny the consistent American racial history of always accepting, welcoming, and treating most immigrants better than they treat and value fellow African American citizens and yet falsely do not treat that as racism.⁶

Deteriorating Labor Market Conditions Require Course Corrections

The need to address this is urgent because current economic trends suggest that the conditions of American workers are at even greater risk. If we acknowledge or assume economic uncertainty for American workers, it does not make economic sense, to continue to permit the current level of legal and illegal immigration when there are almost five American workers for every job opening while unemployment among African American workers continues at a depression level.⁷ This is especially the case while we as a nation suffer from weak and lax border and internal enforcement of labor laws.

The preference for illegal workers devastates potential entry level jobs for young workers⁸ and eliminates most potential opportunities for the employment of the more than 600,000 African Americans released from jails and prisons each year and greatly in need of the employment opportunities that only come with a tight labor market. In contrast to a tight labor market, younger and less educated American workers including many African American workers, do the same jobs as immigrants⁹.

Our great recession has recently cost America 8 million jobs and our weak jobless "recovery" has neither come close to replacing those jobs lost nor provided jobs to keep up with our immigration driven population increases. The best estimate is

⁶ See my introduction to "Cast Down Your Bucket Where You Are: Black Americans on Immigration." Center for Immigration Studies., June, 1996.

⁷ Heidi Shierholz, "Three years after start of Great Recession, no jobs for three out of four unemployed workers." Economic Policy Institute, February 8,2011, [http://www.epi.org/authors/bio/shierholz_heidi/]

⁸ Andrew Sum et al., "Vanishing Work Among US Teens 2000-2010..."Center for Labor Market Studies Northeastern University, July 2010, P.5

⁹ Stephen A. Camarota. "From Bad to Worse: Unemployment and Underemployment Among Less Educated US Born Workers 2007 to 2010. Washington DC. Center for Immigration Studies, August 2010.

that we are currently 10 million jobs short.¹⁰ There is no way we can conclude that we have a labor shortage in the United States that can justify high levels of immigration, especially unskilled and less skilled and educated immigrants legal and illegal. We permit this situation in violation of American laws because we do not value vulnerable American workers, as much as we really value legal and illegal immigrants. No other industrial nation in the world has similar practices.

I want to also point out that in line with American tradition and history, African American incomes fell more than any other major American racial group during the great recession. The percentage loss for African American household income was almost double the percentage losses for white and Asian households and almost 30% more than for Hispanic households¹¹.

We also exclude from the immigration and American jobs debate factors such as how the loss of past manufacturing jobs, especially in industries such as steel, automobile manufacturing and even rubber have resulted with little, if any access to middle class jobs which do not require post secondary educational credentials. The manufacturing job losses plus the likely pending great reductions coming in state and local government employment are a double whammy against jobs to the middle class that had been especially important to African American workers. This is reinforced by the latest data which shows a disappointing downward, not upward mobility, of African American children, even those from middle class homes in our land of the Horatio Alger story. Among children raised in black middle income homes, in 2008 45% of children moved to the poorest quintile as adults compared to 16% of white children¹².

In any wealth discussion, I must point out how black family wealth is disproportionately held in home ownership and these homes have been disproportionately foreclosed upon¹³. This has happened because of the likely deliberate negative racial targeting of sub-prime loans to minority borrowers, especially

¹⁰ Economic Policy Institute, *The State of Working America*, "Recession has left in its wake a jobs shortfall of 10 million" www.stateofworkingamerica.org/great/recession Washington DC, Feb. 14, 2011.

¹¹ Economic Policy Institute, *The State of Working America*. "Black incomes fell more than any other US racial groups during the recent great recession." www.stateofworkingamerica.org/greatrecession/ Washington DC Feb.14, 2011.

¹² Ron Haskins, Julia Isaacs and Isabel Sawhill. 2008. *Getting Ahead or Losing Ground: Economic Mobility in America*. Washington DC: Brookings Institution Press

¹³ Kai Wright. "Backward Mobility: The recession is wiping out the jobs, homes, and dreams of the African American middle class." *The American Prospect* Vol.22, Number 2, March 2011. Pp A 16-17.

African American borrowers. At the height of the subprime excess in 2006, African American borrowers at all income levels were three times more likely to be sold subprime loans than their white counterparts, even those with comparable credit scores. This reflects the fewer credit choices and great economic vulnerability associated with the lack of wealth and limited employment opportunities.¹⁴

African American workers not only suffer from a jobs and wealth deficit, they also suffer from an unequal payoff from an education finance deficit while they accumulate more college debt. According to 2008 College Board data 27% of black college students left school with more than \$30,500 in debt, by far the highest rate among all races and ethnicities in spite of lower earnings prospects¹⁵.

While our labor market gives preference to immigrants throughout labor categories, more than 15% of today's Black college graduates are unemployed compared to less than 8% of white college graduates¹⁶. Even more important for the focus of this testimony, one in three black high school graduates under 24 years old are out of work¹⁷. While this situation exists, 42% of the 1.1 million new immigrants who have landed US jobs since 2008 were under 30. Most of these immigrants were undereducated, and unskilled or semi-skilled as well as being young. 86,000 of these post 2008 arrivals have found American jobs in the construction sector where Andrew Sum has noted unemployment is almost 21%.¹⁸ Note that the unemployment rate for young black high school graduates who cannot find full time employment was 41% in 2010 and for black high school drop outs in direct immigrant competition, more reliable unemployment measure (the Labor Department U-6) was 43%.¹⁹

The evidence in this section should ignite a fairness and equity concern for fairness for minority workers compared to immigrant workers. If these ominous trends for minority workers were not enough, there are additional future labor market trends that will make job procurement even more precarious for American workers. Let's now examine a few because my allotted time is running out.

¹⁴ Kai Wright. "The Assault on the Black Middle Class," The American Prospect, July/August 2009.

¹⁵ Wright. 2011, P.17.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Stoddard. Reuthers 1/20/2011.

¹⁹ Camarota. 2010

Present and Future US Labor Market Threats which Require that American Jobs, Especially Jobs Requiring less Education or Skill be Reserved for American Workers

I want to highlight three American labor market trends that are presently having an impact on the American labor market and are very likely to have a greater impact in the future. Each of these factors show those American jobs, especially jobs which require less education and skill, will become increasingly scarce and thus should be reserved for American citizens.

The first trend is the increasing susceptibility of American jobs toward outsourcing. The best estimate of future outsourcing of American jobs is by Alan Blinder, the esteemed Princeton Professor. He estimated that between 22 and 29% of all US jobs are or will be potentially offshorable within a decade or two. Most estimate that we are talking about 28 to 34 million jobs. Blinder found that there is little or no correlation between an occupation's offshorability and the skill of its workers as measured either educational attainment or wages²⁰. Thus less as well as more skilled jobs are off shore substitution vulnerable.

A second ominous trend for African American workers is the reality of the perception of the need to greatly reduce public sector employment even in a time of inadequate job creation. This is an ominous trend because public sector discrimination has received greater scrutiny and thus has been more diversified than private sector employment over time. Evidence of this comes from the March 2009 Current Population Survey. 15% of all American workers work in the public sector, while 22% of native born black folks work in the public sector. Looking at state and local workers only, 13% of Americans work in this sector while 17% of black workers work in this sector.

This sector is likely to feel tremendous pressure to constrict because it has grown over the last few decades. If we examine the state and local workers with only a high school education or less, 8% of public sector workers but 12% of black workers fit this category. One out of eight less educated US born black Americans work for state and local government. This is 59% higher than for all other workers. Thus they will be especially hard hit as state and local governments cut back.

The last trend is probably the most significant. For the first time in American history, our largest companies have returned to profitability without hiring large numbers of Americans because

²⁰ Alan S. Blinder." How Many US Jobs Might be Offshorable?" World Economics Vol.10 Number 2, 2009, pages 41-78

half their revenues and most of their production now comes from abroad. When the financial crisis hit, America's employers laid off many more workers than their counterparts in other major industrial competitors and have not rehired them. This was in spite of the fact that the US economy contracted less than the competition. Between 2008 and 2009, the US GDP dropped 2.4% compared to 2.6% in France, and around 5% in Germany, Japan and Britain. Yet US unemployment increased by about 5 percentage points since 2007 compared to 1 point in France and Japan and 2 points in Britain. In Germany, unemployment has actually dropped a point since the downturn began and is now 2 points lower than ours²¹.

The needs of American and especially minority American workers need special attention because American corporations have a number of strategies including high immigration to keep American wages low. In addition to shifting employment abroad by offshoring, another strategy has been to increase temporary workers in lieu of full time employees. A recent news report noted that in 2010 American companies created 1.4 million jobs overseas while only creating fewer than 1 million in the US²².

All of these three major present and future trends add up to the fact that American Jobs, especially jobs for the less skilled and educated, are and will continue to be in short supply.

Summary and Conclusion

Immigrant workers have numerous employment advantages when compared to American workers, and especially American minority workers. Most of this advantage comes because of employer preference for the more vulnerable and cheaper employees and the refusal of our government to vigorously enforce our immigration and labor laws to protect our workers in contrast to every other major industrial nation. For immigration to work for American minorities, current American immigration and labor laws, plus the mandatory application of E-verify procedures with stiff sanctions should be vigorously enforced especially at a time when all American workers, especially African American workers, are so economically vulnerable.

²¹ Harold Meyerson. "Business is Booming: America's leading corporations have found a way to thrive even if the American economy doesn't recover" *American Prospect*, Vol. 22. Number 2. March 2011. Pp 12-16.

²² Robert Scott, Economic Policy Institute quoted by Pallav Gogoi of the Associated Press in the *Dallas Morning News* December 28th, 2010. pp.D2-5

Mr. GALLEGLY. Thank you very much, Dr. Morris.

Our next witness is Mr. George Rodriguez. Mr. Rodriguez is president of the San Antonio Tea Party, is a former Reagan administration official who worked at both the Department of Housing and Urban Development and the Department of Justice.

Welcome, Mr. Rodriguez.

**TESTIMONY OF GEORGE RODRIGUEZ, PRESIDENT,
SAN ANTONIO TEA PARTY**

Mr. RODRIGUEZ. Thank you very much. Is it on?

I am humbled and honored to be the first Hispanic to be elected as a Tea Party president in this Nation. My testimony today is more regarding the personal impact on my family that I have seen regarding illegal immigration and illegal workers in the United States.

I was born in Laredo, Texas, a border city, where my family resided for over three generations. Illegal labor was a daily problem for my family and other Mexican Americans in those days.

My father, Eduardo Rodriguez, was a printer since the age of 9. He taught himself how to read and write proper English by working a printing press. During the Depression, my father worked very hard to keep his job and a decent wage that would support his family.

The problem was not only the economic depression that our country was going through, it was also the competition from illegal Mexican workers who crossed into Laredo, Texas, every day. They would cross in to work during the day and then go back to Nuevo Laredo in the evenings to live.

A low wage in the United States was a great wage in Mexico. The practice of working illegally in the United States and living in Mexico was common and continues to be very common in the border cities. But it was very, very much resented by Mexican Americans.

In 1938, my father began organizing a printers union not so much to address the issues of labor, of wage and labor conditions, but to develop a closed shop as a way, as an only way to stop the competition from illegal aliens and the undercutting of wages by Mexican aliens.

For example, an illegal Mexican worker would work for half the wages a Mexican American would, but still live well in Mexico. Another issue was how easily a Mexican American could be replaced if he complained, if he complained to his boss while illegal workers were plentiful.

After 9 difficult years, my father was successful in establishing a printers union, which kept illegal aliens from competing with American citizens for jobs. My father passed away in 1988, but he was very happy when he heard of the 1986 Immigration Reform Act, that it contained employer sanctions. Unfortunately, those employer sanctions are rarely, are rarely enforced.

My father's story is not unique, but rather typical of the experience most Mexican Americans have had in border towns. Even today, Mexican Americans—not just in border towns, but everywhere—will tell you that they do not want illegal aliens competing for their jobs in any form or fashion. Most Mexican Americans feel that we must do something to stop aliens from entering the country illegally, illegally, and taking jobs from Americans in any form or fashion.

Let me relate one more story. My mother passed away in 1987. And a few days after her death, an acquaintance of the family's asked to borrow—actually, to purchase—my mother's Social Secu-

rity number so she could get somebody to work. Yet another example of how this system continues to need some fixing.

My testimony today is not only that we have problems in America today, where Americans are adversely impacted by illegal aliens in competing for jobs. In this time of economic stress, we really, really need to do some more enforcement. One of the things that we see that is very, very important is—or that sometimes is not understood is the disdain that Hispanic Americans have for illegal aliens who are competing for their jobs.

Now, Mr. Conyers, with all due respect, one thing that you said a few moments ago as far as abhorrence and the competition between people, let me tell you what is really abhorrent. That Hispanic Americans are classified in the same breath with illegal aliens.

We are American citizens. We are born in this country, and we honor this country. The laws must be obeyed. And unfortunately, whenever somebody thinks of illegal aliens, they think of us, which I find patently unfair and discriminatory.

Thank you very much.

[The prepared statement of Mr. Rodriguez follows:]

March 1, 2011

Comments by George H. Rodriguez, President of San Antonio Tea Party

Testimony before the Subcommittee on Immigration

Thank you for this opportunity to testify before this subcommittee regarding the impact of illegal immigrant workers on labor markets in the U.S. My comments today come from personal experience. I was born in Laredo, Texas, a border city where my family resided for over three generations. Illegal Mexican labor was a daily problem the family lived with through those generations.

My father, Eduardo Rodriguez, was a printer since the age of nine. He taught himself how to read and write proper English by working with the printing press. During the Depression, my father worked very hard to keep his job and make a decent wage that would support our family. The problem was not only the deep economic depression our nation was suffering, but also competition from illegal Mexican workers who crossed into Laredo, TX during the day, and then crossed back into Nuevo Laredo, Mexico at night. What was a low wage in the U.S. was a great wage in Mexico. The practice of working illegally in the U.S. and living in Mexico was common among Mexicans in those days, and was very much resented by Mexican Americans.

In 1938, my father began organizing a printers' union in Laredo to establish 'closed shops' as a way to stop the competition and undercutting of wages by Mexican aliens. For example, illegal Mexican workers would work for half the wages a Mexican American would request, because it cost less to live in Mexico. Also, Mexican Americans could be replaced very easily by illegal Mexican workers if they complained. U.S. employers hiring low paid, illegal Mexican workers cost Mexican American workers jobs. Additionally, illegal Mexican workers voted in American elections under the direction of their bosses. After nine difficult years, my father was successful in establishing a printers' union which kept illegal aliens from competing with American citizens for jobs. My father passed away in 1988, but he was very proud that the 1986 Immigration Reform Act contained Employer Sanctions for hiring illegal aliens.

My father's story is not unique, but rather typical of the experience most Mexican Americans have had in border towns. Even today, Mexican Americans, not just in border communities, but everywhere, will tell you that they do not want illegal aliens competing for their jobs in any form or fashion. Most Mexican Americans feel we must do something to stop aliens from entering the country illegally, and taking jobs from Americans using false documentation.

In closing, let me relate one more personal story. My mother passed away in 1987. A few days after her death, a distant acquaintance of the family asked if she could

"borrow" my mother's social security number so someone could work. Another more recent incident happened last year with my sister when she was asked if she would lend another person her social security number.

My testimony is that we have a problem in America today, where Americans are adversely impacted by illegal aliens who compete for jobs. In this time of economic stress, we must do what we can to secure the border and to enforce existing laws against hiring illegal aliens. Thank you again for giving me this opportunity and privilege to speak to you.

Mr. GALLEGLY. Thank you very much, Mr. Rodriguez.

The fourth witness today is Mr. Wade Henderson. Mr. Henderson is the president and CEO of the Leadership Conference on Civil and Human Rights. Prior to this, he was the Washington bureau director of the NAACP. Mr. Henderson is a graduate of Harvard University and Rutgers University School of Law.

Welcome, Mr. Henderson.

**TESTIMONY OF WADE HENDERSON, PRESIDENT AND CEO,
THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN
RIGHTS**

Mr. HENDERSON. Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee, thank you for having me here today.

The Leadership Conference is the Nation's leading civil and human rights coalition, with over 200 national organizations working to build an America that is as good as its ideals.

The issue of immigration reform, including the question of how immigrants interact with various communities of native-born Americans, has long been one of tremendous importance to the Leadership Conference. And I am honored to share some of the thoughts of our coalition today.

For the record, I should also note that I am honored to be the Joseph L. Rauh Jr. Professor of Public Interest Law at the David A. Clarke School of Law, University of the District of Columbia. And for the record, I did not do my undergraduate work at Harvard. I attended Howard University. I am proud to note that as well.

I would like to begin by noting what I hope are a few general points of agreement. First, I believe that everyone in this room can agree that our Nation's immigration system is badly broken. It fails to keep up with economic realities. It fails to provide an orderly way to keep track of who is here.

It inhumanely separates families and keeps them apart. It penalizes children for the actions of their parents. And it is so unfair and so burdensome that it fails to give people enough incentives to play by the rules. America's immigration system clearly needs sweeping changes, and it needs them soon.

Second, elections have consequence. And while I recognize that the political landscape has changed, the dire need for a comprehensive overhaul of our Nation's immigration policy has not changed.

I would echo what President Obama said during the State of the Union about the need for Congress to continue working toward a solution to this issue to humanely deal with people who are already here, to meet the needs of employers without undercutting workers, and to ensure that people are using legal, secure means of coming here and that Congress must do so in a bipartisan way.

Now, turning more directly to the subject of today's hearing on making our immigration policies work better for minority groups, I would note that the real impact of immigration continues to fuel debate even among the most knowledgeable policy advocates.

As a lawyer and as a civil rights advocate who has spent decades elevating fact to combat false and harmful stereotype, I would say that the research to date paints a far more complicated picture than the rhetoric we often hear about immigrants "taking jobs from African Americans."

