

**THE U.S. IMMIGRATION SYSTEM:
THE NEED FOR BOLD REFORMS**

HEARING
BEFORE THE
SUBCOMMITTEE ON IMMIGRATION AND
CITIZENSHIP
OF THE
COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED SEVENTEENTH CONGRESS
FIRST SESSION

THURSDAY, FEBRUARY 11, 2021

Serial No. 117-3

Printed for the use of the Committee on the Judiciary



Available via: <http://judiciary.house.gov>

THE U.S. IMMIGRATION SYSTEM: THE NEED FOR BOLD REFORMS

**THE U.S. IMMIGRATION SYSTEM:
THE NEED FOR BOLD REFORMS**

HEARING
BEFORE THE
SUBCOMMITTEE ON IMMIGRATION AND
CITIZENSHIP
OF THE
COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED SEVENTEENTH CONGRESS
FIRST SESSION

THURSDAY, FEBRUARY 11, 2021

Serial No. 117-3

Printed for the use of the Committee on the Judiciary



Available via: <http://judiciary.house.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

WASHINGTON : 2022

COMMITTEE ON THE JUDICIARY

JERROLD NADLER, New York, *Chair*
MADELEINE DEAN, Pennsylvania, *Vice-Chair*

ZOE LOFGREN, California	JIM JORDAN, Ohio, <i>Ranking Member</i>
SHEILA JACKSON LEE, Texas	STEVE CHABOT, Ohio
STEVE COHEN, Tennessee	LOUIE GOHMERT, Texas
HENRY C. "HANK" JOHNSON, JR., Georgia	DARRELL ISSA, California
THEODORE E. DEUTCH, Florida	KEN BUCK, Colorado
KAREN BASS, California	MATT GAETZ, Florida
HAKEEM S. JEFFRIES, New York	MIKE JOHNSON, Louisiana
DAVID N. CICILLINE, Rhode Island	ANDY BIGGS, Arizona
ERIC SWALWELL, California	TOM McCLINTOCK, California
TED LIEU, California	W. GREG STEUBE, Florida
JAMIE RASKIN, Maryland	TOM TIFFANY, Wisconsin
PRAMILA JAYAPAL, Washington	THOMAS MASSIE, Kentucky
VAL BUTLER DEMINGS, Florida	CHIP ROY, Texas
J. LUIS CORREA, California	DAN BISHOP, North Carolina
MARY GAY SCANLON, Pennsylvania	MICHELLE FISCHBACH, Minnesota
SYLVIA R. GARCIA, Texas	VICTORIA SPARTZ, Indiana
JOE NEGUSE, Colorado	SCOTT FITZGERALD, Wisconsin
LUCY McBATH, Georgia	CLIFF BENTZ, Oregon
GREG STANTON, Arizona	BURGESS OWENS, Utah
VERONICA ESCOBAR, Texas	
MONDAIRE JONES, New York	
DEBORAH ROSS, North Carolina	
CORI BUSH, Missouri	

PERRY APELBAUM, *Majority Staff Director & Chief Counsel*
CHRISTOPHER HIXON, *Minority Staff Director*

SUBCOMMITTEE ON IMMIGRATION AND CITIZENSHIP

ZOE LOFGREN, California, *Chair*
JOE NEGUSE, Colorado, *Vice-Chair*

PRAMILA JAYAPAL, Washington	TOM McCLINTOCK, California, <i>Ranking Member</i>
J. LUIS CORREA, California	KEN BUCK, Colorado
SYLVIA R. GARCIA, Texas	ANDY BIGGS, Arizona
VERONICA ESCOBAR, Texas	TOM TIFFANY, Wisconsin
SHEILA JACKSON LEE, Texas	CHIP ROY, Texas
MARY GAY SCANLON, Pennsylvania	VICTORIA SPARTZ, Indiana

BETSY LAWRENCE, *Chief Counsel*
ANDREA LOVING, *Minority Counsel*

C O N T E N T S

THURSDAY, FEBRUARY 11, 2021

	Page
OPENING STATEMENTS	
The Honorable Zoe Lofgren, Chair of the Subcommittee on Immigration and Citizenship from the State of California	1
The Honorable Tom McClintock, Ranking Member of the Subcommittee on Immigration and Citizenship from the State of California	2
The Honorable Jerrold Nadler, Chair of the Committee on the Judiciary from the State of New York	4
WITNESSES	
Marielena Hincapié, Executive Director, National Immigration Law Center	
Oral Testimony	6
Prepared Statement	9
Jennifer Hunt, Professor of Economics, Rutgers University	
Oral Testimony	24
Prepared Statement	26
John Lettieri, President and CEO, Economic Innovation Group	
Oral Testimony	32
Prepared Statement	34
Peter Kirsanow, Partner, Benesch, Friedlander, Coplan & Aronoff LLP	
Oral Testimony	43
Prepared Statement	45
LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING	
A briefing report entitled “The Impact of Illegal Immigration on the Wages and Employment Opportunities of Black Workers,” submitted by Peter Kirsanow, Partner, Benesch, Friedlander, Coplan & Aronoff LLP	51
Statement of Wade Henderson, President & CEO, The Leadership Conference on Civil and Human Rights, submitted by the Honorable Sheila Jackson Lee, Member of the Subcommittee on Immigration and Citizenship from the State of Texas for the record	120
Items submitted by the Honorable Zoe Lofgren, Chair of the Subcommittee on Immigration and Citizenship from the State of California for the record	
Statement from the Alliance for Immigrant Survivors entitled “The Needs of Immigrant Survivors and Comprehensive Immigration Reform”	132
Statement from the Asian Americans Advancing Justice (AAJC)	137
Statement from Boundless Immigration Inc.	141
Statement from Bridges Faith Initiative (BFI)	143
Statement from Church World Service (CWS)	150
Statement from Cities for Action entitled “A Vision for Immigration Action”	151
Statement from the Coalition for Humane Immigrant Rights, Los Angeles, California (CHIRLA)	175
Statement from First Focus Campaign for Children	179
A report entitled “Interfaith Framework for Welcoming and Supporting Migrants, Immigrants, Asylum Seekers, and Refugees,” Interfaith Immigration Coalition (IIC)	184
Statement from Kids in Need of Defense (KIND)	216

IV

	Page
Statement from the National Korean American Service & Education Consortium (NAKASEC) Network	220
Statement from NETWORK Lobby for Catholic Social Justice	231
Statement from the Presidents' Alliance on Higher Education and Immigration	233
Statement from Southern Poverty Law Center (SPLC) Action Fund	243
Statement from the Religious Action Center of Reform Judaism (RAC)	251
Statement from United We Dream	254
Statement from the Young Center for Immigrant Children's Rights	262
Judiciary Committee Republican Staff Report entitled "How the Biden Administration's Immigration Proposals Risk Undoing the Successes of the Trump Administration," submitted by the Honorable Tom McClintock, Ranking Member of the Subcommittee on Immigration and Citizenship from the State of California for the record	270
Statement of the Honorable Andy Biggs, submitted by the Honorable Tom McClintock, Ranking Member of the Subcommittee on Immigration and Citizenship from the State of California for the record	302

APPENDIX

Items submitted by the Honorable Zoe Lofgren, Chair of the Subcommittee on Immigration and Citizenship from the State of California for the record	
Statement from the United States Conference of Catholic Bishops (USCCB)	306
A letter from Dairy Farmers of America (DFA)	319
Statement from the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)	320
A letter from the National Association of Manufacturers (NAM)	323
A letter from the Worldwide ERC	325
Statement from TechNet	327
Statement from Community Change Action and the Fair Immigration Reform Movement (FIRM) Action	328

QUESTIONS AND RESPONSES FOR THE RECORD

Questions for Marielena Hincapié, submitted by the Honorable Jerrold Nadler, Chair of the Committee on the Judiciary from the State of New York for the record	332
Response to questions from Marielena Hincapié, submitted by the Honorable Jerrold Nadler, Chair of the Committee on the Judiciary from the State of New York for the record	333

THE U.S. IMMIGRATION SYSTEM: THE NEED FOR BOLD REFORMS

Thursday, February 11, 2021

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON IMMIGRATION AND CITIZENSHIP

COMMITTEE ON THE JUDICIARY

Washington, DC

The Subcommittee met, pursuant to call, at 2:53 p.m., in Room 2141, Rayburn House Office Building, Hon. Zoe Lofgren [Chair of the Subcommittee] presiding.

Present: Representatives Lofgren, Nadler, Jayapal, Correa, Garcia, Escobar, Jackson Lee, Scanlon, McClintock, Biggs, Tiffany, and Spartz.

Staff Present: Madeline Strasser, Chief Clerk; Cierra Fontenot, Staff Assistant; John Williams, Parliamentarian; Betsy Lawrence, Chief Counsel; Anthony Valdez, Professional Staff Member; Andrea Loving, Minority Chief Counsel for Immigration; Kyle Smithwick, Minority Counsel; and Kiley Bidelman, Minority Clerk.

Ms. LOFGREN. The Subcommittee on Immigration and Citizenship will come to order, a quorum being present. Without objection, the Chair is authorized to declare a recess of the Subcommittee at any time.

We welcome everyone to this hearing, “The U.S. Immigration System: The Need for Bold Reforms.”

As with our prior actual meeting, I’d like to remind the Members that we’ve established an email address and distribution list dedicated to circulating exhibits, motions, or other written material that Members may want to offer as part of our hearing today. If the Members would like to submit materials, please send them to the email address that has previously been distributed to your office and we will circulate the materials to Members and staff as quickly as we can.

As mentioned earlier, we have mask guidance, but since every Member is participating in this hearing virtually, I will not read the mask guidance.

Finally, I’d ask all Members to mute their microphones when they’re not speaking. That will help us avoid unfortunate feedback.

I will now recognize myself for an opening statement.

I’d like to welcome our Witnesses and Members of the Immigration and Citizenship Subcommittee to today’s hearing on the need for bold reforms to the U.S. immigration system.

I'd like to start today's hearing by looking back. One of the first hearings I Chaired on behalf of the Immigration Subcommittee took place in March of 2007. The topic was the role of immigration in American society, and we convened that hearing on Ellis Island, a location that could not be more fitting or poignant. That day, we examined America's rich history by reflecting on personal stories of immigrants who were admitted to the United States through the island's great hall, many fleeing religious persecution and many others seeking the American Dream. I shared the story of my grandfather, who more than 100 years ago boarded a ship from Sweden and landed in Boston. He had no money and he spoke no English, but he had fearless optimism and big dreams.

While fearlessness, optimism, and the audacity to dream continues to drive people to our shores today, so too does their persecution. In that respect, little has changed from the Ellis Island era. Today, when it comes to immigration reform, we remain confronted with many of the same challenges and questions that we faced in 2007.

With an estimated of 11 million undocumented immigrants currently living in the United States and a legal immigration system that has not been meaningfully updated in over 30 years, and I would add, really maintains the same framework that we devised in 1965, our immigration laws are in need of reform. So far, Congress has been unable to rise to the moment. I remain hopeful that this Congress we'll finally get something done.

In 2019, the House passed two significant immigration reforms on a bipartisan basis: The American Dream and Promise Act and the Farm Workforce Modernization Act. We intend to once again take up and pass these and other important bills.

This Congress, we also have a President who's made it clear that immigration reform is a top priority for his Administration. On his first day, President Biden announced an overview of his bold vision for immigration reform, the U.S. Citizenship Act. Although actual text has not yet been unveiled, U.S. Citizenship Act would, among other things, provide an opportunity for undocumented individuals to apply for lawful status, modernize the immigration system by prioritizing family unity and economic growth, manage the border with smart investments, and borrowing heavily from legislation I authored last Congress to address the root causes of migration in our hemisphere, ensure that the United States remains a refuge for those fleeing persecution.

Our immigration laws are complex and far reaching. With that in mind, there will certainly be issues that are not covered in the bill, but the framework alone serves as an important starting point for today's discussion. It is my hope that this hearing will create momentum for building a rational, reasonable, and workable 21st century immigration system that meets our Nation's needs and prepares us for the future. I look forward to our discussion today and to hearing from all our Witnesses.

It's now my pleasure to recognize the Ranking Member of the Subcommittee, the gentleman from California, Mr. McClintock, for any opening statement that he may wish to provide.

Mr. McClintock.

Mr. MCCLINTOCK. Thank you, Madam Chair.

Before we took a wrecking ball to our economy last year, we were enjoying one of the greatest expansions of economic opportunity in our lifetimes. Unemployment was at its lowest level in 50 years, the poverty rate was at its lowest rate in 60 years, wage growth was the strongest in 40 years. The wage gap was narrowing for the first time in many decades as blue-collar wages began to increase dramatically. The unemployment rate for women was the lowest in 70 years for African Americans, Hispanic Americans, Asian Americans, veterans, and disabled Americans. Those without a high school diploma, unemployment was the lowest ever recorded.

The labor participation rate began to increase after years of decline as workers who'd given up hope of finding work began seizing opportunities. The participation rate for men between the ages of 25 and 34 grew for the first time since 1962. Big business and big agriculture hated this because it required them to pay higher wages. In the growing economy that it produced, many more people were prospering than in many decades.

Tax and regulatory relief obviously explain much of the success, but the extraordinary improvement of wages for unskilled and low-skilled workers begs for greater insight. Could it be that the Trump Administration's success in restoring control of our borders stemmed the flood of low-wage labor into the job market that had been suppressing wages for American workers for decades? We'll soon find out the answer to that question.

President Biden has signed several Executive Orders in the last few weeks that together are already producing a new migrant crisis on the southern border. Customs and Border Protection agents report that the daily flow on the southern border has nearly doubled, from 2,000 last month to 3,500 this month. The number of illegal immigrants encountered on the southern border during the first 4 months of fiscal year 2020 is roughly 165,000. That number has nearly doubled for the first 4 months of fiscal 2021 to 297,000.

The effect of these executive orders includes abandoning the border wall, questioning the long-standing promise that immigrants should be able to support themselves, releasing illegal immigrants with minors into the interior, ending the remaining Mexico policy for those claiming asylum in the United States after they traveled through other countries where they could have sought it, granting what amounts to sanctuary status for a wide variety of criminal offenses, including drunk driving and sex offenses, and ordering ICE not to enforce immigration laws for 100 days to have been stayed by the Federal courts.

Now, apparently, this isn't bold enough for the open borders left in seeking even bolder actions. I'm sure we'll get a glimpse of that today. Every American needs to fully understand the implications of these policies to their own futures. We're not going to enforce our immigration laws if our borders mean nothing. If our borders mean nothing, we're no longer a country; we're just a vast international territory between Canada and Mexico, both of which, by the way, have immigration laws that they actually enforce.

I hope my Democratic colleagues will take the time to answer some basic questions that the American people have a right to know. How are American workers helped by flooding the labor market with another wave of illegal immigration? How are our

children, who've been robbed of an entire year of education, helped by filling their classrooms with non-English speaking classmates? How are our streets made safer by allowing aliens who drive drunk to remain on our roads rather than be arrested and placed in removal proceedings? How is our Nation made safer by reopening virtually unrestricted travel with hotbeds in international terrorism? How are our communities made safer by making it harder to deport criminal illegal aliens and gang Members? How are our hospitals made more accessible by overwhelming emergency rooms with illegal immigrants demanding care? If you're going to advocate for these policies, you have an obligation to answer these questions.

I want to conclude on a hopeful note. If the majority wants to make progress this session, there's not only room for compromise, but there's also a necessity for it. We do need to provide legal status to children brought here illegally who have grown up here and have no memory of their home country, and we need to reform our temporary agricultural worker program. We cannot address these issues until we secure our borders and enforce our immigration laws. Otherwise, we just invite a new wave of illegal immigration, just like we're seeing right now. If you want to make progress, the minority's anxious to start down this road.

I thank you very much. I yield back.

Ms. LOFGREN. The gentleman yields back.

The Chair of the Full Committee, Mr. Nadler, is recognized if he would like to offer an opening statement.

Chair NADLER. Well, thank you, Madam Chair.

Although we have many legislative priorities this Congress, immigration reform is one of the most pressing and complex. The damage inflicted on our immigration system over the last 4 years has generated a renewed sense of urgency around the need to enact protections for the undocumented and other critical measures.

Not only must we get immigration reform done soon, but we must also get it right. Our approach to immigration will shape our future in defining who we are as a society. When we thank the honest, hardworking people who have served our Nation as essential workers during the COVID pandemic by providing them with the opportunity to obtain lawful status, will we ease restrictions from the 1996 laws and allow families to be reunited and remain together lawfully? Will we choose an approach that welcomes talented STEM professionals, academics, and others from around the world to strengthen our economy and increase our global competitiveness? Will we finally allow young people who have grown up in this country without lawful status a full opportunity to pursue the American Dream?

Fortunately, we now have a President who believes the answers to these questions should be yes. I applaud President Biden for his bold vision for immigration reform and for making it a top priority for his Administration.

The benefits of immigration are clear. Immigrants are our friends and neighbors. They enrich our society, our culture, and our economy. Just like U.S. citizens, they pay taxes, work, and support local businesses. It is estimated that the \$11 million undocumented immigrants in the United States pay nearly \$12 billion annually in

State and local taxes. This number would only grow if they were provided with the chance to obtain legal status.

The important role that immigrants play in keeping our country running has also been laid bare by the COVID-19 pandemic. It is estimated that three in four undocumented workers are engaged in work that is deemed essential by the Department of Homeland Security. Further, as more and more baby boomers leave the workforce, immigration will play a key role in sustaining our current workforce levels. To maintain and strengthen our position as a leader among developed countries, immigration reform must be part of our overall strategy for economic growth.

Last Congress, the House passed several significant pieces of immigration reform legislation. These include the American Dream and Promise Act and the Farm Workforce Modernization Act, which collectively would provide legal status to an estimated 3.5–4 million undocumented immigrants. We also passed other bills that are smaller in size but significant in impact.

For example, we passed the NO BAN Act, which prohibits discrimination based on religion in our immigration system and prevents executive overreaching suspending the admission of immigrants. We also passed the Access to Counsel Act, which would provide important protections at ports of entry to individuals seeking admission by ensuring they have the ability to consult with counsel or other interested parties if they are subjected to prolonged inspection.

It is incumbent upon us to pass these and other measures as soon as possible and to build upon these successes to improve our immigration system to the benefit of our country.

I want to thank the Chair, Ms. Lofgren, for holding this valuable hearing. I thank all of today's Witnesses, especially my constituent, Professor Hunt, for participating in this important discussion.

I yield back the balance of my time.

Ms. LOFGREN. The gentleman yields back.

I do not believe that Mr. Jordan is yet with us. If he is able to come later, he will of course be recognized if he wishes to provide an opening statement.

With that, all other opening statements, by unanimous consent, will be made part of the record. It is now my pleasure to introduce the Witnesses that we have here today.

First, we have Marielena Hincapié. I probably mispronounced her name. She is the Executive Director of the National Immigration Law Center and the National Immigration Law Center Immigration Justice Fund. She began her tenure at NILC in 2000 as a staff attorney leading the organization's labor and employment rights program. During that time, she successfully litigated law reform in impact litigation cases dealing with the intersection of immigration and employment law. She then served as the NILC's director of programs from 2004–2008, after which she became Executive Director.

She immigrated to the United States from Colombia as a child. She earned her juris doctor degree from Northeastern University School of Law.

Next, we have Jennifer Hunt, who is a Professor of Economics at Rutgers University. From 2013–2015, while on leave from Rutgers,

she served as the Chief Economist for the U.S. Department of Labor and later as Deputy Assistant Director for Microeconomic Analysis at the U.S. Department of the Treasury. She is a Research Associate at the National Bureau of Economic Research in Cambridge, Massachusetts, and a Research Fellow at the Center for Economic Policy Research in London. Her current research focuses on immigration and wage inequality.

She received her Ph.D. in economics from Harvard and her bachelor's degree in electrical engineering from the Massachusetts Institute of Technology.

Next, we have John Lettieri. He is President and CEO of the Economic Innovation Group, EIG. Prior to this, he was Vice President of Public Policy and Government Affairs for the Organization for International Investment. He has also previously served as the foreign policy aide to U.S. Senator Chuck Hagel, who was then a Senior Member of the Senate Foreign Relations Committee. His commentary and research have been cited in dozens of publications, including the Associated Press, Wall Street Journal, and Washington Post.

Mr. Lettieri is a graduate of Wake Forest University, where he studied political science and global commerce.

Finally, but not least, Peter N. Kirsanow is a Member of the U.S. Commission on Civil Rights. He was first appointed to the Commission in 2001 and was reappointed in 2007–2013, and 2019. He is a partner at the Cleveland, Ohio, law firm of Benesch, Friedlander, Coplan & Aronoff, LLP, in the labor and employment practice group. Mr. Kirsanow is also a former member of the National Labor Relations Board.

He received his bachelor's in 1976 from Cornell and his J.D. with honors in 1979 from Cleveland State University.

We welcome all our distinguished Witnesses and thank them for participating in today's hearing. I'll begin by swearing in all our Witnesses, all of whom are testifying remotely. I would ask that each of you turn on your audio and make sure we can see your face and your raised right hand while I administer the oath.

All right. Do you swear or affirm under penalty of perjury that the testimony you're about to give is true and correct to the best of your knowledge, information, and belief, so help you God?

Let the record reflect that the Witnesses have answered in the affirmative.

First, let me note that your written statements will be entered into the record in their entirety. Accordingly, I'll ask that you summarize your testimony in about 5 minutes. To help stay within that time limit, there's a timer on your screen, or there should be, to help you keep track of the time.

So, we'll begin with Ms. Hincapié. You will mention your name so I can pronounce it properly in the future. You are recognized for 5 minutes.

TESTIMONY OF MARIELENA HINCAPIÉ

Ms. HINCAPIÉ. Thank you, Committee Chair Nadler, Subcommittee Chair Lofgren, Ranking Member McClintock, and Members of the Subcommittee, thank you for the opportunity to testify today.

I am here today because my parents, Arturo and Teresa, moved from Colombia to work in Rhode Island's textile factories to give their ten children better opportunities. Today my family includes educators, health professionals, entrepreneurs, emerging leaders in finance, climate, engineering fields, and students.

I'm a naturalized citizen, a lawyer, and the Executive Director of the National Immigration Law Center. We believe that all of us, regardless of where we were born, how much money we have, or the color of our skin should have the freedom to thrive.

We are at a pivotal moment in this Nation. A historic number of voters ranging from Black women to naturalized citizens voted for a President who would unify our Nation and reclaim the United States' position as a beacon of hope. They voted for an economy that gives everyone, including immigrants, a fair shot, and they voted with increasing recognition that immigrants are keeping our country running through the pandemic and doing their part to keep our loved ones healthy, and cared for.

We are at the beginning of a new era. Together with the combined efforts of the Biden Administration and congressional leadership, we must deliver on the promise that our Nation has held for previous generations; we must recognize immigrants are essential. The Biden Administration and Congress should know that including immigrants in building a better future is not only morally and economically sound but also carries strong bipartisan support from voters across the political spectrum.

Today we will focus on the need for bold reforms. First, I'll share a few stories of the people whose lives and humanity make them essential to our country. Take Dr. Abudu, from Ghana who works as an emergency room physician in California. He came to the U.S. as a teenager and is saving lives every day. He says that working in healthcare during the pandemic is hell and it is heartbreaking. Last month, one of his coworkers, also a physician, died of COVID. Yet, Dr. Abudu shows up for work risking his own life to save others.

Catherine 'Ofa Mann from Tonga, is educating Pacific Islander communities about COVID and working to reduce transmission rates while encouraging those who need it to seek care despite their fear. In her words, "They take care of their own because they heard that people go to the hospital and die."

Then there is Saul Sanchez from Mexico, who lived in Colorado and proudly worked at a meat processing plant for years to provide for his family. Mr. Sanchez was hospitalized in the very hospital his daughter works as a nurse, where he died from COVID. His family was unable to tell him that they loved him before he took his final breath.

Like them, there are millions more who you will impact through your actions. The status quo is simply not acceptable. We are in the third decade of the 21st century, yet we're still stuck in a 1980s immigration system. We must find a new way forward. We need a 21st century immigration system and policies that begin to address the root causes so that people have the freedom to remain in their home country. We must create legal channels so people can move to the U.S. to be reunited with loved ones, pursue an education or employment opportunities.

Our immigration system must advance racial, economic, and gender justice equity and inclusion. It's time to end the dynamic of having immigration status function as the gatekeeper to accessing basic necessities and rights for all.

We applaud President Biden's visions set forth in the U.S. Citizenship Act. We call on congressional leadership and Members of the Subcommittee to support the swift passage of bold, inclusive bills that will provide a pathway to citizenship without punitive provisions.

Congress must also recognize the essential workers who are critical to our recovery and place them on a fast track to citizenship. The urgency is clear. Each day without legislative solutions causes suffering, not only for immigrants but also for their U.S. citizen loved ones, employers, schools, local communities, and to our country.

Today's immigrants are simply seeking the same opportunities that generations of immigrants, like my parents and many of your families and ancestors, have had before them the chance to build a better future. This is a time for moral imagination and leadership as we work to safeguard and strengthen our democracy, heal from racial inequalities and injustices, and recover from this global pandemic that has reminded us how interdependent we all are.

The time is now. Immigrants are essential for the soul of America, and so we must Act boldly together to make good on the promise of America. Thank you.

[The statement of Ms. Hincapié follows:]



Statement of Marielena Hincapié

Executive Director, National Immigration Law Center & NILC Immigrant Justice Fund

Submitted to House Judiciary Committee's Subcommittee on Immigration and Citizenship

“The U.S. Immigration System: The Need for Bold Reforms”

Thursday, February 11, 2021 at 2:15PM

Introduction

Chairwoman Lofgren, Ranking Member McClintock and members of the subcommittee:

Thank you for the opportunity to appear before the committee today and provide testimony on behalf of the National Immigration Law Center (NILC).

As a Latina, as an immigrant from Colombia, and a naturalized citizen, I know at a deeply personal level that if my family tried to migrate over the last four years, my family would not be considered worthy of being here. Like millions of immigrants and refugees, my parents -- Arturo and Teresa -- came to the U.S. in search of that elusive American Dream. It is that same promise of equality, freedom, and justice for all that today's immigrants and refugees -- whether they be from Haiti, Honduras, or Syria, whether they be Muslim, Catholic, or Jewish -- continue to believe in.

Through my parents' immense personal sacrifices, my nine brothers and sisters and I have had the educational and economic opportunities that my parents did not have.

My parents also reminded us that they made a lot of sacrifices to come to the US, and that we had a responsibility to leave this country a better place. Today, my brothers & sisters and I are contributing to this great country in many ways. Among my siblings, I count educators, a small business owner, corporate manager, health professionals, including a brother who is a physical therapist and a sister who is a biochemist. And I have the privilege of fighting to defend our Constitution and the promise of equality, freedom, and justice for all. I have the honor of doing so by leading the National Immigration Law Center, an organization that envisions a society in which all of us — regardless of where we were born, the color of our skin, or how much money we have — should have the Freedom to Thrive.

At the National Immigration Law Center (NILC), we believe that *immigrants are essential* to the fabric of who we are as a nation.

We use litigation and policy advocacy, narrative change, and movement building, to create the cultural and political conditions so everyone can live a healthy and safe life, with dignity and respect. Over the past decades, NILC has won landmark legal decisions protecting fundamental civil rights and advocated for policies that reinforce our nation's values of equality, fairness, and justice for all. We have advocated for legislative solutions such as the inclusion of lawfully residing immigrant children in the Children's Health Insurance Program Reauthorization Act of 2009 and most recently the inclusion of certain mixed status immigrant families as part of the COVID relief package, the Consolidated Appropriations Act of 2021, signed into law in December 2020.

Over the last four years, NILC fought in the courts challenging the Muslim ban, the immigrant wealth test known as the public charge rule, and had the honor of representing our courageous plaintiffs to block the termination of the Deferred Action for Childhood Arrivals (DACA) policy for which we won a temporary victory at the Supreme Court. Through our Winning in the States initiative, we have partnered with state and local policymakers and allies on enacting more welcoming and inclusive policies that improve working conditions, access to higher education, safety, and result in healthier communities for all their residents.

As the last administration understood, immigration is one of the defining issues of our times. President Biden and Vice President Harris were elected with one of the broadest coalitions in American history, with 81 million voters rejecting the divisive and harmful agenda of the previous administration. Voters elected President Joe Biden in large part because he pledged to restore fairness, humanity, and reclaim America's role as a beacon of hope for all of those seeking a better life.

It is imperative that the Biden administration and Congress take immediate action to recognize that immigrants are essential and that we are contributing greatly to our society, culture, and economy.

Why we need bold immigration reform now

Our country is facing the enormous challenge of trying to heal from the brutality of immigration enforcement under the prior administration and its catastrophic handling of the worst global pandemic we have faced in a century. The Trump administration used blunt instruments to inflict harm on immigrant communities and U.S. citizens alike – with intentionally cruel policies such as the discriminatory Muslim and African bans; decimation of our refugee resettlement program; a morally bankrupt family separation policy that continues to separate over 600 children from their parents;¹ destabilizing the future of millions of people who have relied on the protections under DACA and Temporary Protected Status (TPS) policies remain in limbo; and gutting legal immigration channels through numerous discriminatory bans; bars to accessing asylum and the refugee program; and the creation of a wealth test for accessing our immigration system. These tactics were nothing short of an attack on the soul of our nation and among the most dangerous attempts to redefine what it means to be an American, to divide us and to undermine and threaten our democracy.