For example, let us begin with the very troubling reality that African-American unemployment rates have always been high. Over the last 50 years, the unemployment rate for African Americans has consistently been almost twice as high as the unemployment rate for White Americans, even before the foreign-born population began to increase.

It is also important to remember that African-American unemployment has a wide range of causes that are difficult for economists or for anyone else to pinpoint. These include not only employment discrimination, but also the problem of structural inequality that results from disparities in education, criminal justice policies, the availability of healthcare and housing, as well as the globalization of the economy and the movement of many types of jobs overseas.

For these and for other reasons, economists are still debating the real impact of immigration on the overall economy, as well as its impact on particular groups within the economy. That said, the Leadership Conference takes very seriously the underlying concerns which motivated this hearing today.

We strongly believe that public and private initiatives to address the persistent high rates of unemployment for African Americans should be one of our Nation's highest priorities. When it comes to the impact of undocumented immigration on the job prospects of low-skilled African Americans, there is admittedly some anecdotal evidence of job displacement, even as the statistical evidence remains unclear.

However, the premise that widespread job displacement can be traced directly to the presence of undocumented immigrants in the workforce is simply unfounded. Moreover, some advocates for more restrictive immigration policies have chosen to overstate the problem as a way of garnering greater public support for their positions, even though many economists believe that comprehensive immigration reform is the best way to end the massive exploitation of the undocumented and the incidental displacement it may cause.

Finally, our own research has found that despite these concerns, most African Americans still support comprehensive immigration reform, as I explain in my written statement.

Now, in an effort to address both the misperceived and legitimate issues of job displacement in a constructive way, the Leadership Conference organized a summit of leaders from the African-American, Latino, and Asian-American communities in 2007 with an eye toward the upcoming Senate immigration debate of that year. I won't continue on this track other than to say, sir, that in the interest of time, there are recommendations included in my written testimony which would elevate a solution to the problem we have discussed.

Now, one last point. I commend those who share our interest in ameliorating the persistent problem of high unemployment in the African-American community. However, the singular focus of today's hearing may do more harm than good by contributing to a distorted view of a significant issue that defies simple explanation.

At most, immigration is one small factor in a very complicated problem of African-American unemployment, and yet it remains an issue ripe for mischaracterization and political manipulation. And while I do not question the motives of anyone associated with today's hearing, I do know that African Americans tend to take note of how consistently or inconsistently advocates for reduced immigration show their concern when it comes to dealing with other factors and the interests of the African-American community as a whole.

I would cite two examples, but in the interest of time, I will only emphasize one of them. The two examples would have been the severe budgetary cuts that were adopted earlier this month by the House Republican leadership that will have, unfortunately, a significant and disproportionate impact on African Americans as a whole.

And then, lastly, I would also point to what appears to be a co-ordinated campaign of State and Federal bills aimed at rewriting the 14th Amendment of the Constitution, one of the bedrock foundations of civil rights in this country, in a misguided effort at controlling undocumented immigration. As some of you may know, attacks on the sanctity of American citizenship have particular resonance for African Americans.

These concerns were exacerbated at one national event where a State senator from Florida—I am sorry, from South Carolina announced his support for the initiative by celebrating the 150th anniversary of the Civil War and South Carolina's role in starting this conflict through the Confederate attack on Fort Sumter. This was hardly a rallying cry in support of the more perfect union we all purport to seek.

Now I don't claim to know what is in any person's heart, but it is fairly clear to most African Americans that many of those who are quick to cast blame on the immigrant community for job displacement or other social ills, do so for reasons other than their concerns for the economic or social well-being of African Americans.

Thank you.

[The prepared statement of Mr. Henderson follows:]

The Leadership Conference
on Civil and Human Rights

1629 K Street, NW
10th Floor
Washington, DC 20006
202.466.3311 voice
202.466.3435 fax
www.civilrights.org



**STATEMENT OF
WADE HENDERSON, PRESIDENT & CEO,
THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS**
"MAKING IMMIGRATION WORK FOR AMERICAN MINORITIES"
**SUBCOMMITTEE ON IMMIGRATION POLICY AND ENFORCEMENT
HOUSE COMMITTEE ON THE JUDICIARY**

MARCH 1, 2011

Chairman Gallegly, Ranking Member Lofgren, and members of the Subcommittee: I am Wade Henderson, President and CEO of The Leadership Conference on Civil and Human Rights. I appreciate the opportunity to present the views of The Leadership Conference to you today.

The Leadership Conference on Civil and Human Rights is the nation's oldest and most diverse coalition of civil and human rights organizations. Founded in 1950 by Arnold Aronson, A. Philip Randolph, and Roy Wilkins, The Leadership Conference seeks to further the goal of equality under law through legislative advocacy and public education. The Leadership Conference consists of more than 200 national organizations representing persons of color, women, children, organized labor, persons with disabilities, the elderly, gays and lesbians, and major religious groups. I am privileged to bring the voices of this community to today's hearing.

Comprehensive Immigration Reform, a Matter of Civil and Human Rights

I would like to begin by noting what I hope are a few general points of agreement. First, I believe that everyone in this room can agree that our nation's immigration system is badly broken. It fails to keep up with economic realities, it fails to provide an orderly way to keep track of who is here, it inhumanely separates families and keeps them apart, it penalizes children for the actions of their parents, and it is so unfair and so burdensome that it fails to give people enough incentives to play by the rules. America's immigration system clearly needs sweeping changes, and it needs them soon.

Second, I think we can also agree that in fixing our immigration system, it is vital that we include more effective – but also more realistic and more humane – immigration enforcement. While it is important for many reasons to know who is coming here and under what circumstances, it is simply unrealistic to attempt to stretch fences across our massive national borders. Nor can we haphazardly leave federal immigration law enforcement in the hands of state and local law enforcement officials, or worse, in the hands of private groups such as the Minutemen. As a nation, we can and must take more sensible measures, such as hiring additional inspectors and border patrol agents, making better use of technology, and working more closely with Mexico to cut down on problems like human trafficking and the drug trade.

Third – and while this, of course, has long been the subject of contentious debate – I would hope that we might come to agree on the importance of giving unauthorized immigrants, living and working in our



country, a realistic way to come out of the shadows and legalize their status. As a lifelong civil rights advocate, I see this not as an issue of economics but of morality, and I believe it goes directly to our most basic understanding of civil and human rights.

It is easy to focus on the fact that unauthorized immigrants have broken the rules in order to get or stay here. We do not need to condone violations of our immigration laws. But as we do in most other circumstances, we should also look at *why* these individuals have broken the rules. Motives count. And the overwhelming majority of unauthorized immigrants have broken the rules *not* to "steal jobs," to live off the government, or to take advantage of anyone else. Instead, most of them have been motivated, to the point where many have even risked their lives to come here, by the desire to escape economic or political hardships that few native-born Americans today could fully understand. At the same time, they are all too often enticed here by employers who are perfectly willing to use and abuse them in the process.

When we consider the motives of most of the unauthorized immigrants who live and work in our country, it is clear to The Leadership Conference – and hopefully to everyone – that our policies should not treat them as fugitives to be hunted down, but as an economic and social reality that must be addressed in a thoughtful manner that best serves our nation and our communities as a whole. For example, unauthorized immigrants should not be so afraid of law enforcement, due to their immigration status, that they refuse to report crimes in their own neighborhoods. When they go to work, they – like every human – have a right to know they will be treated safely and paid fairly, which protects the interests of native-born workers as well. If they drive on our roads, it is in the interest of everyone to make sure they are doing so safely. Regardless of how they may have initially come here, if they show a willingness to play by the rules and contribute to our economy and our society, we should have policies in place that will reward their hard work. At the very least, I would hope that we can agree that punishing the children of unauthorized immigrants for the actions of their parents is nothing short of insane, and is an affront to our deepest values and constitutional traditions.

Finally, I am sure that we agree that family unity should be a key foundation of our immigration laws, in the same way that it is a key foundation of our society itself. Yet sadly, our current immigration system is chronically plagued by administrative backlogs in the family-based visa process, as well as by the woefully inadequate numbers of family-based visas that become legally available each year. As a result, it can often take years or even more than a decade for close relatives of U.S. citizens or permanent residents to obtain immigrant visas, and these delays simply encourage people to overstay temporary visas or find other ways to enter the country in order to be with their loved ones. Addressing these and numerous other problems in our immigration system is an essential component of the modern civil and human rights agenda.

Immigration and the African-American Workforce

Turning more directly to the subject of today's hearing, which is on making our immigration policies work to the benefit of native-born racial and ethnic minorities, I believe it is important to begin with a discussion of the impact that immigration currently has on minority communities, particularly African Americans. Needless to say, this topic has generated a great deal of controversy, particularly in recent years as our economy has struggled and African Americans have faced much higher unemployment rates than usual.

I certainly share the legitimate concerns about unemployment and underemployment among African Americans. Indeed, advancing policies that would address these concerns has been one of my highest



priorities throughout my career. The needs of low-wage workers – a group disproportionately composed of African-American workers – have long been neglected by policymakers, a situation that has needlessly exacerbated tensions between the African-American and immigrant communities. Many African Americans, as a result of the difficult economic conditions they face, understandably fear that the immigrant workforce will worsen their situation as the competition for jobs in our struggling economy reduces the opportunities and the wages of all vulnerable workers. Yet having said this, I do not share the simplistic and divisive view, advanced by some, that immigrants are to blame for “stealing jobs” on any widespread scale from native-born Americans.

The Impact of Immigration on African-American Employment

The situation facing African-American workers is a complicated one, and the impact of immigration on the employment prospects and the wages of African Americans is the subject of much debate among economists. It might have been helpful to include some of them in today’s hearing. As economists such as Steven Pitts of the Center for Labor Research and Education at the University of California have pointed out, for example, the employment crisis facing African Americans began long before our nation took a more generous approach to immigration policy in 1965. Looking at overall unemployment rates over the last 50 years, we see that the unemployment rate for African Americans has always been approximately twice as high as for White Americans, and has remained approximately the same¹ even as the percentage of foreign-born Americans, relative to the population as a whole, has increased in the past several decades:

Year	Black Unemployment	White Unemployment	Black/White Unemployment Ratio
1956	8.3%	3.6%	2.3
1965	8.1%	4.1%	2.0
1975	14.8%	7.8%	1.9
1985	15.1%	6.2%	2.4
1995	10.4%	4.9%	2.1
2005	10.0%	4.4%	2.3

As most economists would explain, this employment crisis has a wide variety of causes that are remarkably difficult to sort out. These causes include both historical and contemporary racial discrimination, not only in the labor market, but also in other sectors of society such as housing markets, educational systems, and consumer finance. The higher rates – and the lasting stigmatic effects – of incarceration of African-American males are also significant.² Disparities in health care are both a cause and a consequence of unemployment.³ In addition, the situation has certainly been compounded by broader changes in the U.S. economy as a whole, including the globalization of the economy and the movement of many types of jobs overseas.

¹ U.S. Department of Labor, Bureau of Labor Statistics; also Council of Economic Advisors, *Changing America: Indicators of Social and Economic Well-Being by Race and Hispanic Origin*, Sept. 1998, at 26.

² See, e.g., Jenny Bussey and John Trasvina, *Racial Preferences: The Treatment of White and African American Job Applicants by Temporary Employment Agencies in California*, Discrimination Research Center, Dec. 2003; Devah Pager, *The Mark of a Criminal Record*, *AMERICAN JOURNAL OF SOCIOLOGY* 108(5): 937–75.

³ Kristen Suthers, *Evaluating the Economic Causes and Consequences of Racial and Ethnic Health Disparities*, Issue Brief, American Public Health Association, Nov. 2008.



As to the question of whether immigration might play a role in aggravating the long-existing causes of African-American unemployment, economists who have studied the issue have not been able to establish any sort of consensus.⁴ Even among experts who do think there is an impact, there is disagreement over its extent. For example, Bernard Anderson, an economist at the University of Pennsylvania's Wharton School, believes that while immigrants have probably taken some jobs previously performed largely by African Americans, there is also evidence that African Americans are less likely to perform low-skill service jobs because they have largely moved on to take better-paying jobs or have retired from the labor force. The displacement that has taken place, Anderson argues, has not had a significant effect on the wages or opportunities of native-born workers.⁵ Another study, by the Immigration Policy Center, found that in states and metropolitan areas with high levels of recent immigrants, unemployment among African Americans was actually *lower* in areas with low levels of recent immigrants.⁶ Finally, a study by the Economic Policy Institute found that any negative effects of new immigration were felt largely by earlier immigrants, the workers who are the most substitutable for new immigrants.⁷

Policies Aimed at Improving Conditions for Low-Income Minority Workers

As explained above, economists simply do not – and perhaps cannot – know with certainty the full extent of the displacement of African-American workers by new immigrants. As such, I reject the sweeping, simplistic, divisive indictments of immigrants that have been offered by some advocates, and I urge this Subcommittee to do the same. At the same time, I do recognize that it is possible that unskilled, native-born workers have been – or could be – displaced by increased immigration. There is certainly anecdotal evidence to that effect, even as the overall body of statistical evidence is far less clear. In any event, the prospect of job displacement caused by immigration has long caused concerns within the African-American community – a fact that has been exploited by some to drive a wedge between African Americans and Latinos.

For these reasons, The Leadership Conference takes the underlying concerns about job displacement very seriously. Because the unemployment crisis facing African Americans has a wide variety of causes, however, we believe that efforts focusing on widespread deportation – or on making immigrants feel so unwelcome that they “self-deport,” as some advocates have proposed⁸ – miss the mark completely.

There are numerous policy proposals that academics and advocates have advanced to assist low-wage native-born workers. The Leadership Conference is proud to have contributed to these ideas. In 2007, we organized a summit of leaders from African-American, Latino, and Asian-American communities to discuss how the concerns of low-income workers might best be addressed in the ongoing debate over immigration reform. The organizations and leaders involved in those discussions produced a statement of

⁴ See, e.g., Harry J. Holzer, *Immigration Policy and Less-Skilled Workers in the United States: Reflections on Future Directions for Reform*, Migration Policy Institute, Jan. 2011; Roger Lowenstein, *The Immigration Equation*, THE NEW YORK TIMES, July 9, 2006.

⁵ *The Immigration Debate: Its Impact on Workers, Wages and Employers*, KNOWLEDGE@WHARTON, May 17, 2006, available at <http://knowledge.wharton.upenn.edu/article.cfm?articleid=1482>.

⁶ *Immigration and Native-Born Unemployment Across Racial/Ethnic Groups: Untying the Knot, Part II of III*, Special Report, Immigration Policy Center, May 2009.

⁷ Heidi Shierholz, *Immigration and Wages: Methodological Advancements Confirm Modest Gains for Native Workers*, Briefing Paper, Economic Policy Institute, Feb. 2010.

⁸ See, e.g., Mark Krikorian, *Not Amnesty but Attrition: The Way to go on Immigration*, National Review, Mar. 22, 2004.



principles and legislative recommendations that we urged Congress to take up as a part of comprehensive immigration reform. These recommendations call upon Congress to provide for:

- Better enforcement of antidiscrimination laws, through testing and other measures, and enhanced public education efforts to counter stereotypes about immigrants and African Americans;
- More open vacancy notification systems, to overcome the use of informal networks of friends and relations to fill low-wage jobs, which reduces job competition;
- Increased enforcement of workplace standards, including fair wage and overtime requirements, and safety, health and labor laws;
- Making it easier for workers to compete for jobs in other locations through better advertising of unskilled jobs and the allocation of resources to pursue and relocate for them; and
- More job skills, training and adult education opportunities for low-wage workers, including young people and high school dropouts.

During the 2007 debate in the Senate over comprehensive reform legislation, we worked with Sen. Sherrod Brown (D-OH) on an amendment focusing on the second point above. His amendment would have required employers who want to hire immigrant workers, under the temporary employment visa provisions of the bill, to show that they have advertised – and to continue to advertise, for one year – all similar job vacancies with the state employment service. The requirement would have been extended to all vacancies that require comparable education, training, or experience as the job to be given to an immigrant worker. It would have helped ensure that native-born workers became aware of, and had the opportunity to apply for, job openings before employers resorted to hiring immigrant workers. Unfortunately, the Senate deliberations over immigration reform collapsed before Sen. Brown was able to offer his amendment. We believe, however, that his proposal could have earned widespread bipartisan support, and it would have been an important and constructive step in addressing the concerns of low-income minority workers.

I would urge Congress to move forward with all of these proposals – and I would note that they can be enacted even in the absence of comprehensive immigration reform legislation. By doing so, our elected officials can provide low-wage African-American workers with much-needed assistance, and can help mitigate tensions between African-American and immigrant workers. I would also urge the Subcommittee to consider a 2009 blueprint for immigration reform that was jointly issued by the two American labor federations, the AFL-CIO and Change to Win, together representing more than 60 different unions and about 16 million American workers. Their proposal, entitled *Framework for Comprehensive Immigration Reform*,⁹ meets many of the concerns expressed in the African-American community by providing for the fair and humane treatment of immigrants, on one hand, and preventing immigrant workers from being exploited and used to undercut work standards to the detriment of native-born workers, on the other.

So-called “Black vs. Brown” in the Immigration Debate: Perceptions and Realities

Before I conclude, Chairman Gallegly, I would like to say more about the misperceptions about relations among African Americans and Latinos, misperceptions that some immigration reduction advocates have attempted to foster, in recent years, in an effort to pit community against community with the goal of preventing immigration reform. In 2007, for example, a group that called itself the Coalition for the Future American Worker, organized primarily by immigration reduction organizations, deliberately attempted to stir up African-American resentment toward immigrant communities and immigration

⁹ Available at <http://www.aflcio.org/issues/civilrights/immigration/upload/immigrationreform041409.pdf>.



reform by running full-page newspaper ads that blamed immigrants for taking hundreds of thousands of jobs from African Americans.

As with any controversial issue – and immigration reform is undoubtedly a controversial issue – there inevitably will be a range of individual opinions within any community. The panel you have assembled today is proof of that, and we can all benefit from a diversity of viewpoints. But on the whole, the relationship between the African-American community and immigrant communities has long been far too complex to neatly summarize in a newspaper ad.

On one hand, as minority groups in America, African Americans and immigrants share a strong common interest in fairness and equal opportunity. Indeed, because the immigrant community includes many individuals of African and Caribbean descent, African Americans do have a direct interest in fair immigration policies. For these reasons, the traditional civil rights movement was instrumental in eliminating discriminatory immigration quota laws in favor of more generous policies in the 1960s, and leading civil rights organizations have continued to speak out on behalf of immigrants' rights since then.

On the other hand, as I have explained above, it is clear that many African Americans, particularly those who struggle the most to make ends meet in today's economy, are concerned about the way their economic well-being is affected by increased immigration. Time and time again, immigration reform opponents focus only on these anxieties while ignoring the common ground that exists. For example, following the August 2008 raid at Howard Industries, immigration reduction advocates focused on a segment of some African-American workers who apparently celebrated the arrests, as an example of the divide between native-born and immigrant workers, while ignoring the fact that the African-American leadership at Howard Industries' union supported signing up Latino workers and forging solidarity to improve the living standards of all employees.

Contrary to what the propaganda of some groups might suggest, African-American concerns about the effects of immigration do not, on the whole, lead to any widespread resistance to the legalization of undocumented immigrants or the other elements of comprehensive reform. Our own public opinion research confirms this. In 2007, Lake Research Partners held African-American focus groups in a number of cities throughout the country, followed by a poll of 700 African-American voters nationwide.

What we found was not surprising. Indeed, 51 percent of respondents did believe that immigrants take jobs away from Americans, and 52 percent believed that they drive down wages for Americans, with 59 percent believing that they cause lower wages for African-American workers in particular. Despite these fears, however, we found that 70 percent of respondents supported comprehensive immigration reform that includes increased border security, penalties on employers of illegal workers, and criteria for a path to citizenship, with only 22 percent opposing such reforms. Furthermore, a strong majority (83 percent) agreed that if an immigrant has been working and paying taxes in this country for five years and learning English, there should be a way for her or him to become a citizen, with a 55 percent majority "strongly" agreeing. Finally, our research confirmed that strong majorities of African Americans believe that they can work together with immigrant communities on common social and economic goals such as expanding access to health care and education, reducing crime, and improving wages, work benefits, and job opportunities.¹⁰

¹⁰ Polling conducted by Lake Research Partners, for The Leadership Conference on Civil Rights & Leadership Conference on Civil Rights Education Fund, December 8-17, 2007, among 700 African-American voters.



In short, African Americans generally understand that it is inherently wrong to divide people along the lines of race or ethnicity or national origin, and that creating “us versus them” scenarios does not help anyone in the long run. If Congress did more to protect low-income, native-born workers, as a part of immigration reform or even independently, and consistent with the principles I outlined above, the numbers I have just cited would be even more favorable.

Finally, I would like to add that African Americans do tend to take note of how consistently – or inconsistently – immigration advocates show their concern for the well-being of the African-American community across the board. Unfortunately, evidence of that concern is often sorely lacking.

For example, during the 2006 reauthorization of the Voting Rights Act, the most important civil rights law governing our most important civil right, the same immigration reduction groups and individuals who claim to be interested in protecting African Americans now stood squarely against us then, and at one point they even went so far as to prevent the reauthorization bill from coming to the House floor.¹¹ Similarly, for years before the financial crisis, civil rights organizations pointed to racial disparities in subprime lending practices that would ultimately have disastrous effects on the financial well-being of African Americans, but our pleas for legislative or regulatory policy changes were disregarded by many people who say they want to help African Americans in the context of immigration. Instead, after the crisis erupted, many of those same individuals tried to falsely blame the crisis on the Community Reinvestment Act, a decades-old civil rights law that could have in fact reduced predatory subprime lending had it been more uniformly applied;¹² and since then, they have opposed policies aimed at reducing home foreclosures.¹³

In another example, even though educational disparities are a significant cause of reduced job opportunities for African Americans, the House recently passed legislation that made drastic cuts in funding for Head Start and Pell Grants,¹⁴ programs that have long proven helpful and cost-effective. Finally, some immigration reduction advocates have even gone so far as to propose rewriting the 14th Amendment of our Constitution,¹⁵ striking at a core foundation of our nation’s civil rights protections that is deeply cherished by most African Americans. Earlier this year, in an appalling display of the inconsistent regard that these advocates show for the interests of the African-American community, a group called State Legislators for Legal Immigration held a press conference to unveil such a proposal, featuring a state legislator who had been elected based partly on his support for the Confederate flag, and who opened his remarks by fondly recollecting the Confederate attack on Fort Sumter that started the

¹¹ I am thankful that these efforts were rebuffed by the bipartisan leadership of former Committee Chairman James Sensenbrenner, Ranking Member John Conyers, Constitution Subcommittee Chairman Steve Chabot, and Rep. Mel Watt, among others on both sides of the aisle.

¹² Myths about the Community Reinvestment Act (CRA) contributing to the financial crisis have been thoroughly debunked by experts, but nevertheless continue to proliferate. *See, e.g.*, letter from Federal Reserve Chairman Ben Bernanke to Sen. Bob Menendez (D-NJ), Nov. 25, 2008, available at <http://menendez.senate.gov/pdf/112508ResponsefromBenankonCRA.pdf> (explaining that he found no evidence to support the claim that the CRA was to blame for the mortgage crisis).

¹³ Indeed, this very week, the House Committee on Financial Services intends to move forward with hearings and a markup of legislation to terminate federal anti-foreclosure programs, without advancing any alternatives that might prove more effective.

¹⁴ H.R. 1, Full-Year Continuing Appropriations Act, 2011.

¹⁵ *See, e.g.*, H.R. 140, Birthright Citizenship Act of 2011.



Civil War.¹⁶ Given the underlying issue that led to the Civil War, I am hard-pressed to think of a more ineffective way to attract the trust of the African-American community on the issue of immigration.

In pointing to these examples – and I could point to many more – I do not claim to know what is in the heart of any individual who calls for more restrictive immigration policies. Regardless of what motivates some to take these policy stances, however, I do know how their rhetoric is likely to be received by most African Americans. Simply put, to anyone who looks closely, and does not rely solely on full-page newspaper ads, it is fairly clear that immigration reduction advocates have rarely gone out of their way to prove that they are our friends.¹⁷

This concludes my prepared remarks. Again, I want to thank you for the opportunity to speak before your subcommittee today. I look forward to answering any questions you may have.

¹⁶ Brian Bennett, *Group pushes for state laws that would redefine citizenship*, CHARLOTTE OBSERVER, Jan. 6, 2011 (remarks of South Carolina Senate Majority Whip Danny Verdin).

¹⁷ There always have been, and always will be, noteworthy exceptions to any such generalization. I am thankful, for example, for the bipartisan effort that resulted in the enactment of the Fair Sentencing Act of 2010, which will help reduce racial disparities in cocaine sentencing. Its champions in Congress included a number of prominent opponents of comprehensive immigration reform.

Mr. GALLEGLY. Thank you, Mr. Henderson.

And first of all, I want to apologize to you for misrepresenting your credentials and Harvard. It was not my intent to slander you, sir.

Mr. HENDERSON. No, no. And sir, thank you. And I don't take any offense, but I am quite proud of my undergraduate degree, as well as my law school degree and other advanced degrees that I hold. So thank you, sir.

Mr. GALLEGLY. Thank you.

Dr. Swain, you had entered in the written statement that it is members of the working class and not highly educated Americans who are most upset about immigration labor. Could you maybe expand just a little bit on that?

Ms. SWAIN. Well, first of all, the American public, for the last 20 years, poll after poll has shown that the American public would like to see immigration enforcement. The economists agree—to answer your question directly, the economists agree that a small sector of the population is negatively impacted by high levels of illegal immigration.

That small sector includes low-skilled, poorly educated Blacks and legal Hispanics. And so, it is not that they are upset. They are the ones who are being affected. And I believe all economists would agree that this is the sector, the ones that are high school educated and less.

Mr. GALLEGLY. Dr. Swain, further, my colleague and Ranking Member of the full Committee, Mr. Conyers, said that the NAACP has been working on this issue for decades and that those who want enforcement are pitting Blacks against Hispanics, which is divisive. Would you like to respond to that?

Ms. SWAIN. In a book that I edited in 2007 that was published by Cambridge University Press, entitled "Debating Immigration," I have a chapter on the Congressional Black Caucus and its stances toward immigration. And one of the things that I am dismayed by is the fact that the Black leadership, whether we are talking about the NAACP or the Congressional Black Caucus, has done a very poor job of representing the interests of Black Americans as well as legal Hispanics in their districts.

Mr. GALLEGLY. Dr. Morris, would you like to try to respond to that same question?

Mr. MORRIS. Yes, one of the studies that really talks about the differences between elite and sort of grassroots attitudes is done by the Chicago Council on Foreign Relations almost periodically. And they show that across the board, immigration is one of the greatest areas where there is a difference between elite opinion, and I would certainly include elite Members of Congress, and those who are at the grassroots.

Folks, when you—African Americans, when we are talking not in the halls of Congress, really do feel, they see certain things. They see the lack of African-American workers in construction sites, whether it is in Dallas, whether it is in Washington, D.C., whether it is from all around the country. They question why that we don't see more Black workers in certain other areas.

They realize that the contention that jobs in light manufacturing, from poultry plants to meat plants, which are heavily influenced by

migrants, are allegedly jobs that Americans won't do. Well, African Americans, we certainly won't do them if we don't get the job.

And I think this is as much as anything, that there are—in a book that Waldinger wrote a number of years ago, there are networks, there are employment networks that are vital in recruitment. And many African Americans are out of those recruitments. Those networks recruit to contractors and others for undocumenteds. It is a pipeline, and our workers are out of this. They are out of this.

And especially our vulnerable workers, who have, because we are in the Judiciary Committee, this interaction with the criminal justice system. And I think an unfortunate interaction. There is Michelle Alexander, in both her book and in her article at American Prospect, shows a 2002 study from Chicago that shows that 80 percent of young African-American males have had some interactions with the criminal justice system, arrests or other kinds of things, which really serves as a means of not letting them work.

And they don't have the choice. This is the other thing. African Americans do not have the choice to go home, to go home or to go back to a place where you could work. A Pew Hispanic study a couple of years ago pointed out that many of our immigrants—especially Mexican, illegal and legal—came to the United States not because they didn't have jobs in Mexico, but because jobs in the United States pay more.

African Americans, as I point out in my—do not have that choice of either going back or having someone else protect their human rights, stand up for their human rights in this country.

Mr. GALLEGLY. Thank you, Dr. Morris.

I would just like to ask Mr. Rodriguez a very quick question. What kind of message is the Administration sending to the Hispanic-American community when it refuses to detain and prosecute illegal immigrants found in the workplace?

Mr. RODRIGUEZ. It is sending a very poor message. Let me tell you that I represent—just in San Antonio, our Tea Party represents about 6,000 voters. Of those 6,000 voters, about a third, maybe a little larger number than that, are Hispanic Americans.

Any time that I have written an article in the newspaper, and I have written several, the response from Hispanic Americans is tremendous all the time, saying it is about time somebody says something. And it is about time somebody stopped classifying us as somehow part of an entire illegal community. We are American citizens. We want the laws obeyed.

The laws are there for a reason. And when a law is broken, then there should be a penalty. And unfortunately, that is not the message that is going on right now. The message that we hear right now is, well, you know, we are trying to get votes. And so, therefore, we are trying to classify everybody the same.

Mr. GALLEGLY. Thank you, Mr. Rodriguez.

The Ranking Member has asked to defer to the Ranking Member of the full Committee, my good friend Mr. Conyers.

Mr. Conyers?

Mr. CONYERS. Thank you, Chairman Gallegly.

The Chairman, Mr. Smith, and I have to depart to the budget portion of a Committee to get our resources for the 112th Congress. So I thank Zoe Lofgren for letting me go first.

This is more puzzling than it is helping us get to the subject, but, Dr. Swain, you are sitting next to Dr. Morris, who served with distinction on the Congressional Black Caucus Foundation. And I was hoping that he would help defend the poor record of the Congressional Black Caucus that you have reported. This is the second time you have done that in the Committee.

Dr. Morris, can you defend me and the members of the CBC here?

Mr. MORRIS. Congressman Conyers, certainly. In terms of support of working-class Americans, absolutely right, and the Black working class. However, on the immigration issue, I think that there has been a belief of giving a priority to maybe a larger political coalition other than focusing on specifically the direct, narrow concerns of African-American workers.

One of the—

Mr. CONYERS. This is sort of damning with faint praise, Dr. Morris. Could you be a little more emphatic than that?

Mr. MORRIS. Well, I think that certainly—

Mr. CONYERS. I mean, there were seven members when I got here. There are 42 now, 43. And Dr. Swain never misses an opportunity to denigrate the CBC, which is frequently regarded to be the conscience of the Congress.

And of course, I don't know what my constituents are going to think about your comment because I have been reelected 23 times in a row and am now the second most-senior Member of the Congress. I hope you won't hold that against the Congress or my constituents.

But—

Ms. SWAIN. May I speak, sir?

Mr. CONYERS. Not yet. But let me get to Mr. Tea Party from Texas, George Rodriguez.

And I was impressed that on your statement that you submitted, you put "Mr. Tea Party," just in case anybody thought you were just an ordinary rank-and-file Republican.

Now, in Texas, you failed to give support to my Chairman when he ran just a few months ago. You can speak. I don't want you to shake your head. I want this to be in the record.

Mr. RODRIGUEZ. Well—

Mr. CONYERS. Right?

Mr. RODRIGUEZ. Can I speak now?

Mr. CONYERS. Right?

Mr. RODRIGUEZ. Yes, I did. I did not support Mr.—

Mr. CONYERS. So we have got a difficult situation here, Mr. Chairman. No, he said yes. Yes, I am correct. You did not support the Chairman?

Mr. RODRIGUEZ. I did not support the Chairman—

Mr. CONYERS. Right.

Mr. RODRIGUEZ.—Mr. Rodriguez. Is that what you are talking about?

Mr. CONYERS. No, Mr. Smith. Lamar Smith.

Mr. RODRIGUEZ. Yes, we did. We supported Mr. Smith.

Mr. CONYERS. Oh, you did?

Mr. RODRIGUEZ. Yes.

Mr. CONYERS. Oh, well, I apologize. I thought I was going to have—hear criticism from the Black Caucus and criticism from you from Lamar Smith, but you fail me. I thought the Tea Party was, you know, doing their own thing here.

We have got Members here, newly elected among the 87, that they are demanding things far beyond what the regular, ordinary, routine Republicans are doing.

Mr. RODRIGUEZ. Well, Mr. Conyers, perhaps you don't understand the Tea Party itself.

Mr. CONYERS. Perhaps.

Mr. RODRIGUEZ. Let me explain to you, just to be—the Tea Party is a conservative movement. It is not a political movement that supports one party or the other. We are conservatives, okay?

Mr. CONYERS. Do you know of any Democrats in the Tea Party?

Mr. RODRIGUEZ. Well, I am not sure I know any conservative Democrats.

Mr. CONYERS. Well, the Blue Dogs will be interested to hear about that.

Mr. RODRIGUEZ. Well, yes, and we have talked to some of them. But I am not sure if they are conservative enough for us.

Mr. CONYERS. Oh. Well, I am glad to know that our Chairman cut the mustard to fulfill your—

Mr. RODRIGUEZ. He does have the mustard. [Laughter.]

Mr. CONYERS. Well, let me just close with a question about the subject. How many here of the four of you believe that we ought to really just remove all the nonlegal immigrants in the country? Just take them right out of the fields, wherever they work. Or if they are not working, period.

Mr. MORRIS. Can I ask, Mr. Chairman, what do you mean “remove?” You mean forcible?

Mr. CONYERS. Remove, forcible removal out of the United States.

Mr. MORRIS. I don't think it needs to be forcible.

Mr. CONYERS. Well, let us—

Mr. MORRIS. That is the difference. I don't think it needs—

Mr. CONYERS. But you are for it.

Mr. RODRIGUEZ. I think you are trying to be dramatic on that aspect.

Mr. MORRIS. I think that those who have the choice and want to go back, should be able to go back.

Mr. CONYERS. No, no, no. I am not talking about options. I am talking about you don't believe that they should be all removed?

Ms. SWAIN. Are you referring to me?

Mr. CONYERS. And I dropped the dramatic term “forcible.” So what do you think about it? Answer the question.

Mr. MORRIS. What should happen is that if our laws were enforced—

Mr. CONYERS. Yes.

Mr. MORRIS [continuing]. And especially the workforce laws, many of those would go on their own because they do have the choices, unlike our own workers.

Mr. CONYERS. You mean they have got jobs back home waiting for them?

Mr. MORRIS. And options and choices, yes.

Mr. CONYERS. That is the most preposterous suggestion that I have heard here all morning. That they are all fleeing up here because they don't like the job, they can get better jobs.

Okay. Let me try something else.

Mr. GALLEGLY. Mr. Conyers, I have great respect for you, but I would just ask that we kind of wrap this up.

Mr. CONYERS. One question. Yes, sir. What about the question of if we removed the immigrants that work in the fields at stoop labor, how many of you think that they could be replaced by African-American unemployed workers?

[Show of hands.]

Mr. CONYERS. One, two, three.

Ms. SWAIN. No, I would like to be able to elaborate, and I would also like to be able to say to you, Mr. Conyers, that the Congressional Black Caucus, over the decades, they have done a great job. But it seems like somewhere along the way, they just lost their way.

And I think that we can trace the shift in the Congressional Black Caucus's position on immigration enforcement and that they seem to be more responsive now to interest groups rather than to the people that vote for them. And Black people vote for you and for the other Black members because they are very loyal. They love you. We love you. I love you.