While it is crucial to emphasize the distinctive cruelty of the Trump Administration it is important to acknowledge that the approach of the past four years was also possible because Congress has failed to seize opportunities to enact permanent solutions and protections for noncitizens and has let past immigration reform efforts and federal Department of Homeland Security (DHS) spending be defined by the massive expansion of harmful interior enforcement and border militarization. We are long past due in taking action.

The political and social realities of the past year also demand that Congress take swift action in passing truly inclusive, people-centered and effective legislation that will put people on a fair path to citizenship and respects all people regardless of where they are from or how much they have. Our long overdue national reckoning with deeply embedded systemic and racial injustices in our criminal legal system and a pandemic that has laid bare our interdependence both speak to how ready we are to reject the politics of hatred and division. And the recent election outcomes that were fueled by the historic engagement of multi-racial, multi-ethnic and multi-generational coalitions – including many newly naturalized citizens – were a mandate from the electorate to the White House and to Congress to deliver a bold pro-immigrant

¹ Shear, Michael D., "Trump and Aides Drove Family Separation at Border, Documents Say," New York Times, Jan. 14, 2021, <https://www.nytimes.com/2021/01/14/us/politics/trump-family-separation.html>.

agenda that recognizes the full humanity of immigrants and the role we play in shaping and strengthening who we are as a nation.

It is imperative that we begin any conversation on reforming our immigration system by acknowledging that we must no longer accept the premise that legalization for some immigrants can only be provided in exchange for further militarization of our U.S.-Mexico border, and criminalization and punishment of other immigrants. We can no longer propose policies that offer relief for some, and more suffering for others. This deeply flawed framework has come to define the immigration debate for too long and resulted in decades of pain and punishment for immigrant communities at a tremendous cost to U.S. citizens—both as tax payers and as relatives of those trapped by our immigration system.

Since 2016, the U.S. Immigration Customs Enforcement’s (ICE) budget has grown by about 40 percent while U.S. Custom and Border Protection’s (CBP) budget has grown by 30 percent.² Federal immigration enforcement policies and practices, including increased reliance on state and local agencies for information about non-U.S. citizens, have swept an unprecedented number of asylum seekers and community members into the detention and deportation system.³

Our civil immigration system has become an arm of the mass incarceration system, relying on a criminalization model that perpetuates racial inequality and where immigrants of color feel the double oppression that comes from over-policing from both law enforcement and immigration enforcement. The same prejudices that pervade the criminal legal system extend to the immigration system: research suggests that Black people are more likely than white people to be targeted by police. Similarly, Black immigrants are also disproportionately vulnerable to immigration enforcement and deportation.⁴ Immigrants from African countries have experienced some of the most dramatic increases in deportations since President Trump took office. The consequences that stem from deportation are devastating. A person in removal proceedings faces not only the loss of their job and home, but permanent separation from their family and community. Upon return to their countries of origin, many face persecution, torture, and even death.⁵ This harm extends well beyond the individual facing detention or deportation. When a parent is detained or deported, it often means the loss of a family’s breadwinner and harms the health of families, with children facing increased rates of anxiety, depression, and behavioral problems, and even post-traumatic stress disorder (PTSD)–related symptoms.⁶

We must also commit to addressing the root causes and drivers of migration, including the role of our government and our foreign and economic policies. Without this global lens and an understanding that migration is a naturally occurring reality, we will continue to approach immigration as solely a domestic issue and ignore the factors outside of the U.S. that impact who comes here and why.

² “The Defund Hate Coalition responds to scarcity language in DHS memo, calls for significant cuts in funding to ICE and CBP,” Defund Hate Coalition, Jan. 21, 2021, <https://defundhate.org/2021/01/21/the-defund-hate-coalition-responds-to-scarcity-language-in-dhs-memo-calls-for-significant-cuts-in-funding-to-ice-and-cbp/>.

³ “Justice-Free Zones: U.S. Immigration Detention Under the Trump Administration,” the American Civil Liberties Union (ACLU), Human Rights Watch (HRW), and the National Immigrant Justice Center (NIJC), December 2020, <https://www.aclu.org/report/justice-free-zones-us-immigration-detention-under-trump-administration>.

⁴ “The State of Black Immigrants,” Black Alliance for Just Immigration (BAJI) and NYU Immigrant Rights Clinic, <http://www.stateofblackimmigrants.com/assets/sobi-fullreport-jan22.pdf>.

⁵ “Deported to Danger,” Human Rights Watch, Feb. 5, 2020, <https://www.hrw.org/report/2020/02/05/deported-danger/united-states-deportation-policies-expose-salvadorans-death-and>.

⁶ Richards, Sarah Elizabeth, “How Fear of Deportation Puts Stress on Families,” The Atlantic, March 22, 2017, <https://www.theatlantic.com/family/archive/2017/03/deportation-stress/520008/>.

Additionally, in the face of the coronavirus global pandemic, we must acknowledge the vital role that immigrants have served as members of our essential workforce, helping to preserve our critical infrastructure so that food can get to our tables, healthcare can be administered to our ailing, and vaccines can be researched, manufactured, distributed and administered so we can fully recover.⁷

Finally, a 21st century immigration system must be grounded in values of racial, economic, and gender justice and inclusion. We should not perpetuate the dynamic of having status function as the gatekeeper to accessing basic necessities and rights that all human beings should have. Whether it's access to affordable health care, nutrition assistance for children, or financial aid for college, our basic human needs should not be put on hold based on our immigration status. A truly equitable and just society requires that immigrants be included when it comes to health care, housing, college affordability, family leave, and anti-poverty programs.

We have an opportunity and a mandate to act now.

A profile of immigrants in America today

To fully appreciate the urgent need to pass bold immigration reform legislation, it is essential to understand who immigrants in America are today. We don't need to look further than our own neighborhood, school, place of employment, worship, or dining to see the faces of immigrants in America, where over 44 million immigrants live and constitute 13.7% of the U.S. population.⁸ Of that 44 million, about 45% of us are naturalized citizens, 27% are lawful permanent residents (LPR), and 5% are nonimmigrants—or in the U.S. through a temporary immigration program such as on a work or student visa.⁹ The remaining 23%-- 3.2% of our nation's population-- are undocumented immigrants, most of whom have resided in the U.S. for over 10 years.¹⁰

The composition of this subcommittee's membership is an accurate reflection of where there are significant immigrant populations, such as California, with 24% of the nation's immigrants, Texas, with 11%, and Florida, with 10%.¹¹ But immigrants live across the country, and often live with family members that have different immigration statuses from one another - in "mixed status" families - such as undocumented, documented, and naturalized; over 4.1 million U.S. citizen children under the age of 18 live with at least one undocumented parent.¹²

The diverse richness of immigrants in America is undeniable, with immigrants from all over the world choosing to make America their home, where they raise their families, buy their homes and cars, go to school and work, pay their taxes, and contribute to their local, state, and federal economy. Immigrants from Mexico, China, India, the Philippines, and El Salvador represent the largest origin groups. Unlike in the past, when our neighbors from Mexico had the largest percentage of immigrants coming to America, in 2018, (the most recent demographic data available) immigrants coming to the U.S. from China and

⁷ "Immigrant Essential Workers are Crucial to America's COVID-19 Recovery," FWD.us, Dec. 16, 2020, <https://www.fwd.us/news/immigrant-essential-workers/>.

⁸ Budiman, Abby, and Tamir, Christine, et al., "Immigrants in America: Statistical portrait of the foreign-born population in the United States," Pew Research Center, August 20, 2020, <https://www.pewresearch.org/hispanic/2020/08/20/facts-on-u-s-immigrants/>.

⁹ Budiman, Abby, "Key findings about U.S. immigrants," Pew Research Center, August 20, 2020, <https://www.pewresearch.org/fact-tank/2020/08/20/key-findings-about-u-s-immigrants/>.

¹⁰ *Id.*

¹¹ *Id.*

¹² MPI, "A Profile of U.S. Children with Unauthorized Immigrant Parents," <https://www.migrationpolicy.org/research/profile-us-children-unauthorized-immigrant-parents>.

India were more common, followed by Mexico and the Philippines.¹³ If considering the immigrant population by region of birth, immigrants from Asia accounted for over a quarter (28%) of all immigrants in the U.S. in 2018, followed by Europe, Canada and North America (13%) (not including Mexico), the Caribbean (10%), Central America (8%), South America (7%), the Middle East and North Africa (4%) and sub-Saharan Africa (5%).¹⁴

Undeniably, as my fellow witnesses, Ms. Jennifer Hunt and Mr. John Lettieri, will attest, immigrants contribute significantly to the U.S. workforce and economy. As of 2018, about 30 million immigrants were estimated to be working in the U.S., which amounted to about 17% of the civilian labor force.¹⁵ Immigrants paid \$450 billion in federal, state, and local taxes, and spent over \$1 trillion purchasing goods and services, helping their local economies.¹⁶ Undocumented immigrants paid \$11.7 billion a year in state and local taxes¹⁷ - funds that support our public schools and hospitals, disaster response services, and core infrastructure.

The jobs that immigrants in America fill span the spectrum, from agricultural workers planting, harvesting, and distributing food to our supermarkets and delivering them to our tables, helping to rebuild communities after climate disasters, nannies caring for our babies and educators teaching them, artists and athletes, to the highly skilled workforce, such as those working in the Science, Technology, Engineering, and Math (STEM) fields, furthering U.S. innovation¹⁸ and global competitiveness.¹⁹

From over my 25 years working on immigration policy, I believe that now, more than ever before, Americans are finally seeing and understanding that those at the forefront of providing health and home care to our loved ones, ensuring that we have food and the ability to work, and access to vaccines that will keep us healthy, are immigrants, working alongside us to pull through the COVID-19 pandemic and on the road to holistic socio-, emotional-, and economic- recovery.²⁰ Approximately one-fifth of the essential workforce responding to the COVID pandemic—22.9 million people-- is comprised of immigrants.²¹ Among all essential workers, regardless of immigration status or nationality, 28 percent of physicians, 24 percent of dentists, and 38 percent of home health aides, are immigrants.²² An estimated 40% of medical scientists in pharmaceutical research and development and 40% of cancer researchers are immigrants.²³ Of the estimated 22.9 million immigrant essential workers, about five million of such workers are

¹³ *Id.*

¹⁴ *Id.*

¹⁵ New American Economy's "Map the Impact" tool, <https://www.newamericaneconomy.org/locations/national>.

¹⁶ *Id.*

¹⁷ Institute on Taxation and Economic Policy's report, "Undocumented Immigrants' State & Local Tax Contributions," <https://itep.org/undocumented-immigrants-state-local-tax-contributions-2017>.

¹⁸ Hunt, Jennifer, and Gauthier-Loiselle, Marjolaine, National Bureau of Economic Research, "How Much Does Immigration Boost Innovation?" September 2008, <https://www.nber.org/papers/w14312>.

¹⁹ Bush, Jeb and McLarty, Thomas, "U.S. Immigration Policy," Council on Foreign Relations, Aug. 2009, <https://www.cfr.org/report/us-immigration-policy>. See also Widener, Andrea, "Science in the US is built on immigrants. Will they keep coming?," March 4, 2019, <https://cen.acs.org/careers/diversity/Science-US-built-immigrants-keep/97/i9>.

²⁰ Center for Migration Studies (CMS), "US Foreign-Born Essential Workers by Status and State, and the Global Pandemic," <https://cmsnv.org/publications/us-essential-workers/>.

²¹ *Id.*

²² Batalova, Jeanne, "Immigrant Health-Care Workers in the United States," Migration Policy Institute, May 14, 2020, <https://www.migrationpolicy.org/article/immigrant-health-care-workers-united-states-2018>

²³ "Immigrants in Healthcare: Keeping Americans Healthy Through Care and Innovation," George Mason University, Institute for Immigration Research, June 2016, https://www.immigrationresearch.org/system/files/health_care_report_FINAL_20160607.pdf.

undocumented, and almost one million are immigrant youth or so-called “Dreamers”.²⁴ It is estimated that 131,300 essential workers are TPS holders, who, on average, have lived in the United States for 22 years.²⁵ Yet, these essential workers who are helping us combat the pandemic-- at great risk to themselves and their families-- continue to live in immigration limbo, never knowing what tomorrow will bring.

A Roadmap to Citizenship and Expanded Legal Channels

Regardless of what side of the political aisle we sit on, I think we can all agree that communities across the country want their representatives to invest in policies that prioritize health and well-being of their communities. When the federal government continues providing an influx of funding to immigration enforcement agencies-- despite patterns of abuse, lack of accountability, and mismanagement of funds-- instead of implementing a more just and modern immigration system, we are putting our health and the well-being of our communities at risk.²⁶

Instead of spending billions of dollars on detention and deportation, we should be passing policies of inclusion that place the 11 million undocumented immigrants who are part of our families and communities on a pathway to citizenship, and to ensuring reasonable and straight-forward access to the legal immigration process. Millions of aspiring citizens have lived and worked in this country for decades. Polling nationwide shows that more than two-thirds of American voters support immigration reform, including a path to legal status, permanent residency and eventually citizenship for the estimated 11 million undocumented persons living in the country.²⁷

We also need to expand more legal channels for people to be able to immigrate to the U.S. lawfully. This includes expanding our family-based immigration system, the diversity visa program and refugee and asylum programs, as well as employment-based avenues for those seeking to immigrate to the U.S. for work. Family unity and reunification is crucial to promoting the health and well-being, integration and long-term stability of families and communities, as is ensuring a robust workforce that can address the needs of our country and economy. The combination of an outdated family and employment based immigration system and the chilling effect of policies under the Trump administration such as the public charge “wealth test” resulted in family-based green cards declining to their lowest point in the past five years,²⁸ leaving nearly 4 million people stuck in a backlog and facing unconscionably long wait times to reunite with their family members. Similarly, we must rebuild a decimated refugee resettlement program that went from an annual cap of 110,000 in FY17 to an abysmally low 15,000 in FY21.

Congress must pass inclusive legislation that builds a fair and humane immigration system, creating pathways to U.S. citizenship for DACA recipients and others who have grown up here, TPS grantees, essential workers, and the millions of undocumented immigrants who live, work, and are an integral part

²⁴ “Immigrant Essential Workers are Crucial to America’s COVID-19 Recovery,” FWD.us, Dec. 16, 2020, <https://www.fwd.us/news/immigrant-essential-workers/>.

²⁵ Prchal Svajlenka, Nicole, and Jawetz, Tom, “A Demographic Profile of TPS Holders Providing Essential Services During the Coronavirus Crisis,” Center for American Progress, April 14, 2020, <https://www.americanprogress.org/issues/immigration/news/2020/04/14/483167/demographic-profile-tps-holders-providing-essential-services-coronavirus-crisis/>.

²⁶ Cantú, Aaron, “How Democrats Abetted Trump’s Bloated Border Regime,” The New Republic, Jan. 7, 2020, <https://newrepublic.com/article/156116/democrats-abetted-trumps-bloated-border-regime>.

²⁷ Narea, Nicole, “Poll: Most Americans support a path to citizenship for undocumented immigrants,” Vox, Feb. 4, 2021, <https://www.vox.com/policy-and-politics/2021/2/4/22264074/poll-undocumented-immigrants-citizenship-stimulus-biden>.

²⁸ <https://www.uscis.gov/sites/default/files/document/reports/2020-USCIS-Statistical-Annual-Report.pdf>

of the U.S., and a more approachable legal immigration system for those caught in the existing complicated legal immigration web.

Ensuring Access to Health and Safety Net Programs

We believe that where you are born should not dictate whether or not you have access to a healthy life. The COVID-19 pandemic has made clear that the health of the nation as a whole depends on *everyone* being included in our nation's public health system and plans for economic recovery. Yet immigrants face extreme barriers to accessing the basic needs and health care programs their tax dollars pay for.²⁹ Green card holders authorized to live in the United States permanently face a waiting period of five years without access to crucial health care and economic supports. DACA recipients, TPS holders, and most other non-naturalized immigrants are entirely ineligible for most federal benefits programs. Five years is a lifetime if you get sick, especially for children. Reform must not just look at opportunities for a pathway to citizenship but also ensure an equal playing field in accessing support systems that should be available to everyone living and working in the United States.

Because of Congress' exclusionary policy decisions, immigrants are uninsured at substantially higher rates than the U.S.-born. Among lawfully present immigrants, 23% are uninsured, compared to nine percent of U.S. citizens. For undocumented immigrants, the uninsured rate rises to 45%.³⁰ U.S. citizen children of immigrant women face food insecurity and risk of poor health compared to their peers.³¹ In a recent report NILC conducted in partnership with the Food Research and Action Center, we found that nearly 80 percent of immigrants surveyed experienced food insecurity, and 80 percent of providers reported that immigrant families were afraid to access food and nutrition programs out of fear that such use would have negative immigration consequences.³² These differences in access to health and basic needs programs contribute to disparities in health outcomes, especially racial health disparities considering the high percentage of immigrants within communities of color.³³

It is crucial for us to remove immigration status barriers to health care, food and nutrition programs, housing, and refundable tax credits. Programs such as Women, Infants, and Children (WIC), Supplemental Nutrition Assistance Program (SNAP), and refundable tax credits have a proven track record of lifting families out of poverty and improving lifelong outcomes for children.³⁴ Inclusive policies should be a no-brainer, especially given that one in four children in the United States have at least one foreign-born parent.³⁵ Our future depends on our children, and we know that refundable credits improve

²⁹ Overview of Immigrant Eligibility for Federal Programs, National Immigration Law Center, updated January 21, 2021, https://www.nilc.org/wp-content/uploads/2015/11/tbl1_ovrhw-fed-pgms.pdf.

³⁰ "Health Coverage of Immigrants," Kaiser Family Foundation, March 18, 2020, <https://www.kff.org/racial-equity-and-health-policy/fact-sheet/health-coverage-of-immigrants/>.

³¹ Chilton, Mariana et al, "Food Insecurity and Risk of Poor Health Among US-Born Children of Immigrants," American Journal of Public Health 99:3, March 2009, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2661461/>

³² Ashbrook, Ashley and Jackie Vimo. "Food Over Fear: Overcoming Barriers to Connect Latinx Immigrant Families to Federal Nutrition and Food Programs," Food Research and Action Center and National Immigration Law Center. December, 2020. <https://www.nilc.org/issues/economic-support/food-over-fear-frac-nilc/>

³³ Budiman, Abby, "Key findings about U.S. immigrants," Pew Research Center, August 20, 2020, <http://www.pewresearch.org/fact-tank/2020/08/20/key-findings-about-u-s-immigrants/#:~:text=The%20U.S.%20foreign-born>.

³⁴ "By the Numbers: Data on Key Programs for the Well-Being of Women & Their Families." National Women's Law Center, December 9 2019. <https://mwlc.org/wp-content/uploads/2019/12/Bythenumbers2019-2.pdf>

³⁵ "Part of Us: A Data-Driven Look at Children of Immigrants." Urban Institute, March 14, 2019. <https://www.urban.org/features/part-us-data-driven-look-children-immigrants>

health, education, and employment outcomes for children.³⁶ Policies such as the Earned-Income Tax Credit and the Child Tax Credit have strong bipartisan support,³⁷ and we must work to remove barriers for immigrants so all of us can access these poverty-fighting tools.

The past year during the pandemic has proven what we and public health experts have been saying for a long time: our community health is dependent on every single person in our communities having access to care. But even when immigrants are eligible for health care and basic needs programs, immigrants face “chilling effects,” meaning they avoid programs out of fear of immigration reprisal or confusion. Immigrants have especially been chilled from accessing care and relief during the pandemic because of the Trump administration’s policies—especially the public charge “wealth test” rule.³⁸ Such policies have resulted in people who are eligible for those benefits—like Shadad Sarmad, a young adult child of Iraqi refugees who was working 12 hour days while pregnant—to decline applying for assistance out of fear of immigration consequences.³⁹ The Urban Institute found that, because of the public charge rule, nearly one in seven adults in immigrant families avoided assistance programs.⁴⁰ Over 250,000 children may have been disenrolled from assistance like the Children’s Health Insurance Program and the Special Supplemental Nutrition Program for WIC because of public charge concerns.⁴¹

This chilling effect has contributed to and exacerbated a chilling reality: that the COVID-19 pandemic has disproportionately impacted and killed immigrants and communities of color.⁴² Rates of hospitalization and death from COVID-19 are twice as high in Black communities and four times as high in Latino and Native communities.⁴³ In addition, Black and Latino communities experienced drastically higher rates of

³⁶ Matsui, Amy and Katherine Gallagher Robbins “The EITC and Child Tax Credit are Critical to the economic Security of Women and Families,” National Women’s Law Center. April 2016. <https://mwlc.org/wp-content/uploads/2016/04/The-EITC-and-Child-Tax-Credit-Are-Critical-to-the-Economic-Security-of-Women-and-Families-Apr-2016-New-Format.pdf>

³⁷ Committee for a Responsible Federal Budget, “EITC Attracts Bipartisan Praise and Proposals,” March 10, 2014, <http://www.crfb.org/blogs/eitc-attracts-bipartisan-praise-and-proposals#:~:text=The%20Earned%20Income%20Tax%20Credits%20to%20encourage%20work>.

³⁸ See for example, Bedford, Tori, “Fear Of Deportation Prompts Undocumented Immigrants To Resist COVID-19 Vaccine,” GBH, January 5, 2021,

<https://www.wgbh.org/news/local-news/2021/01/05/fear-of-deportation-prompts-undocumented-immigrants-to-resist-covid-19-vaccine> and Acevedo, Nicole and Cora Cervantes, “Fearing Trump-era rule, families are forgoing health, food assistance,” NBC News, February 8, 2020, <https://www.nbcnews.com/news/latino/fearing-trump-era-rule-families-are-forgoing-health-food-assistance-n1256733>

³⁹ Sarmad, Shadad and Noah Lanard, “Trump Made Me Choose Between My Husband’s Green Card and Food for My Baby,” Mother Jones, October 29, 2020,

<https://www.motherjones.com/politics/2020/10/immigration-trump-miller-election-2020-public-charge/>

⁴⁰ Bernstein, Hamutal et al, “Immigrant Families Continued Avoiding the Safety Net during the COVID-19 Crisis,” Urban Institute, February 2021, <https://www.urban.org/sites/default/files/publication/103565/immigrant-families-continued-avoiding-the-safety-net-during-the-covid-19-crisis.pdf>

⁴¹ Baraofsky, Jeremy, et al, “Spreading Fear: The Announcement Of The Public Charge Rule Reduced Enrollment In Child Safety-Net Programs,” Health Affairs 39:10, October 2020, <https://www.healthaffairs.org/doi/10.1377/hlthaff.2020.00763>

⁴² National Center for Immunization and Respiratory Diseases (NCIRD), Division of Viral Diseases. “COVID-19 Hospitalization and Death by Race/Ethnicity,” November 30, 2020. <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html>

⁴³ National Center for Immunization and Respiratory Diseases (NCIRD), Division of Viral Diseases. “COVID-19 Hospitalization and Death by Race/Ethnicity,” November 30, 2020. <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html>

food insecurity as a result of the economic crisis provoked by the pandemic, with rates of food insecurity for Black and Latino communities hovering at around 30% in 2020, about 10% higher than white Americans.

As a matter of sound public health policy, it is crucial for everyone to have access to economic relief so they can shelter in place and care for their family members. Without economic relief, workers will be forced to choose between sheltering in place and feeding and housing their families. However, immigrant communities have been almost entirely excluded from federal pandemic relief programs because so-called “unqualified” immigrants are ineligible for programs like Pandemic Unemployment Insurance (UI) and the Supplemental Food and Nutrition Program (SNAP), which were funded by the CARES Act and H.R. 133.⁴⁴ Moreover, immigrants without Social Security Numbers were excluded from the Economic Impact Payment stimulus checks under both the CARES Act and H.R. 133, despite the fact that they work and pay taxes like any other American.⁴⁵

This exclusion of immigrant families from COVID-19 relief has both public health and economic consequences. Immigrants are essential workers on the frontlines of fighting the pandemic, with 74% of undocumented workers employed in jobs defined as “essential” by DHS.⁴⁵ But while immigrants are risking their lives to keep the country moving forward, they have been denied access to relief, including stimulus checks. Excluding immigrant taxpayers from COVID relief has resulted in a loss of \$10 billion in potential economic output to the U.S. economy, according to a recent report by researchers at UCLA.⁴⁶

It is especially concerning that, because of the barriers they face, immigrants may struggle to access a vaccine, despite promises that they will be free to everyone regardless of immigration status.⁴⁷ While Congress can take steps now, such as preventing vaccine providers from charging uninsured patients for a vaccine and ending copays on all types of health insurance, ultimately we must take steps so that everyone in the U.S., regardless of immigration status, can get the care they need, when they need it, without concern for cost.

We also know that addressing the fear of deportations and instead creating a pathway to citizenship will make our country healthier and stronger. Children suffer lifelong trauma and associated health consequences when their parents are deported.⁴⁸ One report of COVID contact tracing efforts in San

⁴⁴ Broder, Tanya, Avidah Moussavian, and Jonathan Blazer. “Overview of Immigrant Eligibility for Federal Programs.” National Immigration Law Center. December 2015.

<https://www.nilc.org/issues/economic-support/overview-immeligfedprograms/#~:text=The%20%E2%80%9Cqualified%20immigrant%20category%20includes,of%20at%20least%20one%20year>

⁴⁵ Department of Homeland Security, Cybersecurity and Infrastructure Security Agency, Guidance on the Essential Critical Infrastructure Workforce, Version 4.0 - CISA's Guidance on Essential Critical Infrastructure Workers, <https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>; Donald Kerwin et al., *US Foreign-Born Essential Workers by Status and State, and the Global Pandemic*, CMS Report, May 2020, <https://cmsny.org/publications/us-essential-workers/>.

⁴⁶ Hinojosa-Ojeda, Raúl, and Dominguez-Villegas, Rodrigo, “Undocumented During COVID-19: Essential for the Economy but Excluded from Relief,” Aug 10th, 2020, UCLA, <https://latino.ucla.edu/research/undocumented-during-covid-19-essential-for-the-economy-but-excluded-from-relief/>

⁴⁷ Department of Homeland Security, “DHS Statement on Equal Access to COVID-19 Vaccines and Vaccine Distribution,” Feb. 1, 2021, <https://www.dhs.gov/news/2021/02/01/dhs-statement-equal-access-covid-19-vaccines-and-vaccine-distribution-sites>

⁴⁸ Farhang, Lili; Heller, Jonathan; Hu, Alice; and Satinsky, Sara, “Family Unity, Family Health: How Family Focused Immigration Reform Will Mean Better Health for Children and Families,” June 3, 2013, <https://humanimpact.org/wp-content/uploads/2017/09/Family-Unity-Family-Health-2013.pdf>

Diego found that fear of immigration enforcement spurred Latino's refusal to participate.⁴⁹ Latino high school students report depression, anxiety and symptoms of post-traumatic stress disorder out of fear that they or a family member will be deported.⁵⁰ Immigration status and healthy lives are closely intertwined and we must not proceed with granting access to status without providing the tools for immigrants and their families to overcome the web of disparities that currently exist because of our public policies.

In response to the Trump Administration's public charge rule, NILC co-founded the Protecting Immigrant Families campaign with the Center for Law and Social Policy aimed at defending the health and wellbeing of immigrants. We are proud that the campaign now has over 500 member organizations across 40 states, and its leadership led to a historic number of public comments (over 260,000) being submitted against the public charge rule, including many from members of this committee. While we celebrated President Biden's executive order to review the public charge rule, the members of the campaign remain energized to ensure that no further restrictions on immigrant health are enacted. There is no way to exclude immigrants from health care and other programs that make families and communities healthier and stronger without harming the nation as a whole. Congress *must* work towards inclusive health and basic needs programs that include all of us. Our nation's health and future depends on it.

Strong Worker Protections Improve Our Economy and Workplace Safety for All

Many immigrants have lived in the U.S. for decades, contributing to the fabric of our society in countless ways as our neighbors, coworkers, and family members. They are also a key part of the U.S. workforce, help create new businesses, and make America stronger with their labor. Major U.S. industries such as agriculture, hospitality, construction, food services, domestic services, and technology depend on and thrive with immigrant workers from around the world.⁵¹

This fact has come into much sharper relief with the onset of the COVID-19 pandemic. Immigrants have contributed a great deal to the nation's efforts to combat COVID-19, with almost 70% of the immigrant workforce concentrated in essential industries like healthcare, food processing, and home care.⁵² 1 in 4 doctors and 1 in 6 nurses in the U.S. are immigrants.⁵³ They have helped keep the country healthy, safe, and cared for before, now during, and likely after this public health crisis and they deserve to be treated with dignity and respect.