But I wish the Congressional Black Caucus would do a better job of really representing the downtrodden, their constituents who are of different races and not one particular race.

Mr. GALLEGLY. The gentleman from Texas, Mr. Smith?

Mr. SMITH. Thank you, Mr. Chairman.

Let me address my first question to Dr. Swain and to Mr. Rodriguez because you both, in your written testimony, have pointed out the disconnect between working Black Americans and working Mexican Americans and the leaders of various African-American or Hispanic organizations. And I think you are right. There is a huge disconnect between the typical Black worker or Hispanic worker and some of the leaders of the various organizations.

Why do you think that is? Why is there such a great disconnect?

Ms. SWAIN. I believe it is because the elected Members of Congress, some of both parties, are more responsive to interest groups than they are to people who are not able to give large campaign contributions or are not organized. And so, that is one of the reasons why I am here today, I believe the voices of ordinary people need to be heard, those that cannot afford to hire lobbyists.

Mr. SMITH. Okay. Mr. Rodriguez?

Mr. RODRIGUEZ. I couldn't agree more with what Dr. Swain has said. I think what the problem is, and I think that this is, again, why the Tea Party has come to fruition and been organized is because we think that we feel that there is a disconnect between what the grassroots folks say and feel and see and do and what is happening in Washington, D.C., with leadership.

We have endeavored to meet with our congressional representatives in the San Antonio area, and on two occasions, we have had two Members of Congress tell us, using one phrase over and over again, "You don't understand how we work in Washington." Well,

the problem is that we do understand how you work in Washington. You know, that is the headache is that you are not listening to us.

I mean, we see what is going on, on C-SPAN. We hear the sound bites. And then, when we try to talk to people, one-on-one, to explain what is going on, what we see, they don't hear us. They just don't seem to pay attention. So I think that is the disconnect.

And the thing that I am telling you right now or that I want to emphasize to this Committee is that they keep talking about the immigrant community being under attack. It is not the immigrant community that is under attack. It is the illegal immigrant community that we have a problem with, illegal. I am not sure what the word "illegal," what people don't understand about that word.

The second thing is that we, as Hispanics, are tired of being lumped together with illegal immigrants, as somehow what happens to the illegal immigrant community is going to offend the Hispanic community. That is not true. We live as American citizens, and we want the laws enforced.

Mr. SMITH. Okay. Thank you, Mr. Rodriguez.

Dr. Morris, I would like to go to a different question, unless you want to address this question as well?

Mr. MORRIS. I just wanted to say that with the current economic situation, it isn't just the matter of illegal immigrants, but the level of legal and illegal immigration at the time of the jobs becoming a premium is of great—should be of great concern.

Mr. SMITH. Dr. Morris, my question to you is to emphasize the 17 percent of African-American men nationwide who are not employed and to ask you why you think immigration policy may have caused that high unemployment figure.

But let me actually quote from Mr. Henderson's written statement that his own poll found that 51 percent of African-American respondents believe that immigrants take jobs from Americans and that 59 percent of African-American respondents believe that immigrants cause lower wages for African-American workers in particular.

I happen to think that poll is accurate. But why do you think that immigration policy adversely affects the employment of Black Americans?

Mr. MORRIS. Basically, Mr. Chairman—Mr. Smith and the Committee, because labor is not exempt from the law of supply and demand. Any time you increase the supply from any source, you have got two effects. You have got a substitution effect, and you have got a wage depression effect.

The focus usually of any Congress is on the wage depressant effect, but my concern, and I think Dr. Swain, too, is the substitution effect. The fact that you have employees, employees who are preferred sometimes because they are more vulnerable, to other employees who are American citizens, who cannot get jobs because they are not part of networks, because increasingly there are contractor networks, because sometimes of their interaction with the criminal justice system, because of differential enforcement of laws are at a disadvantage.

And even because the so-called merit criteria works both ways and to the advantage of African Americans. For many kinds of jobs,

we are told that we have educational—we don't get jobs because our education isn't strong enough or we have sometimes even language deficits, you know, the "Ebonics" and so forth.

And you find in the immigration area that you have workers with less education and non-English language skills that are able to get jobs that are preferred. So there are a whole number of reasons immigration makes the situation worse.

I agree that it is not the only factor, and I also—I think we should all agree that many American workers, low-wage workers that are disadvantaged. But the fact is that it is worse, and it is going to get a lot worse, and African-American workers are much more vulnerable.

Mr. SMITH. Okay. Thank you, Dr. Morris.

Mr. Chairman, as John Conyers, the Ranking Member, said a while ago, he and I have to appear before another Committee to justify the Judiciary Committee budget. So I regret that I am going to have to leave.

But let me just say I don't think it does anybody any good, and it certainly does a disservice to Black Americans and Hispanic Americans, to ignore the consequences of our immigration policy, which clearly hurts those Black workers and Hispanic workers.

I thank you, Mr. Chairman.

Mr. GALLEGLY. Gentlelady, the Ranking Member from California, Ms. Lofgren?

Ms. LOFGREN. Thank you, Mr. Chairman.

I just want to note that it is always a danger to assume that the American people agree with our opinions, and the polling shows that the American people overwhelmingly support comprehensive immigration reform.

And rather than talk about the Lake Research poll, because Celinda Lake does a lot of Democratic polling, I will talk about the Fox News poll from 6 months ago, where they found that 68 percent of voters favored allowing undocumented immigrants who are willing to pay taxes and obey the law to stay in the United States, including 63 percent of Republican voters.

Dr. Morris, I have a quick question for you.

Mr. MORRIS. Certainly.

Ms. LOFGREN. I saw in your written testimony, you cite the Center for Labor Market Studies at Northeastern University.

Mr. MORRIS. Yes. Yes, ma'am.

Ms. LOFGREN. A report that they did. Now we have called them and asked them for a copy of that study and that report, and they won't give it to us. Have you seen the report and analyzed the data? And can we get it from you?

Mr. MORRIS. Yes, I will certainly do that.

Ms. LOFGREN. Thank you very much.

Mr. MORRIS. They wouldn't give it to you?

Ms. LOFGREN. No. They will not release it.

Mr. MORRIS. Oh, okay.

Ms. LOFGREN. Was what they said. But I would look forward to getting it from you, our secret, not-so-secret source. Thank you very much.

I want to ask you, Mr. Henderson—and it is an honor to have you here as a witness with your distinguished career. You warn

that the prospect of job displacement has been used by immigration restrictionists to really drive a wedge between African Americans and Latinos in the United States.

I would like to know what the civil rights community has done to try and beat back those efforts, and what particular package of policies do you feel would be effective in actually meeting the need to protect American workers, especially minority American workers? What should we be doing to help them?

Mr. HENDERSON. Well, thank you, Representative Lofgren, for the question. I appreciate it.

If you don't mind, I intend to answer it. But let me make one quick statement before I do. First, I want to challenge the premise of Chairman Smith's question about whether African-American legislators represent effectively the constituents for whom they are sent to Congress, on whose behalf they are sent to Congress, and whether African-American leaders within organizations like the NAACP, of which I am a life member and at one point a representative of the NAACP in its Washington bureau, whether these organizations and elected officials address the interests of their constituents.

First, with regard to the elected officials, repeatedly they are returned to Congress with higher margins of electoral support than many of their colleagues, regardless of party affiliation. And my own view, the best evidence of whether constituents feel that their interests are being well served is whether they vote regularly for the candidates who come before them.

The wave election that Mr. Rodriguez celebrates as a Tea Party leader is evidence that when constituents are dissatisfied in some way with their representatives, they vote them out. With regard to African-American leaders, the complete opposite tends to be the case.

Now with regard to the NAACP, we malign that organization to suggest in some way that they have no commitment to the interests of African Americans vis-a-vis the issue of job displacement. Certainly, the NAACP recognizes that the immigrant population includes both Africans and representatives of the Caribbean, as well as Latinos and representatives of other communities worldwide.

Their interest is no different than any other American who traces his or her ancestry back to a place other than the United States and who seeks to ensure that a system is applied fairly.

And on one last question, anecdotal evidence has its place. We all use it. It could be evaluated on the merits of whether or not it is useful to the Committee. However, hyperbole serves no one's interest. And to suggest that somehow the Obama administration has failed to enforce immigration laws, when the evidence would suggest that the level of immigration enforcement is, in fact, higher than previously existed under the Bush administration is the best evidence of whether the Administration is enforcing the law.

Now, with regard to the question that you have asked about various recommendations that have been made, it is our view that to suggest somehow that we can solve the problem of high unemployment that has persistently bedeviled the African-American community in this country by simply deporting the undocumented not only

is unfounded, it creates a myth that suggests somehow it is the undocumented who caused the problem.

I wanted to note while both Mr. Smith and Mr. Conyers were here that they collaborated recently on the enactment of a bill called the Fair Sentencing Act, along with Sheila Jackson Lee and many others who helped bring a measure of fairness to the application of drug policies that had previously skewed the level of enforcement that African Americans endured. That bipartisan effort deserves to be recognized because it did address one of the underlying problems that does affect the ability of African Americans to obtain the kind of employment for which they are qualified.

I would also say, however, that we believe targeted initiatives that include the enforcement of existing labor laws, as some have suggested that these laws only involve the issue of deporting undocumented workers, when, in fact, maintaining a fair workplace, enforcing labor standards, ensuring that there is public education to inform the public of the true cause of the depression are all very important.

And last point, I cited the Lake poll not because it was overwhelmingly favorable to our view. It is, quite frankly, based on the anecdotal evidence that we know exists. On the other hand, the depth of commitment to a legalization program and comprehensive legal immigration reform among African Americans belies the argument of some that African Americans somehow are not being served by comprehensive immigration reform when, in fact, the opposite is true.

Ms. LOFGREN. If I may, Mr. Henderson, I didn't, in any way, mean to criticize your citing Lake.

Mr. HENDERSON. No, no, no, no.

Ms. LOFGREN. I just figured for our conservative friends, the Fox News poll might be more persuasive.

And I yield back the balance of my time, Mr. Chairman.

Mr. GALLEGLY. I thank the gentlelady.

The Vice-Chairman of the Committee, my good friend from Iowa, Mr. King?

Mr. KING. Thank you, Mr. Chairman.

I thank all the witnesses for coming forward to testify today, and it is always an engaging subject, taken on here for some time.

I would like to first go across the spectrum of some of the issues that seems as though, as I read through some of this testimony and listen to other oral testimony, that there is a need for some clarification. And I want to lay out this. My level of consistency with regard to the approach with the Constitution and the law and the rule of law, and the consistency is this.

The terms used by Mr. Rodriguez, what is it about "illegal" they don't understand? Illegal immigration is intolerable to a free society. It violates the rule of law. It undermines an essential pillar of American exceptionalism, which is the rule of law, and it undermines our respect for the rule of law as a civilization, as a culture.

If we lose that, then there won't be as big a reason for people to leave other countries and come here. And I cannot understand why anyone would seek to re-create the very conditions that were the motivation for them to leave. I will stand on the rule of law in every circumstance I can.

The second one is I believe in a tighter labor supply. I believe that labor is a commodity, and it may not be exactly tradable on the Board of Trade like corn or beans or gold or oil, but it is a commodity. And the value of it is determined in the end by supply and demand in the marketplace.

If people seek to market their skills in an organized fashion, in a legal fashion, they have complete right to do that. And if they seek to market their skills by improving them and individually marketing them, they have a perfect right to do that in this country, and we need to enhance those conditions so that this Nation once again becomes a meritocracy. That is another thing that has attracted people from all countries on the planet to come here to the United States.

And it is one of the big reasons why we have skimmed the cream of the crop off of every donor civilization in the world. They came here because we had the rule of the law and because we have established a meritocracy. Today, we have devolved down into a welfare state, which complicates this discussion considerably.

But a tighter labor supply improves the wages, the working conditions, and the benefits for everyone involved in the labor market. And so, in order to tighten the labor supply, we need to close the border, and we need to shut down the jobs magnet. And we need to ensure that legal workers are the only ones working here in the United States, and there needs to be an extra benefit to American citizenship.

It needs to be precious, and it needs to be a reward for having earned it, not something that is granted by a carte blanche because of somehow there have been so many lawbreakers that we don't have the will, apparently, to enforce the law.

I am not for mass roundups or deportations in that fashion. I believe that local law enforcement, working in cooperation with Federal law enforcement officers, will do a fine job when they encounter individuals for other reasons. And if we are not willing to face the concept of deportation, then let us not go through the charade of thinking we are going to enforce any other immigration laws.

Then I want to point out also that the idea of equal opportunity is something where I have significant solidarity with Dr. Martin Luther King Jr. He asked for equal opportunity. He didn't ask for special privileges.

And I believe that every race, every ethnicity, has the innate ability to compete in a free and open society with equal opportunity. And we do a disservice to anyone whom we give special privileges to because they don't have to compete then. They get handed something that otherwise is precious because it has been earned.

So that covers some of them. Then noticed that Mr. Henderson spoke to the effort of some to amend the Constitution, specifically the 14th Amendment. And you will be glad to know, Mr. Henderson, that I stepped into that discussion because I thought a couple of United States Senators had gone a little too far in their discussion about the need to amend the Constitution and the 14th Amendment to put an end to the anchor babies issue.

Somewhere between 340,000 and 750,000 babies are born in this country to parents who are illegal. And that creates an unneces-

sary magnet that further undermines the rule of law. There is a clause in the 14th Amendment that says "and subject to the jurisdiction thereof." If that clause has meaning, then I contend Congress has the authority to repair that situation of anchor babies without having to amend the Constitution, but do so by statute.

And I would go further and say we should look at our society and see what we have here in this country. There are vast parts of America where things work right, where people live generation after generation. They educate their children. They get jobs. They live with the hope that there is a future for them in the neighborhoods that they grow up in.

And I work to see to it that every generation has that chance in every neighborhood. But I don't see that opportunity in every neighborhood. There are different cultures that have risen, partly because the Federal Government has turned this into a welfare state.

If you look at the reservation system in America, and I represent two of those and have now for 14 years, and there is a situation there where there is a dependency that has taken some of the most independent people in the world and put them into a dependency situation. And we have seen that replicated in the inner cities in the major cities of America with the same results.

We have to turn this culture around, and it needs to be one that respects the honor and the dignity of work, one that is focused on the quality of our lives and the underpinnings of American exceptionalism, but one that also a broad formula, a broad formula that addresses this.

We should be working to increase the average annual productivity of all of our people. If we do that, we increase their dignity, their independence, and their standard of living.

And with that, Mr. Chairman, I didn't come to a question, but I would yield to the Chairman and thank you for your attention.

Mr. GALLEGLY. Thank you, Mr. King.

Before I yield to the gentlelady from Texas, I would yield to the Ranking Member for a unanimous consent.

Ms. LOFGREN. Thank you, Mr. Chairman.

I would request unanimous consent to enter into the record statements, important voices from labor, such as William Lucy, president of the Coalition of Black Trade Unionists, and Gerald Hudson, the executive vice president of the Service Employees International Union;* a joint statement of unity from the Reverend Derrick Harkins, the senior pastor of the Nineteenth Street Baptist Church, and Sam Rodriguez, Reverend Sam Rodriguez, president of the National Hispanic Christian Leadership Conference; and statements from the Asian-American Justice Center, the National Asian Pacific American Women's Forum, the National Immigration Law Center, the National Immigration Forum, and the American Immigration Lawyers Association.**

Mr. GALLEGLY. Without objection.

Ms. LOFGREN. Thank you.

[The information referred to follows:]

*See insertion, page 7.

**The statement by the American Immigration Lawyers Association was withdrawn from insertion in the record of this hearing.

STATEMENT OF
GERALD HUDSON, INTERNATIONAL EXECUTIVE VICE PRESIDENT
SERVICE EMPLOYEES INTERNATIONAL UNION

"MAKING IMMIGRATION WORK FOR AMERICAN MINORITIES"

SUBCOMMITTEE ON IMMIGRATION POLICY AND ENFORCEMENT

HOUSE COMMITTEE ON THE JUDICIARY

MARCH 1, 2011

The effort by some to divide people along racial and ethnic lines is as old as the wind.

Immigration has often been used for this purpose, going back at least to the Civil War era when New York City's immigrants and the poor, rioting to protest conscription, turned their ire against freed slaves who were newly arrived to the City. More recently, anti-immigrant organizations have made transparent attempts to stoke resentment in African American communities despite the fact that these anti-immigrant organizations and their political allies have generally made common cause with an anti-worker agenda that is anathema to most African Americans.¹

The endeavors by anti-immigrant groups to recruit African Americans to their cause often build on the kernel of truth that working class immigrants and African Americans share many characteristics and face similar barriers to employment, and as a result often compete for the same jobs.² But the fact is that immigration has only a slight impact on the current job market for U.S. workers, including low-skilled and African-American workers.³ The high level of unemployment in today's economy is caused by factory closures, the deindustrialization of inner cities, racial discrimination and other factors.

Previous attempts to divide communities have not tended to do as well as might be expected. For example, in polls, African Americans are almost always among the most sympathetic supporters of immigrants' rights, and Hispanic Americans voted overwhelmingly in favor of Barak Obama for

¹ See, America's Voice Education Fund, *The Anti-Worker Truth about the Republican House Judiciary Committee* January 24, 2011, http://americasvoiceonline.org/research/entry/the_anti-worker_truth

² We say that there is only a "kernel of truth" to this common perception because the literature suggests that the competition between groups is at least somewhat illusory. Immigrants don't just take jobs, they also create them, and the evidence is that the net impact on native workers, even unskilled workers, is very slight one way or the other. Gerald Jaynes, *A Conversation about the Economic Effects of Immigration on African Americans* (Washington, DC: Immigration Policy Center, American Immigration Law Foundation, July 2010). Other policy choices, such as increasing the minimum wage, enforcing labor laws, and investing in inner cities, have a much greater impact than immigration on the employment, wages and working conditions of native unskilled workers. *Id.*

³ See, Heidi Schierholz, *Immigration and Wages: Methodological advancements confirm modest gains for native workers*, (EPI Briefing Paper, February 4, 2010).