Yet workers in low-paid industries are disproportionately affected by violations of labor protection laws, with immigrant and migrant workers who have precarious immigration status experiencing higher rates of these violations.⁵⁴ One national study found, for example, that undocumented workers experienced

⁴⁹ "Perceptions of Contact Tracing Among San Diego Latinos", Chicano Federation, September 2020, <https://www.chicanofederation.org/research-studies>

⁵⁰ Capps, Randy et al, "Immigration Enforcement and the Mental Health of Latino High School Students," Migration Policy Institute, September 2020, <https://www.migrationpolicy.org/research/immigration-enforcement-mental-health-latino-students>

⁵¹ *Immigrant Workers in the U.S. Labor Force*, Brookings Institution and New American Economy, March 15, 2012, http://research.newamericaneconomy.org/wp-content/uploads/sites/2/2018/03/Immigrant_Workers_Brookings.pdf

⁵² Donald Kerwin et al., *US Foreign-Born Essential Workers by Status and State, and the Global Pandemic*, CMS Report, May 2020, <https://cmsnv.org/publications/us-essential-workers/>

⁵³ Jeanne Batalova, *Immigrant Health-Care Workers in the United States*, Migration Policy Institute, May 14, 2020, <https://www.migrationpolicy.org/article/immigrant-health-care-workers-united-states-2018>

⁵⁴ Moyce, S. & Schenker, M., 2018. *Migrant Workers and Their Occupational Health and Safety*, <https://www.annualreviews.org/doi/full/10.1146/annurev-publhealth-040617-013714>; Southern Poverty Law Center, *Close to Slavery: Guestworker Programs in the United States*, https://www.splcenter.org/sites/default/files/d6_legacy_files/downloads/publication/SPLC-Close-to-Slavery-2013.pdf; Centro de los Derechos del Migrante, *Ripe for Reform: Abuses of Agricultural Workers in the H-2A Visa Program*, <https://cdmigrante.org/wp-content/uploads/2020/04/Ripe-for-Reform.pdf>.

minimum wage violations at nearly twice the rate of their U.S.-born counterparts in the same jobs.⁵⁵ Immigrants also face persistent wage inequalities – another study found that median hourly wages for foreign-born workers are about \$8 less than U.S.-born workers.⁵⁶

But when workers want to speak up about such labor violations, they fear retaliation from their employers and risk drawing the attention of immigration enforcement authorities to themselves. Workers who face firing, blacklisting, or deportation are more hesitant than others to take the risk of advocating for their workplace rights.⁵⁷ One very recent study has demonstrated that workers who are unwilling to complain about safety violations on the job due to immigration enforcement concerns actually face greater job hazards and higher workplace injury rates.⁵⁸

This is due, in part, to the fact that our system of labor and employment law enforcement is driven by worker complaints and relies on workers to come forward when they experience unpaid wages or unsafe, abusive, or discriminatory working conditions. Without the cooperation of witnesses, including testimony and physical evidence that only workers can supply, labor agencies are severely hampered in their ability to meaningfully enforce labor standards, even in industries with high rates of labor law violations.

There is a longstanding problem in the U.S. of employers threatening to call, or actually calling, immigration authorities on undocumented workers when they raise labor concerns. These employers were emboldened during the last Administration, with multiple egregious examples highlighted in national news media of Immigration and Customs Enforcement (ICE) colluding with employers to suppress the voices of immigrant workers.⁵⁹ ICE has further reinforced this problem by giving statements to the media that arresting workers based on tips from their employers is *not* a violation of an interagency agreement it maintains with the Department of Labor.⁶⁰

Employers -- not immigrants -- are responsible for wages being driven down due when they hire undocumented workers at lower wages than is legal. In doing so, they drive down wages for everyone else. When an employer exploits the precarious immigration status of immigrant and migrant workers, it creates a pervasive culture of fear and intimidation in the workplace that chills efforts of all workers -- U.S.-born, foreign-born, authorized and unauthorized--to enforce their rights and better their working

⁵⁵ Bernhardt, A., Milkman, R., Theodore, N., Heckathorn, D., Auer, M., DeFilippis, J., Gonzalez, A., Narro, V., Perelshteyn, J., Polson, D., & Spiller, M. (2009). *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities*. <https://s27147.pcdn.co/wp-content/uploads/2015/03/BrokenLawsReport2009.pdf>.

⁵⁶ *State of Immigrants in LA County*, USC Dornsife Center for the Study of Immigrant Integration, January 2020, available at https://dornsife.usc.edu/assets/sites/731/docs/SOILA_full_report_v19.pdf.

⁵⁷ Kati L. Griffith & Shannon Gleeson, *The Precarity of Temporality: How Law Inhibits Immigrant Worker Claims*, 39 COMP. LAB. L. & POL'Y J. 111, 119-20 (2017); Shannon Gleeson, *Labor Rights for All? The Role of Undocumented Immigrant Status for Worker Claims Making*, 35 LAW & SOC. INQUIRY 561, 569 (2010).

⁵⁸ Amanda Grittner and Matthew Johnson, *When Labor Enforcement and Immigration Enforcement Collide: Deterring Worker Complaints Worsens Workplace Safety*, January 2, 2021, available at <https://drive.google.com/file/d/1VUv-XPrsvJCPP0o27Yqas26XhVzJtrg/view>.

⁵⁹ See, e.g., Shannon Dooling, *Lawsuit Alleges Employer Retaliated Against Undocumented Worker By Triggering ICE Arrest* (WBUR, Mar. 1, 2019) <https://www.wbur.org/news/2019/02/28/retaliation-lawsuit-undocumented-worker-bpd-ice>; Monica Campbell, *For undocumented workers, demanding better work conditions could mean deportation* (The World, Aug. 26, 2019) <https://www.pri.org/stories/2019-08-26/undocumented-workers-demanding-better-work-conditions-could-mean-deportation>; Andrew Khouri, *More workers say their bosses are threatening to have them deported* (Los Angeles Times, Jan. 2, 2018) available at <https://www.latimes.com/business/la-fi-immigration-retaliation-20180102-story.html>; Kartikay Mehrotra, Peter Waldman, and Jonathan Levin, *In Trump's America, Bosses Are Accused of Weaponizing the ICE Crackdown*, (Bloomberg News, Dec. 18, 2018) <https://www.bloomberg.com/news/features/2018-12-18/in-trump-s-america-bosses-are-accused-of-weaponizing-the-ice-crackdown>.

⁶⁰ Beth Fertig, *Undocumented Restaurant Worker Is Arrested by ICE During Deposition Against His Employer* (WYNC, Aug. 16, 2019) <https://www.wync.org/story/undocumented-restaurant-worker-arrested-ice-during-deposition-against-his-employer/>.

conditions.⁶¹ If workers don't cooperate with labor enforcement agencies, those agencies can't hold employers accountable, and labor standards erode across our labor market.⁶² This reality undermines the ability of all workers to act collectively to win just treatment and fair wages on the job.

The new moment we are in provides an opportunity to shift this paradigm and focus on strengthening labor protections for *all* working people and fixing our immigration system. The government should ensure all workers are protected from exploitation by employers who break the law, not wasting billions on unnecessary deportations. The prior administration had the wrong priorities - spending billions on mass deportations and an ineffective border wall. In 2018 alone, the federal government's spending on immigration enforcement was 11 times greater than spending to enforce labor standards - all while rolling back key protections for American workers like pay fairness and workplace safety.⁶³

The right way to use immigration policy to boost wages is by expanding rights and ensuring that all working people—regardless of immigration status—have access to the full protection of labor and employment laws. All jobs should be good jobs, and good jobs need worker power - which, for immigrants, means ensuring that they can speak up and organize on the job without the risk of deportation. Immigration enforcement must complement, rather than conflict with, a strong, well-resourced and effective system of labor standards enforcement. Our policies must remove barriers to union organizing by holding employers accountable for abuses, implementing a fairer work authorization mechanism with functioning safeguards, and preventing the threat of deportation from being used as a weapon to keep workers from asserting their rights on the job.

Workers are the center of our economy. There is no strong economy without workers, and a strong economy must be inclusive of all workers. The rules of today's economy are rigged against working families, and our unjust immigration system is one of the many forces making it harder for working families to get ahead. Immigration reform is an essential part of the larger structural change we need to create an economy that respects and protects all working people, and favors democracy in the workplace and the community. We remain committed to immigration reforms that create a pathway to citizenship and halt the race to the bottom in wages and standards by employers who game the system. We can and must build a different sort of immigration system—one that promotes shared prosperity and shared values of dignity, fairness, opportunity, voice, and justice.

Addressing Root Causes: An Urgent Need to Transform U.S. Policy on Migration

For decades, the U.S. has served as a global leader in the resettlement of refugees. Refugee resettlement has historically been a bipartisan issue and is a "critical pillar of our national security and foreign policy."⁶⁴ However, in carrying out his anti-immigrant agenda, President Trump slashed refugee admissions to the lowest numbers since the 1980 Refugee Act took effect - resettling only 11,814 refugees

⁶¹ See e.g., Donald M. Kerwin with Kristen McCabe, *Labor Standards Enforcement and Low-Wage Immigrants: Creating an Effective Enforcement System*, Migration Policy Institute (2011), <https://www.migrationpolicy.org/research/labor-standards-enforcement-immigration>.

⁶² *Viracon, Inc.*, 256 NLRB 245 (1981) (employer threats of deportation if employees elected union representation were unlawful coercion); *Nortech Waste*, 336 NLRB 554 (2001) (employer review of its employees' immigration status, purportedly to ensure compliance with federal immigration laws, was a smokescreen to retaliate for and to undermine a union election victory); *Labriola Baking Co.*, 361 NLRB No. 41 at *2 (Sept. 8, 2014) (threats touching on employees' immigration status warrant careful scrutiny because they are among the most likely to instill fear among employees).

⁶³ Daniel Costa, *Immigration enforcement is funded at a much higher rate than labor standards enforcement—and the gap is widening*, Economic Policy Institute, June 2019, <https://www.epi.org/blog/immigration-enforcement-is-funded-at-a-much-higher-rate-than-labor-standards-enforcement-and-the-gap-is-widening/>.

⁶⁴ Senate Letter to Pompeo, Azar, and McAleenan, Aug. 5, 2019, <https://www.lankford.senate.gov/imo/media/doc/Lankford,%20Coons%20lead%20Letter%20on%20Concerns%20to%20Eliminate%20Refugee%20Cap.pdf>.

in Fiscal Year (FY) 2020.⁶⁵ In addition to dramatically reducing the number of refugees admitted to the U.S. to historic lows, the Trump administration banned refugees from Muslim majority countries and introduced sweeping policies to dismantle the U.S. asylum system. These cruel policies were designed specifically to deter asylum seekers from seeking refuge at our southern border, violating U.S. law and international treaties. In carrying out these policies, the U.S. ignored its legal obligations and is directly responsible for fueling the dire humanitarian situation we now see at the Southern Border.

Under the leadership of President Biden, the U.S. has taken steps towards ending the illegal asylum policies implemented under that past administration that violate our obligations under international law. The new administration has also rescinded discriminatory bans and taken actions that demonstrate this country's renewed commitment to once again becoming a leader in refugee resettlement. These actions will help to promote stability and facilitate international collaboration to address the global refugee crisis.⁶⁶ In addition to immediately establishing robust case management processing at our borders, the U.S. must address root causes of migration from the Northern Triangle countries of Central America—El Salvador, Guatemala, and Honduras. Many of these migrants are subjected to violence (including endemic levels of sexual and gender-based violence and femicide), social instability, government corruption and impunity, poverty, and climate change.⁶⁷ Programs should be rolled out to alleviate poverty, combat violence, strengthen government and civil society institutions, and address climate change. In addition to expanding pathways to protection in the U.S., the U.S. should work with neighboring countries such as Mexico, Belize, Costa Rica, and Panama to ensure expanded access to protection. It is important that Congress support the Biden Administration in repairing and improving these programs not just because it is the right thing to do, but because it is what the law requires.

President Biden charted his long-term regional vision for how to manage migration from Central America that combines legal pathways and restored and expanded initiatives to reduce the root causes of migration. The White House fact sheet for the U.S. Citizenship Act of 2021 creates a \$4 billion four-year interagency plan to address the underlying root causes of migration.⁶⁸ This plan increases assistance to El Salvador, Guatemala, and Honduras conditioned on their ability to reduce systemic corruption, violence, and poverty - all drivers of migration. The proposal also creates new systems for Central Americans to initiate the process — from within their countries — of seeking protection and resettlement to the United States or other partner countries.⁶⁹ It's imperative that members of Congress work with the new administration

⁶⁵ "U.S. Annual Refugee Resettlement Ceilings and Number of Refugees Admitted, 1980-Present," Migration Policy Institute, <https://www.migrationpolicy.org/programs/data-hub/charts/us-annual-refugee-resettlement-ceilings-and-number-refugees-admitted-united>.

⁶⁶ We are currently facing the largest refugee crisis in history due to war, political instability, and climate change. The UN High Commissioner for Refugees (UNHCR) estimates that more than 80 million people have been forcibly displaced worldwide. See UNHCR Population Statistics Database, accessed February 2021, <https://www.unhcr.org/refugee-statistics/>.

⁶⁷ "Forced Return to Danger," Policy Brief from the Washington Office on Latin America (WOLA), Center for Gender & Refugee Studies (CGRS), Alianza Americas, Latin America Working Group (LAWG), Kids in Need of Defense (KIND), Women's Refugee Commission (WRC), and American Federation of Labor - Congress of Industrial Organizations (AFL-CIO), Dec. 5, 2019, <https://www.wola.org/wp-content/uploads/2019/12/Forced-Return-to-Danger-STC-Civil-Society-Memo-12.4.19.pdf>.

⁶⁸ "Fact Sheet: President Biden Sends Immigration Bill to Congress as Part of His Commitment to Modernize our Immigration System," White House, Jan. 20, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-president-biden-sends-immigration-bill-to-congress-as-part-of-his-commitment-to-modernize-our-immigration-system/>.

⁶⁹ "Fact Sheet: President Biden Sends Immigration Bill to Congress as Part of His Commitment to Modernize our Immigration System," White House, Jan. 20, 2021,

to provide the funding necessary to enact a long-term, multi-pronged effort that meaningfully addresses the root causes of migration and establish the U.S. as a global leader of human rights.

Multiple Pathways to Swift Reform

The urgency of the moment before us is clear. With each passing day, the uncertainty for millions of immigrants causes unnecessary suffering and costs all of us. There is no silver bullet or any singular legislative path to bring us closer to our vision of an immigrant inclusive society, and so we urge Members to pursue multiple swift passage of multiple bills that advance our collective agenda.

On his first day in office, President Biden issued a memo that laid out his plan for the U.S. Citizenship and Immigration Act⁷⁰ - a bill that would, among other things, create new pathways to citizenship for millions of undocumented immigrants who live, work, and are an essential part of our society, include provisions of H.R. 2214, the NO BAN Act, which would prevent future discriminatory bans, increase protections for asylum seekers and crime survivors, remove barriers to family-based immigration, including the three and 10-year bars, protect immigrant workers from the fear of retaliation through the POWER Act, and fund Central American countries to address root causes of migration. We are supportive of the White House approach of finally breaking the harmful mold of pairing punitive enforcement with legalization that has defined past immigration reform efforts for decades.

To that end, we call on leadership and members of this subcommittee to support the swift enactment of legalization bills such as:

- an *improved* version of H.R. 6, the **Dream and Promise Act of 2019**, which passed the House in the last Congress and would legalize those with DACA and other immigrants who grew up in the United States, as well as those granted TPS and Deferred Enforced Departure (DED) - specifically a version without the criminal bars that are both far more restrictive than what exists under current law and tone deaf to the racialized consequences of our criminal legal system;
- an *improved* version of H.R. 5038, the **Farm Workforce Modernization Act of 2019**, which passed the House in the last Congress and would legalize certain agriculture workers - specifically a version that does not deny access to health care and includes robust protections for workers;
- an **inclusive legalization bill for essential workers** as part of our economic recovery and to recognize the importance of protecting those working to protect and care for us and rebuild the economy.

Beyond legalization, there are a number of bills Congressional leadership can prioritize to ensure meaningful, people-centered reforms to bring us closer to being the more immigrant-inclusive country we strive to be. Just a few among many examples of such bills include:

- H.R. 2214, the NO BAN Act, which would prevent discriminatory bans such as the Muslim and African bans from being adopted by future administrations;
- H.R. 4701, the HEAL for Immigrant Women and Families Act, that would open up access to comprehensive health care regardless of immigration status;
- H.R. 5225, the POWER Act, which provides critical labor protections for immigrant workers and vital safeguards against retaliation by employers; and

<https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-president-biden-sends-immigration-bill-to-congress-as-part-of-his-commitment-to-modernize-our-immigration-system/>.

⁷⁰ *Id.*

- H.R. 2415, the Dignity for Detained Immigrants Act, which would end mandatory detention that denies people bond, ensure a presumption of liberty over incarceration and end the use of private prisons and county jails for civil immigration detention.

Finally, all these legislative vehicles should be paired with a drastic reduction in the budgets of Immigration and Customs Enforcement and Customs and Border Protection and a reallocation of those funds to robust staffing and enforcement of federal agencies and programs that truly promote community safety for all residents of our communities.

Conclusion

This is a time for moral imagination and leadership from all of us as we come together as a nation to safeguard and strengthen our democracy, heal from historic generational racial inequalities and injustices, and recover from this global pandemic that has reminded us how interdependent we are. We are rebuilding this country we all call home.

We need Democrats and Republicans to come together to swiftly approve a series of bills that will serve as the building blocks for a solid foundation for future generations, and recognize that immigrants are essential to who we are as a country.

I must remind the committee that immigrants, many of whom have been making extraordinary sacrifices for our collective safety during the worst pandemic in 100 years, have been contributing to our communities for decades. Today's immigrants are simply seeking the same opportunity that generations of immigrants had before them: the chance to be part of something greater than themselves in order to build a better future for their loved ones and for us all.

Immigrants are essential. All of us here today, owe it to them to act boldly and make good on the promise of America. The time is now.

Ms. LOFGREN. Thank you so much. The gentlelady's time has expired. Now we'll hear from Professor Hunt for about 5 minutes. You're recognized.

TESTIMONY OF DR. JENNIFER HUNT

Dr. HUNT. Thank you, Chair Nadler. Thank you, Chair Lofgren and Ranking Member McClintock. My name is Jennifer Hunt. I'm a Professor of Economics at Rutgers University where I study the economics of immigration.

There's a remarkable amount of agreement among economists as to the impact of immigration on the economy, and this is reflected in a 2017 consensus report written by a panel convened by the National Academy of Sciences. I was a member of that committee, and in my testimony today I'm mostly going to summarize the main results of that report and while also pointing out an area which lacked consensus.

So, let me begin with the impact of immigration on the economy as a whole. When immigrants arrive in the United States they increase the labor force, thus causing more goods and services to be produced, which is the same thing as saying that gross domestic product, or GDP, rises. More subtly, immigration also increases GDP per capita and GDP per native-born American.

One reason for this is that immigration allows greater specialization. So, immigrants come with slightly different skills from native-born workers, and this allows those native-born workers to specialize more in the things that they're best at, which raises their productivity. Now, this increased specialization comes about whether the immigrants differ from the native born by having higher skills or by having lower skills than native-born workers.

Another impact of immigration on the economy as a whole is the increased growth in GDP per capita, and this comes about because immigrants innovate more than native-born Americans.

Turning to the labor market, the report found that immigration has no effect on the employment rate of native-born Americans and no effect on average wages of native-born workers. However, immigration does have an effect on distribution of wages. Immigration tends to increase the wages of native-born workers who collaborate with immigrants in tasks at work and tends to reduce the wages of those native-born workers whose skills are very similar to those of immigrants, in particular, native-born high school dropouts.

Now, let me consider the fiscal impact of immigration. The report found that both native-born Americans and immigrants are net beneficiaries of the government because the government runs a budget deficit, and by government here I mean collectively State, local, and Federal governments. It is the case that immigrants are greater net beneficiaries of the government than native-born Americans.

The main reason for this is that immigrants have more children and therefore use more public schooling services, and the report noted that this could be considered an investment rather than a cost. Immigrants are net contributors to the Federal Government while being net beneficiaries of State and local governments, in part because of their greater use of public schooling, as I men-

tioned, and in part because State governments have tax schedules that are less progressive than those of the Federal Government.

Now, consensus was lacking on the degree to which immigration reduces the wages of native-born high school dropouts. My own assessment of the literature is that the effect is small, but even a small effect is a cause for concern because the biggest problem of the U.S. labor market over the last decades has been a lack of wage growth for native workers. So, policies to raise low wages must be a priority, but immigration should not be one of the tools used for this end due to its great benefits to the economy overall.

Thank you very much.

[The statement of Dr. Hunt follows:]

Testimony of

Jennifer Hunt, Ph.D.
Professor of Economics
Rutgers, the State University of New Jersey

before the

U.S. House of Representatives
Committee on the Judiciary
Subcommittee on Immigration and Citizenship

Hearing on “The U.S. Immigration System: The Need for Bold Reforms”

February 11, 2021

Thank you, Chair Lofgren and Ranking Member McClintock, for the opportunity to appear before the Subcommittee. I am a labor economist at Rutgers University where I research the economics of immigration.

There is a remarkable amount of agreement among economists about the economic and fiscal impacts of immigration. This is reflected in the peer-reviewed 2017 report of the National Academies of Sciences, Engineering and Medicine (NAS) entitled *The Economic and Fiscal Consequences of Immigration*. I was a member of the panel of social science experts on immigration which authored this consensus study. The report is a mixture of original research and careful weighing and synthesis of the results of the existing scientific literature. In my testimony, I will summarize the findings and comment on an area where consensus was not found.

1. Immigrants have a positive impact on the economy as a whole

The report finds that immigration increases the size of the economy (Gross Domestic Product, GDP) by increasing the amount of labor. More subtly, the report finds that immigration also increases GDP per capita, and GDP per native-born person. The mechanisms behind this include the response of the capital stock to the size of the work force; the flexibility of immigrants to move to the areas of the country where opportunities are best; and the increased specialization of workers permitted by the arrival of workers with skills different from those of native-born workers. Such specialization increases worker efficiency. Furthermore, because high-skill immigrants have been shown to increase patents, the best available marker for innovation, they must also increase growth in GDP per capita.

2. Immigrants reduce neither employment nor average wages of the native born

The NAS report reaches consensus on what originally seemed a controversial issue: the impact of immigration on native-born wages and employment. The studies of the impact on employment are not difficult to summarize, and the panel found, “The literature on employment impacts finds little evidence that immigration significantly affects the overall employment levels of native-born workers.” (p.4). The picture for wages is more complex, as the report explains (p.4):

When measured over a period of 10 years or more, the impact of immigration on the wages of natives overall is very small. However, estimates for subgroups span a comparatively wider range, indicating a revised and somewhat more detailed understanding of the wage impact of immigration since the 1990s. To the extent that negative wage effects are found, prior immigrants—who are often the closest substitutes for new immigrants—are most likely to experience them, followed by native-born high-school dropouts, who share job qualifications similar to the large share of low-skilled workers among immigrants to the United States. Empirical findings about inflows of skilled immigrants, discussed shortly, suggest the possibility of positive wage effects for some subgroups of workers, as well as at the aggregate level.

The lack of impact on employment and average wages may appear surprising, but there is data-based evidence on the underlying mechanisms. As part of increased specialization in the labor market, native-born workers switch into jobs using language and communication more intensively, for example, thus avoiding competition with immigrants. Another mechanism is the adoption by firms of the technology most suited to the skill set of the work force. On the other hand, if the skills of native-born and immigrant workers are sufficiently similar, such offsetting effects do not occur.

3. Low-skill immigrants can benefit the economy as a whole

The report also considers links between immigration and economic outcomes beyond GDP and the wages and employment of native-born Americans. For example, low-skill immigrants reduce the prices of services, such as child-care, benefiting both immigrant and native-born consumers. These considerations, along with the increased specialization brought about by low-skill as well as high-skill immigration, underline that immigrants of all skills can increase the efficiency of the economy as a whole.

4. Public education plays an important role in immigrants' effect on fiscal balance

The NAS panel studies whether immigrants pay more or less in taxes than they receive in benefits from the government. An analysis of data for the year 2012 shows that both immigrants and the native-born are net beneficiaries (due to the budget deficit), but that immigrants' net benefit is greater. The main reason for this is that immigrants have more children, and thus receive more services from public schools. The report notes, however, that the education of immigrants' children might be viewed as an investment rather than a cost.

Projections into the future are more complex, relying as they do on future policy decisions. The main conclusions to be drawn from the scenarios under various assumptions are that immigrants make a net positive contribution at the federal level, but negative at the state and local level due to the cost of public schooling and state tax systems which tax high and low incomes at similar rates.

5. Where consensus is lacking

While the NAS report concludes that U.S. immigration has put downward pressure on wages of low-skill native-born workers, it is silent on the magnitude. My own assessment of the academic literature is that the negative effect is small. Yet, the lack of wage growth for less-educated Americans has been the most concerning aspect of the labor market in recent decades, and raising low wages should be a priority. Despite this, the significant economic benefits provided by immigration, including low-skill immigration, mean that policies other than cutting immigration should be used to raise wages of native-born workers.

6. Conclusion

There is consensus among economists that immigration at the levels seen before 2017 has brought significant benefits to the overall U.S. economy, without lowering employment or average wages of native-born workers. However, new, bold policies should be set in place to boost the wages of low-skill native-born workers who are most similar to immigrants.

References

National Academies of Sciences, Engineering, and Medicine. 2017. *The Economic and Fiscal Consequences of Immigration*. Washington, D.C.: The National Academies Press. <https://doi.org/10.17226/23550>

Ms. LOFGREN. Mr. Lettieri, you're recognized for 5 minutes.

TESTIMONY OF JOHN LETTIERI

Mr. LETTIERI. Thank you. Chair Lofgren, Ranking Member McClintock, and the Members of the Subcommittee, thanks for the opportunity to testify today.

My name is John Lettieri, and I'm the President and CEO of the Economic Innovation Group. EIG is a bipartisan research and policy organization devoted to building a more dynamic and inclusive American economy.

The United States is a magnet for skilled and entrepreneurial people the world over. In dozens of fields immigrants have fueled American dynamism and helped keep our country young, innovative, and aspirational. Current skilled immigration policy fails on multiple fronts. It welcomes far too few workers, it fails to prioritize entrepreneurs, and it primarily serves to strengthen already successful and fast-growing areas of the country.

My testimony today will focus on two ways an immigration reform could deliver meaningful benefits to a broader share of workers and communities. First, by supporting the development of economically and demographically stagnant places, and second, by bolstering American entrepreneurship and innovation.

I'll start by talking about how to better serve struggling communities. For most of its history, the United States enjoyed the advantages of a young and quickly growing population. However, the picture has changed dramatically in the past decade leaving us with a slowly growing, rapidly aging society. The latest Census estimates revealed that the U.S. has reached an unprecedented level of demographic stagnation, some of the lowest growth rates recorded in the country's history.

The effects of this seismic shift were felt unevenly across regions and communities. Today, fully 81 percent of counties have seen their prime working age populations shrink over the past decade, hitting rural areas and legacy cities the hardest. The consequences of such steep demographic decline are only just beginning to take shape throughout the economy.

So, what can be done in response? Alongside policies that make it easier to start and support a family, immigration policy is one of the few and most obvious ways to counter demographic decline. Immigrants, skilled immigrants in particular, bring an array of benefits to struggling communities. They fill empty housing stock and bring new life to neighborhoods.

Where there's a shrinking tax base, they bring fiscal stability for schools and first responders. Where there is a dwindling local workforce, immigrants enable employers to expand. Where there's shuttered storefronts, immigrants start new businesses and add vibrancy to local commerce.

Unfortunately, current policy does little to connect skilled immigrants with the kind of legacy cities, small towns, and rural areas that could benefit most from their presence. To fix this, EIG has called for a geographically targeted visa program, a "Heartland Visa," aimed at helping struggling areas break the cycle of economic and demographic decline. Such a program would open a new door for skilled workers who meet a range of needs helping to grow

a local robotics hub or fill a small-town physician shortage, for example.

Instead of relying on employer sponsorship, the heartland visas would be tied to communities, ones that qualify based on local workforce and other criteria. To participate, eligible communities would be required to opt in and commit resources matched by Federal dollars to supporting new arrivals.

Welcoming communities would rally to attract new arrivals much as they do for a new corporate headquarters, by showcasing their local amenities, quality of life, job opportunities, and growth potential.

Visa holders in turn would commit to settle in eligible communities for a set period—say, 3 years—in exchange for being fast tracked for a green card and permanent status. They would have a wide array of choices for where to settle and full job mobility within their chosen labor markets. Such a policy would reject the false choice between compassion and self-interest by aligning the needs of struggling areas with the aspirations of those looking to build a better life in our country.

The second area of focus for my testimony deals with how immigration reform can support American entrepreneurship. New businesses are major drivers of job creation accounting for the majority of net new jobs each year. They're a vital source of competition and increase demand for American workers.

Immigrants bolster entrepreneurship in two important ways: First, as noted earlier, they help to counter population loss, which is shown to hamper business formation; and second, immigrants themselves are disproportionately likely to become entrepreneurs. Roughly one in four U.S. entrepreneurs is an immigrant, and research finds that immigrants are nearly twice as likely to start a business as native-born Americans.

The overwhelming evidence suggests that we should be doing much more to boost inflows of skilled immigrants in general and skilled immigrant entrepreneurs in particular. The U.S. should establish a new program to provide visas for immigrant entrepreneurs much in the same way that other advanced economies have already done. In fact, more than two dozen other countries have some form of a startup visa to welcome the kind of talent the U.S. routinely turns away.

Based on everything we know about the impact of skilled immigration, there is little doubt that a robust startup visa program would lead to a wealth of job creation and strengthen the innovation intensive sectors of our economy. It's to our great advantage that people around the world see the United States as a beacon of opportunity, but we have simply failed to apply this advantage to solving many of our most deep-seated economic challenges.

So, as this Committee considers ways to reform and improve immigration policy, I urge you to prioritize establishing new programs that support the economic needs of struggling communities and bolster American entrepreneurship.

Thank you.

[The statement of Mr. Lettieri follows:]



“The U.S. Immigration System: The Need for Bold Reforms”

Testimony before

The Committee of the Judiciary, Subcommittee on Immigration and Citizenship
House of Representatives

February 11, 2021

John W. Lettieri
President & Chief Executive Officer
Economic Innovation Group

Chair Lofgren, Ranking Member McClintock, and members of the Subcommittee: Thank you for the opportunity to testify today on the need for immigration reform.

My name is John Lettieri and I am the President and Chief Executive Officer of the Economic Innovation Group (EIG), a bipartisan research and public policy organization devoted to building a more dynamic and inclusive American economy.

Introduction

The United States is a magnet for educated and entrepreneurial people the world over. It is difficult to fully capture just how deeply this fact matters to the country’s economic well-being, but the benefits are profound and reach into almost every area of American life. In healthcare, the sciences, engineering, arts, technology, and dozens of other fields, immigrants have fueled American dynamism and helped to keep our country young, innovative, and aspirational.

But current skilled immigration policy fails on multiple fronts. It welcomes too few workers overall. It fails to prioritize immigrant entrepreneurs who could build the companies of the future and create jobs for American workers. And it primarily serves to strengthen already successful and fast-growing areas of the country by tying a skilled visa to a single employer, thereby ignoring the needs of legacy cities and rural communities struggling with the effects of population loss and demographic decline. In other words, communities that could most benefit from an infusion of skilled immigrants are least likely to benefit from current policy.

Critics of immigration are right to ask how policy can be changed so that it benefits more Americans, but they are wrong about the changes that are needed. There is broad consensus that decreasing the number of immigrants, as some have proposed, would exacerbate many of our most serious national challenges. Meanwhile, even the most ardent academic critics¹ of immigration acknowledge that it would do nothing to move the dial in favor of the average American worker. In contrast, letting in more highly skilled immigrants would seriously boost overall economic growth and prosperity, and creating new pathways for them to settle in struggling places can help ensure those gains are widely shared.

Accordingly, my testimony today will focus on two ways that immigration reform could deliver meaningful benefits to a broader share of workers and communities: 1) supporting the development of economically and demographically stagnant places; and, 2) bolstering the entrepreneurial dynamism and innovative capacity of the national economy.

I will start by talking about the need for immigration policy that better serves communities grappling with the effects of population loss and demographic stagnation.

Place-based Visas for Struggling Communities

A growing body of research reveals that population growth is an important driver of the *health* of an economy, not just its size. A growing population stokes demand, providing new and fast-growing firms with needed labor, and spurring the creation of new business models as companies compete for an expanding pool of customers.

For most of its history, the United States enjoyed a young and quickly growing population. However, over the past decade, declining fertility rates, mostly flat immigration rates, and a rapidly aging society have dramatically altered the picture.

Recently released population estimates by the Census Bureau reveal that the U.S. has reached an unprecedented level of demographic stagnation.² The estimated 0.35 percent population growth over the period from July 1, 2019, to July 1, 2020, would be the lowest annual growth rate since the turn of the 20th century.³ Census estimates also suggest that population growth over the last decade may be the lowest recorded in the country's entire history.⁴ To put this in perspective, the country added nearly two million fewer people in 2020 than it did in 2000.⁵ William Frey of the

¹ Bryan Caplan, "[Borjas, Wages, and Immigration: The Complete Story](#)," 2007.

² U.S. Census Bureau's [Population and Housing Unit Estimates](#), 2020.

³ The official Census count for 2020 is still being finalized.

⁴ William Frey, "[The 2010s saw the lowest population growth in U.S. history, new census estimates show](#)," Brookings Institution, 2020.

⁵ Economic Innovation Group analysis of U.S. Census Bureau population estimates. See Adam Ozimek, Kenan Fikri, and John Lettieri, "[From Managing Decline to Building the Future: Could a Heartland Visa Help Struggling Regions?](#)," Economic Innovation Group, 2019.

Brookings Institution finds that current trends in fertility, mortality, and immigration would lead to a population growth rate between 2020 and 2060 that is only half the rate of the previous four decades.⁶ And reinforcing this demographic stagnation is a steep decline in within-U.S. mobility that saw internal migration over the 2010s fall to historic lows.⁷

U.S. population percent change from the year prior, 1930-2020



Source: EIG analysis of U.S. Census Bureau data

The effects of the national demographic slowdown are felt unevenly across regions. About half of U.S. counties are now experiencing declines in population overall. Fully 81 percent have seen their prime-working-age population (those aged 25 to 54) shrink over the past decade.⁸ This trend has hit rural areas the hardest, with 91 percent of rural counties losing prime-age workers over the period.⁹ By 2037, an estimated two-thirds of U.S. counties will have fewer prime-working-age adults than they did four decades earlier in 1997.¹⁰ In other words, the consequences of demographic decline are only just beginning to take shape throughout the economy.

⁶ William Frey, "[What the 2020 census will reveal about America: Stagnating growth, an aging population, and youthful diversity.](#)" Brookings Institution, 2021.

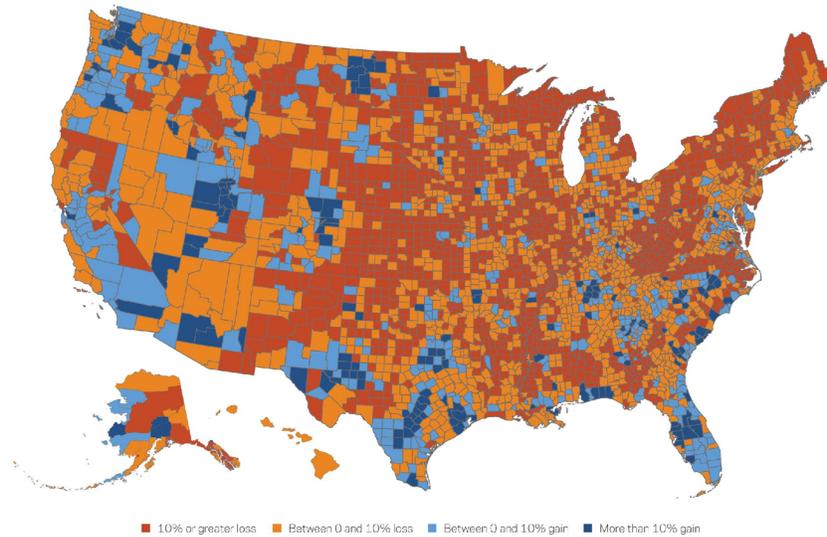
⁷ William Frey, "[Just before COVID-19, American migration hit a 73-year low.](#)" Brookings Institution, 2020.

⁸ Adam Ozimek, Kenan Fikri, and John Lettieri, "[From Managing Decline to Building the Future: Could a Heartland Visa Help Struggling Regions?](#)" Economic Innovation Group, 2019.

⁹ August Benzow, "[Dramatically curbing legal immigration threatens the health of the U.S. economy.](#)" Economic Innovation Group, 2020.

¹⁰ Adam Ozimek, Kenan Fikri, and John Lettieri, "[From Managing Decline to Building the Future: Could a Heartland Visa Help Struggling Regions?](#)" Economic Innovation Group, 2019.

Prime working age population change by county, 2010 to 2019



Source: Economic Innovation Group analysis of U.S. Census Bureau data

What can be done in response to these seismic shifts? Alongside policies that make it easier to start and support a family,¹¹ immigration policy is one of the few and most obvious ways to counter demographic decline.

Immigrants — skilled immigrants, in particular — bring an array of benefits to declining communities. They fill empty housing stock, reduce crime rates and spur new business creation. Where there is a shrinking tax base, they bring fiscal stability for schools and first responders. Where there is a dwindling local workforce, immigrants enable employers to expand. Where there are shuttered Main Street storefronts, immigrants start new businesses and add vibrancy to local commerce. Many struggling cities have underused assets and infrastructure built for much larger populations; new immigrants activate such latent capacity. But unfortunately, current U.S. policy does little to connect skilled immigrants with the kinds of legacy cities, small towns, and rural communities that would benefit from their presence the most.¹²

¹¹ For more on declining fertility rates, see Claire Cain Miller, “[Americans Are Having Fewer Babies. They Told Us Why.](#)” New York Times, 2018; see also Lyman Stone, “[American Women Are Having Fewer Children Than They’d Like.](#)” New York Times, 2018.

¹² John Lettieri, “[Opinion: Want to fix the United States’ immigration and economic challenges? Try place-based visas.](#)” The Washington Post, 2019.

To fix this, EIG has called for a geographically targeted visa program — a “Heartland Visa” — aimed directly at helping struggling areas break the cycle of economic and demographic decline.¹³ (The idea of “place-based” — rather than employer-based — visas has been already implemented in advanced countries such as Canada and Australia.¹⁴) Such a program would open a new door — without reducing the number of visas available through other programs — for skilled workers who could meet a range of local needs, from helping grow a local robotics hub, to filling small-town physician shortages. But instead of relying on employer sponsorship, Heartland Visas would be tied to *communities* — ones that qualify for the program based on a stagnant or shrinking local workforce, or other economic criteria. As a result, local startups, small businesses, and medium-sized enterprises would gain access to a talent pool typically reserved under current policy for big businesses in booming areas.¹⁵

To participate in the program, eligible communities would be required to opt in and commit resources — matched by federal dollars — to implement the program and support new arrivals. Welcoming communities would rally to attract human capital much as they do for a new corporate headquarters — by showcasing their local amenities, quality of life, job opportunities and growth potential. Each community would employ its local knowledge, sponsoring entities, and anchor institutions in developing its own implementation strategy. And the draw could be considerable. Many demographically stagnant U.S. communities offer an enormously attractive chance for a better life for would-be immigrants.

Visa holders, in turn, would commit to settle in an eligible community for a set period — say, three years — in exchange for being fast-tracked for a green card and permanent status. They would have a wide array of choices for where to settle and full job mobility within their chosen labor market. While some visa holders would eventually relocate, there is strong evidence¹⁶ that many would put down permanent roots.¹⁷ Over time, areas that succeed in implementing this program would find it easier to attract and retain native born workers as well — and with them, the businesses that rely upon a skilled and knowledgeable local workforce. What’s more, Heartland Visas wouldn’t simply add to a community’s population; they would add the kind of workers disproportionately likely to become entrepreneurs and drive growth themselves. In that

¹³ See the Appendix for more details on how a Heartland Visa program could be structured.

¹⁴ The idea of a geographically tied visa program has been proposed in the U.S., as well. Senator Ron Johnson (R-WI) introduced the [State Sponsored Visa Pilot Program Act of 2017](#) to create a three-year, renewable nonimmigrant visa for state-sponsored immigrants. Additionally, in 2014, Michigan’s former governor [requested](#) 50,000 visas for high-skilled immigrants to settle in Detroit in an effort to bolster the city’s struggling economy.

¹⁵ Matthew J. Slaughter, “[Immigrants for the Heartland](#),” Wall Street Journal, 2019.

¹⁶ For evidence from Canada, see “[Evaluation of the Provincial Nominee Program](#),” Immigration, Refugees, and Citizenship Canada, 2017.

¹⁷ Adam Ozimek, Kenan Fikri, and John Lettieri, “[From Managing Decline to Building the Future: Could a Heartland Visa Help Struggling Regions?](#),” Economic Innovation Group, 2019.

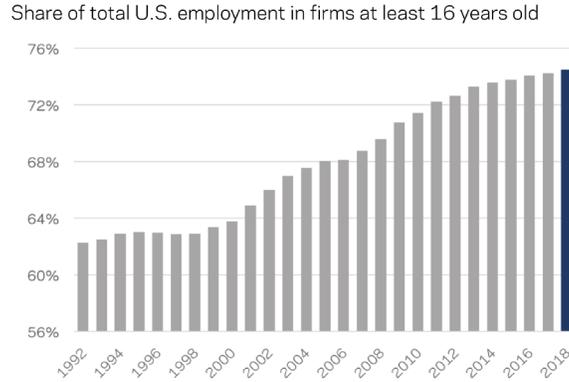
sense, this proposal would work particularly well alongside the popular idea of a startup visa, which I will address later in my testimony.

The opt-in nature of the Heartland Visa concept is one of its most important features. Placing agency in the hands of communities would encourage them to view immigration for what it truly is: a powerful catalyst for economic growth. Such a policy would reject the false choice between compassion and self-interest by aligning the needs of struggling areas with the aspirations of those looking to build a better life in our country. Perhaps this is why this idea has already attracted widespread support, including the endorsement of the U.S. Conference of Mayors on a broad bipartisan basis.

Entrepreneurship Visa

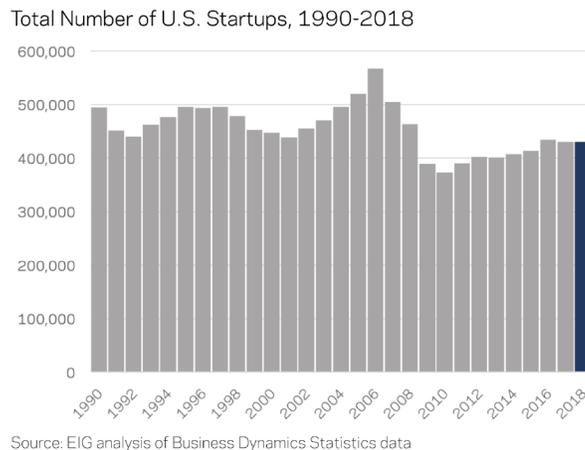
The second area of focus for my testimony deals with how immigration reform can support American entrepreneurship.

First, it is important to explain why entrepreneurship should be a priority. New businesses are major drivers of American job creation, accounting for the majority of net new jobs created throughout the economy each year. New businesses are a vital source of competition within industries, forcing incumbents to adapt and improve, or else be left behind. And young, high-growth firms also increase demand for American workers, setting off a chain reaction that leads to more opportunities throughout the labor market for everyone.



Source: EIG analysis of Business Dynamics Statistics data

For all these reasons, it should deeply concern policymakers that the U.S. startup rate has failed to recover from the steep decline it experienced during the Great Recession. The 2010s were a “startup-less” recovery during which the rate of firm formation remained startlingly and persistently low. Making matters worse, the geographic distribution of net new firms became highly concentrated in a handful of large metro areas, with large shares of U.S. metro areas seeing their stock of firms shrink even as the national economy continued its recovery.



Immigrants bolster entrepreneurship in two important ways. First, as noted earlier, they help to counter population loss, which is shown to hamper business formation. For example, our research found that, at the county level, one percentage point lower average annual population growth from 2007 to 2017 likely caused the rate of business formation to decline by two to three percentage points over the same period.¹⁸

Immigrants are also disproportionately likely to become entrepreneurs. Roughly one in four U.S. entrepreneurs is an immigrant.¹⁹ Research by the Kauffman Foundation finds that immigrants are nearly twice as likely to start a business as native-born Americans.²⁰ The Center for American Entrepreneurship found that over 40 percent of Fortune 500 companies in 2017 were founded by an immigrant or the child of immigrants. Those firms alone employed 12.8 million people worldwide and accounted for \$5.3 trillion in global revenue in 2016.²¹ The race for a Covid-19

¹⁸ Adam Ozimek, Kenan Fikri, and John Lettieri, “[From Managing Decline to Building the Future: Could a Heartland Visa Help Struggling Regions?](#),” Economic Innovation Group, 2019.

¹⁹ Sari Pekkala Kerr and William Kerr, “[Immigrant Entrepreneurship](#),” 2016.

²⁰ Kauffman Foundation, “[Kauffman Compilation: Research on Immigration and Entrepreneurship](#),” 2016.

²¹ Center for American Entrepreneurship, “[Immigrant Founders of the Fortune 500](#).”

vaccine has provided the latest high-profile example of how immigrant founders contribute to U.S. well-being: Both Moderna and Pfizer, two of the first companies to win approval for a vaccine, have immigrant founders and CEOs.

Immigrants in science, technology, engineering, and mathematics (STEM) also contribute in profound ways to U.S. productivity growth. One estimate found that STEM immigrants were responsible for 30 percent to 50 percent of all U.S. productivity growth from 1990 to 2010.²² That study also finds that an increase in the foreign STEM share of a city's workforce increased the wages of native college graduates and non-college educated workers alike — with no significant effects on employment.

The overwhelming evidence suggests we should be doing much more to boost inflows of skilled immigrants. In particular, immigration reform should establish a new program to provide visas for immigrant entrepreneurs. In this regard, the U.S. lags behind other advanced economies, such as Australia, Canada, Denmark, Italy, Spain, and the UK. In total, more than a dozen countries have some form of a “startup visa” to welcome the kind of talent the U.S. turns away.

If policymakers are truly concerned about ensuring a strong job market for American workers, it is difficult to think of a more obvious solution than actively recruiting entrepreneurs whose firms will increase labor demand. One noteworthy proposal is the 2019 “Startup Act,” sponsored by Senators Moran (R-KS), Warner (D-VA), Blunt (R-MO), and Klobuchar (D-MN). This bipartisan legislation would establish large pools of both entrepreneur and STEM visas to help the U.S. attract and retain the kind of workers that help keep our economy the most dynamic and innovative in the world. Based on everything we know about the impact of skilled immigration, there is little doubt that the Startup Act would lead to a wealth of job creation and strengthen the innovation-intensive sectors of our economy.

Conclusion

It is to our great advantage that people around the world see the United States as a beacon of opportunity, but we have simply failed to apply this advantage to solving our most deep-seated economic challenges. As this committee considers ways to reform and improve immigration policy, I urge you to prioritize establishing new programs to support the economic needs of struggling communities and bolster American entrepreneurship.

Thank you for your consideration.

²² Giovanni Peri, Kevin Shih, and Chad Sparber, “[STEM Workers, H-1B Visas, and Productivity in US Cities](#),” 2015.

AppendixKey Principles for a Heartland Visa Program

A place-based Heartland Visa (HV) program should be anchored in a number of key principles:

- Communities should only be eligible for HVs if they “opt in” on a voluntary basis.
- HVs should be targeted to places confronting chronic population stagnation or loss as a means of boosting economic dynamism and fiscal stability. HVs would help stagnant areas build on existing strengths while seeding new ones. And they would be instrumental in putting underutilized local assets back to productive use.
- HVs should be additive to top-line national skilled immigration quotas. HVs should open a *new* door through which human capital can enter the United States and contribute to the economy.
- HVs should be designed to serve as a catalyst for parts of the country currently underserved by existing programs, such as the H-1B.
- Rather than being tied to a single employer, HV holders should be allowed to compete on the open labor market to maximize their availability to startups and small businesses that may struggle with the administrative burden of H-1Bs.
- HVs should be contingent on visa holders finding and maintaining a job or starting a business in an eligible area within a reasonable period of time.
- HVs should provide a fast-tracked path to permanent residency and only restrict where visa holders can live and work for a period of time. During that time they would build social networks and put down roots in their host communities but, once granted permanent residency, visa holders could relocate where they please within the United States. The prospect of permanent residency and full mobility should provide an extremely strong incentive for compliance.

Ms. LOFGREN. Thank you so very much. Now, we will hear from our final Witness, Mr. Peter Kirsanow.

TESTIMONY OF PETER KIRSANOW

Mr. KIRSANOW. Thank you, Madam Chair Lofgren, Ranking Member McClintock, the Members of the Committee. I am Peter Kirsanow, a Member of the U.S. Commission on Civil Rights and a Member of the Labor Employment Practice Group of Benesch Friedlander. I'm here in my personal capacity.

U.S. Commission on Civil Rights was established pursuant to the 1957 Civil Rights Act to, among other things, examine matters related to discrimination and denials of equal protection. Because immigration and national origin implicate issues related to race discrimination, the commission has conducted several hearings over the years related to various aspects of immigration, particularly illegal immigration.

Among the recent hearings were two that address the effect of illegal immigration on the wages and employment opportunities of Black Americans. The evidence adduced by the commission shows that illegal immigration has a disproportionately negative effect on the wages and employment opportunities of Blacks, particularly Black males.

It's important to note that the Witnesses at this hearing span the ideological spectrum, and while they may have differed with respect to certain opinions, each and every Witness agreed that illegal immigration has a demonstrably negative effect on Black employment rates.

The evidence adduced at the commission shows that the reason illegal immigration hurts Blacks is pretty basic: Blacks, particularly Black men, are disproportionately concentrated in the low-skill labor market and are disproportionately likely to have no more than a high school diploma. Likewise, illegal immigrants are disproportionately low skilled and also disproportionately likely to have minimal educational levels.

Both of these groups compete against one another in the low-skilled labor market, and the competition is often most fierce in those very industries in which Blacks have traditionally been highly concentrated, such as construction, hospitality, and service. Blacks frequently lose out in that competition out by illegal immigrants who are preferred by some employers for a variety of reasons.

One of the Witnesses in our hearings said, Professor Vernon Briggs of Cornell's Industrial and Labor Relations School, this isn't because low-skilled Americans, regardless of race, are unwilling to work; it's that they're less willing to work for the cut-rate wages and sometimes substandard conditions that are often proffered to illegal immigrants, which is a code for highly unlikely to complain to the EEOC, OSHA, or the Wage and Hour Division of the Department of Labor.

The competition is often most pronounced in major metropolitan areas, New York, Chicago, and L.A., but also more increasingly in southeastern States such as Virginia, North Carolina, and Georgia. The impact of illegal immigration on the wage and employment laws of low-skilled workers is especially severe in today's pandemic.

At the time of the commission's hearings, on average the unemployment rate for Blacks without a high school diploma was around 12 percent. However, before the pandemic, Black unemployment dropped to a record low 5.5 percent. Today that rate has nearly doubled. Obviously, the supply of low-skilled workers far exceeds the demand. This bodes ill for all such workers but particularly Black males.

As President Biden noted in the last few days, quote, "we saw the jobs report. Only 6,000 private sector jobs will be created, and at that rate it's going to take years before we get to full employment," end quote. Research shows that 40 percent of the 18-point decline in labor participation rates among Blacks over the last several decades is attributable to immigration. That's hundreds of thousands of Blacks without jobs.

The evidence adduced at the commission also shows that illegal immigration depresses wage rates for the available jobs. As the Federal Reserve Bank of Atlanta estimated, as the result of the growth in undocumented workers over the last couple of decades, the annual earnings of average documented worker in Georgia in 2007 were \$960 lower than they were in 2000.

The leisure and hospitality industries, they were \$1,520 lower. Recent history shows that lax border enforcement results in the further influx of illegal immigrants, will further crowd out Blacks and other low-skilled Americans from the workforce. This inextricably increases the number of Blacks dependent on the government for subsistence, and it swells the ranks of unemployed Blacks while reducing the wages of Blacks that do have jobs.

It's respectfully submitted that before the Federal Government decides to relax immigration enforcement or grant legal status to illegal immigrants, serious deliberation be given to the effects such grants will have on the wage and employment levels of low-skilled Americans generally, Blacks specifically.

The evidence adduced at the hearings of the Civil Rights Commission showed that granting such legal status is not without profound and substantial costs to American workers.

Thank you, Madam Chair.

[The statement of Mr. Kirsanow follows:]

**Testimony of Peter Kirsanow before the House Judiciary Committee
February 11, 2021**

Chairman Lofgren, Member McClintock, Members of the Committee, I am Peter Kirsanow, a member of the U.S. Commission on Civil Rights, a former member of the National Labor Relations Board, and a partner in the labor and employment practice group of Benesch, Friedlander. I am appearing in my personal capacity.

The U.S. Commission on Civil Rights was established by the Civil Rights Act of 1957 to, among other things, examine matters related to discrimination and denials of equal protection. Because immigration often implicates issues of national origin and sometimes race discrimination, the Commission has conducted several hearings on various aspects of immigration, particularly illegal immigration. They specifically related to the effect of illegal immigration on the wages and employment opportunities of black Americans.¹ The evidence adduced at the hearings showed that illegal immigration has a disproportionately negative effect on the wages and employment levels of blacks, particularly black males.²

The briefing witnesses, well-regarded scholars from leading universities and independent groups, were ideologically diverse. All the witnesses acknowledged that illegal immigration has a negative impact on black employment, both in terms of employment opportunities and wages. The witnesses differed on the extent of that impact, but every witness agreed that illegal immigration has a discernible negative effect on black employment. For example, Professor Gordon Hanson's research showed that "Immigration . . . accounts for about 40 percent of the 18 percentage point decline [from 1960-2000] in black employment rates."³ Professor Vernon Briggs wrote that illegal immigrants and blacks (who are disproportionately likely to be low-skilled) often find themselves in competition for the same jobs, and the huge number of illegal immigrants ensures that there is a continual surplus of low-skilled labor, thus preventing wages from rising.⁴ Professor Gerald Jaynes's research found that illegal immigrants had displaced U.S. citizens in industries that had traditionally employed large numbers of African-Americans, such as meatpacking.⁵

Illegal immigration has a disparate impact on African-American men because these men are disproportionately represented in the low-skilled labor force. The Census Bureau released a report on educational attainment after the Commission issued its report. This report found that 50.9 percent of native-born blacks had not continued their education beyond high school.⁶ The same report found that 75.5 percent of foreign-born Hispanics had not been educated beyond high

¹ U.S. COMMISSION ON CIVIL RIGHTS, THE IMPACT OF ILLEGAL IMMIGRATION ON THE WAGES AND EMPLOYMENT OPPORTUNITIES OF BLACK WORKERS [HEREINAFTER THE IMPACT OF ILLEGAL IMMIGRATION], available at http://www.usccr.gov/pubs/IllegImmig_10-14-10_430pm.pdf.

² *Id.* at 3, Finding 5:

Illegal immigration to the United States in recent decades has tended to depress both wages and employment rates for low-skilled American citizens, a disproportionate number of whom are black men. Expert economic opinions concerning the negative effects range from modest to significant. Those panelists that found modest effects overall nonetheless found significant effects in industry sectors such as meatpacking and construction.

³ *Id.* at 26.

⁴ *Id.* at 37, 38-39.

⁵ *Id.* at 31.

⁶ CAMILLE L. RYAN & JULIE SIEBENS, U.S. CENSUS BUREAU, EDUCATIONAL ATTAINMENT IN THE UNITED STATES: 2009 (Feb. 2012), at 7, available at <http://www.census.gov/prod/2012pubs/p20-566.pdf>.

school, although it does not disaggregate foreign-born Hispanics who are legal immigrants from those who are illegal immigrants.⁷ However, Professor Briggs estimated that illegal immigrants or former illegal immigrants who received amnesty constitute a third to over a half of the total foreign-born population.⁸ Foreign-born Hispanics who are in the United States illegally are disproportionately male.⁹ African-Americans who have not pursued education beyond high school are also disproportionately male.¹⁰ These poor educational attainment levels usually relegate both African-American men and illegal immigrant men to the same low-skilled labor market, where they must compete against each other for work.¹¹

The obvious question is whether there are sufficient jobs in the low-skilled labor market for both African-Americans and illegal immigrants. The answer is no. As Professor Briggs noted in his testimony to the Commission, “In February 2008 . . . the national unemployment rate was 4.8 percent, but the unemployment rate for adults (over 25 years old) without a high school diploma was 7.3 percent.”¹² During 2007, “Black American adult workers without a high school diploma had an unemployment rate of 12.0 percent, and those with only a high school diploma had an unemployment rate of 7.3 percent.”¹³ These statistics suggest both that there is an overall surplus of workers in the low-skilled labor market, and that African-Americans are particularly disfavored by employers.¹⁴ More recently, Professor George Borjas of Harvard wrote:

Classifying workers by education level and age and comparing differences across groups over time shows that a 10 percent increase in the size of an education/age

⁷ *Id.*

⁸ THE IMPACT OF ILLEGAL IMMIGRATION, *supra* note 1, at 35-36.

⁹ Peter Skerry, *Splitting the Difference on Illegal Immigration*, NATIONAL AFFAIRS (Winter 2013), at 5 (“Of the undocumented immigrants over the age of 18 currently residing in the U.S., there are approximately 5.8 million males, compared to 4.2 million females.”), available at http://www.nationalaffairs.com/doclib/20130102_Skerry.pdf.