President.⁴ Justice, fairness and equal pay for equal work are shared values of members of these communities and most immigrant and native born workers recognize that they have much more in common than divides them. Solutions that work for immigrants also tend to work for persons who were born here.

That holds across the broad spectrum of issues, but also applies to immigration policy. Our outdated immigration system is an expensive and inefficient drag on our economy which hurts us all. All workers—native-born as well immigrant—are harmed by unwise laws that feed the growth of the underground cash economy, assisting companies that operate outside of the rule of law by increasing their labor pool, and thereby creating a race to the bottom for the worst-paying and most difficult jobs.

Meanwhile, the flailing efforts at both the federal and state levels to enforce a broken system—instead of repairing it—amount essentially to good money thrown after bad, all for the sake of cheap political pandering. Most Americans understand that such efforts will not succeed absent the comprehensive reforms necessary to restore order, fairness, and integrity to the system.

The key to “making immigration work for American minorities” is therefore the same as it is for all Americans: updating and replacing our broken immigration system with one that addresses the needs of U.S. and immigrant workers in the 21st century global economy. SEIU’s 2.2 million members, many—though not most—of whom are foreign born, expect our nation’s leaders to enact workable solutions to our immigration problems and to recognize that punitive, anti-immigrant measures are neither realistic nor workable. Our immigration enforcement strategy and tactics should be designed and evaluated according to their impact on U.S. jobs, wages and working conditions, and more broadly on the health of our economy. Not surprisingly, it turns out not only to be right, but also critical to our

⁴ Julia Preston, “In Big Shift, Latino Vote Was Heavily for Obama”, *New York Times*. November 6, 2008, <http://www.nytimes.com/2008/11/07/us/politics/07latino.html>

Nation's long-term interest, that we treat immigrant workers in accordance with our nation's highest values. Doing so will tie all workers closer together—regardless of our backgrounds—and build strength and unity so we can better address the myriad of challenges that plague America's working families.

SEIU believes that the only way to fully address our festering immigration problems is through comprehensive reform that fixes the interconnected flaws of our current broken system. The need for comprehensive reform is urgent, not just for immigrants, or for "minorities," but for all of us. Until it is enacted, the absurdities of our current system will continue to pull our economy downward and claim an ever-growing list of victims, including: workers who suffer depressed wages and poor working conditions; families separated from their loved ones; and communities that are degraded by increasingly heavy handed—but ineffective—enforcement efforts.

In contrast, once comprehensive reform is achieved:

- All workers will be legal workers, ending the current system of workforce tiers based on immigration status;
- Future immigrants will have a safer, legal, and more orderly path to our shores;
- The reduced illegal flow will greatly reduce the pressure for punitive enforcement measures that degrade our values;
- Immigrants will be better integrated and less susceptible to exploitation; and
- Immigrants will succeed faster and will contribute more to our economy in numerous ways, including paying more taxes.

SEIU urges Congress to enact such reforms as soon as possible. Doing so will make immigration work much better for "minorities," immigrants, and all Americans.



Joint Statement from Rev. Derrick Harkins, Senior Pastor of the Nineteenth Street Baptist Church and Rev. Samuel Rodriguez, President of the National Hispanic Christian Leadership Conference for the House Judiciary Committee on Immigration Policy and Enforcement's Subcommittee Hearing: Making Immigration Work for American Minorities

March 1, 2011

As faith leaders of African-American and Hispanic congregations, we come together to affirm our commitment to an economic solution that honestly addresses the need for good jobs for everyone in our communities, without seeking to pit us against one another for political gain. We acknowledge that many in our congregations are struggling economically and feeling the pain of unemployment, but we reject the tactics of political leaders who use their positions of power to foster divisions and resentment between the African-American, Hispanic, and immigrant communities.

Their approach is not new. Politicians and special interest groups have long sought to reinforce the notion that our communities are at odds and in competition for jobs, public resources, and civil rights advancement. These same groups portray immigrants as Hispanics who flout the legal immigration system and deliberately displace American workers, damaging the opportunities and freedoms of African-Americans. These images ignore the reality: that immigrants from all over the world are woven into the fabric of African-American and Hispanic communities across the country. The divisive tactics of special interests serve only to prevent the possibility of true transformation in our system.

However, our search for justice and equality unifies us across ethnic lines: We know that blaming a particular group of people – rather than acknowledging and addressing the brokenness of our current immigration system – will never lead to real solutions for our nation. We also recognize that fear of those who are different will greatly hinder our nation's progress, and we must actively expose and uproot this element of the current debate.

As leaders of faith communities, we are called to care for the poor and welcome the stranger. We stand on the principles of Dr. King and others

who proclaim that God gave all people human dignity and value, regardless of race or position in life. This means keeping children and parents together, and establishing pathways by which our immigrant brethren may seek a better life for themselves and their families and contribute fully to our communities.

We recognize that justice will only come when we move beyond false divisions and turn to the real challenge: building an economy and society that welcomes and rewards all those who seek to work hard and contribute to our general welfare. We cannot sit by as our leaders play up concerns for African or Hispanic Americans as an excuse to avoid the real work at hand, and we pray that politicians in both parties will rise above these cynical tactics and work toward an immigration system that expands our prosperity while preserving the dignity of all.



**Written Statement of Karen K. Narasaki
President and Executive Director
Asian American Justice Center,
A Member of the Asian American Center for Advancing Justice**

**House Committee on the Judiciary
Subcommittee on Immigration Policy and Enforcement**

Hearing on: "Making Immigration Work for American Minorities"

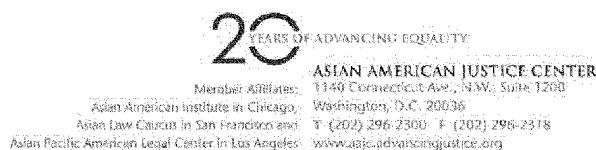
March 1, 2011

Today the House Subcommittee on Immigration Policy and Enforcement will hold a hearing titled "Making Immigration Work for American Minorities." On behalf of the Asian American Justice Center (AAJC), a member of the Asian American Center for Advancing Justice, I strongly urge the Subcommittee to focus its inquiry on positive solutions that will help all Americans prosper.

Founded in 1991, AAJC is a national organization whose mission is to advance the human and civil rights of Asian Americans, and build and promote a fair and equitable society for all. AAJC is one of the nation's leading experts on issues of importance to the Asian American and Pacific Islander community including: affirmative action, anti-Asian violence prevention/race relations, census, immigrant rights, immigration, language access, television diversity and voting rights. To fulfill our mission, AAJC's efforts include promoting social understanding between the diverse racial and ethnic groups we represent, as well as their neighboring communities, and working to create an inclusive society by helping Asian American and other minority groups to successfully challenge discriminatory barriers in all forms.

The implicit premise of today's hearing is that immigrants, documented or otherwise, harm minorities. Looking at immigrants through this negative and simplistic frame ignores the real problems facing minorities and serves only to create a wedge between immigrants and minorities. We should not pit minorities against immigrants, which ultimately harms all Americans. Rather, we should have productive dialogue that acknowledges both the real needs of minority communities and the positive benefits of immigration on all communities.

First, the majority of available research indicates that immigration has an overall positive impact on our economy. Immigrants help grow our economy and create jobs for native-born workers, including minorities, in many ways. They may occupy low-skill positions that, in turn, create other jobs for more highly-skilled workers. Immigrants are also highly entrepreneurial and start businesses – which creates more jobs – at a higher rate



than native-born Americans. In the context of recent immigrants, a 2009 study found little apparent relationship between recent immigration and unemployment rates among African Americans, or any other native-born racial/ethnic group, at the state or metropolitan level. States and metropolitan areas with the highest shares of recent immigrants in the labor force do not necessarily have the highest unemployment rates among native-born blacks, whites, Hispanics, or Asians. Nor do locales with the highest rates of unemployment among native-born blacks, whites, Hispanics, or Asians necessarily have the highest shares of recent immigrants in the labor force.¹ Therefore, immigrants uniquely benefit native-born Americans and can have an overall positive impact on minority workers.

Second, minority communities have long been neglected and ignored – regardless of immigration levels. As a result of historical and current discrimination, many minorities, including African Americans, live in chronically underfunded and underserved communities. Minority communities frequently suffer from overcrowded and underperforming schools, lack of quality affordable housing or transportation, and lack access to healthcare and other critical services, and employment discrimination. In addition, the African American community in particular has been negatively impacted by continuing inequities in our criminal justice system.

In this difficult economic climate, we can best serve minority communities by ensuring that sufficient resources are invested in those communities to help eliminate barriers to economic and social equality. Instead of scapegoating immigrants, political leaders truly committed to improving the welfare of disadvantaged minorities should support programs that address the problems within these communities by, for example, devoting greater resources to public education and increasing enforcement of workplace protections and other antidiscrimination laws.

Further, we need sensible solutions that protect all workers from exploitation, improve workplace conditions and raise wages. Congress should enact sensible and humane immigration reform, including a legalization program, which brings undocumented immigrants out of the shadows. Unscrupulous employers who take advantage of undocumented immigrants and undercut their honest competitors merely create a race to the bottom that hurts *all* workers. We must pursue policies that serve the interest of all workers, especially those who are unemployed or employed in low-wage jobs. We also need to provide more job skills, training and adult education opportunities for disadvantaged communities, including young people and high school dropouts, to help them achieve employment.

I urge the Subcommittee to address the real barriers to the well-being of minorities rather than unnecessarily exploiting false fears about immigrants, which only serves to divide Americans. The Subcommittee must find ways to bring communities together by promoting prosperity and success for all Americans. Thank you.

¹ Rob Paral & Associates for the Immigration Policy Center, “Immigration and Native-Born Unemployment Across Racial/Ethnic Groups: Untying the Knot, Part II of III”, May 2009.

March 1, 2011

National Asian Pacific American Women's Forum
Statement for the
House Judiciary Immigration Policy and Enforcement Subcommittee
"Making Immigration Work for American Minorities" Hearing

The National Asian Pacific American Women's Forum (NAPAWF) is the only national, multi-issue Asian and Pacific Islander (API) women's organization in the country. NAPAWF's mission is to build a movement to advance social justice and human rights for API women and girls. NAPAWF is also one of the co-leaders of the National Coalition for Immigrant Women's Rights. In this capacity, we defend and promote equality for all immigrant women and their families living and working in the United States. We integrate human rights principles into our work and believe that immigrant rights are women's rights. NCIWR advocates at the national, state and local levels for comprehensive immigration reform, fair and non-discriminatory implementation of our immigration and enforcement policies, and reproductive and economic justice for immigrant women.

Equality for immigrant women can only be attained when immigrant women can live free from discrimination, oppression and violence in all their forms. We believe it is imperative that organizations advocating for comprehensive immigration reform also support fair and just immigration policies that protect the rights of immigrant women. As such, our guiding principles for immigration policy are as follows:

- Legal and safe immigration options for undocumented men, women and children. Immigrant women must be free of mental, physical and emotional violence at the hands of traffickers, smugglers, intimate partners, family members and others who exploit immigrant women's legal and economic vulnerability. Our immigration and criminal justice systems must ensure that immigrant women and their children are protected from gender-based violence; and not perpetrate the cycle of violence against immigrant women and children by failing to provide adequate remedial measures to ensure immigrant their safety and physical integrity.
- A path to citizenship that allows immigrant women to obtain work permits, to travel internationally and access higher education and federal financial aid. Immigrant women must have viable options that will permit them to be full contributors in the U.S. economic and societal landscape.

- Legal channels for immigrant women workers to fill future U.S. jobs. Immigrant women must be protected from exploitation and abuse in the workplace by providing fair wages and safe working conditions.
- Immigration policies that support family reunification. This includes reducing the family and employment based immigration backlogs that contribute to separation of immigrant women from their children, families and communities. Also, family-based immigration policy must respects the rights of lesbian, gay, bisexual and transgender immigrants and same-sex partners.
- An end to discriminatory, militaristic and inhumane immigration enforcement practices that destroy the families, homes and communities of immigrant women. Enforcement programs such as Secure Communities, 287(g), and state enforcement policies are increasing the vulnerability and violence that immigrant women experience as increasing fear of law enforcement is preventing immigrant women from taking action against their abusers in criminal or domestic violence situations. These programs make immigrant women, their children, and their communities more vulnerable and less safe.
- Universal health coverage that provides adequate health services and care for all immigrant women regardless of legal and economic status. Reproductive health care coverage financed through public funds provided to all immigrant women regardless of legal and economic status. The repeal of all federal and state level restrictions on access to reproductive health services by immigrant women and their children.
- Immigration policies that protect the reproductive rights of immigrant women and the citizenship of their American-born children. Reproductive health care includes the repeal of all federal and state level restrictions on access to reproductive health services by immigrant women and their children and equitable access to confidential and non-coercive family planning services and contraceptive equity. Policies that increase the vulnerability of pregnant immigrant women, such as federal and state level attempts to restrict the citizenship of US-born children are short-sighted and increase scrutiny and suspicion of immigrant women of reproductive age.

Written Statement of Emily Tulli
Worker Rights Policy Attorney, National Immigration Law Center
House Committee on the Judiciary
Subcommittee on Immigration Policy and Enforcement
Hearing on: "Making Immigration Work for American Minorities"
March 1, 2011

The National Immigration Law Center (NILC) is a nonpartisan national legal advocacy organization that works to protect and promote the rights of low-income immigrants and their family members. Since its inception in 1979, NILC has earned a national reputation as a leading expert on the intersection of immigration law and the employment rights of low-income immigrants. NILC's extensive knowledge of the complex interplay between immigrants' legal status and their rights under U.S. employment laws is an important resource for immigrant rights coalitions and community groups, as well as national advocacy groups, policymakers, attorneys, legal aid groups, workers' rights advocates, labor unions, government agencies, and the media.

Brief Summary of Recommendations

Over the last 30 years, low wage workers have seen a decline in their earning power as compared to the average worker. Workers' wages have decreased and poor or nonexistent labor enforcement has exacerbated the crisis. While it may be politically popular to pit low wage workers against each other, this kind of rhetoric is wrong and fails to address the real dynamics at play in the U.S. economy. In reality, immigrants complement the "large majority of American workers" rather than undermine their economic prospects.¹ Moreover, it is a "myth" to assert that immigrants harm the job prospects of African Americans. As with most other Americans, few African Americans compete directly with immigrant workers.² Instead of rhetoric, low wage workers need solutions aimed at increasing wages, bettering working conditions, and ensuring that all workers can effectively enforce their rights. Given the current power imbalance between workers and employers, reform of our immigration laws is necessary to ensure that all workers can labor in an environment free of exploitation, retaliation, and abuse.

Strong enforcement of labor laws is necessary to raise workers' wages and working conditions

During the Bush administration, low wage workers' difficulties, including theft of wages and retaliation for illegal employer behavior, were compounded through lax labor law enforcement. In 2008, the Government Accountability Office (GAO) assessed the Department of Labor's (DOL) enforcement and found an "ineffective system that

¹ Dan Griswold, ICE Worksite Enforcement – Up to the Job?: Testimony Before the Subcommittee on Immigration Policy and Enforcement, Committee on the Judiciary, U.S. House of Representatives (Cato Institute, Jan. 26, 2011), www.cato.org/pub_display.php?pub_id=12730, at 5.

² Id.

discourages wage theft complaints” and a department that did not “fully investigate” conciliations or “compel employer to pay” wages owed to workers.³ The Department’s investigations were frequently delayed by months or years and were often adequately investigated.⁴

This regime of low or no labor law enforcement during the Bush administration helped to create a catastrophe for low wage workers. Today, the low wage workforce has stagnant wages and poor working conditions. When adjusted for inflation, low wage workers make about the same as a low wage worker in 1979⁵ and are losing ground compared to average workers in the US.⁶ For workers making minimum wage, the outlook is even bleaker. Wage inequality has increased with the minimum wage being only thirty-three percent of the average hourly wage of American workers.⁷ In addition to barely-livable pay, low wage workers regularly experience violations of workplace rights, such as nonpayment of the minimum wage or overtime.⁸ DOL estimates that nearly *half* of the businesses it investigates have labor law violations.⁹ These problems are even worse where low-wage jobs are concerned. According to one study, 26 percent of workers were paid less than the minimum wage for their previous week’s work, and nearly 76 percent did not receive the legal wage for overtime hours.¹⁰

Workers and their families clearly understand the implications of these realities. According to a comprehensive survey, low wage workers believe that their life has been getting harder in recent years and 75 percent believe it has become harder to find good jobs, health care, higher education, and “decent, affordable housing.”¹¹

³ Gregory D. Kutz, Testimony Before the Committee on Education and Labor, House of Representatives: Wage and Hour Division’s Complaint Intake and Investigative Processes Leave Low Wage Workers Vulnerable to Wage Theft (Government Accountability Office, March 25, 2009, GAO-09-458T) at <http://www.gao.gov/new.items/d09458t.pdf>, pg. 2

⁴ Id.

⁵ Gregory Acs, Statement for the Committee and Ways and Means Subcommittee on Income Security and Family Support, House of Representatives: Low-Wage Workers in the United States: Status and Prospects, Sept 11, 2008, at http://www.urban.org/UploadedPDF/901190_Acs_low-wage_workers.pdf, pg. 5. The Urban Institute based this conclusion on a 2006 CBO study looking at the distribution of wages between 1979 and 2005 and examining how the wages of the 10th percentile changed over time, noting that a low-wage worker today makes about the same as a low-wage worker in 1979.

⁶ Id.

⁷ United Food and Commercial Workers, Minimum Wage: Facts at a Glance at http://www.ufcw.org/issues/minimum_wage/facts.cfm.

⁸ See Annette Bernhardt, et al., Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America’s Cities (Center for Urban Economic Development, National Employment Law Project, and UCLA Institute for Research on Labor and Employment, 2009), http://nelp.3cdn.net/59719b5a36109ab7d8_5xm6bc9ap.pdf

⁹ Thou Shalt Not Steal: A Toolkit on Wage Theft (Interfaith Worker Justice, undated), available from <http://www.wagetheft.org/resources/resources.html>.

¹⁰ Broken Laws, *supra* note 6

¹¹ Kaiser Family Foundation, Survey Brief: Low Wage Workers and Healthcare, at <http://www.kff.org/kaiserpolls/upload/7804.pdf>

To raise workers' pay and improve their economic mobility, there must be vigorous enforcement of labor laws at the national, state, and local level. Labor lawbreakers' under-pay and intimidate unauthorized workers and other vulnerable workers. And in this economy, workers are more vulnerable than they are when times are relatively good. If they complain about their boss's violations of law, they could face retaliation.¹² This holds true for authorized and unauthorized workers. When faced with the prospect of losing their job or having their hours cut, more often than not workers stay silent about being cheated or abused.

These employers can use the threats of job loss or immigration enforcement as a tool to maintain worker compliance and ensure that pay for low-wage workers remains abysmal. These threats depress the wages and working conditions of *all* workers. Often, employers pay no penalty for these egregious labor violations. Holding employers liable for these labor law violations for *all* aggrieved workers reduces the economic incentive to break labor laws. A comprehensive scheme aimed at enforcing labor laws benefits all workers and ensures that there is a rebalancing of power between the labor lawbreaking employer and the worker.

Reform of US immigration law is needed to ensure that all workers rights are protected

According to the AFL-CIO, legalization is an important worker protection that "benefits all workers."¹³ Not only will it benefit workers, but it will give a much-needed boost to our economy. Immigration reform that includes a legalization program would increase U.S. GDP by at least 0.84 percent, which translates into \$1.5 trillion to the nation's economy over ten years. This is compared to a deportation-only policy which would result in the loss of \$2.6 trillion over 10 years.¹⁴

Reform of our nation's immigration laws is critical for low-wage workers. Real reform will get help obliterate some egregious employers' power over vulnerable workers, raising wages for all workers. Newly legalized workers would enjoy "more bargaining power in the marketplace" and would be "far more likely to be employed on the books" and would receive "better pay."¹⁵ And granting legal status to unauthorized workers would provide our economy with a much-needed infusion of revenue. Based on recent evidence, a broad legalization program would boost wages and tax revenue to the tune of \$4.5 billion to \$5.4 billion.¹⁶ Moreover, reform would mean that "native-born and legal immigrants are no longer required to compete with an underground labor supply."¹⁷

12 Broken Laws, *supra* note 6, p. 3.

13 Responsible Reform of Immigration Laws Must Protect All Workers in the U.S. (AFL-CIO, March 1, 2006), <http://www.aflcio.org/aboutus/thisistheaflcio/ecouncil/ec02272006e.cfm>.

14 The Economic Benefits of Comprehensive Immigration Reform (Center for American Progress, Jan. 14, 2010), http://www.americanprogress.org/issues/2010/01/pdf/cir_factsheet.pdf.

15 Dan Griswold, *supra* note 1 at 7

16 The Economic Benefits of Comprehensive Immigration Reform, *supra* note 14

17 Dan Griswold, *supra* note 1 at 7

Given the epidemic of low wages, all workers would benefit from a reform of the immigration system. A comprehensive reform of the immigration system would allow workers to come out of the shadows and participate in the above-ground economy while raising labor standards for all workers. A large reform of the immigration system will also prevent the churning of the workforce that undermines low wage jobs.

Conclusion

Low wage workers will be most benefited by strong solutions that help workers assert their rights and raise their wages. Strong enforcement of labor laws and reform of the immigration system are two keys parts of the solution. Instead of hearings indicating “concern” for minority workers low wage workers actually need rigorous wage enforcement and immigration reform.



Statement for the Record
House Subcommittee on Immigration Policy and Enforcement
“Making Immigration Work for American Minorities”
March 1, 2011

The National Immigration Forum works to uphold America's tradition as a nation of immigrants. The Forum advocates for the value of immigrants and immigration to the nation, building support for public policies that reunite families, recognize the importance of immigration to our economy and our communities, protect refugees, encourage newcomers to become new Americans and promote equal protection under the law.

We are submitting our views about the subject of this hearing, “making immigration work for American minorities.”

The way to make immigration work for American workers is not to pit one set of American workers against another. That is the essence of the status quo with our broken immigration system. An exclusive focus on enforcement of our broken laws has promoted a situation that punishes workers and rewards bad-actor employers by creating a race to the bottom for the worst paying jobs.

Congress can make immigration work for all American workers by doing the hard but necessary work to fix our broken immigration system. That will level the playing field in the workplace and stop the race to the bottom that the current immigration system promotes.

Comprehensive immigration reform that legalizes undocumented immigrants would help American workers and the U.S. economy. It would raise the “wage floor” for U.S. workers, because the legalization of undocumented workers will deprive unscrupulous employers of their chief weapon allowing them to provide substandard wages and working conditions: the vulnerability of the undocumented to deportation.

Perhaps of equal importance, comprehensive immigration reform would help boost the economy generally, creating more jobs for American workers, including minority workers. There are estimates showing that comprehensive immigration reform, if enacted, would generate an annual increase in U.S. economic output of at least 0.84 percent. This amounts to \$1.5 trillion in additional GDP over 10 years, and the expected rise in the personal income of the newly legalized immigrants would create enough consumer spending to support 750,000-900,000 jobs.

Many of those jobs will of course go to minority workers. First, however, Congress has to make the changes necessary to reform the system. That will require setting aside partisan posturing and going beyond an exclusive focus on immigration enforcement. Failure to do so sustains the status quo, in which workers will continue to be pitted against each other by bad employers who pay lower wages, avoid taxes, and violate the law.

Thank you for the opportunity to provide our view on this matter.

50 F Street, NW, Suite 300, Washington, DC 20001. | T 202-347-0040 F 202-347-0058 | www.immigrationforum.org

Mr. GALLEGLY. The gentlelady from Texas, Ms. Jackson Lee?
 Ms. JACKSON LEE. Mr. Chairman, thank you very much.

And let me thank the Ranking Member for the opportunity and allow me to express my appreciate for all of the witnesses. Whenever we have Americans who are able to come and participate in

this participatory democracy, we are the better for it. Whether we agree or disagree, we are the better for it.

Mr. Rodriguez and I have worked together, and it is good to see him again. And certainly, Dr. Swain and I have participated in some of these similar hearings. Certainly, Dr. Morris and Mr. Henderson.

Let me just, Dr. Swain, I know that I had an academic background from you before. Where was your undergraduate and graduate degrees?

Ms. SWAIN. I have five degrees. I started off—

Ms. JACKSON LEE. Can you just tell me the schools because my time is short?

Ms. SWAIN. Okay. My Ph.D. is from the University of North Carolina at Chapel Hill. I have two master's degrees, one from Yale and one from Virginia Polytechnic Institute. And I started life as a high school dropout with my first degree from a community college. So I have come from the bottom and understand working people.

Ms. JACKSON LEE. Thank you.

Dr. Morris?

Mr. MORRIS. My doctorate is from MIT, master's in public administration from the Maxwell School of Syracuse. My undergraduate, where I am going back for my 50th year this year, is from Colgate University.

Ms. JACKSON LEE. Okay. And Mr. Henderson, I won't ask you because I have already heard.

Mr. Rodriguez?

Mr. RODRIGUEZ. I am a graduate of Brigham Young University.

Ms. JACKSON LEE. Okay. Let me first say that the Congressional Black Caucus have been champions for higher education. The very existence of historically Black colleges and Hispanic-serving institutions through this very rocky road, particularly in the last Administration, has been at the behest of the Congressional Black Caucus and its collaboration with the Hispanic Caucus, and we are very proud of the opportunities that we have given to young people.

In addition, we have been champions, I know that I will not take a back seat to anyone on supporting community colleges, which happen to be probably some of the most diverse institutions that we could have.

I can't compete with you, Dr. Swain. I have an undergraduate degree from Yale and a law degree from the University of Virginia. And so, I am looking forward to having the opportunity to go back and get a number of others. I will check you out at that time.

But in any event, I wanted to just say to you that this hearing reminds me of a hearing that is dead on point for comprehensive immigration reform. This is the testimony. I don't have to go any further to reinforce. Everything you have said will provide for the database for comprehensive immigration reform, which the President of the United States, Sheila Jackson Lee, Emanuel Cleaver—I want to cite some names here—chairman of the CBC, and Ms. Chu, Mr. Gutierrez, representatives from several other organizations, and I have them here, Mr. Henderson, of course, comprehensive immigration reform.

It can't get any better than this. So let me proceed with my questioning, and Mr. Henderson, I am going to focus a little bit on you. And I will allow, maybe yield to Dr. Swain for a moment.

First of all, I have a document here from the Murphy Law Firm 2010 that indicates that ICE raids have resulted in a 45-fold increase in criminal worksite arrests. So there has been no back-stepping under this Administration on raids. Whether or not they have been well, at one point, I do know that we have halted raids because ICE has been so effective in worksite investigation.

While I have that point, I want to take a personal privilege, Mr. Chairman, and put in the record, as I have done before, my deepest sympathy to Jaime Zapata's family, who was killed in Mexico when two gunmen attacked him with AK-47s. I would prefer having a hearing on the tragedy and crisis of dealing with the loss of this patriot than to waste our time as we are doing.

But in any event, since we are, let me quickly move to questions and to point out.

Mr. GALLEGLY. Without objection, if you would like to have that entered into the record, we will enter that into the record.

Ms. JACKSON LEE. Just as my statement, Mr. Chairman. Thank you for your kindness, to offer the sympathy of this Committee.

But I have a document here from the GSA that is apologizing for failing to meet the goals of MWBE businesses for the Federal Government. Small businesses, minority-owned businesses create jobs. I have a document that I would like to put in the record where the Bush administration submitted an anti-affirmative action brief.

Now these are all youngsters. I am a youngster as well. And frankly, and Mr. Chairman, would you indulge me just so I can finish and get my question here?

Mr. GALLEGLY. If you would like to enter that into the record, we will do that without objection.

[The information referred to follows:]



U.S. General Services Administration

Minority Contracting: Opportunities and Challenges for Current and Future Minority-Owned Businesses

STATEMENT OF
JIYOUNG PARK
ASSOCIATE ADMINISTRATOR
OFFICE OF SMALL BUSINESS UTILIZATION
U.S. GENERAL SERVICES ADMINISTRATION
BEFORE THE
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
SUBCOMMITTEE ON GOVERNMENT MANAGEMENT,
ORGANIZATION, AND PROCUREMENT
U.S. HOUSE OF REPRESENTATIVES
SEPTEMBER 22, 2010

Good morning, and thank you for the opportunity to appear before you today to discuss doing business with the government and the U.S. General Services Administration's (GSA) record and goals for small and minority owned businesses. I am Jiyong Park, Associate Administrator for the Office of Small Business Utilization at GSA.

As you know, small businesses are leaders in innovation and drivers of the economy. Small businesses create two thirds of all net new private sector jobs, employing half of all working Americans. According to the U.S. Census Bureau, the number of minority owned businesses increased by 46 percent between 2002 and 2007, which is more than twice the national rate for U.S. businesses. Without question, during this period of economic revitalization, small and minority businesses will continue to play a pivotal role in supporting our country.

We at GSA continue to support this ever-growing group of businesses, and we partner closely with the U.S. Small Business Administration, Department of Commerce's Minority Business Development Agency, and others on these efforts. GSA recognizes the importance of small and minority owned businesses to our nation, as well as the benefit to the Federal Government of engaging in business with this sector. Our agency remains committed to helping minority businesses gain access to competitive contract opportunities that fulfill the needs of the Federal Government, create jobs for American

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workers, and promote economic growth.

The current procurement policy provides for encouraging small disadvantaged business participation in contract performance through joint ventures, teaming arrangements, and subcontracts through the use of credit under source selection evaluation factors. The current policy also provides for increased subcontracting opportunities through monetary incentives in targeted industries. GSA supports this policy, and it has helped us achieve significant success. Each year the federal government contracts out approximately \$500 billion of business. The Small Business Act sets a goal of awarding 23 percent of those prime federal contract dollars to small firms and a goal of 5 percent to small disadvantaged businesses.

GSA fully supports federal contracting opportunities for small businesses. To date in FY 2010, the agency has awarded nearly \$1.9 billion to small businesses, and over \$829 million to small disadvantaged businesses. These numbers illustrate GSA's unwavering dedication to supporting opportunities for minority businesses. These numbers are also a testament to the great achievement of minority owned businesses.

In FY 2009, GSA directly awarded approximately \$2 billion contract dollars to small businesses, and \$793 million of that to small disadvantaged businesses. While \$2 billion in awards did not fully meet GSA's FY 2009 goal negotiated with SBA at 35.7 percent, it represents a \$100 million increase over the 1.9 billion awarded in FY 2008. While more remains to be done, \$2 billion is the largest amount GSA has awarded to small businesses to date. GSA received \$5.85 billion through the American Recovery and Reinvestment Act to convert federal buildings into high-performing green spaces, green the federal fleet, and renovate buildings, courthouses, and land ports of entry. This portfolio includes many large capital construction projects that were unavailable for small businesses, which presented a unique challenge in meeting our small business goals. Despite this challenge, we are committed to small businesses at both the prime and subcontract level.

Since the enactment of the Recovery Act, GSA has taken on an integral role in helping small businesses compete for our agency's Recovery Act projects. To date, \$452 million in GSA Recovery Act dollars have been awarded to minority firms. One such recipient is Rios Associates, a Los Angeles based Hispanic-owned firm, who won \$300,000 to develop sustainable landscapes for GSA buildings. OKE Thomas and Associates, an African American owned, Missouri-based company, won a \$16 million GSA Recovery Act award for multiple projects ranging from carpet installation to roof upgrades using energy star materials. In another example, Epsilon Systems Solutions, an Asian American firm in San Diego, California, won \$350,000 to provide technical expertise for GSA Recovery Act projects.

The list goes on. Awards like these across the country respond to the discriminatory barriers still faced by minority owned firms, and help small minority owned firms make payroll, grow their business during difficult economic times, contribute to the greening

of our federal buildings, and create green jobs for the future.

The Recovery Act is only one part of GSA's overall portfolio. In a given year, nearly 17 percent of all Federal contract dollars flow through GSA contracts, and we are fully committed to continued stewardship of these funds to maximize small business opportunity. Our contracting programs level the playing field and enable small businesses to compete, while also bringing the best, innovative ideas to the government. One of our largest vehicles for supporting small business is the Multiple Award Schedules (MAS) Program. GSA's MAS program is the largest acquisition program within the federal government, with \$47 billion in sales in FY 2009.

GSA MAS procurements represent nearly 10 percent of total federal contract spending. Excluding defense spending, the total is about 30 percent of federal contract spending. The MAS program is a significant opportunity for businesses and customer agencies given its widespread use and accessibility. Of the approximately 19,000 schedule contracts in place, nearly 15,000 are held by small business. Currently, there are 2,331 small disadvantaged businesses on GSA Schedules. There are 4,352 minority owned business enterprises on GSA Schedules, 3,996 of which are also small business. In FY 2010, as of the end of August, small disadvantaged businesses received approximately \$2.8 billion through the Schedules program, or 7 percent of total program sales of \$40 billion.

Another avenue for small business access to government spending is Government-wide Acquisition Contracts (GWAC). These streamlined contract vehicles allow agencies to procure comprehensive IT solutions from pre-qualified firms. In furthering its commitment to small disadvantaged businesses, GSA has set aside several GWACs exclusively for small businesses. Total GWAC sales to date for small businesses exceed \$4.7 billion, which is a significant achievement. GSA's 8a STARS GWAC is set aside exclusively for small disadvantaged businesses participating in SBA's 8a business development program. Nearly 200 8a firms participate in 8a STARS. Since the contract's inception in June 2004, contract holders have received \$2.7 billion in orders, which represents a significant amount of funds awarded to small disadvantaged businesses.

GSA is also placing greater emphasis on teaming, subcontracting, and mentoring programs. For example, the GSA Mentor-Protégé program, launched October 2009, helps small firms win more business and enhance their capabilities to perform successfully on government contracts. To date, the program has established more than 38 Mentor-Protégé relationships with one-third of these partnerships between small disadvantaged businesses such as J. Roberts Inc., an Asian Pacific American owned firm, and JAB Innovative Solutions, a Hispanic American owned business.

Beyond these tailored programs, GSA has many resources available to help small businesses and provide them with useful information. Business activities are supported by program experts at GSA Headquarters, through OSBU centers in 11 regional offices, and by small business technical advisors in our procurement offices. Our small business website (www.gsa.gov/sbu) provides links to a variety of resources and small business publications.

FOXNews.com - Administration Submits Anti-Affirmative Action Brief... http://www.foxnews.com/printer_friendly_story/0,3566,75847,00.html



Administration Submits Anti-Affirmative Action Briefs

Friday, January 17, 2003

Associated Press

WASHINGTON —

WASHINGTON (AP) — Policies that give minorities a leg up on white college applicants are unconstitutional discrimination and should be struck down by the Supreme Court, the Bush administration argued as it formally weighed into a politically charged affirmative action case.

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In twin filings to the high court late Thursday, President Bush's top Supreme Court lawyer said policies at the University of Michigan and its law school fail the constitutional test of equal protection for all under the law, and ignore race-neutral alternatives that could boost minority presence on campuses.

The admissions policies also cannot be reconciled with previous Supreme Court rulings that severely limit the use of race as a factor in government decisions, Solicitor General Theodore Olson wrote, saying the university's current policy "operates as a disguised racial quota."