¹⁰ THE IMPACT OF ILLEGAL IMMIGRATION, *supra* note 1, at 52; see also Anne McDaniel, Thomas A. DiPrete, Claudia Buchmann & Uri Shwed, *The Black Gender Gap in Educational Attainment: Historical Trends and Racial Comparisons*, 48 DEMOGRAPHY 889, 890 (2011) (“It is well known that black males trail black females on a range of key educational outcomes, including high school graduation, college enrollment, and college completion.”), available at <http://jmitsolserver.shorensteincenter.netdna-cdn.com/wp-content/uploads/2011/10/fulltext.pdf>.

¹¹ THE IMPACT OF ILLEGAL IMMIGRATION, *supra* note 1, Statement of Vernon M Briggs, Jr., at 37.

[I]t is not everywhere that there is likely to be significant competition between low skilled black workers and illegal immigrant workers, but there are ample circumstances where there is - such as the large metropolitan labor markets of Los Angeles, New York, San Francisco, Chicago, Miami and Washington-Baltimore. Moreover, some of the fastest growing immigrant concentrations are now taking place in the urban and rural labor markets of the states of the Southeast- such as Georgia, North Carolina and Virginia, which never before were significant immigrant receiving states in previous eras of mass immigration. Indeed, about 26 percent of the nation's foreign-born population are now found in the states of the South - the highest percentage ever for this region. There is mounting evidence that many of these new immigrants in this region are illegal immigrants.

¹² THE IMPACT OF ILLEGAL IMMIGRATION, *supra* note 1, Statement of Vernon M Briggs, Jr., at 36.

¹³ *Id.*

¹⁴ *Id.* Statement of Harry J. Holzer, at 41.

Other evidence, including that by ethnographers, indicates that employers filling low-wage jobs requiring little reading/writing or communication clearly prefer immigrants to native-born blacks, and encourage informal networks through which immigrants gain better access to these jobs. The native-born black workers likely would be interested in some, but not all of these jobs, depending on their wages.

group due to the entry of immigrants (both legal and illegal) reduces the wage of native-born men in that group by 3.7 percent and the wage of all native-born workers by 2.5 percent. ... The same type of education/age comparison used to measure the wage impact shows that a 10 percent increase in the size of a skill group reduced the fraction of native-born blacks in that group holding a job by 5.1 percentage points.¹⁵

Furthermore, these statistics reflect an economy that was not experiencing the persistent stagnation we are experiencing today. The country's economic woes have disproportionately harmed African-Americans, especially those with little education. In 2011, 24.6 percent of African-Americans without a high school diploma were unemployed, as were 15.5 percent of African-Americans with only a high school diploma.¹⁶ According to the Bureau of Labor Statistics, the seasonally adjusted January 2013 unemployment rate for all black Americans—not just those with few skills—was 13.8 percent, nearly twice the white unemployment rate of 7.0 percent.¹⁷ The economy has a glut of low-skilled workers, not a shortage.

Not only do illegal immigrants compete for jobs with African-Americans, but that competition drives down wages for the jobs that are available. Harvard professor George Borjas wrote:

Illegal immigration reduces the wages of native workers by an estimated \$99 to \$118 billion a year. . . . A theory-based framework predicts that the immigrants who entered the country from 1990 to 2010 reduced the average annual earnings of American workers by \$1,396 in the short run. Because immigration (legal and illegal) increased the supply of workers unevenly, the impact varies across skill groups, with high school dropouts being the most negatively affected group.¹⁸

Immigration, both legal and illegal, resulted in a disproportionately large increase in the number of high school dropouts in the labor pool. This caused a drop in wages among the poorest and least-educated members of the workforce.¹⁹ As discussed above, these people are

¹⁵ George Borjas, *Immigration and the American Worker: A Review of the Academic Literature*, Center for Immigration Studies (April 2013), available at http://cis.org/immigration-and-the-american-worker-review-academic-literature?utm_source=E-mail+Updates&utm_campaign=344e45830d-Borjas+Study4_8_2013&utm_medium=email.

¹⁶ U.S. DEPT. OF LABOR, *The African-American Labor Force in the Recovery* (Feb. 29, 2012), at Chart 3, available at <http://www.dol.gov/sec/media/reports/BlackLaborForce/BlackLaborForce.pdf>.

¹⁷ BUREAU OF LABOR STATISTICS, *Employment situation summary* (Feb. 1, 2013), available at <http://www.bls.gov/news.release/empst.nr0.htm>

¹⁸ Borjas, *supra* note 15.

¹⁹ *Id.*:

[The simulation] shows that immigration particularly increased supply at the bottom and top of the education distribution. Immigration increased the effective number of hours supplied by high school dropouts to 25.9 percent, and those of workers with more than a college degree by 15.0 percent. In contrast, immigration increased the number of hours supplied by workers with 12 to 15 years of school by only 6 to 8 percent. Overall, immigration increased effective supply by 10.6 percent during the two-decade period.

Because of the skewed nature of the supply shift, the simulation shows that immigration particularly affected the wage of native workers at the two ends of the education distribution. The large supply increase experienced by high school dropouts decreased the wage of this group by 6.2 percent in the

disproportionately likely to be African-American men. Furthermore, there is evidence that wages for these men have not just failed to increase as much as they would have in the absence of illegal immigration. Their real wages, the number of dollars they take home at the end of the week, have actually diminished. Julie Hotchkiss, a research economist and policy advisor at the Federal Reserve Bank of Atlanta, estimated that “as a result of this growth in the share of undocumented workers, the annual earnings of the average documented worker in Georgia in 2007 were 2.9 percent (\$960) lower than they were in 2000 [A]nnual earnings for the average documented worker in the leisure and hospitality sector in 2007 were 9.1 percent (\$1,520) lower than they were in 2000.”²⁰ A \$960 annual decrease may not seem like much to a lawyer or a doctor. But as President Obama noted in regard to the 2012 payroll tax cut extension, an extra \$80 a month makes a big difference to many families: “It means \$40 extra in their paycheck, and that \$40 helps to pay the rent, the groceries, the rising cost of gas . . .”²¹

The consequences of illegal immigration for black men and the black community in general are not limited to wages. In another study, Borjas found that lower wages and fewer jobs also correlate with an increase in the black incarceration rate.

Our study suggests that a 10% immigrant-induced increase in the supply of a particular skill group is associated with a reduction in the black wage of 2.5%, a reduction in the black employment rate of 5.9 percentage points, and an increase in the black institutionalization rate of 1.3%. Among white men, the same 10% increase in supply reduces the wage by 3.2%, but has much weaker employment and incarceration effects: a 2.1 percentage-point reduction in the employment rate and a 0.2 percentage-point increase in the incarceration rate. It seems, therefore, that black employment and incarceration rates are more sensitive to immigration rates than those of whites.²²

Both lower wages and incarceration likely contribute to one of the most serious problems facing the African-American community today: the dearth of intact nuclear families. The late senator Daniel Patrick Moynihan famously sounded the alarm about the disintegration of the black family during his tenure at the Department of Labor in the 1960s.²³ It is one of the great tragedies of modern America that the disintegration of the African-American family has not abated.²⁴ 72 percent of African-American children are born out of wedlock.²⁵ It is now a truism that children

short run and 3.1 percent in the long run. Similarly, the wage declines for the most highly skilled workers (those with more than a college degree) were 4.1 percent in the short run and 0.9 percent in the long term.

²⁰ THE IMPACT OF ILLEGAL IMMIGRATION, *supra* note 1, at 46.

²¹ Anie Parnes, *Obama: Payroll tax cut extension will help with higher gas prices*, THE HILL, Feb. 21, 2012, available at <http://thehill.com/blogs/e2-wire/e2-wire/211765-obama-payroll-tax-cut-extension-will-help-with-higher-gas-prices>.

²² George J. Borjas, Jeffrey Grogger, and Gordon Hanson, *Immigration and the Economic Status of African-American Men*, 77 *ECONOMICA* 255, 256 (2010).

²³ United States Department of Labor, *THE NEGRO FAMILY: THE CASE FOR NATIONAL ACTION* (March 1965), available at <http://www.dol.gov/oasam/programs/history/webid-meynihan.htm>.

²⁴ Kay Hymowitz, *The Black Family: 40 Years of Lies*, CITY JOURNAL (Summer 2005), available at http://www.city-journal.org/html/15_3_black_family.html.

²⁵ Jesse Washington, *Blacks struggle with 72 percent unwed mothers rate*, ASSOCIATED PRESS, Nov. 7, 2010, available at http://www.nbcnews.com/id/39993685/ns/health-womens_health/t/blacks-struggle-percent-unwed-mothers-rate/#.UWR6fZPvvn4.

born out of wedlock are far more likely to experience a host of negative outcomes than are children raised by their own biological, married parents.²⁶

Married men are more likely to be employed and to have higher earnings than unmarried men, although the relationship between marriage and economic success is complex.²⁷ However, it is obvious that men who are unemployed or are incarcerated are far less appealing prospective spouses than men who hold down a steady job.²⁸ Yet there are fewer and fewer jobs available and at lower wages-for men in traditionally masculine industries.²⁹ Giving amnesty to illegal immigrants would only exacerbate this problem facing low-skilled men, who are disproportionately African-American. The dearth of job opportunities gives these men less

²⁶ See Charles Murray, *COMING APART*, 139-41 (2012):

Trends in marriage are important not just with regard to the organization of communities, but because they are associated with large effects on the socialization of the next generation. No matter what the outcome being examined—the quality of the mother-infant relationship, externalizing behavior in childhood (aggression, delinquency, and hyperactivity), delinquency in adolescence, criminality as adults, illness and injury in childhood, early mortality, sexual decision making in adolescence, school problems and dropping out, emotional health, or any other measure of how well or poorly children do in life—the family structure that produces the best outcomes for children, on average, are two biological parents who remain married. Divorced parents produce the next-best outcomes. Whether the parents remarry or remain single while the children are growing up makes little difference. Never-married women produce the worst outcomes. All of these statements apply after controlling for the family's socioeconomic status. I know of no other set of important findings that are as broadly accepted by social scientists who follow the technical literature, liberal as well as conservative, and yet are so resolutely ignored by network news programs, editorial writers for the major newspapers, and politicians of both major political parties [citations omitted].

See also W. Bradford Wilcox and Jeffrey Dew, *Protectors or Perpetrators: Fathers, Mothers, and Child Abuse and Neglect*, Center for Marriage and Families (Feb. 2008), available at <http://www.wbradfordwilcox.com/Dad.abuse.pdf>.

[A] 1996 federal study found that the overall rate of child maltreatment among single-parent households was nearly double that of two-parent families: 27.3 children per 1,000 were maltreated in single-parent families, whereas 15.5 children per 1,000 were maltreated in two-parent families. Another study found that 7 percent of children who had lived with a single parent had been sexually abused, compared to 4 percent of children who lived in an intact, biological family. Still another study found that children were half as likely to suffer physical abuse involving a traumatic brain injury when they lived in a household with their father, compared to children living in a fatherless family.

Research also indicates that children living in stepfamilies are more likely to suffer from abuse. One study by David Finkelhofer of the University of New Hampshire and his colleagues found that “children currently living in single parent and stepfamilies had significantly greater lifetime exposure than those living with two biological or adoptive parents” to five different forms of victimization—sexual assault, child maltreatment, assault by peers or siblings, being a victim of a crime, or witnessing violence. Other studies have found that children are markedly more likely to be killed or sexually abused by stepfathers, compared to children living in an intact, married household.

²⁷ See Murray, *supra* note 26, at 156-157 (2012) (discussing the “marriage premium”).

²⁸ *Id.* at 157 (“In the 2000s Fishtown had a lot fewer men who were indicating that they would be good providers if the woman took a chance and married one of them than it had in 1960.”); see also Hannah Rosin, *THE END OF MEN* (2012) 8-10 (a single mother's description of her daughter's underemployed father as “one less granola bar for the two of us”).

²⁹ See Rosin, *supra* note 28, 71-97 (2012).

confidence in their ability to support a family, and gives women reason to fear that these prospective husbands will be only another mouth to feed.

Granting amnesty to illegal immigrants will only further harm African-American workers. Not only will the low-skilled labor market continue to experience a surplus of workers, making it difficult for African-Americans to find job opportunities, but African-Americans will be deprived of one of their few advantages in this market. Some states require private employers to use E-Verify to establish that their workers are in the country legally. This levels the playing field a bit for African-Americans. If illegal immigrants are granted legal status, this small advantage disappears.

Furthermore, recent history shows that granting amnesty to illegal immigrants will encourage more people to come to the United States illegally. The 1986 amnesty did not solve the illegal immigration problem. To the contrary, that amnesty established the precedent that if you come to America illegally, eventually you will obtain legal status. Thus, it is likely that if illegal immigrants are granted legal status, more people will come to America illegally and will further crowd African-American men (and other low-skilled men and women) out of the workforce.

Thank you again for inviting me to testify, and I look forward to your questions.

**The Impact of Illegal
Immigration
on the Wages
and Employment
Opportunities
of Black Workers**

A Briefing Before
The United States Commission on Civil Rights
Held in Washington, DC

Briefing Report

Letter of Transmittal

The President
The President of the Senate
The Speaker of the House

Sirs and Madam:

The United States Commission on Civil Rights (Commission) is pleased to transmit this report, *The Impact of Illegal Immigration on the Wages and Employment Opportunities of Black Workers*. A panel of experts briefed members of the Commission on April 4, 2008 regarding the evidence for economic loss and job opportunity costs to black workers attributable to illegal immigration. The panelists also described non-economic factors contributing to the depression of black wages and employment rates. Based on that discussion, the Commission developed the findings and recommendation that are included in this report.

Among its findings, the Commission notes that the illegal workers are estimated to account for as much as one-third of total immigrants in the United States, and that illegal immigration has tended to increase the supply of low-skilled, low-wage labor available. The Commission found also that about six in 10 adult black males have a high school diploma or less, and are disproportionately employed in the low-skilled labor market in likely competition with immigrants. Evidence for negative effects of such competition ranged from modest to significant, according to the experts who testified, but even those experts who viewed the effects as modest overall found significant effects in occupations such as meatpacking and construction.

The Commission views this topic as complex, and therefore makes no specific recommendations at this time. The Commission recommends generally, however, that the Bureau of Labor Statistics and other appropriate governmental agencies collect data concerning the presence of illegal workers in the U.S. workforce and on the employment and wage rate effects of such workers on low-skilled and low-wage workers of all races. The Commission believes that such data should be made available to the public.

Part A, which consists of the body of this report, was approved on January 15, 2010 by Chairman Reynolds and Commissioners Kirsanow, Heriot, and Taylor. Vice Chair Thornstrom and Commissioners Gaziano and Melendez abstained. Commissioner Yaki voted against. Vote tallies for each of the Commission's findings and recommendation, which make up Part B of the report, are noted therein.

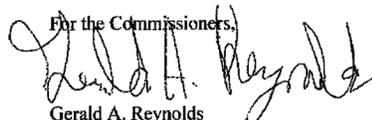
For the Commissioners,

Gerald A. Reynolds
Chairman

Table of Contents

Table of Contents

Executive Summary	1
Findings and Recommendation	3
Summary of Proceedings	5
Panel One	5
Gordon Hanson	5
Gerald Jaynes	6
Vernon Briggs, Jr.	7
Harry Holzer	9
Discussion	10
Panel Two	15
Julie Hotchkiss	15
Steven Camarota	17
Richard Nadler	18
Carol Swain	19
Discussion	20
Statements	24
Gordon H. Hanson	24
Gerald D. Jaynes	27
Vernon M. Briggs, Jr.	35
Harry J. Holzer	40
Julie Hotchkiss	44
Steven A. Camarota	48
Richard Nadler	53
Carol M. Swain	62
Public Comment	65
Speaker Biographies	66
Gordon Hanson	66
Gerald Jaynes	66
Vernon M. Briggs, Jr.	66

Impact of Illegal Immigration on the Wages & Employment of Black Workers

Harry J. Holzer.....	67
Julie Hotchkiss.....	67
Steven A. Camarota.....	67
Richard Nadler.....	68
Carol M. Swain.....	68
Statements of Commissioners.....	69
Dissent of Commissioners Michael Yaki and Arlan Melendez.....	69
Statement and Rebuttal of Commissioner Gail Heriot.....	69
Rebuttal of Commissioner Peter N. Kirsanow.....	71
Rebuttal of Commissioners Michael Yaki and Arlan Melendez.....	79

Executive Summary

In the midst of public debate over immigration reform, the U.S. Commission on Civil Rights voted to examine the possible effects of illegal immigration on particularly vulnerable segments of the U.S. working population, specifically low-skill black workers.¹ Since the April 4, 2008 briefing, the severe economic downturn has affected workers in general, and—if unemployment rates are any indication—has had an even more severe impact on low-skill workers.²

To help air important aspects of the debate, the Commission invited experts who have published and spoken on this issue to weigh the relative effects of factors that influence black low-skill workers' wages, job gains or losses and report their conclusions to the Commission. The speakers discussed factors that included the economic costs to this particular group,³ fiscal costs to taxpayers of social services for low-skill workers, competing skill levels of affected workers, the economic gains to the U.S. economy as a whole from flexible, low-cost labor,⁴ and what constitutes a fair comparison between legal and illegal workers and their job opportunities.⁵

The Commission selected balanced panels that included Harry Holzer, professor of public policy at Georgetown University; Gordon H. Hanson, professor of economics at the University of California, San Diego; Julie Hotchkiss, research economist and policy advisor at the Federal Reserve Bank of Atlanta; Vernon Briggs, professor emeritus of labor economics at Cornell University; Gerald Jaynes, professor of economics and African American Studies at Yale University; Richard Nadler, president of Americas Majority Foundation; Carol Swain, professor of political science and law at Vanderbilt University; and Steven Camarota, director of research at the Center for Immigration Studies in Washington, DC.

¹ See, e.g., Lori Montgomery, "Immigration Lifts Wages, Report Says, White House Asserts Only Least-Skilled Native Workers Are Hurt," *Washington Post*, June 21, 2007, at D3.; Charles Herman, "Illegals: Will They Be Taking Jobs Away From U.S. Citizens?" *ABC News Business Unit*, May 18, 2007, <http://abcnews.go.com/Business/IndustryInfo/story?id=3189288&page=1>; "Illegal Aliens Depress Wages for Some in US," *New York Times*, March 20, 1988, at section 1, p. 25.

² The Bureau of Labor Statistics notes that as of November 2008, unemployment rates for individuals over the age of 25 with less than a high school diploma was 15.0%, 5 percent more than the national unemployment average of 10 percent for the same time period.

³ See, e.g., Vernon M. Briggs, Jr., "The Economic Well-Being of Black Americans: The Overarching Influence of U.S. Immigration Policies," *The Review of Black Political Economy*, 15-42 (2003).

⁴ See, e.g., Gordon H. Hanson, "The Economic Logic of Illegal Immigration," *Council on Foreign Relations*, CSR No. 26, April 2007, <http://www.cfr.org/content/publications/attachments/ImmigrationCSR26.pdf> (accessed August 31, 2009).

⁵ See, e.g., George J. Borjas, Jeffrey Grogger, and Gordon H. Hanson, "Imperfect Substitution Between Immigrants and Natives: A Reappraisal," March, 2008, <http://irps.ucsd.edu/assets/022/8778.pdf> (accessed August 31, 2009); but see Gianmarco Ottaviano and Giovanni Peri, "The Effects of Immigration on U.S. Wages and Rents: A General Equilibrium Approach," September 26, 2007, http://www.econ.ucdavis.edu/faculty/gperi/Papers/Perott_city_Sept_2007.pdf (accessed September 9, 2009).

2 *Impact of Illegal Immigration on the Wages & Employment of Black Workers*

Although available data did not distinguish precisely between legal and illegal immigration in their effects on wages and employment of black workers, most panelists agreed that illegal immigration appears to have had at least some negative effects on the wages and employment of workers in the low-skill labor market. The panelists disagreed as to the magnitude of that effect, which ranged from very small to substantial. Three of the panelists who were economists argued that immigration, both legal and illegal, has economically benefited the United States on a national basis in the form of lower prices to consumers and increased economic investment in the country.⁶ One presented employment statistics only for the State of Georgia that she asserted could be generalized to a nationwide inquiry, but did not express an opinion as to the magnitude of the national effects.⁷ Another panelist spoke to the specific negative effects of illegal immigration on the population at risk, black male workers.⁸

The panelists addressed the following issues in response to Commissioners' questions:

- The consensus by panelists that there is a negative effect on wages of low-skill black workers and the range of the negative effects;
- The importance of other factors contributing to low-skill black unemployment;
- Possible discrimination resulting from the use of ethnic networks;
- Benefits and costs to the U.S. economy from illegal immigration;
- Policy recommendations from panelists, including strict enforcement of existing immigration laws;
- Effect of capital flows, including those across and within national borders that decrease the negative effects of immigration;
- Tradeoffs to employers between increasing their capital investment versus hiring more low-wage workers;
- The potential disruption to the economy and to low-wage workers and communities of abrupt economic changes resulting from enforcing immigration laws strictly;
- The sharp differences between the employment opportunities of low-skill black men and low-skill black women;
- The ethical and civil rights implications of using immigration to drive down low-skill wages.

⁶ Dr. Hanson, Dr. Jaynes, and Dr. Holzer.

⁷ Dr. Hotchkiss.

⁸ Dr. Swain.

Findings and Recommendation

Findings

1. There has been a significant rise in U.S. immigration, both legal and illegal, over the past four decades. Experts at our briefing testified that immigrant workers now make up approximately one-seventh of the American workforce, and they estimated that illegal workers account for one-third of the total immigrants now in the U.S. [Approved (4-1): Chairman Reynolds and Commissioners Gaziano, Heriot and Kirsanow voted in favor; Commissioner Yaki voted against; Commissioner Taylor did not vote.]
2. Illegal immigration to the United States in recent decades has tended to increase the supply of low-skilled, low-wage labor available in the U.S. labor market. [Approved (5-1): Chairman Reynolds and Commissioners Gaziano, Heriot, Kirsanow, and Taylor voted in favor; Commissioner Yaki voted against.]
3. About six in 10 adult black males have a high school diploma or less, and black men are disproportionately employed in the low-skilled labor market, where they are more likely to be in labor competition with immigrants. [Approved (4-1): Chairman Reynolds and Commissioners Heriot, Kirsanow and Taylor voted in favor; Commissioner Yaki voted against; Commissioner Gaziano abstained.]
4. The average worker with a high school degree or less earns less today, adjusted for inflation, than someone with a similar education earned thirty-five years ago. [Approved (5-1): Chairman Reynolds and Commissioners Gaziano, Heriot, Kirsanow, and Taylor voted in favor; Commissioner Yaki voted against.]
5. Illegal immigration to the United States in recent decades has tended to depress both wages and employment rates for low-skilled American citizens, a disproportionate number of whom are black men. Expert economic opinions concerning the negative effects range from modest to significant. Those panelists that found modest effects overall nonetheless found significant effects in industry sectors such as meatpacking and construction. [Approved (5-1): Chairman Reynolds and Commissioners Gaziano, Heriot, Kirsanow, and Taylor voted in favor; Commissioner Yaki voted against.]
6. To be sure, factors other than illegal immigration contribute to black unemployment. The problem cannot be solved without solving the problems of the high school dropout rate, high rates of family instability, and low job-retention rates. Moreover, halting illegal immigration is not a panacea even for the problem of depressed wage rates for low-skilled jobs. If upward pressure is brought to bear on low-skilled wages, increasing globalization of the economy may result in some of these jobs simply being exported to other countries. Still, the effect of illegal immigration on the wages of low-skilled workers, who are disproportionately minority members, is a piece of the puzzle that must be considered by policymakers in formulating sound immigration policy. [Approved (5-1): Chairman Reynolds and Commissioners Gaziano, Heriot, Kirsanow, and Taylor voted in favor; Commissioner Yaki voted against.]

4 ***Impact of Illegal Immigration on the Wages & Employment of Black Workers***

7. Data collection and analysis of the effects of illegal immigration are necessary to develop sound public policy. Much of the data on this question is currently limited by the fact that it does not distinguish clearly between legal and illegal immigration. [Approved (5-1): Chairman Reynolds and Commissioners Gaziano, Heriot, Kirsanow, and Taylor voted in favor; Commissioner Yaki voted against.]

Recommendation

The issue of illegal immigration is so complex that it would not be appropriate for us to make specific recommendations at this time. However, the Commission does recommend that the Bureau of Labor Statistics and other appropriate governmental agencies should collect data concerning the presence of illegal workers in the U.S. workforce and compile data on the employment and wage rate effects of such workers on low-skilled and low-wage workers of all races, making such data available to the public. [Approved (5-1): Chairman Reynolds and Commissioners Gaziano, Heriot, Kirsanow, and Taylor voted in favor; Commissioner Yaki voted against.]

Summary of Proceedings

Panel One

Gordon Hanson

Professor Hanson⁹ began his remarks by noting the dramatic rise in U.S. immigration, which rose from 5 percent in the 1970s to 12 percent by 2006. According to Dr. Hanson, immigrant workers make up one-seventh of the American workforce, and illegal workers account for one-third of the total immigrants now in the U.S. Dr. Hanson stated that around 60 percent of illegal immigrants have less than a high school education and compete for low-skilled jobs with native workers. He observed that economic theory would predict downward wage pressure as the result of the increase in the supply of workers in the U.S. economy. He noted the disagreement among economists, however, as to whether the data allows such a conclusion, indicating that studies on wage trends in different local labor markets often find small effects, and studies that look at wages on a national basis find larger effects. He stated that the strongest adverse impacts would be felt by workers competing for jobs with immigrants directly, that is, by low-skilled native workers.

His co-authored study¹⁰ based on these data found that the employment rate of black high school dropouts fell from 72 percent in 1960 to 42 percent in 2000, compared to an 83 to 64 percent decline among white high school dropouts. In addition, the number of black men in correctional institutions rapidly increased during a shorter period (1980–2000), going from 1.4 percent of black high school dropouts to 21 percent.

Dr. Hanson noted that, surprisingly, there is little research on the connection between immigration and the employment and incarceration of black men. He questioned whether diminished wages resulting from immigration have encouraged some black men to leave the labor force and turn to crime.

To find the specific effects of immigration on black low-wage workers, Professor Hanson and his coauthors examined U.S. census data from 1960 to 2000 and found a strong correlation between immigration, wages, employment rates, and incarceration rates for

⁹ Gordon Hanson, testimony, pp. 8–16. Briefing transcript of record before the U.S. Commission on Civil Rights, *Impact of Illegal Immigration on the Wages & Employment of Black Workers*, Washington, DC, Apr. 4, 2008, (Hereinafter cited as “Briefing Transcript”).

¹⁰ Borjas, Grogger and Hanson, “Immigration and African-American Employment Opportunities: The Response of Wages, Employment and Incarceration to Labor Supply Shocks,” 2006, NBER Working Paper 12518, <http://ksghome.harvard.edu/~GBorjas/Papers/Borjas,%20Grogger,%20Hanson,%202006.pdf>; see also Borjas, Grogger and Hanson, “Immigration and the Economic Status of African-American Men,” January, 2009, <http://irps.ucsd.edu/assets/027/9473.pdf>, cf. Footnote 11; for a related inquiry concerning the United Kingdom, see also “The Economic Impact of Immigration,” House of Lords Economic Affairs Committee, HL Paper 82-I, 2008, <http://www.publications.parliament.uk/pa/ld200708/ldselect/ldeconaf/82/82.pdf> (all accessed Apr. 1, 2009).

blacks. He did not address the effects of illegal immigration separately. Dr. Hanson's coauthored research suggested that a 10 percent immigrant-induced increase in the labor supply is associated with a 4 percent decrease in black wages, a 3.5 percent decrease in the black employment rate, and a 0.8 percent increase in the black incarceration rate.¹¹ This correlation held true in both national and state-level data, according to Hanson. The same data source showed that the effect of immigration on white men also produced a 4.1 percent decrease in wages, but had much less effect on employment and incarceration rates. Thus, wages went down for the skill group generally, but black men lost proportionally more jobs and disproportionately increased in incarceration rates.

Dr. Hanson stated that the economic changes created by the large immigrant inflow from 1980 to 2000 (half of which he attributes to illegal immigration) resulted in a labor supply shock that increased the number of workers in the U.S. by 10 percent, with an increase in the number of high school dropouts in the population by over 20 percent. These adjustments account for about 40 percent of the overall 18 percent decline in black employment rates and 10 of the 20 percentage point increase in the incarceration rate of black high school dropouts over the same period. Dr. Hanson noted that this influx reduced the employment rate of low-skill black men by eight percentage points. Dr. Hanson emphasized that although immigration played an important role in generating these trends, much of the decline in employment and increase in jail time would have occurred with a far smaller immigrant influx, and remains unexplained. He recommended that it not be restricted. In his opinion, the inflow of foreign workers accompanies more productive use of resources such as technology, plants, and equipment, and has brought overall benefits to the U.S. economy; therefore, he recommended instead that the country find ways to help those who have been hurt by immigration.