"If the university genuinely seeks candidates with diverse experiences and viewpoints, it can focus on numerous race-neutral factors, including a history of overcoming disadvantage, geographic origin, socio-economic status" or other factors, Olson wrote.

The friend-of-the-court filing breaks little legal ground. It restates the constitutional case against quotas, but skirts the larger question of whether race may ever be considered as a factor in government decisions.

Thursday's filings do not go as far as some of Bush's most conservative supporters had hoped. The president is in the position of trying to please both his conservative political base and the Hispanic and black voters the Republican Party hopes to attract.

In announcing Wednesday that his administration would file briefs in the Michigan case on Thursday, Bush said he strongly supported diversity, including racial diversity in higher education. But, he added, "the method used by the University of Michigan to achieve this important goal is fundamentally flawed."

Applicants for Michigan's undergraduate classes are scored by points, with minorities or some poor applicants receiving a boost of 20 points on a scale of 150. At the law school, admissions officers use a looser formula that tries to make sure that each class has a "critical mass" of about 10 percent or 12 percent minority enrollment.

"On its face, the 20-point race-based bonus automatically added to the selection index scores of all preferred minority applicants, without regard to their background, academic performance or life experiences, is plainly unconstitutional," the administration said.

Olson pointed to admissions systems in Texas, Florida and California as alternatives. Those states do not use affirmative action yet have assembled racially diverse student bodies, he said.

FOXNews.com - Administration Submits Anti-Affirmative Action Brief... http://www.foxnews.com/printer_friendly_story/0,3566,75847,00.html

The Texas plan, which Bush championed as Texas governor, offers public university admission to the top 10 percent of graduates from each high school. That assured a stream of minority applicants, because many Texas high schools are largely black or Hispanic.

Affirmative action backers say such plans do not work across the board, because not every state or community has majority-black or Hispanic high schools.

In Thursday's filing, the administration did not stake a categorical position against any use of race in university admissions, and did not ask the court to overturn an affirmative action ruling that for 25 years has allowed some role for an applicant's race.

The case marks the court's first statement on racial preference programs in public university admissions since the 1978 Bakke case, when the court outlawed racial quotas in university admissions, but left room for race to be a "plus factor." Michigan and many other public universities have used the ruling to design programs that can help minorities who might be rejected if only test scores and grades are considered.

The administration is not a party to the Michigan fight and did not have to take any position. Affirmative action, however, is the most watched issue before the high court this year and it would have been unusual for the White House to remain on the sidelines.

Thursday was the deadline for filing court papers in the Michigan case, coming close behind the awkward, racially charged exit of Sen. Trent Lott, R-Miss., as the Senate's Republican leader. Bush condemned remarks Lott made last month that seemed to long for the days of segregation.

The high court could do what the Bush friend-of-the-court brief did not and conclude race can never be a factor when a government-funded school decides whom to let in.

The court could also redraw the rules for when race may be considered. The court will hear arguments on the cases in March and a ruling is expected by summer.

The cases are Grutter v. Bollinger, 02-241 and Gratz v. Bollinger, 02-516.

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Ms. JACKSON LEE. I would.

Mr. GALLEGLY. And the time of the gentlelady has expired.

Ms. JACKSON LEE. But Mr. Chairman, please, I would like to finish my question. I think others have gone over as well. I just am polite enough to—

Mr. GALLEGLY. Well, we have been very, very—

Ms. LOFGREN. May I ask unanimous consent that the gentlelady be given an additional 1 minute?

Mr. GALLEGLY. One minute. Without objection.

Ms. JACKSON LEE. Thank you very much.

So I cite a lot of anti African-American policies, which would be the kind of effort that I would like to see us focus on, whether affirmative action is relevant, whether small businesses or minority-owned businesses.

I am going to give this question to you, Mr. Henderson. I would like you to be as provocative as ever. We are 150 years under slavery, African Americans. We have administrations, Republicans, who are fighting affirmation action. We have the Republican Congress cutting economic development assistance \$16 million, Minority Business Development Agency \$2 million, and job training \$2 billion.

Would you please answer, what is more important to African Americans, Hispanics, Asians, and other poor Americans without jobs than a question of illegal immigration that doesn't get to the question of fixing the problem of immigration reform? Mr. Wade Henderson, please.

Mr. HENDERSON. Well, Congresswoman Jackson Lee, first of all, thank you for your question.

I think the framing of the issue that you have presented raises an opportunity to address one of the issues Mr. King raised in his presentation about the meaning of equal opportunity in American life. Martin Luther King's principles are shared by many Americans, and certainly I believe in the principles of Dr. King.

But I also note that we, as a Nation, were founded with the stain of slavery that compromised our democracy from its inception. It took a civil war, the passage of three constitutional amendments, and a virtual 150 years of concerted struggle to reach the level of "equal opportunity," which I will put in quotes, that we enjoy today.

I grew up as a native in Washington, D.C., the Nation's capital. The first quarter of my life, I grew up under legal segregation perpetrated and extended by the Federal Government, which we now salute. I am proud that I have participated in the change that has made for a more perfect union.

Ms. JACKSON LEE. Should we be talking about affirmative action and job training?

Mr. HENDERSON. This is my point.

Mr. GALLEGLY. Would the gentleman please summarize? We are well above time.

Mr. HENDERSON. I will definitely summarize. Denial of equal opportunity in education, denial of equal opportunity in the application of our criminal justice policies, denial of equal opportunity in access to housing and jobs compromises the principle of equal opportunity and continues to contribute more directly to the high persistent unemployment rate that African Americans endure and not the issue of illegal immigration, as has been cited by virtue of this hearing.

And Congresswoman Jackson Lee's observations about how Government policy interacts in ways that deprive the very community that we are talking about of the equal opportunity we purport to support is, itself, the best evidence of the shall we say inconsistent application of policies.

Ms. JACKSON LEE. Thank you, Mr. Henderson.

Mr. GALLEGLY. The gentleman from Texas, Mr. Poe.

Mr. POE. Thank you, Mr. Chairman.

Thank you for being here, Dr. Swain. It is good to see you again. I have some questions for as many of you as I can get in the next 5 minutes.

Mr. Rodriguez, you are from San Antonio. You probably know more about the coming of people into the United States legally and illegally than probably anyone in the room. My wife is from Harlingen, down in the valley, and have been there numerous times and the border numerous times to see the situation.

The General Accounting Office, those are the folks that keep statistics, said in the last 2 or 3 weeks that 44 percent of the border is under some control of the United States. Only 15 percent is airtight. That means we got the control of those 15 percent of the border.

And if only 44 percent is under some control of the U.S., that means 56 percent is not under the control of the U.S. or Mexico. It is somebody else controls that, or no one does—the drug cartels, the Zetas, whoever. Which allows everybody to come into the United States if they want to, the good and the bad and the ugly. And we are getting a lot of all of them into the United States.

I have read your testimony. I am aware of your background. And I have this question for Dr. Swain as well. There is a philosophy in this country by some that the rule of law doesn't apply to everybody that comes into the United States. If you are coming here for a certain reason, we will give a wink and a nod, and you can come on across. And then, eventually, we will let you stay under some type of program.

But if you are somebody else, like a drug dealer or someone we don't like, we are going to enforce the rule of law if you come into the United States, and we are going to keep you from coming in. If you come in, we are going to send you back where you came from. So that seems to discriminate on following the rule of law, whether it is on purpose or just by negligence.

What do you think about the rule of law as whether it should apply to everybody or just some people?

Mr. RODRIGUEZ. The rule of law, sir, has got to apply to everybody equally. That is the bottom line. This is a country based on the rule of law. When it begins, when we begin to set it aside, when we begin to make excuses, when we begin to say, well, that situation is different from this situation, then I am sorry—and I don't mean to offend attorneys in this room—but that is when trial attorneys begin to take over and try to find loopholes in life.

There are no loopholes in life. When you have done something wrong, you have done something wrong. You, yourself, in Harris County know of that situation where an undocumented alien killed a police officer. That person had been stopped and held before, and because apparently they didn't break the law enough for some folks or to cover whatever issue there was there for them to be deported, they weren't deported. And they committed a terrible crime.

This is what we see in the Hispanic communities across the country because that is where you find the illegal aliens. That is where you find them. We are in the Hispanic community, by large—at least in San Antonio. Again, speaking from my experience as the Tea Party president in San Antonio, Hispanics are

very, very tired of hearing excuses for illegal aliens who are here in the United States.

Mr. POE. I represent, as all Members of Texas delegation do, numerous Hispanics. And we constantly are helping folks get here the right way. It takes years. The whole immigration system, I think, needs to be set aside, and we start over with a simpler model. So it is people can get here quicker and more secure. That is a different issue.

But I hear constantly anecdotally, "I came here the right way. I waited my turn. I took that oath. There is no prouder American than me." That is what they tell me when they go through the process and sworn in by one of our Federal judges later.

Do you think those comments by—in an anecdotal sense ring true through people who come here the right way, then want to become a citizen. Some of them go off to war and fight for America, are killed in Afghanistan, all to be an American citizen. But they are all coming the right way. Can you make a comparison between that philosophy and those who just come over here?

Mr. RODRIGUEZ. Definitely, there is a big difference. Because when you start out to be an American citizen and you go through the legal process and you go through the whole education, through the understanding of the history, through all the education process, there is a big difference between that and someone who snickers. And literally, we see them constantly, someone who snickers because they got here illegally, you know?

There is a famous Latino radio personality, Piolin, he is called. And at the height of the immigration debate last year or year before last, he was snickering publicly on radio that he had crossed the U.S. border several times illegally. That is completely wrong. That is completely wrong. That sends the wrong message to people. That sends the wrong message to young people. That is just wrong on so many levels it is not even funny.

On the other hand, we constantly hear from people that have come here legally, people who are legal immigrants, who have gone through the citizenship process, and they are very, very proud to be Americans. And they don't like illegal aliens just coming over and taking benefits for the sake of it.

Mr. POE. Thank you.

I was going to ask those same questions to Dr. Swain. May I have unanimous consent for an additional minute?

Mr. GALLEGLY. Without objection.

Mr. POE. Dr. Swain, you heard the questions. I would like to hear your answers.

Ms. SWAIN. The breakdown in the rule of law that we see in the United States applies to more than just immigration enforcement, and I think it undermines our constitutional system that we have laws that are not being enforced.

We also have a process through the Constitution for changing the laws that we are uncomfortable with. And until we change those laws that we are uncomfortable with, then we owe it to our fellow citizens, we owe it to each other to enforce the laws on the book.

And it is not just about illegal immigration. There is lawlessness all around, and it is increasingly happening in the U.S. with people

individually deciding which laws they want to obey. This can only lead to the breakdown of our society.

Mr. POE. All right. Thank you, Dr. Swain.

I yield back the remainder of my time.

Mr. GALLEGLY. The gentleman from Puerto Rico, Mr. Pierluisi?

Mr. PIERLUISI. Thank you, Mr. Chairman.

I would first like to thank Congresswoman Waters for allowing me to take this turn. I have to say that I have been waiting patiently to speak.

I feel disturbed. The first thing that I will say is that I hear all of this about we are a nation of laws. Let us not forget we are also a nation of immigrants.

While we have every right to regulate immigration, enforce our immigration laws, it makes no sense to demonize immigrants in America. That goes against the fabric of our society. It goes against our roots.

I can only surmise, but I have to say that I have no doubt that there are hundreds of thousands, if not millions, of American citizens or documented residents in America who at one point in their lives did not have their papers in order. It has happened throughout our history.

I have also heard that this is the rule of law, that what is going to happen if we don't enforce the rule of law? Well, let me be plain about it. If the rule or the law is not working, you change it.

What makes no sense is to have a system that is not working. What makes no sense is to have about 12 million people out there we cannot even account for who are in fear. And then one day we come here, and they are blamed for our crime problems? The other day they are blamed for our economic troubles.

And where are the studies? The majority of the studies do not support either proposition. That is why I am disturbed.

I brought a couple of—and then one last thing, Mr. Rodriguez. I am a Puerto Rican American. As a Puerto Rican American, I am an American citizen by birth. I don't like to be stigmatized either, but I do something about it. I am trying to fix the system so that we don't have all those fellow Hispanics facing what they are facing these days.

I have a couple of statistics. If I hear you right, Mr. Rodriguez, you are saying that all we have to do is enforce the laws and the border. Well, the first statistic I am going to tell you is that 4 out of 10 undocumented immigrants in this country are here because they overstayed their visas, not because they crossed the border illegally.

So that is one thing. Your proposition wouldn't fix that.

Second point, if the premise is that this Government is not doing enough, our Federal Government is not doing enough, I will just give you statistics. In 2007, \$7.3 billion were assigned for border protection. Less than 3 years later, 2010, \$10.1 billion assigned to border protection.

I am not an expert in math, but at least that is like a 40 percent increase. So it is not like we are not doing something about it. It is just that the system, again, is not working.

Now, I noticed Mr. Rodriguez as well, and I will let you comment because I don't want this to be a one-way exercise, in fairness to

you. But I also heard about your father's, your struggles and so on. But I wonder whether you know that all major labor unions in this country reject your solution, your proposed solution, let us simply enforce the law. Let us do more of the same.

The unions do not support that. AFL-CIO, Change to Win, representing 16 million workers in America and more than 60 unions argue that continuing our failed and enforcement-only approach will merely push undocumented workers further into the shadows where they are more susceptible to abuse and exploitation.

What do you have to say, Mr. Rodriguez, about my feelings and the statistics that I am sharing with you?

Mr. RODRIGUEZ. Well, apparently, you are pretty passionate. But let me begin by, first of all, the situation of my comments about border security.

I recognize that 40 percent overstay. And when I talk about border security, I am talking about enforcement across the border of not only at the border, but across the spectrum also of those that have overstayed, trying to find them and taking the proper action. That is what we need to do.

Secondly, if we would enforce—if we would enforce the employer sanctions, that would take a magnet. That would be a great, a great step in taking one magnet away for these people staying here, okay?

Third, you talk about the difference between the Bush administration and what the current Administration has done as far as the budget for enforcement. Well, that is great. That is great. But we weren't happy with the Bush administration.

Again, I am not here representing the Republican Party, sir. I am here representing the San Antonio Tea Party. And the San Antonio Tea Party, as well as other Tea Parties, is a conservative organization, and we are not happy with anything that is not enforcing the law, okay, whether it is Republican or Democrat. So that is third.

The next thing is that when we want—if we want to, when you talk about the union, well, in my opinion, all the unions want to do is grow and get more members, okay? I don't think that they really want to protect American workers at this point. If they did, then they would be trying to enforce illegal immigration laws.

So that is where I am coming from.

Mr. PIERLUISI. My time is up, Mr. Chairman. Thank you.

Mr. GALLEGLY. The gentleman from Texas, Mr. Gohmert.

Mr. GOHMERT. Thank you, Mr. Chairman.

And appreciate so much all of the witnesses being here and all your time.

And I had to step out briefly, but I hadn't heard anybody demonizing immigrants. In fact, the people I know here on both sides of the aisle all feel that one of our great strengths as a country is because we are a nation of immigrants. Because people come from all over, and we enforce the law more fairly than any nation in history. And therefore, that gives everybody a chance who really wants to pursue it.

What drove me off the bench is seeing a government—as a felony judge, I was seeing more and more young women with children coming in who had had a check dangled in front of them, and

friends say, "I would just drop out of high school. Government will send you a check."

And it was breaking my heart to see these women charged with felonies for going and getting a job and not reporting it because they were just trying to get out of the hole. But they were lured into it by well-meaning, well-intention legislation.

And I am concerned that we are doing the same thing with illegal immigration. We are told by political advisers on both sides of the aisle, gee, if you take too strong a stand on border security and legal immigration, then you can't have a majority. You have got to back off of that because you will offend Hispanics.

But it is my impression and we have been told, for example, in here before that over 70 percent of gang members are illegally here. And it also seems that most, that a majority of the crimes by illegal immigrants are against Hispanics. So I would think it would be a great thing and a great help to Hispanic community to enforce legal immigration to protect Hispanics.

Am I wrong, Mr. Rodriguez?

Mr. RODRIGUEZ. Not at all, sir. Let me give you another example, another personal example. Because again, when we watch from C-SPAN, the general folks out in the grassroots, I am sorry, and I don't mean to offend you—not you personally.

Mr. GOHMERT. Oh, go ahead.

Mr. RODRIGUEZ. But Members of Congress sometimes come across a little arrogant to us when we speak. So the only thing I can tell you is I am not an expert other than personal, personal experiences. Three weeks ago, my niece was hit in her car by an undocumented alien in San Antonio, okay? Didn't have insurance. Didn't even have a driver's license. Nothing we can do about that, you know?

Just like Dr. Swain has mentioned, there is a rule of law problem here, and the Hispanic community in San Antonio—again, our Tea Party, 6,000 folks strong, a third of them are Hispanic, and it is growing. And they know our position on immigration, and it is just that we are tired.

We see it. We see not only the issue of the violence and the issue of entitlements. I mean, they are here illegally. I am sorry. And that is what needs to be addressed.

Mr. GOHMERT. Well, as a judge, I often saw that the victims of illegal immigrant felonies were Hispanics that were legally here, and I felt an obligation, it doesn't matter what your race is, if you are a victim of a crime, we owe you the obligation to protect you. And that is part of our sworn job, and we hear so many saying, well, we could never deport the millions that are here.

It just seems like if we enforce the law, E-Verify, and dry up benefits, I feel like we are corrupting the Hispanic culture that came with, generally speaking, a faith in God, a devotion to family, and a hard-work ethic, and that we are actually destroying that heritage by saying, here, we will throw you benefits like we have lured so many into ruts they can't get out of.

I am very concerned, and let me just say I appreciate so much your taking the time. Some people may watch C-SPAN and say, "Well, I wonder how much they get paid?" Obviously, you didn't get

paid anything. You came because you believe in what you came to testify about. And so, we are so very thankful for you.

Thank you. I yield back.

Mr. GALLEGLY. I thank the gentleman from Texas.