Gerald Jaynes

Professor Jaynes¹² began his remarks by stating that his views on this topic had changed on the basis of his research on immigration and its effects on race and ethnic relations. He contrasted his initial view that immigration had negative effects on the jobs and wages of blacks with his present view that negative effects are mostly absent or modest at worst, for a small segment of the lowest skilled workers. His thinking changed, he said, due to a large-scale statistical analysis of the U.S. labor market he conducted with University of Wisconsin social demographer Franklin Wilson, which was published in 2000. Among other variables, their study looked at race, ethnicity, gender, and blue-collar versus white-collar workers. Dr.

¹¹ A later paper by Hanson and his colleagues, published in January 2009, only slightly modified these original findings, noting that "a 10 percent immigrant-induced increase in the supply side of a particular skill group is associated with a reduction in the black wage of 2.5 percent, a reduction in the black employment rate of 5.9 percentage points, and an increase in the black institutionalization rate of 1.3 percentage points." See Borjas, Grogger and Hanson, *Immigration and the Economic Status of African-American Men* (Jan. 2009), at <http://irps.ucsd.edu/assets/027/9473.pdf>.

¹² Briefing Transcript, pp. 17–23. See also, Gerald Jaynes, *Immigration and Race: New Challenges for American Democracy*, Yale Univ. Press, 2000; "Economic Effects of Contemporary Immigration," Gerald Jaynes, Testimony presented to the Subcommittee on Immigration, U.S. House of Representatives, Committee on the Judiciary, 110th Congress, May 3, 2007.

Jaynes said he was surprised to discover that employment effects were negligible and wage effects only modestly negative for the least-skilled blacks.

Dr. Jaynes' written testimony recognized that the surge in immigration over the past thirty-five years occurred simultaneously with a large drop in the inflation-adjusted wages of less-educated American workers.¹³ Between 1969 and 1984 (measuring in 1984 constant dollars), black male high school graduates' mean weekly wages fell 22 percent from \$357 to \$278 per week, and for black male dropouts, 32 percent, from \$312 to \$213. By 1985, the average weekly salary of a black male high school graduate aged 20-24 was \$165 per week; for black male dropouts the same age, it was \$146 per week. Black male high school dropouts also experienced precipitous increases in unemployment over the same period. Black high-school dropouts had an unemployment rate of 45 percent by the mid-1980s, whereas in 1970, dropouts had an employment rate of 85 percent. But he cautioned that a host of socioeconomic changes provide an alternative explanation for the deteriorating economic circumstances of low-skilled black workers.

Similarly, in his briefing testimony, Dr. Jaynes acknowledged that since his study was published, other economic studies had found negative effects, but he referred to the difficulty of controlling for the increases in competition and international trade, declines in unionization and in blue-collar employment, changes in discrimination that more negatively affect low-skill black workers, and anti-social trends such as lower marital rates. He pointed out that the impact of illegal immigration was difficult to quantify because the data were not precise as to illegal immigrants.¹⁴ As a result of his skepticism of the available data, Dr. Jaynes stated that he would not make recommendations for policy changes relating to the negative effects on the least-skilled black workers.¹⁵

Vernon Briggs, Jr.

In both his written and oral testimony, Professor Briggs¹⁶ stated that no issue has negatively "affected the economic well-being of African Americans more" than immigration¹⁷. His view is that blacks have been both victims of involuntary immigration themselves (through slavery) and unintentional, but significant victims of job losses and lowered wages as a result of the mass, low-skilled immigration that has occurred since 1965. Dr. Briggs viewed such losses as a denial of basic civil rights and economic opportunity.¹⁸

¹³ In particular, the earnings of full-time high school graduate men fell significantly compared to the earnings of male college graduates of the same age. Jaynes Written Statement, p. 29 of this briefing report.

¹⁴ *But see* Dr. Jaynes's submitted written statement, in which he notes that in some job markets, immigrants exert significant influence on natives' job prospects, showing a significant drop in meatpacking, where undocumented workers composed 25 percent of the workforce in Iowa and Nebraska, and in the poultry industry in the South. Latino immigrants constitute about three-quarters of the poultry workers in Arkansas, for example.

¹⁵ Briefing Transcript, p. 22.

¹⁶ *Id.* at 23-31.

¹⁷ *Id.* at 23.

¹⁸ "[W]ith the accidental revival of mass immigration in the years since 1965 that has continued to this day, immigration has served largely to marginalize the imperative to address squarely and affirmatively the legacy of the denial of equal opportunity that had resulted from the previous centuries of slavery and segregation which

8 *Impact of Illegal Immigration on the Wages & Employment of Black Workers*

Dr. Briggs stated that about 12 million illegal immigrants are currently in the U.S. labor market, which represents about 30 percent of the total foreign-born population in the United States. He added that there have been seven amnesties since 1986, and that in his view, further legalization of such immigrants with family reunification would be economically devastating to low-wage workers of all races and black workers in particular.

Dr. Briggs emphasized that the distinguishing characteristic of the illegal immigrant population is that 81 percent of them are probably in the low-skill sector of the job market; about 57 percent of them are without a high school diploma, and 24 percent have only a high school diploma. Since they often come from poor countries, he said, the quality of their education is likely poor, and they frequently lack English language skills. According to Dr. Briggs, the competition they pose for native youth and 43 million low-skilled U.S. workers causes the low-skilled labor market to suffer the highest unemployment levels of any measured segment. He further noted that the low skilled labor market is most vulnerable to economic hardship. During an economic downturn, higher skilled workers back up into the low skilled labor market, producing even more competition for low-skilled jobs.

Dr. Briggs noted that blacks account for approximately 10 percent of the total low-skilled workforce that numbers about 50 million, but have the highest unemployment rates of any of the four racial or ethnic groups in the data; in February 2008 this rate was 12.8 percent. Black youths also have the highest unemployment rates—in February 2008, it was 31.7 percent, which does not count those discouraged from seeking work, or those who were incarcerated.

Dr. Briggs stated that both black Americans and illegal immigrants are disproportionately concentrated in many central cities of large metropolitan areas where job competition between them is likely to be extensive. In non-metropolitan areas, blacks are found in large numbers only in the rural Southeast—a legacy, he said, of the area's history of slavery—but in recent decades, they have been joined in that labor market by the foreign-born who have grown to be a significant population segment in these rural areas.¹⁹

He noted that to an immigrant worker, the low wages offered in the U.S. are still higher than in his home country, and thus relatively acceptable, often regardless of the conditions that accompany it.²⁰ That employers take advantage of this comparison by preferring illegal workers reflects pragmatism by employers, not necessarily bad intent, according to Dr. Briggs. He stated that this occurs because the federal government has not enforced its labor and immigration laws in such workplaces, leaving employers who wish to follow the law at a competitive disadvantage to those who find it more profitable to break it.

the civil rights movement and legislation of the 1960s sought to redress." Briggs Written Testimony at p. 36 of this briefing report.

¹⁹ In his briefing testimony, Briggs noted that 26 percent of the nation's foreign-born population now resides in the rural Southeast. Briefing Transcript, p. 29.

²⁰ For example, illegal immigrants are more likely to take lower wages and work under harsh or dangerous conditions and less likely to complain about sub-minimum wage pay or denial of overtime pay because of the vulnerability imposed by their illegal status. See Briggs Written Testimony at p. 39 of this briefing report.

Dr. Briggs also stated that the inflow of immigrants has resulted in low-skilled wages not rising over time.²¹ He viewed the reduction of both wages and jobs as a massive violation of the civil rights of all low-skilled workers, and of black workers in particular. He recommended, therefore, that the federal government should adhere to the findings of the U.S. Commission on Immigration Reform, chaired by the late Congresswoman Barbara Jordan (D-TX): “People who should get in, do get in; people who should not get in, are kept out; and people who are judged deportable, are required to leave.”²²

Harry Holzer

Professor Holzer²³ made four major points in his remarks to the Commission. The first was his assertion that most statistical evidence suggests that immigration over the past few decades has had a modest negative effect on the employment outcomes of blacks, especially those without high school diplomas. Dr. Holzer’s review of economic studies indicated that work by Borjas, Grogger, and Hanson showed the greatest negative effects on wages and employment of black male high school dropouts. He cautioned, however, that this result was likely overstated, since it was based on significant statistical assumptions and limited also by its short-run assessment of the effect of immigration, which did not take into account capital inflows (meaning investments) that likely mitigated such impacts on black workers. Dr. Holzer added that recent scholarly papers using data across metropolitan areas had found effects ranging from very modest for black men to somewhat larger where black and white teens were studied, but that these effects lessened as they aged into their twenties.

Dr. Holzer’s next point was that other evidence, including that by ethnographers, indicates that employers filling low-wage jobs that require little reading/writing or communication, clearly prefer immigrants to native-born blacks, and encourage informal networks through which immigrants gain better access to these jobs. Dr. Holzer’s review found that employers prefer immigrants because of a perceived superior work ethic and tolerance for low wages, and use ethnic networks to recruit. He suggested that this might reflect discrimination, although it might also merely reflect real differences, on average, in attitudes and behaviors of workers from different racial and ethnic groups.²⁴

His third point was that the evidence does not allow economists to distinguish the effects of legal versus illegal immigration on black workers. Dr. Holzer stated that many black men would likely take residential construction or transportation jobs but doubted whether they would be drawn by the wages offered in agricultural or service jobs, even if the absence of immigrant wages led to an increase in such wages. He said the evidence does not allow clear

²¹ See Vernon Briggs, “U.S. Immigration Policy and the Plight of Unskilled Workers,” 1999, <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1103&context=cahrswp> (accessed September 9, 2009).

²² Briefing Transcript, p. 31 (citing testimony of former U.S. Representative Barbara Jordan (D-TX), Chair, U.S. Commission on Immigration Reform, U.S. House of Representatives Committee on the Judiciary Subcommittee on Immigration and Claims, Feb. 24, 1995, <http://www.utexas.edu/lbi/uscir/022495.html> (accessed Oct. 29, 2008)).

²³ Briefing Transcript, pp. 31–38.

²⁴ Harry Holzer, “The Labor Market and Young Black Men,” September, 2007, http://www.urban.org/UploadedPDF/1001111_movnihian_perspective.pdf (accessed September 9, 2009).

distinctions regarding the impact of legal versus illegal immigration on native-born black workers.

Fourth, Dr. Holzer concluded from the modest negative impact of immigration that other factors are much more responsible for the negative trends in employment of black men and their rising incarceration rates, and, therefore, that other policies besides immigration reform might be needed to change these trends. Dr. Holzer suggested that immigration should have similarly affected black women, yet the employment rates of low-income black women improved dramatically during the 1990s because of welfare reform and the expansion of programs such as the Earned Income Tax Credit and child support subsidies.

Dr. Holzer enumerated the forces he believed were more responsible than immigration for the decline in jobs and wages for low-skilled black men and the increase in incarceration rates.²⁵ These included the decline of well-paying jobs available to less-educated males in general, especially outside the service sector; rising returns to illegal drug trade in the 1980s; growing numbers of blacks in single-parent families in poor neighborhoods; changes in attitudes and behavioral norms related to schooling, marriage and employment; increases in jail sentence time for convictions involving the drug trade; and increased enforcement of child support orders resulting in default judgments.

Dr. Holzer suggested remedies that did not require changes in immigration law, since he said that such changes would be unlikely to produce improved outcomes for low-skilled black workers. These proposed remedies included 1) policies improving educational outcomes throughout all school grades, 2) enhancing youth development opportunities and mentoring for adolescents in black communities, 3) improving early work experience and training with high-quality education, 4) reducing incarceration rates without increasing crime and reducing barriers to work by ex-offenders, 5) extending the Earned Income Tax Credit to childless adults, including non-custodial fathers, and 6) reforming child support regulations to encourage non-custodial fathers to seek and find work.

Discussion

Vice Chair Thernstrom began by asking the first panel, all of whom were labor economists, to comment on each others' remarks in order to clarify the points of agreement and disagreement among those using similar data sets and with similar academic training. Commissioner Kirsanow observed that there appeared to be a consensus that illegal immigration had an impact on wages and that most of the economists viewed it as small, with the exception of Dr. Briggs, who found it egregious.

Dr. Briggs objected to viewing this issue purely in terms of numbers because of what he believed were limitations of the data sets used by econometricians. He specifically criticized the practice of lumping all foreign-born persons together into one category and drawing economic inferences from that grouping as an untenable concept. He stated that some

²⁵ See also, "Economic Impacts of Immigration," Holzer, H., Testimony to the Committee on Education and the Workforce, U.S. House of Representatives, Nov. 16, 2005, http://www.urban.org/UploadedPDF/900908_Holzer_111605.pdf (accessed September 9, 2009).

workers in the data sets were naturalized citizens, permanent resident aliens, or non-immigrant workers and others were illegal immigrants, but there was no distinction made between them. He objected strongly on civil rights grounds to permitting competition from illegal sources to depress the wages and job numbers of what he believed are the most vulnerable citizens in our society. He pointed to the depressed wages caused by the desperation of illegal workers for any job and the unfair displacement their sheer numbers (12 to 14 million) are having on the legal low-skill labor force.²⁶

Although recognizing the various studies' limitations, Dr. Holzer defended the quality of the data, citing a long tradition of many good empirical comparisons, such as Dr. Hanson's, that looked across metropolitan areas or states, and at aggregated views over time.²⁷ Dr. Holzer stated that economists' comparisons across geographic areas may understate the effects somewhat, and the comparisons over time perhaps overstate the effects somewhat, but most economists have arrived at a consensus that the effects are modest. He added that the forces affecting wages and employment are much more complicated than Dr. Briggs indicated, and include immigrants as consumers who affect demand for products and services as well as supply. He suggested that immigrants likely generate more capital flowing into the country, more efficiency in the use of capital, and higher economic growth, which offset some of the negative effects on low-skilled black workers. In addition, where there is a lot of low-wage labor available, employers will switch production to more labor-intensive methods, whereas employers without such labor availability will choose more capital-intensive methods rather than raise wages. Finally, he stated that workers sort themselves into different kinds of jobs rather than compete for the same jobs.²⁸

Dr. Briggs interjected that Dr. Holzer was referring to all immigration, whereas he (Dr. Briggs) was referring only to illegal immigration.

Dr. Hanson agreed with Dr. Holzer's arguments, and added that the important issue for a policy discussion was how to resolve the problem. Dr. Hanson stated that immigration policy was a very blunt instrument with which to improve the livelihoods of disadvantaged workers, and that even in the absence of illegal immigration there were many factors that negatively affected their opportunities and labor market outcomes. Also, he stated that even in the absence of illegal immigration, changes in the economy resulting from globalization and technological change, and conditions affecting inner cities, would also likely outweigh effects from immigration policy changes.²⁹ Dr. Jaynes reaffirmed his agreement with Dr. Hanson's remarks, and stated that changes in either public policy or immigration flows were low on his list of what could affect jobs and wages of native-born low-wage workers.

Commissioner Kirsanow observed that perceptions depend very much on context, referring specifically to his conversations with inner-city low-skill workers in Cleveland who believed that illegal immigration had a big impact on them. He asked the panelists whether the

²⁶ Briefing Transcript, pp. 40-41.

²⁷ Id. at 43.

²⁸ Id. at 43-44.

²⁹ Id. at 45-47.

perception of the problem had an effect on the workers, and whether ethnic networking limited opportunities for those outside the network.³⁰

Dr. Briggs responded that if illegal immigrants in such great numbers were competing for the jobs of professors, lawyers, and doctors, the debate would not be occurring because public policy would already have demanded reform. But because many illegal immigrants go into low-income jobs, Dr. Briggs viewed policy makers as deciding that freshman economics (the law of supply and demand) does not apply. Dr. Briggs objected strongly to loading up a labor market with a big labor force that is not legally in the country. He said that while ethnic networking is illegal under the Civil Rights Act of 1964, sociology recognizes its strength, especially in finding employment.³¹ Vice Chair Thornstrom observed that there has never been a black labor market network in the same sense as other ethnic networks.

Commissioner Kirsanow then asked Dr. Briggs about testimony on this topic that he had provided to the House of Representatives in 1999, and whether he had any policy prescriptions now that differed from those offered in that testimony. While he could not recall the specific testimony, Dr. Briggs responded that his views had not changed over the years. He advocated strict enforcement of employer sanctions, but noted also that possible solutions should include more than border enforcement, since 40 percent of illegal immigrants violate immigration laws by overstaying their visas. He emphasized his opposition to amnesty because it would perpetuate the problem, due to family reunification provisions that continue to bring in low-skilled immigrants.³²

Commissioner Heriot then asked about the effect of the movement of capital across borders; specifically, if illegal immigration were to end immediately and low-skill wages went up, would capital then move away from some industries or cause industries to move jobs out of the country—in effect hiring from the same pool of workers but in their native countries. Dr. Holzer responded that it varied a great deal, depending on which sector of the economy. For instance, he noted that garment or textile industry jobs have already largely left the country, and many more would leave even without illegal immigration. Other low-skilled jobs could not leave, such as construction, retail, restaurant, and health care work, where the work has to be done locally. He cautioned, however, that mobility of capital across borders was only one force, and that equally important were other forces, such as improvements in technology that gave employers more choices of how to produce. This would result in employers investing in such improvements and reducing their dependence on low-wage labor. He suggested that over time, in the absence of illegal immigration, some jobs would see wages rise but many would not. He also warned that if there were dramatic reductions in the presence of illegal workers, the economic disruption to some of the affected sectors in the short run would be enormous.³³

³⁰ Id. at 48–49.

³¹ Id. at 49–51.

³² Id. at 53.

³³ Id. at 54–56.

Dr. Hanson agreed, adding that if the experiment being considered was dramatic reduction in immigration for the purpose of creating jobs, there was a parallel to consider in the case of Mexico's liberalization of its foreign investment laws in the 1990s: There was a huge surge of investment by the United States in Mexico during that period, but nonetheless a continuing increase in Mexican immigration to the United States. Dr. Hanson concluded that the expected increase in capital spending following a halt in illegal immigration would likely increase jobs available to native-born workers or raise wages only somewhat.³⁴ Dr. Briggs objected, saying that Mexico had also devalued its currency dramatically after the passage of the North American Free Trade Agreement (NAFTA), which meant that low-wage workers would still earn more in the United States.

Dr. Jaynes agreed with Dr. Hanson that simply stopping all illegal immigration would not automatically result in a transfer of jobs to native-born workers, even in industries such as meat processing in Southern and Western states, because the formerly high wages were unsustainable for reasons unconnected to immigration. He gave the example of immigrant women working in household services, an occupation formerly filled by black women, and stated that even if immigrants were suddenly absent, there would not be an influx of black women into such occupations. His second example was the meat processing industries in Arkansas, Georgia, and Nebraska, in which high wages circa 1979 (approximately \$22 an hour in today's prices) were, in his view, unsustainable even absent the influx of immigrant workers willing to accept lower wages. He argued that those jobs would have moved elsewhere, or there would have been changes in capital techniques and allocation if immigrants had not taken those jobs.³⁵

Dr. Briggs disagreed, recounting instances in which immigration enforcement had forced employers to raise wages and thereby attract native-born workers, particularly in the meatpacking industry in the South. Dr. Jaynes said that that was precisely his point, that there would be higher wages, but that those wages were unsustainable. Dr. Briggs objected strongly to what he viewed as the use of public policy to drive down wages artificially. Dr. Jaynes agreed on that point, noting that this is indeed a civil rights issue, since such policy was being used to trample on the rights of all workers by driving down wages and avoiding employment rights.³⁶ Vice Chair Thornstrom asked whether "artificial" was the correct word. Dr. Briggs responded that it was, since deliberate failure to enforce the law was responsible for the wage suppression, and such action was indefensible. He also disagreed with the contention that black women would not do household service work. Dr. Jaynes again questioned the duration of any rise in wages, a point joined by Dr. Holzer. Dr. Holzer added that no one in the room was arguing in favor of illegal immigration, but the fact remained that it exists and that legal and illegal workers were complements rather than substitutes. He stated that there were benefits and costs to changing the current numbers of illegal workers, and that such change creates disruptions that are hard to predict.³⁷

³⁴ Id. at 56–57.

³⁵ Id. at 57–59.

³⁶ Id. at 59–60.

³⁷ Id. at 61–64.

Commissioner Yaki objected to the focus on race, and asked the panel whether race in this particular debate was a proxy for lack of educational and job training opportunities. Dr. Hanson agreed that education was very much an issue, but stated that talking about the wage impact of immigration was not a statement about race, but necessary to an analysis of distributional impacts. He added that negative effects of immigration on wages of low-skilled workers were consistent with immigration raising overall gross national product, although those gains could be undone by importing low-skilled workers who use more in benefits and government services than they pay in taxes.³⁸

Commissioner Yaki asked for views on whether our society has failed to provide blacks in inner cities with adequate education and job training and whether discrimination has had an effect as well. Dr. Holzer responded that extreme residential isolation affects where people live and go to school, and thereby the skills they bring to the labor market. He added that men of all racial groups with low skills have been negatively affected by illegal immigration, although behaviors such as unwed parenthood and child support obligations have hindered employment viability among low-skilled workers.³⁹

Dr. Briggs addressed Commissioner Yaki's objection to discussing and collecting information about illegal versus legal immigration because of its potential to foster an "us" versus "them" attitude. Briggs pointed out that the only way to measure the impact of immigration was to collect and analyze data, and that every Western nation was a nation of immigrants, making immigration policy a central issue. Dr. Briggs viewed the quality of data in this case as problematic, but said that raising the immigration issue should not lead to accusations of racism to stifle important policy debates.⁴⁰ He reiterated his objection to illegal immigration because it undermines the integrity of U.S. immigration policy and violates public policies directed at ensuring a minimum wage and occupational health and safety standards by promoting unfair competition.

Vice Chair Thernstrom disagreed with the view that urban school systems are starved for money, since the per-pupil spending in those districts is much higher than the average in the rest of the country. Dr. Holzer responded that he did not make that claim, although there was evidence that pre-kindergarten educational programs would benefit from more funds. He claimed that better teachers were fundamental to improvement, but Vice Chair Thernstrom pointed out that getting better teachers had been attempted and failed, and that no one knew how to make it succeed.⁴¹

³⁸ Id. at 68–69. The Commission did not solicit testimony on the costs of social services or benefits to communities with large influxes of illegal immigrants, or the effect, positive or negative, of illegal immigration on urban social pathologies such as crime, disease, and overcrowding in high-immigration areas. See, for example, chapter three ("Immigrant Demands on Public Benefits") of *Why Does Immigration Divide America? Public Finance and Political Opposition to Open Borders*, by Dr. Gordon Hanson (Washington, DC: Institute for International Economics 2005).

³⁹ Id. at 72–73.

⁴⁰ Id. at 73–75.

⁴¹ Id. at 80.

Commissioner Kirsanow noted that a number of people say that the effect of unwed motherhood in the black community is the principal civil rights issue, and that social pathologies flow from that. He asked if illegal immigration had a domino effect on rates of unemployment, wages, marriage, and incarceration in the black community, and, if so, to what extent. Dr. Holzer did not see direct links, but posited that illegal immigration could drive down wage and employment opportunities that, in turn, could affect the marriageability of black males. Commissioner Kirsanow asked if the competition for jobs between illegal workers and young workers robbed young people of the typical path of progressive employment. Dr. Holzer agreed that young black men probably do not see how they are going to get good jobs, and, as a result, may disengage from school, the labor market, and the mainstream society. He concluded, however, that low marriage rates, the disappearance of strong career and technical education, and the deterioration of job networks, among other factors, far outweighed immigration in limiting access to good jobs and wages.⁴²

Dr. Briggs again disagreed that the size of the immigration effect justified the abandonment of immigration law enforcement. Dr. Jaynes responded that it was more important to address much bigger causative elements such as unwed motherhood and lack of education, which predated the growth in immigration.⁴³ Commissioner Kirsanow stated that births to unwed black mothers had grown from about 24 to 70 percent during the same period as the increase in immigration. Dr. Jaynes agreed with these growth figures, but disagreed that they occurred contemporaneously. He stated that the urban illegitimacy rate was already in the 40 percent range by the mid 1960s at the start of the great influx of immigration, and that fundamental attitudes responsible for the rise were formed already. Dr. Briggs added that the black female labor force exceeded that of black males, a statistic he found alarming.⁴⁴

Panel Two

Julie Hotchkiss

Dr. Hotchkiss,⁴⁵ speaking on her own behalf, presented an economic analysis that she had undertaken with Myriam Quispe-Agnoli, currently a research economist and assistant policy adviser in the Latin America Research Group of the Federal Reserve Bank of Atlanta, which addressed three questions: 1) How are wages affected when the concentration of undocumented workers increases? 2) Is there any evidence that documented workers are displaced when firms fire a greater share of undocumented workers? and 3) Does the presence of undocumented workers exert more downward pressure on wages than the presence of legal immigrants?

According to Dr. Hotchkiss, this analysis, based on restricted data from the Georgia Department of Labor in administering Georgia's unemployment insurance program, can be generalized to the Commission's nationwide inquiry because Georgia had the fastest growth

⁴² Id. at 80-83.

⁴³ Id. at 84.

⁴⁴ Id. at 84-85.

⁴⁵ Id. at 88-96.

in undocumented persons of any state between 2000 and 2006; is ranked sixth in the country for the size of the undocumented population; and is fourth in the nation for the size of the black population (30 percent of the state's population self-identifies as black). Dr. Hotchkiss's data set allowed her to distinguish between wages of documented and undocumented Georgia workers, to estimate movement within and outside of particular employment sectors and thus to quantify the effect of undocumented workers on documented workers, but did not include racial categories or information on workers' education levels.

Dr. Hotchkiss's data found dramatic growth of undocumented workers in expected sectors such as construction, leisure and hospitality, and services such as landscaping. She noted, however, that estimates by the Center for Immigration Studies suggest that her data set substantially undercounts the number of undocumented workers in Georgia primarily because it does not include workers not reported on official wage reports.

Dr. Hotchkiss performed several separate statistical analyses to isolate effects on wages from other effects such as job losses as a result of an influx of illegal immigrant workers. Her first statistical analysis considered the effects of undocumented workers on wages, holding all other factors constant. Given the increase in the share of undocumented workers in Georgia from 4 to 7 percent between 2000 and 2007, Dr. Hotchkiss found that the annual earnings of the average documented worker in 2007 were 2.9 percent or \$960 lower than in 2000. In the leisure and hospitality industry, average documented worker earnings were 9.1 percent or \$1520 lower than in 2000.

Dr. Hotchkiss's next statistical analysis showed that, holding all other factors constant including wages, an increase in a business's undocumented workers led to a decrease in the separation of documented workers. Instead, newly arrived undocumented workers displaced existing undocumented workers, suggesting greater substitutability among undocumented workers than between undocumented and documented workers. (The data could not distinguish between different types of separation—e.g., voluntary versus involuntary) She suggested that her analysis showed that newly arriving undocumented workers had no adverse effect on separation of documented workers.

Dr. Hotchkiss attributed this result to two forces. One is that the influx of undocumented workers exerted a downward pressure on wages, which led businesses to hire greater numbers of workers at lower salaries, in effect, substituting lower labor costs for capital expenditures. Second, businesses benefited from less expensive total production costs as a result of undocumented workers' smaller wages.

Finally, Dr. Hotchkiss observed that the impact of undocumented workers on wages is expected to be and, in her data, was greater than the impact of immigrants as a whole on wages. When workers, such as undocumented workers, do not have many alternative job prospects, Dr. Hotchkiss's analysis showed that they were only about half as likely as documented workers to leave their jobs in response to a lower wage. Businesses take advantage of this by paying lower wages. The sensitivity to wage changes varies considerably among documented workers, depending on their alternative job prospects. Generally, these workers are more responsive to such changes than undocumented workers.

Dr. Hotchkiss's conclusions were that 1) wages will be higher in the absence of undocumented workers; 2) employment will not necessarily be higher, and may even be lower, in the absence of undocumented workers; and 3) any effective policy that increases undocumented workers' employment and grievance rights will lead to higher wages for all workers on average.

Steven Camarota

Dr. Camarota,⁴⁶ a public policy analyst, agreed that illegal immigration increases the supply of workers in the low-skilled labor market, where black men are already disproportionately employed. He agreed, also, that in recent times, less-educated workers have fared relatively worse than better-educated workers, regardless of the measure—wages, benefits, or job security.

He reported on studies that looked at the impact of immigration generally, stating that the primary effect of immigration on wages and jobs comes about because of the increase in the supply of workers competing for the same jobs, which would be true regardless of their legal or illegal status. He did not view workers at that skill level as scarce.⁴⁷

Dr. Camarota summarized the studies that discussed the effects of immigration on wages of minorities, and claimed that it is difficult to measure because we live in a national economy:

- A 1995 statistical analysis by Augustina Kposowa found that “non-whites appear to lose jobs to immigrants and their earning are depressed by immigrants.”⁴⁸
- A 1998 study by Howell and Mueller found that each 1 percent increase in the immigrant proportion of an occupation reduced wages for blacks in that occupation by about half a percentage point.⁴⁹
- More recent research from Sum, Harrington, and Khatiwada found negative effects from immigration on less-educated natives overall, particularly on less educated minorities under the age of 30.⁵⁰
- A qualitative study by anthropologists Newman and Lennon examining the fast food industry in Harlem indicated that immigrants had an advantage over native-born

⁴⁶ Id. at 96–104.

⁴⁷ See also, Steven Camarota, “Immigration Employment Gains and Native Losses, 2000-2004” in *Debating Immigration* at 139-156 (Carol Swain, ed., Cambridge Univ. Press, 2007); Steven Camarota, “Dropping Out: Immigrant Entry and Native Exit From the Labor Market, 2000-2005” (March 2006) (CIS Backgrounder), <http://www.cis.org/articles/2006/back206.html> (last accessed September 9, 2009).

⁴⁸ See Augustine J. Kposowa, “The Impact of Immigration on Unemployment and Earnings among Racial Minorities in the United States,” *Ethnic and Racial Studies*, vol. 18, no. 3 (July 1995).

⁴⁹ See David Howell, Elizabeth J. Mueller, “The Effects of Immigrants on African-American Earnings: A Jobs-Level Analysis of the New York City Labor Market, 1979-89” (November 1997), Levy Economics Institute Working Paper No. 210, available at <http://ssrn.com/abstract=104648> or DOI: 10.2139/ssrn.104648.

⁵⁰ See Andrew Sum, Paul Harrington, and Ishwar Khatiwada (hereafter Sum, Harrington, and Khatiwada), “The Impact of New Immigrants on Young Native-Born Workers, 2000–2005,” Center for Immigration Studies (Washington, DC: Center for Immigration Studies, September 2006), available at <http://www.cis.org/articles/2006/back806.html>.

blacks, and that this advantage almost certainly reflected the prejudices and biases of employers.⁵¹

- Other studies had not found an impact from immigration on blacks.

Dr. Camarota stated that the movement of labor and investment across cities creates an equilibrium that includes wages and employment, and as a result, studies looking at the country as one labor market have found a larger impact.

Dr. Camarota concluded that there is no debate that 1) immigration generally increases the supply of low-skilled workers; 2) a significant share of native-born blacks are more likely to be in labor competition with immigrants; and 3) employment and wages have declined for less-educated men. However, he believed that the question of whether immigration reduces wages or employment among black Americans was not entirely settled, but that if one is concerned about the prospects of less-educated workers in the country, it would be difficult to justify continuing high levels of immigration that disproportionately affect the bottom end of the labor market.

He noted a 1997 study, *The New Americans*,⁵² conducted by the National Research Council, which found that immigration caused the poorest 10 percent of workers to lose about 5 percent of their wages, while the wages of the remaining workforce increased by 0.1 to 0.2 percent. As such, Dr. Camarota said that a central part of the immigration debate was how we weigh these benefits against the losses suffered by the poorest and least-educated Americans.⁵³

Richard Nadler

Mr. Nadler⁵⁴ questioned the assumption of an oversupply of low-wage labor in analyzing the connection between immigration and unemployment of low-wage black workers. Focusing particularly on state-by-state trends from 2000 to 2007, Mr. Nadler matched the immigration patterns of the 50 states and the District of Columbia to data that immigration ostensibly affects, including gross state product, personal income, disposable income, median income, rates of poverty, unemployment, and crime.

Mr. Nadler's analysis examined what he termed "high immigration jurisdictions" ("HIJs"), meaning 1) states with the highest proportion of immigrants in their resident population, 2) high-influx states (those states whose population in 2007 was most altered as a percentage by an influx of immigrants since 2000), and 3) states with the highest number of foreign-born individuals, regardless of percentages. Together, these 19 states contained over 80 percent of the immigrant population, and about 60 percent of the native-born black population.

⁵¹ See Katherine Newman, Chauncy Lennon, "Finding Work in the Inner City: How Hard is it Now? How Hard Will It Be for AFDC Recipients?" (Russell Sage Foundation Working Paper 76, Oct. 1995).

⁵² See James P. Smith, Barry Edmonston, eds., *The New Americans: Economic, Demographic, and Fiscal Effects of Immigration*, National Research Council, (Washington, DC: National Academy Press, 1997).

⁵³ See also, "Sum, Harrington, and Khatiwada, "The Impact of New Immigrants on Young Native-Born Workers, 2000-2005 (CIS Backgrounder), <http://www.cis.org/articles/2006/back806.pdf> (accessed September 9, 2009).

⁵⁴ Briefing Transcript, pp. 104-112.

His analysis showed that the HIJs had gross state product growth that was significantly higher than in low-immigration jurisdictions (LIJs). According to Mr. Nadler, this ran contrary to the expectation that high immigration resulted in a decrease in gross state product because of a slow-down in capitalization per worker. He found that in HIJs, personal income per capita and median income were higher, personal income grew faster, and disposable income and disposable income per capita, whether measured in dollars or rates of increase, were higher. Based on a comparison of state and local tax rates in all 50 states and the District of Columbia, he concluded that the tax burden in the HIJs did not vary from that of the LIJs. He concluded that this finding undermined the assumption that high levels of immigration resulted in increased taxes to pay for the social services used by immigrants. He found that, in general, unemployment was lower in HIJs than in LIJs, and that the crime rates for HIJs were virtually identical to those in the LIJs.⁵⁵ His summary was that high levels of immigration correlated with above-average performance in the measures mentioned above and with below-average rates of individual and household poverty and unemployment.

Mr. Nadler next analyzed black unemployment data, and found that although black rates are higher than non-black rates, they were lower in HIJs than in LIJs. His data did not separate low-wage employment from black employment as a whole, but he examined state data on child poverty to find an analogy to low-wage employment effects among blacks. He found that child poverty rates among blacks in the HIJs was lower than both the national average and in the LIJs, although he noted that child poverty is not the same as household poverty. He concluded that the migration of labor to HIJs reflected a cause, not just an effect of prosperity. He expressed support for comprehensive immigration reform that would provide a path to legalization for illegal immigrant workers.

Carol Swain

Dr. Swain,⁵⁶ editor of *Debating Immigration*,⁵⁷ invoked the memory of Dr. Martin Luther King, Jr. and noted that this briefing occurred on the 40th anniversary of his assassination, a day on which he had gone to Memphis to support black sanitation workers on strike to protest poor working conditions. Dr. Swain referred to national surveys showing general support among all Americans for immigration reform, and observed that well-recognized problems that stem from illegal immigration affect the social, political and economic well-being of black and other Americans together. She also noted that it was important to find the systemic causes of black unemployment, which has not only been consistently greater than unemployment among the general population, but even rose at a time when unemployment among non-black workers fell.

Dr. Swain observed that a disproportionate number of black unemployed are high school dropouts. In addition, she stated that the 40 percent of the black population who are high school graduates were more adversely affected by the 2003 recession than members of other

⁵⁵ Id. at 108.

⁵⁶ Id. at 112-119.

⁵⁷ *Debating Immigration*, (Carol Swain, ed., Cambridge Univ. Press 2007).

racial and ethnic groups. Of those who are newly employed, the gains have more often occurred in low-wage, dead-end jobs.

Dr. Swain put forth several possible causes for high rates of black unemployment: 1) an oversupply of low-skilled workers, 2) racial discrimination by employers, and 3) inadequate education and training. She referred to figures developed by another panelist, Dr. Steven Camarota, which showed that new low-skilled immigrants have increased the supply of labor by 25 percent since 1990, and constituted 40 percent of workers without a high school diploma. This created competition among what she termed “people at the margins of society,”⁵⁸ a group that includes less-educated workers of all races generally. She believed that black males, however, faced more employment discrimination in general, and that employers preferred whites, even those with worse employment credentials than blacks. In her view, low-skilled workers of any race receive inadequate education as a result of cuts in state and federal education programs.

Dr. Swain concluded by stating that blacks are facing increased competition for jobs by immigrants that is unlikely to end. Dr. Swain also stated that black unemployment might be a contributing factor to neighborhood dysfunctions in the African-American community. These dysfunctions also include violent crime, single-parent households, illegitimacy, infant mortality, drug use, and infectious diseases. She recommended that an independent commission take on the responsibility of reforming immigration, making it costlier for employers to discriminate against native-born workers and increasing penalties for anyone in this country illegally. Investments in education, training, and a tamper-proof Social Security card, she said, would help protect all disadvantaged workers.

Discussion

Dr. Robert Lerner⁵⁹ asked for clarification of Dr. Hotchkiss’s results. She responded that her statistical estimate of the impact of illegal workers in Georgia was greater than what other scholars found for immigrants as a whole—an expected result, she said, due to the absence of legal protections afforded illegal workers and the resulting financial advantages to employers. She added, however, that because there were fewer illegal workers than immigrant workers as a whole, the practical impact on wages was small, about 2.9 percent lower wages for workers generally, but was much larger (9 percent) in sectors such as leisure and hospitality that employed a larger share of illegal workers.⁶⁰ In response to another question from Dr. Lerner, Dr. Hotchkiss stated that 2.9 percent is about \$960 on an annual basis, and 9 percent is about \$1,500 annually.⁶¹ Commissioner Yaki inquired as to the presence of unionization, and Dr. Hotchkiss answered that it was low in Georgia, as it was considered to be in all Southeastern states.

⁵⁸ Briefing Transcript, p. 117.

⁵⁹ Assistant Staff Director, Office of Civil Rights Evaluation, United States Commission on Civil Rights.

⁶⁰ Briefing Transcript, p. 120.

⁶¹ *Id.* at 121–22.

Dr. Camarota pointed out that the National Research Council had estimated that immigration reduced wages of the poorest 10 percent of workers by about 5 percent, and that such reduced wages were similar in effect to a cut in the Earned Income Tax Credit of about 50 percent. He considered this reduction large.⁶²

Mr. Nadler objected to using non-longitudinal skill levels (skill levels not measured over time) as a measure, since he did not view the labor market as a zero-sum pie; nor did he believe that skill-level categories captured actual large wage trends that showed gains in those areas with the most immigration. Dr. Camarota disagreed, referring to statistics showing that as immigrants move into an area, less-educated natives move out, and those who would have moved in, do not. For example, workers moved from the East during the 1960s and 1970s to Southern California, but as immigration greatly increased in Southern California, domestic migration to that area diminished considerably. Mr. Nadler agreed that there were labor flows on a nationwide basis, and concluded that it was not sound public policy to disrupt the natural flows of capital and labor throughout the economy, which is why the high-immigration jurisdictions that he studied showed higher median income.⁶³ Dr. Camarota found unconvincing Mr. Nadler's assertion that immigration contributed to higher median incomes, noting that Nadler's statistics are more likely a reflection that immigrants are more likely to be attracted to areas experiencing high employment growth.

Dr. Hotchkiss stated that most economic analyses that showed negligible or positive employment outcomes in high-immigration areas were good quality studies that controlled for self-selection. Dr. Camarota objected to this view, arguing that the gains to the economy as a whole were miniscule, and lowering the wages to the poor by even a small amount was substantial, since they had so little income. Mr. Nadler disagreed with Dr. Camarota entirely, reiterating his point that the unemployment data did not support that view.⁶⁴

Dr. Swain described the perceptions of blacks and Hispanics, and also low-income whites, that immigration has hurt the American worker.⁶⁵ She said that the discussion should take account of the ethnic violence between blacks and Hispanics and how perceptions lead to violence. She also stated that black unemployment is a contributing factor to dysfunctional conditions in black communities, such as violent crime, single-parent households, illegitimacy, infant mortality, drug use, and infectious diseases, and that these are all loosely connected.

Mr. Nadler interjected that Dr. Hanson's research had been misrepresented to create resentment against immigrants.⁶⁶ Dr. Swain disagreed, stating that until recently, the discussion assumed that immigration was a win-win situation and that even black leaders and groups have not spoken up for low-skilled black workers.

⁶² Id. at 123–24.

⁶³ Id. at 124–28.

⁶⁴ Id. at 128–30.

⁶⁵ Id. at 130–31.

⁶⁶ Id. at 132.

22 *Impact of Illegal Immigration on the Wages & Employment of Black Workers*

Commissioner Yaki disagreed with Dr. Swain's view, arguing instead that the issue of immigration effects is a proxy for the failure to discuss the plight of young men in inner cities for whom education and job training are unavailable, and that immigration was being made a scapegoat for such failures. Commissioner Yaki complained also that the Commission briefing itself was oversimplifying the issue.⁶⁷

Dr. Swain disagreed with Commissioner Yaki, stating that one of the reasons she compiled her book, *Debating Immigration*, was that the discussion up to then had been one-sided on the part of the pro-immigration debaters, and that anyone in disagreement had been demonized.⁶⁸

Vice Chair Thernstrom asked in what way the educational needs of ethnic minorities and working class whites in inner cities had not been addressed, considering that the amount of money spent per pupil in inner cities frequently was double the amount spent elsewhere.⁶⁹

Dr. Swain answered that teachers who invest themselves in the students and encourage them are important, and also that it is important to offer alternatives, such as vocational training, for those who do not belong in college or on an academic track. Dr. Swain felt that community colleges should be available to all students and were under-valued as a resource. Vice Chair Thernstrom disagreed that community colleges are not available, but agreed that inner city students may not know of the existence of such colleges.⁷⁰

Commissioner Melendez asked the panel whether economic research on this topic had been communicated to the public effectively, and whether the research had been misused to build anti-immigrant sentiment and other discriminatory messages. Mr. Nadler agreed that it had been misused. Dr. Swain disagreed, stating that the general public does not think about data or research, but instead looks at what they see around them.⁷¹

Dr. Camarota agreed with Dr. Swain that raising questions about illegal immigration and its potential impact on job competition and low income workers is received with hostility and accusations of bigotry, and also that the general public does not pay attention to research. Mr. Nadler stated that, to the contrary, it had been discussed on cable news channels extensively. Dr. Swain agreed with Dr. Camarota that it is difficult to hold views that are not politically palatable, and she felt pressure to conform her views to what is considered politically acceptable.⁷²

Commissioner Heriot asked Mr. Nadler that, if economic boomtowns raised average wages, then why were they not attracting low-skilled labor from other more economically depressed

⁶⁷ Id. at 133-34.

⁶⁸ Id. at 136-38.

⁶⁹ Id. at 138.

⁷⁰ Id. at 142.

⁷¹ Id. at 143.

⁷² Id. at 144.

geographic areas. Mr. Nadler did not address that question, but observed only that mobility of labor is not dependent on the numbers of immigrants in the workforce.⁷³

Vice Chair Thornstrom asked Mr. Nadler to clarify his testimony about crime rates. He stated that immigration is very far down on the list of factors that have some correlation with crime, so that high-influx states ranged from low to high crime, and low-influx states also ranged from low to high crime. Vice Chair Thornstrom pointed out that he had not controlled for other demographic factors that would distinguish those states. Mr. Nadler responded that the high immigration states had 60 percent of the black population and roughly half of the Hispanic population.⁷⁴

In reference to Vice Chair Thornstrom's question about mobility of low-skilled labor, Dr. Swain observed that poor people cannot always afford to relocate to find jobs, and may lack good credit for such things as paying for a security deposit on housing. Therefore, when immigrants displace native-born workers, it is more difficult for such workers to find work elsewhere. Mr. Nadler again disagreed on the grounds that his unemployment data did not reflect this finding. Dr. Camarota pointed out that unemployment statistics are aggregates of all workers, not just low-wage workers, and the statistics are usually quite different for low-wage workers. In addition, those who have fallen entirely out of the workforce do not even show up in the statistics. He surmised that if illegal immigration decreased, those workers would attempt to get jobs. Dr. Swain then offered a personal view drawn from her own family: that to a low-skilled worker the paperwork and administrative requirements for obtaining required documentation are overwhelming. Dr. Camarota countered, observing that low-skill workers would probably be more likely to seek work if immigration were reduced and there was a scarcity of workers.⁷⁵

⁷³ Id. at 146-49.

⁷⁴ Id. at 149-50.

⁷⁵ Id. at 150-54.

Statements

Gordon H. Hanson

University of California, San Diego and National Bureau of Economic Research

Immigration and Labor Market Outcomes for African-Americans

During the last several decades, there has been a dramatic rise in U.S. immigration. In 1970, 5 percent of the U.S. population was foreign born; by 2006, the foreign born population share was 12 percent. In terms of employment, immigrants now account for one out of every seven U.S. workers. There is considerable interest in the impact of immigration on the U.S. labor market. Following the logic of economic theory, since immigration increases the supply of workers in the U.S. economy, it should put downward pressure on the wages of native labor. The adverse wage impacts are strongest for workers that compete most directly with immigrants for jobs. With over 30 percent of immigrants having less than a high school education, it is low skilled native workers who are likely to feel the greatest effects from immigration.

Among economists, there is disagreement about whether the data bear out the negative predictions of immigration for U.S. labor. Without rehashing this debate, I will share with you that my own view—based on extensive data analysis—is that immigration has lowered wages for native born U.S. high school dropouts. What I would like to focus on in my brief remarks today is some specific research I have done of the impact of immigration on the wages, employment, and incarceration rates of African-American men. This work was written jointly with George Borjas of Harvard University and Jeffrey Grogger of the University of Chicago. I will summarize the results of our recent National Bureau of Economic Research Working Paper, “Immigration and African-American Employment Opportunities: The Response of Wages, Employment, and Incarceration to Labor Supply Shocks.”

Low skilled black men have had a rough past few decades in the U.S. labor market. The employment rate of African-American men fell from 75 percent in 1960 to 68 percent in 2000.⁷⁶ This stands in contrast to the contemporaneous decline from 87 to 85 percent among white men. The employment gap widened even more for low-skill persons: the employment rate of black high school dropouts fell from 72 to 42 percent, whereas it fell from 83 to 64 percent among white high school dropouts. The decline in labor market participation among black men was accompanied by a rapid increase in the number of black men in correctional institutions. In 1980, only 0.8 percent of black men (and 1.4 percent of black high school

⁷⁶ The “employment rate” gives the average fraction of weeks worked during the calendar year prior to the Census (the ratio of weeks worked, including zeros, to 52). The “incarceration rate” gives the fraction of persons who are institutionalized at the time of the Census.

dropouts) were incarcerated. By 2000, 10 percent of black men (and 21 percent of black high school dropouts) were incarcerated.⁷⁷

A large body of academic research examines wage and employment trends for African-Americans. One strand emphasizes impacts of government programs, such as the Social Security disability program or the minimum wage, in driving black men out of the labor market. Another analyzes whether the decline in the real wage of low-skill workers discouraged low-skill black men from entering the labor market. A third examines whether black incarceration rates were shaped by the crack epidemic of the 1980s.

Remarkably, there is little work on the link between immigration and the employment and incarceration of black men. Immigration has disproportionately increased the number of low-skill workers in the United States, but, as I have mentioned, there is disagreement over whether this influx has adversely affected competing native workers. The conflicting evidence hinges crucially on the nature of the empirical exercise: studies that measure the impact of immigration by looking at wage trends across local labor markets tend to find small effects, while studies that examine the evolution of the national wage structure find large effects. Regardless of the geographic unit used to analyze the impact of immigration, any such impact would presumably be larger in the black workforce. (In fact, some of the early studies in this literature specifically attempted to measure the impact of immigration on black wages.)

In our research, we examine the relation between immigration and black employment outcomes. Our empirical analysis shows that immigration has indeed lowered the wage of blacks. Our main interest, however, is on the consequences of this reduction in market wages. In particular, has the immigration-induced reduction in the black wage encouraged some black men to exit the labor force and shift to crime?

Using data drawn from the 1960–2000 U.S. Censuses, we find a strong correlation between immigration and wages, employment rates, and incarceration rates for blacks. Our study suggests that a 10 percent immigrant-induced increase in the supply of a skill group is associated with a reduction in the black wage of 4.0 percent, a reduction in the black employment rate of 3.5 percentage points, and an increase in the black institutionalization rate of 0.8 percentage points. Among white men, the same increase in supply reduces the wage by 4.1 percent, but has much weaker employment and incarceration effects: a 1.6 percentage point reduction in the employment rate and a 0.1 percentage point increase in the incarceration rate. These correlations are found in both national and state-level data.

What do these estimates imply about the cumulative effect of recent immigration on African-American men?

⁷⁷ Ignoring the prevalence of incarceration rates provides a very misleading picture of employment trends in the black population.

The economic adjustments unleashed by the large 1980–2000 immigrant influx, a labor supply shock that increased the number of workers in the United States by nearly 10 percent and the number of high school dropouts by over 20 percent, reduced the employment rate of low-skill black men by about 8 percentage points. Immigration, therefore, accounts for about 40 percent of the 18 percentage point decline in black employment rates. Similarly, the changes in economic opportunities caused by the 1980–2000 immigrant influx raised the incarceration rate of black high school dropouts by 1.7 percentage points, accounting for about 10 percent of the 20 percentage point increase observed during that period. Although immigration played an important role, much of the decline in employment and increase in incarceration for the low-skill black population would have taken place even if the immigrant influx had been far smaller.

These potentially controversial findings can be easily misinterpreted. Although we have attempted to control for other factors that may account for the large shifts in black employment and incarceration rates over the 40-year period that we examine, no study can control for all possible factors. It is equally important to emphasize that although the evidence suggests that immigration played a role in generating these trends, much of the decline in employment or increase in incarceration in the black population remains unexplained.

In closing, suppose one believes our results that immigration has lowered wages and raised incarceration rates among black men. Does this mean that restrictions on immigration are called for? The short answer is no. Most economists believe that immigration, like international trade, has beneficial effects for the U.S. economy overall. An inflow of foreign workers allows U.S. technology, plant and equipment, and other resources to be used more productively, raising national income. Yet, while immigration benefits U.S. employers and consumers, we've seen that it harms some groups, including the low skilled. The appropriate policy response to immigration's negative effects would not be to restrict immigration, which would deny the U.S. economy the overall gains that foreign labor brings, but to seek ways to help the losers from immigration.

Gerald D. Jaynes

Professor of Economics and African American Studies, Yale University

Economic Effects of Immigration on Black Workers

Chairman Reynolds and members of the Commission, my name is Gerald Jaynes and I am Professor in the department of economics and in the department of African American Studies at Yale University. One of my major research interests during the past decade and a half has been immigration and its effects on race and ethnic relations and the economy. It is my pleasure to offer you my thoughts on the economic effects of immigration on the wages and employment of African American workers. My conclusions carry the weight of one whose views have been converted by objective evidence and personal research. Several years past, a colleague (Franklin Wilson—University of Wisconsin) and I were convinced that immigration had profound negative effects on the jobs and wages of African Americans. To ascertain the quantitative effect of immigration, we undertook a large scale statistical analysis of the U.S. labor market. 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.

Summarizing my views today, I know of no credible analysis separating the effects of documented and undocumented immigration, but the evidence supports the conclusion that from an economic standpoint immigration's broader benefits to the nation outweigh its costs. An assessment of the effects of immigration on the employment prospects of less educated native born black workers is that the effect is negative but modest, and probably is significant in some specific industries and geographic locations. A small set of specific labor markets are negatively impacted by undocumented immigration; important examples are meat packing in several areas of the South and Midwest and certain types of construction work throughout the nation. However, the relative importance of less educated black workers' job losses due to the competition of immigrants is swamped by a constellation of other factors diminishing their economic status. A significant minority of our most disadvantaged young people persist in low educational achievement, dropping out of high school, and engaging in negative behaviors such as criminal activity. Substantial improvement of the economic status of disadvantaged African American workers will require considerable change in their social status on many dimensions.

Labor Market Losers?

The charge that immigrants reduce the wages and employment of native-born black Americans is one of the most contentious issues of the debate over immigration. Despite the highly organized and publicly visible forces touting evidence of immigrants' devastating effects on native workers, and especially young black workers, how immigrant workers affect native labor markets remains a topic of uneasy debate among both lay people and economists. Some people argue current levels of immigration are literally destroying communities because undocumented workers are driving blue-collar wages so low a middle class standard of living is becoming unattainable for many working Americans. Such

arguments often claim foreign workers are particularly detrimental to the job prospects of young African-American men lacking high school diplomas. Yet, according to polls, at least until very recently, possibly a majority of American citizens believes otherwise. Many Americans are more likely to believe immigrants fill jobs that without them would remain vacant and that their labor accelerates economic growth and expands overall employment.

Consistent with these polls, rigorous analyses of the effects of immigration on less-educated native workers suggests these effects are relatively small and in any event secondary to other causes of less educated native workers' often dismal employment experience. As I have commented elsewhere, in addition to an abundance of anecdotal evidence showing immigrant "takeover" of specific jobs (Jaynes, 2000:23), both common sense and straightforward economic reasoning explain why some Americans say they believe immigrants lower wages and displace native-born workers from jobs. The common sense behind these fears emerges from the most basic principles of supply and demand; mass immigration of millions of migrants looking for work in a new country should be expected to exert a large and negative effect on the wage and employment opportunities of workers already in the country. The strongest evidence concerns male employment, and we focus on it.

Recent Labor Market Experience of Black Males

Supply and demand theory is supported by the fact that the surge in immigration during the past 35 years occurred simultaneously with a large drop in the inflation-adjusted wages of less-educated American workers. The adverse trend in the wages of less educated men in particular was both absolute and relative to the wages of college educated men (Jaynes, 2006). As the average education levels of arriving immigrants declined significantly after 1980, the compensation of less-educated U.S. workers fell dramatically relative to wages of the highly educated. One way to understand the increases in earnings inequality is to compare the earnings of high school and college graduates. The earnings of full-time high school graduate men fell significantly compared to the earnings of college graduate men of the same age. Underlying the disadvantageous change in high school men's relative wages were two basic trends; while the inflation adjusted earnings of college graduates increased significantly after the mid-seventies, the inflation adjusted earnings of high school graduates at best stagnated and at times declined.

The largest reductions in earnings occurred among less educated men and women and for all races. During the decade and a half period encompassed by the early 1970s and the late 1980s, the earnings of the poorest 10 percent of working men fell more than 30 percent even as the earnings of the most affluent 40 percent held steady. To illustrate the point, between the years 1969 and 1984 (measuring in 1984 constant dollars) the mean weekly wages of white male high school graduates fell from \$481 to \$393; this was a reduction of 18 percent. The fall in mean weekly earnings among white male high school dropouts was much sharper; 37 percent. Sharp reductions in the already lower wages of comparably educated African American men decimated working conditions among young black males. During this fifteen year period, black male high school graduates' mean weekly wages fell 22 percent from \$357 to \$278, and for black male dropouts mean weekly wages were in a period of free fall, dropping 32 percent from \$312 to \$213.

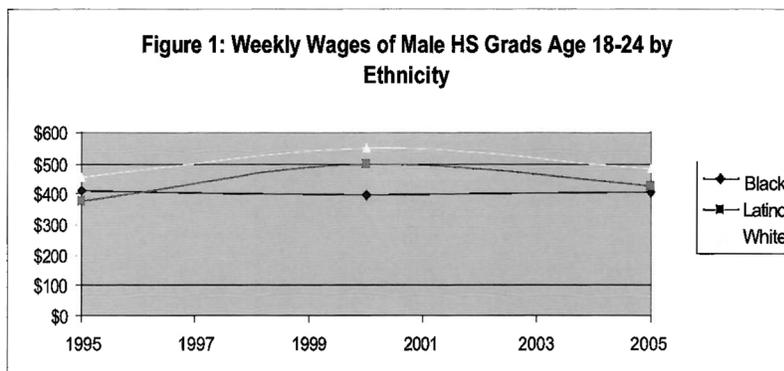
Falling inflation-adjusted wages and rising earnings inequality were accompanied by increasing male joblessness, and as any one remotely familiar with the recent socioeconomic history of the United States knows, joblessness and low earnings were especially severe among young black males. Deteriorating wage opportunities had already precipitated severe reductions in young black men's employment during the decade of the 1970s, but their labor market position deteriorated even further during the 1980s. Overall, the unemployment rate of black men exceeded 20 percent during the early 1980s. At the midpoint of the eighties decade, the average black man aged 20 to 24 who had dropped out of high school earned only \$146 per week when employed, unfortunately such black men had an unemployment rate of 45%. Their high school graduate counterparts fared little better, averaging earnings of \$165 per week. White dropouts that age earned a third more and faced half the unemployment rate, a situation still burdensome for their communities. The response to these catastrophically low wages was a marked detachment of many black men from legal market employment. Thus, although in 1970, black high school graduates and college graduates ages 25–34 had similar employment rates (90 percent versus 90.4 percent), by 1985 high school graduates had an employment rate 13 percentage points lower (66.3 percent versus 79.6 percent). The employment rate of same age black high school dropouts during 1985 was 57.2 percent, more than 20 points lower than the college graduates. During 1970, even the dropouts had enjoyed an employment rate of 85 percent. An indicator of the extent to which these young men took recourse through black and gray market work is that the proportion of black high school dropouts in this age group reporting no earnings more than tripled, from 7 percent in 1970 to 23 percent in 1985.

More recent labor market experience of young American men has continued to bolster the claims of critics of immigration who say immigration deteriorates the employment prospects of African American males. While the wages of full-time working white and Latino male high school graduates rose sharply during the economic boom between 1995 and 2000, the wages of similar black men were flat, leading many people to speculate that heavy Latino immigration during this period was indeed deteriorating employment and wage opportunities for black men. See Figure 1, which also illustrates the general deterioration in the wages of young white and Latino men since 2000. The fact that the wages of young Latino men overtook the wages of similar young black men during this period merely flames the fires of discontent over immigration.