The gentlelady from California, Ms. Waters?

Ms. WATERS. Thank you very much, Mr. Chairman.

I ask that the Subcommittee and witnesses excuse my absence at the beginning of today's hearing. I was called to serve as Ranking Member on a Financial Services Committee hearing this morning and was, therefore, unable to arrive at this Subcommittee in a timely manner.

However, I have reviewed all of the witnesses' testimony, and I would like to use my time to make a few observations. First, I ask unanimous consent to include within the record an online article written by Mark Krikorian, entitled "Contra Nadler—Yes, Reach Out to Immigrants, But Not by Admitting More of Them." The article was published in the National Review Online.

In the article—well, may I submit that for the record, Mr. Chairman?

Mr. GALLEGLY. Without objection, it will be made a part of the record of the hearing.

[The information referred to follows:]

NATIONAL REVIEW ONLINE

Contra Nadler**Yes, reach out to immigrants—but not by admitting more of them.**

Mark Krikorian

February 13, 2009 4:00 A.M.

Richard Nadler utterly misses the point in his NR piece on immigration. He argues that Republicans should accept amnesty and increased immigration in exchange for promises of future enforcement (“comprehensive immigration reform”). He claims that such a move could win the votes of Hispanics, and that “every hour we postpone a border reform that respects the interests of employers and Hispanics, our entire agenda suffers.”

On the contrary, the threat to the GOP and its agenda is not the party’s opposition to mass immigration, but mass immigration itself. The majority of Hispanics vote Democratic, and this would surprise no one knowledgeable about American history: That’s what immigrants, and the native-born closest to immigration, have always done. The Irish voted Democratic not because Yankees were mean to them as they stepped off the boat in Boston, but because the Democratic party has always been more attractive to the outsider. (David Frum touches on this longstanding difference between the two parties in his book *Comeback*.)

This remains the case today because mass immigration creates a political and social environment more hospitable to the solutions offered by the Left. It increases poverty and economic inequality, increases the number of uninsured, increases demand for affirmative-action benefits (for which immigrants are eligible from the moment they arrive)—in short, mass immigration in the near term doesn’t so much create an electorate for the Left as a clientele. My organization’s research has shown that the fiscal burden of immigration increases with legalization, as use of taxpayer-funded services balloons among newly eligible immigrants.

Democrats openly acknowledge the political bonanza of immigration. As *National Journal* wrote in 2007:

Top Democratic leaders and activists see Hispanic migration as a long-term

opportunity for the party. The arrival of additional immigrant workers is “bad for blue-collars,” Rep. Barney Frank, D-Mass., chairman of the House Financial Services Committee, told National Journal late last year. But immigrants can help elect Democratic majorities, and “if [a Democratic Congress] were to significantly strengthen unions, then you would offset the negative effect on the income of workers,” he said.

It’s not a bad thing that Republicans and Democrats represent different interests; any successful society needs a north pole and a south pole, a yin and yang. The problem with excessive immigration is that we’re getting too much yin and not enough yang, as it were. And because today’s immigrants side with Democrats on not just immigration policy but a host of other issues, Nadler’s prescription of me-too Republicanism on immigration can’t change that. The fact that John McCain—the exemplar of the me-too approach—couldn’t carry the Hispanic vote even in his home state of Arizona, where voters knew full well his expansionist, pro-amnesty views, suggests that the way out of the hole some Republicans find themselves in is not to keep digging.

Implicit in Nadler’s argument is a kind of fatalism, an acceptance that mass immigration is inevitable: He encourages Republicans to win Hispanic votes through supporting mass immigration, without weighing the benefits of that approach against the benefits of a successful attempt to significantly decrease immigration. He calls the growing Hispanic share of the population “a demographic time bomb, triggered by the ordinary migrations of Hispanic citizens.”

But mass immigration—legal or illegal—is not inevitable; it’s an artifact of government policy that can be ended by changing that policy. How can we change policy in a way that will prevent the conservative agenda from suffering? Here the two parts of the issue are often conflated; *immigration* policy relates to how many foreigners we admit and how we enforce immigration laws, while *immigrant* policy is about how we treat people we’ve already admitted.

The solution for Republicans is to champion a pro-immigrant policy of low immigration—one that can stanch the immigration-driven shift toward the Democrats in the West through lower numbers and better enforcement, but that also reaches out to our fellow Americans of Hispanic ancestry both rhetorically and substantively. Republicans could support overhauling the U.S. Citizenship and Immigration Services to provide professional and efficient service, and loosening some of the deportation requirements for legal immigrants with families here

convicted of minor crimes.

The recent SCHIP (State Children's Health Insurance Program) debate in the House illustrates another way such an approach might work. House Republicans argued unsuccessfully for maintaining the SCHIP eligibility bar for legal immigrant children and pregnant women who had not been in the country for at least five years, a provision contained in the 1996 welfare reform. Let's face it: Denying health insurance to immigrant little kids and expectant moms—*legal* immigrants, no less—does not send a message that will win Republicans support.

Adherents to a pro-immigrant/low-immigration approach would have offered a deal: support for dropping the five-year residency period for SCHIP in exchange for some significant reduction in future immigration, say elimination of the brother-sister chain-migration category. With the Democrats in the majority, it probably wouldn't have made any difference, but the political point would have been made: a warmer welcome for those we've legally admitted, in exchange for reductions in the future number of people to whom we'll have to extend that (costly) welcome.

One final point: Immigration is certainly an issue that affects the way people vote, but let's not overstate its importance. Nadler has a tendency to blame a hawkish stance on immigration for setbacks that simply have nothing to do with it. His claim that immigration was the reason that business contributions shifted from Republicans to Democrats between 2006 and 2008 ignores the obvious fact of a change in party control of Congress—businesses like to give money to winners. Likewise, his contention that resistance to amnesty was the reason for the defeat of Virgil Goode or Thelma Drake or Rick Keller or Marilyn Musgrave is simply laughable.

Nadler's prescription would be cyanide for the GOP. But the right prescription is simple: less immigration, more outreach.

—Mark Krikorian is executive director of the Center for Immigration Studies and an NRO contributor. He is the author of The New Case Against Immigration, Both Legal and Illegal.

Ms. WATERS. In the article, Mr. Krikorian, the executive director of the Center for Immigration Studies, outlines in plain language why all Republicans should oppose immigration reform. As we discuss and debate these issues regarding immigration policy, I think it is important for the Committee and the public to be aware of any biases that may impact the witnesses' testimony.

Since the majority often calls a representative from the Center for Immigration Studies to testify, I am concerned that this organization's research may be more politically motivated than out of a genuine concern for the unemployment rate among American minorities.

I understand they don't have a witness here today, but in the editorial for the National Review Online, Mark Krikorian writes, and I quote, "On the contrary, the threat to the GOP and its agenda is not the party's opposition to mass immigration, but mass immigration itself. The majority of Hispanics vote Democratic, and this would surprise no one knowledgeable about American history. That is what immigrants and the native-born closest to immigration have always done."

As a Member of Congress representing both Latinos and African Americans, I am very disappointed with the majority's effort to pit minorities against one another in a blatant attempt to derail comprehensive immigration reform. Clearly, today's hearing was organized to divert attention away from the inability to present policies and proposals that would truly stimulate the American economy and help put all Americans back to work.

As it is duly noted in Mr. Wade Henderson's written testimony, African Americans have often maintained higher unemployment rates than other groups. And as Mr. Frank Morris noted in his written testimony, these rates have links to many other challenges disadvantaged populations have faced in the United States.

Yet, by and large, my colleagues on the other side of the aisle have been collectively against job training grants, summer jobs funding, community development block grant funding, foreclosure prevention programs, heating subsidies for low-income families, policies promoting diversity in Federal contracting, eliminating the crack cocaine sentencing disparity, eliminating the mandatory minimum sentencing, increases in Title VI funding for public schools, fully funding Pell grant, fully funding the EEOC to police racial discrimination, and reforms in our tax code that would provide for economic opportunity for those who are not included among the Nation's wealthiest top 1 percent of households.

The Congressional Black Caucus and the Congressional Hispanic Caucus have been at the forefront in championing progressive policies that take into account the challenges that American minorities confront. One need only review the Republicans' voting records to understand their political priorities, and it does not include a deep concern for the working class or American minorities.

Today, I continue to support a comprehensive framework that includes reforms to our deportation and detention policies, as well as border security. Reform must also include a fair path to citizenship and some penalty for those who have been in the U.S. illegally. Individuals who have lived in the U.S. for many years while raising their families, paying taxes, and paying into Social Security should have the opportunity to become legal citizens in a fair and efficient process.

We must also hold employers accountable for assessing increased penalties for exploiting undocumented immigrant labor.

Mr. Chairman, comprehensive reform is the only way that we will be able to create an immigration system that is fair, feasible,

and protects American workers. A fragmented reform policy that focuses only on E-Verify and deportation will yield unintended consequences that will negatively impact American workers.

Now this is what we recently learned. Seven hundred thousand jobs would be lost under the GOP cuts. This is a report by the independent economic analyst Moody's Analytics. Chief economist Mark Zandi prepared the report. The GOP plan slashes \$61 billion in Federal appropriations over the next 7 months. This is in the Washington Post.

So let me just conclude by saying for those of us who are on the front lines, who are elected in districts where we have significant Black, Latino, and Asian populations, have to be responsible. We cannot afford to allow people who have political agendas to divide us. It is easy for those who have no responsibility, who don't have to answer to the public, to come with their undocumented accusations and talk about—

Mr. GALLEGLY. Would the gentlelady please try to summarize? We are—

Ms. WATERS. Yes. Let me just mention the kind of undocumented testimony that we get here. In the testimony by a guest such as Dr. Carol Swain, she states, "A study at the Pew Hispanic Center found that during the current recession, foreign-born workers have gained employment while native workers continue to lose jobs."

Now there is no further discussion of this. There is no attempt to have us understand what this study was about and how it worked. A blanket statement that says that this was found. This is outrageous and ridiculous, and I yield back the balance of my time.

I wish I could stay to hear further from these witnesses, but I really don't think it is worth it. And I would like to thank Mr. Wade Henderson for being here today.

Ms. SWAIN. I would like to respond to that statement.

Mr. GALLEGLY. I will give the witness 30 seconds to respond.

Ms. SWAIN. I would assume that as a Member of Congress, that she should be familiar with the studies put out by the Pew Hispanic Center, and that study is well documented. It is reputable. If anything, it is considered pro Hispanic. And so, she should be familiar with that study. It is cited. So she should go read it for herself.

Mr. GALLEGLY. Thank you, Dr. Swain.

At this time, I would yield an additional 30 seconds to the Ranking Member for a closing statement.

Ms. LOFGREN. Thank you, Mr. Chairman.

I just wanted—I know all of the witnesses had to stretch to be here, and it is all appreciated. But I know, in particular, Mr. Henderson had to change all sorts of things around on his schedule. So I wanted to publicly thank him for completely upending his life to be here today, and it is very much appreciated.

And with that, Mr. Chairman, I would yield back with thanks.

Mr. GALLEGLY. I thank the gentlelady.

And with keeping with her comments, I would like to thank all the witnesses for their testimony today.

Without objection, all Members will have 5 legislative days to submit to the Chair additional written questions for the witnesses,

which we will forward and ask the witnesses to respond promptly as they can in order to get the answers made a part of the record of the hearing.

Without objection, all Members will have 5 legislative days to submit any additional material for inclusion in the record.

And with that, again, I want to thank the witnesses and—

Ms. LOFGREN. Would the gentleman yield?

Mr. GALLEGLY. I will yield.

Ms. LOFGREN. And I look forward to getting the study from Dr. Morris that we mentioned earlier.

Mr. GALLEGLY. That is a part of the record.*

And with that, thank you all again.

The Subcommittee stands adjourned.

[Whereupon, at 12:08 p.m., the Subcommittee was adjourned.]

*The information referenced for inclusion in this record was not received by the Subcommittee prior to the printing of this hearing.

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

Prepared Statement of the Honorable Pedro Pierluisi, a Representative in Congress from Puerto Rico, and Member, Subcommittee on Immigration Policy and Enforcement



Hon. Pedro R. Pierluisi
Statement on Hearing on "Making Immigration Work for American Minorities"
Committee on the Judiciary
Subcommittee on Immigration Policy and Enforcement
March 1, 2011

Instead of addressing our broken immigration system in a thoughtful, productive way, today's hearing serves to pit workers against one another and to advance misperceptions about the effect of immigration on our labor force. The truth is that immigration positively impacts the wages and working conditions of the vast majority of native-born workers, including those who have less than a high school degree. This view is not simply my belief—it is the conclusion of the clear majority of economists who have studied this issue.

It is ironic that we are holding this hearing less than two weeks after the Republican majority passed a spending bill that would eliminate jobs and stall our economic recovery. Cuts made to Head Start and Pell Grants would result in fewer low-income students—including minority students—having the opportunity to start elementary school on the right foot and to attend college. If the Republican majority was truly seeking to help minority workers, they would support full funding for these vital programs.

We live today in a period of economic uncertainty, with unemployment at unacceptably high levels. It is unfortunate that the Republican majority has chosen to play on people's fears and to incorrectly lay the blame for these difficult economic conditions on immigrants. If we want to solve our nation's immigration problems, we will join together to pass a comprehensive immigration reform bill that moves undocumented immigrants out of the shadows and onto our nation's tax rolls.

Additional Material submitted by Carol M. Swain, Ph.D.,
Professor of Political Science and Law, Vanderbilt University

Additional Documentation to Support Claims of Non-Enforcement

Discussed during hearing with Members and witness,
Dr. Carol Swain, Vanderbilt University Law School

1. The Obama Administration has limited the 287(g) program to focus only on the identification and deportation of criminal aliens who commit serious crimes instead of focusing on the arrest and deportation of anyone who enters and remains in the United States illegally.
 - a. <http://www.cis.org/ObamasNew287g>
 - b. <http://www.propublica.org/article/administration-takes-steps-that-will-reduce-deportation-risks-for-non-crimi>
2. The Obama Administration has cut back on the number of worksite enforcement actions. In fact, from FY 2008 to FY 2010, administrative arrests fell 77%, criminal arrests fell 60%, criminal indictments fell 57% and criminal convictions fell 66%.
 - a. <http://spectator.org/archives/2010/10/19/no-confidence/print>
 - b. <http://washingtonexaminer.com/opinion/examiner-editorial-white-house-provides-back-door-amnesty>
 - c. <http://www.numbersusa.com/content/news/july-1-2010/reclaim-american-jobs-caucus-responds-pres-obamas-call-amnesty.html>
 - d. <http://myrick.house.gov/index.cfm?sectionid=22.3&itemid=597>
3. The Obama Administration rescinded the "No-Match" rule that laid out procedures for employers to follow if they received a "No-Match" letter from the Social Security Administration about an employee.
 - a. <http://www.law360.com/topnews/articles/117398/dhs-seeks-to-rescind-no-match-regulation>
 - b. <http://www.klettlieber.com/news.php?NewsID=3594>
4. The U.S. Treasury continues to allow financial institutions to accept the Mexican matricula consular card as valid identification for the purpose of opening bank accounts, which encourages illegal immigrants to stay in the United States. Federal Bureau of Investigation officials have testified under oath that the matricula consular card "is not a reliable form of identification, due to the non-existence of any means of verifying the true identity of the card holder."

- a. <http://www.cis.org/MatriculaConsular-IDCards>
- b. http://www.mnforsustain.org/matricula_card_security_threat_gop.htm
- c. <http://www.freerepublic.com/~oldantucker/>
- d. <http://www.kfire.us/Articles/MatricularConsulateID4-29-08.htm>

5. Despite declaring border security and the violence along the southwest border to be an important issue, in their FY 2010 budget request the Obama Administration requested no specific funding for the border fence required by Congress in the Secure Fence Act of 2006.
 - a. <http://www.washingtontimes.com/news/2009/nov/18/obama-encourages-illegals/>
6. Neither the United States Department of Homeland Security nor the United States Department of Justice has sanctioned any of the ten states that allow colleges and universities to offer in-state tuition rates to illegal immigrants in violation of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.
 - a. <http://latimesblogs.latimes.com/lanow/2010/11/undocumented-students.html>
 - b. <http://www.finaid.org/otheraid/undocumented.phtml>
 - c. <http://spectator.org/archives/2010/11/30/dreams-are-made-of-this>
7. The Obama Administration has not held jurisdictions that enact and maintain sanctuary policies, responsible for violating the prohibition on such policies in the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996." Sanctuary policies prevent law enforcement officials from communicating with federal immigration agents regarding illegal immigrants in their communities.
 - a. <http://www.thenewamerican.com/index.php/usnews/immigration/4148-selling-sanctuary-cities-offer-safe-harbor-to-illegals>
 - b. <http://www.washingtontimes.com/news/2010/jul/27/voters-say-take-action-against-sanctuary-cities/>
8. In their FY 2010 budget proposal, the administration requested no funding for development and implementation of a biometric airport exit program. Such a program is necessary to combat illegal immigration since 40% of the estimated eleven to twenty million illegal immigrants currently in the United States have overstayed their non-immigrant visas. Full

implementation of the United States Visitor and Immigrant Status Indicator Technology (U.S.-VISIT) program would ensure that the Federal Government knows whether people who entered the country on short-term visas return home.

9. The Obama Administration reversed the longstanding policy to detain aliens who show up at ports-of-entry without proper documentation and request asylum. Comes from an article (no longer available) titled, “Feds revising asylum detention policies”, by Suzanne Gamboa of the Associated Press. Published 12/06/2009; Original article reprinted by the Iowa Immigration Coalition, December 16, 2009, <http://www.iowaimmigrationeducation.org/index.cfm?nodeID=18378&audienceID=1&action=display&newsID=5431>
10. For more detailed information about the Obama Administration, please see Mark Krikorian’s *How Obama is Transforming America Through Immigration* (Encounter books, April 2010).