Assessing the Evidence of Immigration's Labor Market Effects

One need not search hard to find disturbing evidence that recent immigrants may exert negative effects on sectors of the U.S. labor market. But how convincing is the evidence? Social scientists require stronger proof than mere correlation between arriving numbers of immigrants and deteriorating job market conditions for natives. After all, the last four decades of U.S. history have encompassed a host of socioeconomic changes, each of which offers an alternative explanation for the deteriorating economic circumstances of lower skilled black workers. The specifics of the alternatives make the conjecture especially salient for young black males. No remotely credible argument blames immigration for the large and near steady reduction in blue-collar jobs in the U.S. which began during the 1950s. Nor did immigration cause the weakening of labor unions, automation, growth of the computerized information economy, or deteriorating U.S. import-export balances that suck up good paying

jobs.



Data calculated from CPS Annual Social and Economic Supplement, 2006, Table PINC-04; 2001 March Supplement, Table PINC-04; 1996, Table PINC-06A. Wages of Full-time workers are annual earnings divided by 52.

And, indeed, social scientists' rigorous statistical analyses initially stood upon its head the common sense of straightforward supply and demand theory. Until well into the 1990s, the great preponderance of rigorously designed and executed studies of immigration's effects on the economic position of U.S. citizens concluded that the effects were either ambiguous and in any case negligible or that immigrants in fact had a positive effect on the employment and wages of natives. These results held for both skilled and unskilled native-born workers and for women, minorities, and whites. The one demographic group providing an exception to the findings of no negative effects was recent Latino immigrants, who were found to be hurt by those who arrived behind them.

The counterintuitive results of this research were explained in the following terms. The job skills brought into the country by less-educated immigrants were complementary to the skills of higher educated and trained natives; therefore immigrants did not compete for natives' jobs. On the contrary, the rising supply of immigrant workers ready and able to work hard for low wages is said to spur the expansion of many existing firms and the growth of new firms able to profit from the low wages. The expanding firms based on low wage immigrant labor also hired more skilled native labor as their revenues grew. Janitorial services, car washes, landscapers, and poultry processing plants with growing numbers of employees require more supervisors, clerical workers, accountants, etc. Using this literature, proponents of immigration argued that immigrants in fact improved the working position of natives.

More Recent Analyses

Dissatisfaction with the statistical methods used in early studies of the effects of immigration on the employment opportunities of natives led to the use of different models. Using more sophisticated statistical methods than the earlier literature, Borjas, Freeman, and Katz (1992) estimated that during the 1980s increased imports of goods produced with lower-skilled labor and rising immigration of lower-skilled labor were important contributors to the adverse turn

in the weekly wages of American high school dropouts as they compared to the weekly wages of American college graduates. These authors estimated the "implicit" increase in the supply of lower-skilled labor within the U.S. that is consistent with the increased volume of U.S. imports and immigrant labor supply. They estimated 30 percent to 50 percent of the decline in the relative weekly wage of high school dropouts between 1980 and 1988 should be attributed to increased immigration and trade. Wilson and Jaynes (2000:22-3) decomposed the effects of immigration on geographic labor markets into separate effects of flows and stocks of immigrant workers. Their analysis also estimated separate effects for various native-born ethnicities and skill-education groups. They found that immigration flows across geographic areas were a negligible factor on the declining wages and employment of less educated native born workers. That finding is consistent with the no effects findings of earlier literature. However, they also found that the size of the immigrant population within a given area did have a modest negative affect on the employment of less educated African Americans.

More recently, Borjas and Katz (2005) have refined earlier methods even further and updated analysis of the effects of Mexican immigration on low skilled workers to cover the 1990s. They conclude that the large growth in immigration during the eighties and nineties (particularly the acceleration of low-skilled Mexican laborers) lowered the wages of native-born high school dropouts by about 8 percent and exerted a modest influence in widening overall wage inequality within the U.S (2005: 37-38, Table 11, p. 63).

Special Labor Markets

Despite the relatively modest effects on natives' wages in the U.S. overall, there are obviously some job markets where immigrants exert significant influences on natives' job prospects. Meatpacking is a salient example of an industry where case study provides strong evidence that low-wage undocumented immigrant workers have displaced native-born workers. Always an especially dirty, physically demanding, and often dangerous occupation, meatpacking jobs have historically attracted only the least educated members of the workforce. The industry has typically offered employment to large numbers of African Americans. Today immigrants dominate jobs in meatpacking and the undocumented are a significant force. During the late nineties, the Immigration and Naturalization Service estimated that undocumented workers composed 25 percent of the labor in meatpacking plants in Iowa and Nebraska. During the past two decades, immigrant labor has come to dominate the poultry industry in the Southern states. In these earliest years of the 21st century, Latino immigrants are about three-fourths of the workers in the poultry plants located in Northwest Arkansas, the vast majority of the remaining workers are from Southeast Asia and the Marshall Islands. Native-born workers are now rare.

Through the 1970s and into the eighties, larger meat packing firms were heavily unionized with nearly one-half (46 percent) of the industry's workers unionized. The larger unionized plants paid a wage premium, and during 1982 the base wage rate of the largest union was \$10.69 per hour (\$22.33 per hour in terms of 2006 inflation adjusted prices). Rapid immigration of workers from Southeast Asia, Mexico, and Central America during the 1980s coincided with firm demands that workers accept wage cuts. Extremely turbulent employer-union relations in terms of strikes and corporate attacks on unions characterized the 1980s.

During the period 1983–1986 there were 158 work stoppages involving some 40,000 workers in cattle and hog plants. By 1987, the union percentage of the workforce had been cut to 21 percent, and wages were down to the \$8 to \$9 range in union and non-union plants. A sharp decrease in workers' health and safety accompanied the collapse of the unions. Even though the meatpacking industry already had the highest rates of occupational injuries and illness of all U.S. industry, on the job illness and injury rates peaked in 1991 at 45.5 per 100 workers. Jobs in the industry deteriorated so badly that only the steady influx of cheap immigrant labor compensated for the extraordinarily high turnover rates, reaching as high as 100 percent annually at some plants during the 1990s. Under these conditions, it is true that meatpacking plants have difficulties attracting native workers (Macdonald, et al, 1999:15-16).

Further Policy Directions

What are the policy implications of findings that low-skill immigrants lower the employment opportunities of some less educated native workers? If the United States allocates much larger resources to border security to significantly reduce the number of undocumented workers while also tightening legal channels of immigration, would the reduction in immigrant workers result in more and higher pay jobs for American citizens? The easy answer is that the reduced labor supply would indeed raise wages and allow more employment of the native-born. However, as with any question of economic effects, the demand side of the equation must also be considered. Undocumented workers with few legal protections take jobs for lower pay and do them under more undesirable working conditions. Such immigrant workers lower employers' costs. Take away the immigrants and the result will be increased costs and lower business profits. Where possible, a greater proportion of jobs will be outsourced. Some of the more marginal businesses that will have to pay higher wages to workers who are not as productive will not survive, and the demand for less educated workers will likely decrease. The net effect is that wages and employment of native-born workers will likely rise, but not nearly as much as a simple comparison of raw numbers suggests.

Low-wage labor conditions unbecoming an affluent democratic society exist because in the present climate of immigrant bashing there is little support for social and political action saying let's protect illegal workers. But this is short sighted, ultimately, if working conditions are allowed to deteriorate to levels where migrants are exploited, all labor with whom the migrants compete become exploited as well. This is true even if natives' exploitation materializes in the form of joblessness and poverty. The terms of the debate must be changed to a desire to protect the integrity of the nation's low-wage labor markets and the citizens working in them from conditions inconsistent with standards of living and values of justice in affluent representative democracies.

It is crucial that the nation adopt social policies designed to protect the rights and living standards of all low wage workers. Such policies need not require draconian migration polices that ban immigrants. Indeed, the worldwide globalization of markets ensures such migration will continue. However, migration must be better regulated to ensure numbers consistent with work conditions appropriate to the living standards in host countries. Wages consistent with standards of decency for the least remunerated workers will need to be supported by a program of explicit policies and reforms:

- minimum wage laws covering all workers
- enhancement of earnings by expanding the current Earned Income Tax Credit system to all citizen households who work fulltime
- documented immigrant workers must be guaranteed reasonable paths to citizenship
- protection of low wage markets through stronger enforcement of existing laws against undocumented migration

There are costs to instituting these policies. If employment conditions and compensation are increased enough to attract citizen workers, employers' profits will fall, and prices of some services and products will rise. This will necessarily raise strong opposition to these policies from obvious political constituencies. The simple fact that high migration of poor low skilled workers into more affluent geographic regions raises the profits of employers of less-educated workers explains why employers continue to clamor for more migrants and guest workers (documented or not). In so far as middle class households employ such labor to clean houses, landscape, do repair work or consume products and services priced lower because of the cheap labor, a wide spectrum of middle class and affluent citizens gain economically from migration. Other interest groups demand an end to all immigration, claiming the migrants are devastating the employment prospects of young, less educated native workers and depriving poor unassimilated minorities the opportunity to work themselves into the lower middle class.

On average, Americans receive positive economic benefits from immigration, but, at least in the short run, residents of particular localities and members of certain groups may lose. Cost benefit analysis is only concerned with a comparison of aggregate costs and benefits; who bears the costs is not considered. But in any large-scale social reorganization, there are inevitably winners and losers. Economists call the welfare principle that legitimates cost-benefit analysis as a decision-making criterion for social policy the Hicks Compensation Principle. Stated succinctly, it merely says that if aggregate benefits of immigration exceed costs, the gains of all society's winners are sufficient to adequately compensate all society's losers. In theory, such payments from winners to losers would make everyone better off. In practice, such compensation is seldom forthcoming. Along with localities hosting disproportionately few immigrant residents but benefiting from the employment of many immigrant workers, owners of capital, and most consumers and workers gain at the expense of some native-born workers. The losers are low-skilled, poorly paid, and disproportionately minority.

Democratic concepts of justice suggest the losses of a few should not override the gains of the many. Democratic concepts of justice also demand that society's least advantaged members should not be paying for the immigration benefits enjoyed by the entire nation. A democratic society benefiting from immigration and debating how to reshape its immigration policies should also be discussing social policies to compensate less-skilled workers through combinations of better training, relocation, and educational opportunities. It should also be debating how the federal government should address the unequal burdens of immigration among localities.

Citations

- Borjas, George, Richard B. Freeman, and Lawrence F. Katz. "On The Labor Market Effects of Immigration and Trade," in Richard B. Freeman and George Borjas eds, *Immigration and the Workforce, Economic Consequences for the United States and Source Areas*. Chicago: U. Chicago Press, 1992.
- Borjas George J. and Lawrence F. Katz "The Evolution of the Mexican-Born Workforce in the United States," Working Paper 11281, NBER, Cambridge, Mass: April, 2005.
- Human Rights Watch, *Blood, Sweat, and Fear: Workers Rights in U.S. Meat and Poultry Plants, 2004*, <http://hrw.org/reports/2005/usa0105/index.htm>.
- Jaynes, Gerald D. *Race and Immigration: New Dilemmas for American Democracy*. New Haven, Ct.: Yale University Press, 2000.
- Jaynes, Gerald D. Two Evolutions: Black Affluence. Black Poverty—The Economics of African American Citizenship Since Emancipation. Manuscript, Yale University, 2006.
- MacDonald, J., M. Ollinger, K. Nelson, and C. Handy. 1999. "Consolidation in U.S. Meatpacking." *Agricultural Economic Report 785*. Washington, D.C.: Economic Research Service, USDA.
- U.S. Census Bureau, Press Release, May 10, 2006.
- Wilson, Franklin D. and Gerald D. Jaynes, "Migration and the Employment and Wages of Native and Immigrant Workers," *Work and Occupations*, Vol. 27 No. 2, May 2000.

Vernon M. Briggs, Jr.

Emeritus Professor of Labor Economics, Cornell University

Illegal Immigration: The Impact on Wages and Employment of Black Workers**Overall Perspective**

Before addressing the specific issue of illegal immigration and its economic effects on black Americans, the broad subject needs to be placed in perspective. No issue has affected the economic well-being of African Americans more than the phenomenon of immigration and its related policy manifestations. Immigration defined the entry experience of the ancestors of most the nation's contemporary black American community (as slaves who were brought as involuntary immigrants); it placed them disproportionately in the states that today comprise the "South" (at no point in American history has less than half the black population ever lived outside the South); it disproportionately tied them for centuries to the rural sector of the Southern economy, where they were linked with the region's vast agricultural economy (the black migration out of the South did not begin until after 1915, when the mass immigration of the late 19th and early 20th Centuries from Europe and Asia were cut off by war from 1914–1918 and by restrictive legislation from 1921–1965); and, with the accidental revival of mass immigration in the years since 1965 that has continued to this day, immigration has served largely to marginalize the imperative to address squarely and affirmatively the legacy of the denial of equal economic opportunity that had resulted from the previous centuries of slavery and segregation, which the civil rights movement and legislation of the 1960s sought to redress. In this post-1965 era of mass immigration, no racial or ethnic group has benefited less or been harmed more than the nation's African American community.

From 1965 to 2007, the foreign-born population of the United States has soared from 8.4 million persons to 39.3 million persons (from being 4.4 percent of the nation's population to being 12.7 percent). As for origin of this current wave of mass immigration, only 2.5 percent of the nation's foreign born population in 2000 (when the last Census was conducted) were from Africa [whereas 51 percent were from Latin America (including Mexico and Central America); 25.5 percent were from Asia; and 15.3 percent were from Europe; and the residual from Canada, Australia, New Zealand and various Pacific Islands]. Indeed, by 2004, the surge in immigration led to the replacement for the first time in the nation's history of black Americans as the nation's largest minority group by Hispanics, who now hold that distinction. Although black Americans were 13.5 percent of the nation's native-born population, they were only 7.8 percent of the foreign-born population in 2000. Hispanics, on the other hand, were only 8.5 percent of the native-born population while being 45.2 percent of the foreign-born population.

Illegal Immigration and the Low Wage Labor Market

A major explanation for the rapid growth of the nation's post-1965 immigrant population has been—and continues to be—illegal immigration. It is estimated that there are 11.3 million illegal immigrants in the country as of 2007 (plus another 1.1 million persons who are believed to be undercounted in the published estimates). This means that about 30 percent of the total foreign-born population are illegal immigrants. When one recalls that there have

been seven amnesties given by Congress since 1986 that have legalized the status of over 6 million former illegal immigrants, it is not too much of a stretch of the imagination to conclude that upwards of half the current foreign-born population of the country entered in violation of the nation's immigration laws.

The most distinguishing characteristic of the illegal immigrant population is their paucity of human capital. It is currently estimated that 57 percent of the adult illegal immigrant population have not completed high school while an additional 24 percent have only a high school diploma. Thus, less than 19 percent of the illegal immigrant adult population have more than a high school education as of 2007. Since most illegal immigrants come from some of the world's poorest nations, the quality of the education received is likely to be poor as well, which means that the low levels of educational attainment are only part of the story.

Because of the low levels of human capital and the fact that they often lack adequate English-speaking skills, the vast majority of illegal immigrant workers are employed in low skilled occupations. Even those few with higher skills are often forced to work in the low skilled sector because their illegal status means that they often cannot use their credentials to get better jobs. Thus, the estimated 7.4 million illegal immigrant workers (who are about one-third of the total foreign-born labor force) compete for jobs and income with the other 43 million adult members of the low skilled labor force who are legally entitled to work in the civilian labor force (i.e., native born workers and the remainder of the foreign-born workforce who are naturalized citizens, permanent resident aliens, and non-immigrants with visa authorizations to work) in 2007.

In part due to the large supply of workers who comprise the low skilled labor force of the United States and in part due to the fact that higher skilled workers can (and often do) also work in this low skilled sector when they cannot find jobs for their talents, the low skilled labor market always has the highest level of unemployment of any of the segments of the U.S. labor force for whom educational attainment is measured. In February 2008, for instance, the national unemployment rate was 4.8 percent, but the unemployment rate for adults (over 25 years old) without a high school diploma was 7.3 percent. Low skilled adults also often must compete with youth who seek employment in large sectors of the unskilled labor market. Youths usually lose in this competition for jobs as employers typically prefer adults, who are more dependent on the labor market for their income than are young people. The unemployment rate for youth 16–19 years old was 16.8 percent and for young adults 20–24 years old was 8.9 percent in February, 2008.

Black Employment in the Low Skilled Labor Market

Of the 50 million low skilled adults (those 25 years of age and over) in the civilian labor force in 2007, black Americans accounted for about 5.6 million of such workers (or about 10 percent of the total). These black American workers, however, had the highest unemployment rates of any of the four racial and ethnic groups for which the data was collected. Black American adult workers without a high school diploma had an unemployment rate of 12.0 percent, and those with only a high school diploma had an unemployment rate of 7.3 percent in 2007. These 5.6 million low skilled black workers accounted for one-third of the entire black labor force of slightly over 17 million workers.

Black youths (16–19 years old) also had the highest unemployment rate of any of the racial groups for whom data is collected. Their unemployment rate for February 2008 was an astounding 31.7 percent. These data are, of course, only for those still actively seeking employment and who are not institutionalized. They do not include those who have been discouraged from seeking employment because they feel it would not be worthwhile even to try to find a job under these conditions of high unemployment among their peers. Nor do they include any of the more than 1 million black youth and adults who are incarcerated in the nation's penal system (often because of the inability to find regular employment).

Clearly, black American workers who are poorly skilled have the greatest difficulty finding jobs of all such workers similarly situated in the U.S. labor force.

Illegal Immigration and Black Workers

Illegal immigrant workers tend to concentrate in labor markets that have high concentrations of legal immigrants and citizens (native born and naturalized who are from similar ethnic and racial backgrounds). It is more difficult for authorities to identify them under these circumstances, and they can rely on networks of friends and family members as well as other employers and community assistance organizations composed of members of their same backgrounds to find employment. As a consequence, there is a tendency for illegal immigrants to cluster in metropolitan areas (especially central cities) or in rural areas that already have concentrations of persons from similar backgrounds.

Black workers also tend to be concentrated in metropolitan areas—especially in central cities. The only rural labor markets where black Americans are of significant number are in the Southeastern states—a legacy of the slavery heritage of yesteryear.

Thus, it is not everywhere that there is likely to be significant competition between low skilled black workers and illegal immigrant workers, but there are ample circumstances where there is—such as the large metropolitan labor markets of Los Angeles, New York, San Francisco, Chicago, Miami and Washington-Baltimore. Moreover, some of the fastest growing immigrant concentrations are now taking place in the urban and rural labor markets of the states of the Southeast—such as Georgia, North Carolina and Virginia, which never before were significant immigrant receiving states in previous eras of mass immigration. Indeed, about 26 percent of the nation's foreign-born population are now found in the states of the South—the highest percentage ever for this region. There is mounting evidence that many of these new immigrants in this region are illegal immigrants.

Because most illegal immigrants overwhelmingly seek work in the low skilled labor market and because the black American labor force is so disproportionately concentrated in this same low wage sector, there is little doubt that there is significant overlap in competition for jobs in this sector of the labor market. Given the inordinately high unemployment rates for low skilled black workers (the highest for all racial and ethnic groups for whom data is collected), it is obvious that the major loser in this competition are low skilled black workers. This is not surprising, since if employers have an opportunity to hire illegal immigrant workers, they will always give them preference over legal workers of any race or

ethnic background. This is because illegal immigrant workers view low skilled jobs in the American economy as being highly preferable to the job opportunities in their homelands that they have left. A job that pays the federal minimum wage of \$7.15 an hour (some states and localities have even higher minimum wages) is often several times higher than the daily wage they could earn in their homelands, if they could get a job at all. Even the worst working conditions in the United States are typically better than what many have experienced before they came to this country. Illegal immigrants, therefore, are often grateful to receive these low wages, and they will do whatever it takes to get these jobs (even if it means living in crowded and substandard living conditions and working under harsh and dangerous conditions). It is also easier for some employers to exploit illegal immigrant workers by paying them less than the minimum wage and not paying them overtime wages because they are fearful of revealing their vulnerable status if they were to complain. Citizen workers know that paying the minimum wages means that the employer values your work at the lowest level that he/she can legally pay. Furthermore, citizen workers expect labor and safety laws to be enforced because they believe they have legal rights to job protections. It is not that citizen workers will not do the work that illegal immigrants are willing to do. Rather, it is that citizens often will not do the work for the same pay and under the same working conditions as will illegal immigrants—nor should they.

It is not that employers are evil in their willingness to give preference to illegal immigrants. It is that they are pragmatic in their decision making. Illegal immigrants are available because the federal government has chosen to do little to monitor the work sites of the nation. Seldom are any penalties placed on employers who violate the ban against hiring illegal immigrants working even though it has existed since 1986. Moreover, because of this self-imposed impotence by the federal government, employers who try to follow the law are penalized because they must compete with employers who violate the law and benefit by paying lower wages and providing cheaper working conditions that are more profitable to these employers but hazardous to the illegal workers. The status quo, therefore, is a perversion of justice. Law breakers are rewarded while law abiders are punished.

Economists long ago have realized that there is no way to prove or to measure the job displacement of citizens by illegal immigrants. This is because when immigrants (including the large illegal immigrant component) move into a local labor market, citizens tend to move out. Mass immigration has affected the internal migration patterns of citizen workers. As they leave the area or as they drop out of the labor market because they cannot find jobs, immigrants move in to claim the jobs. But there is no way to measure the loss since many of the victims are no longer in the local labor market.

As for wage suppression, all studies show that the large infusion of immigrants has depressed the wages of low skilled workers. It is the illegal immigrant component of the immigration flow that has most certainly caused the most damage, but there is no way to isolate their singular harm. But even these studies most likely underestimate the true adverse impact because there is a floor on legal wages set by minimum wage laws that do not allow the market to set the actual wage level. What is known is that wages in the low wage labor market have tended to stagnate for some time. It is not just that the availability of massive numbers of illegal immigrants depress wages, it is the fact that their sheer numbers keep

wages from rising over time, and that is the real harm experienced by citizen workers in the low skilled labor market.

What is apparent is that the unemployment rates in the low skilled labor market are the highest in the entire national labor force. This means that the low skilled labor market is in a surplus condition. Willing workers are available at existing wage rates. By definition, therefore, illegal immigrants who are overwhelmingly present in that same labor market sector adversely affect the economic opportunities of legal citizen workers because the illegal workers are preferred workers. No group pays a higher penalty for this unfair competition than do low skilled black Americans, given their inordinately high unemployment levels

The willingness of policy makers to tolerate the presence of illegal immigrants in the nation's labor force exposes a seamy side of the nation's collective consciousness. Illegal immigrants—who themselves are often exploited even though they may not think so—are allowed to cause harm in the form of unemployment and depressed wages to the most vulnerable workers in the American workforce. The continued reluctance by our national government to get illegal immigrants out of the labor force—and to keep them out—by enforcing the existing sanctions at the work site against employers of illegal immigrants is itself a massive violation of the civil rights of all low skilled workers in the United States and of low skilled black American workers in particular. Illegal immigrants have no right to work in the United States. In fact, they have no right to even be in the country. Enforcing our nation's labor laws—including the protection of the legal labor force from the presence of illegal immigrant workers—is the civil rights issue of this generation of American workers.

It is time, therefore, to make our immigration laws credible. The way to do this is to adhere to the findings of the U.S. Commission on Immigration Reform chaired by the late Barbara Jordan, who boldly stated what should be the goal of public policy: "The credibility of immigration policy can be measured by a simple yardstick: people who should get in, do get in; people who should not get in, are kept out; and people who are judged deportable, are required to leave."

No one would benefit more by the adherence to that standard than would low skilled black American workers and their families.

Harry J. Holzer**The Effects of Immigration on the Employment Outcomes of Black Americans**

I'd like to address the question of how immigration—whether legal or illegal—affects the labor market opportunities and outcomes of native-born African-Americans. In doing so, I'd like to make several points.

- Most econometric evidence suggests that immigration over the past few decades has had a modest negative effect on the employment outcomes of blacks, especially those without high school diplomas.

The strongest evidence of negative effects comes from work by Borjas, Grogger and Hanson (2006). They find quite strong negative effects on the wages and employment of black male high school dropouts, and somewhat less on these outcomes for high school graduates, plus very small impacts on black incarceration rates for either group.⁷⁸

This evidence is based on some quite strong statistical assumptions, and only considers the effects of immigration in the short-run—in other words, before capital inflows have occurred that would mitigate the negative impacts of immigrants on native-born workers. It is therefore likely that these estimates overstate any real negative impacts, even though some of these estimates themselves are already small.⁷⁹

But the notion that there are at least some negative effects is bolstered by some newer papers that have been written more recently. For instance, Deborah Reed and Sheldon Danziger (2007) also find some very modest negative effects of immigration on the employment of black men, using a simpler methodology that compares outcomes across metropolitan areas. In an MIT doctoral dissertation, Christopher Smith (2008) has found somewhat larger negative effects on the employment rates of both white and black teens, but much more modest effects as they age into their 20s.⁸⁰ These papers are significant, because analysis of

⁷⁸ For instance, their estimates suggest that immigration between 1980 and 2000 has reduced wages by 8.3 percent, reduced employment by 7.4 percentage points, but raised incarceration by only 1.7 percentage points among black male high school dropouts (among whom over 60 percent now spend some time in prison). The corresponding estimates for black male high school graduates are 3.2 percent, 2.8 percentage points and 0.6 percentage points.

⁷⁹ Borjas et al. assume a stable demand function over a 40-year period. They allow for only a limited number of shifts by education or experience but otherwise assume constant employment responses to wage changes over time and across groups. In a period where labor demand has shifted so dramatically against less educated groups, it is very possible that some effects of demand shifts are attributed in this work to immigrant-induced labor supply shifts. Also, capital inflows in the long run are expected to fully offset the higher supplies of immigrant labor on average, thereby also dampening any negative effects for particular groups. See Ottavania and Peri (2006).

⁸⁰ Reed and Danziger estimate that immigration over the 1990s reduced the employment of black males with or without high school degrees by roughly one percentage point, and reduced their wages by 3.5 percent. Smith estimates that immigration over the past 15 years might have reduced teen employment rates by 5 percentage points overall, and about 4 points for blacks, but these effects diminish very quickly for young people over age 20.

differences across metropolitan areas (by Prof. David Card of Berkeley and others) have traditionally found much weaker evidence of negative impacts of immigration.

- Other evidence, including that by ethnographers, indicates that employers filling low-wage jobs requiring little reading/writing or communication clearly prefer immigrants to native-born blacks, and encourage informal networks through which immigrants gain better access to these jobs. The native-born black workers likely would be interested in some, but not all of these jobs, depending on their wages.

The ethnographic work (Moss and Tilly, 2001; Kirschenman and Neckerman, 1991) shows that employers perceive stronger work ethic among the immigrants, and a greater willingness to tolerate low wages. They use networks to encourage a ready flow of applicants from the friends and relatives of their immigrant workers. Some of these perceptions and the hiring behavior they generate might well reflect discrimination, especially against black men whom employers generally fear; some of it also likely reflects real differences in the attitudes and behaviors of workers from different groups, on average.⁸¹

As for the workers themselves, their interest will likely vary across the wages paid and sectors of the economy in which these jobs are found. I am inclined to believe that many black men would be interested in the residential construction or transportation jobs often filled by immigrants, but somewhat less interested in the low-wage agricultural or service jobs. Of course, in the absence of immigrants, these wages would rise somewhat. But whether they would rise sufficiently to induce a greater supply of black labor is questionable.⁸²

- Our evidence does not allow us to distinguish the effects of legal v. illegal immigration on black Americans, though we can speculate about these differences to some extent.

On the one hand, illegal immigrants will often be paid sub-market wages, so the competition they generate will be even more intense for native-born workers; while their willingness to accept poor working conditions is greater than that of legal immigrants. On the other hand, the extent of their relative presence in the sectors where native-born blacks might really be interested in employment is unclear.

- The fact that the impacts of immigration are modest suggests that other factors are much more responsible for the negative trends in employment of black men and their

⁸¹ Survey data in Holzer (1996) on application and hiring rates by race confirm that employers generally prefer Hispanic (including immigrant) applicants to those of blacks, while Holzer (1987) shows some of the difficulties blacks have using informal networks to gain employment. Falcon and Melendez (2001) also show that Hispanics use informal networks very effectively, though the jobs generated pay quite low wages. Evidence of continuing discrimination against black men in hiring clearly appears in the tester studies conducted by Pager (2003), while employer fears of this group are well-documented by Kirschenman and Neckerman *op. cit.*

⁸² Evidence on the "reservation wages" (or minimally necessary wages for accepting employment) of young blacks relative to those of whites appears in Holzer (1986), while ethnographic data on the occupational perceptions and preferences of young black men appears in Young (2003). Lewis (2006) shows that employers who face fewer immigrants frequently use more capital-intensive production techniques, at least within manufacturing industries, rather than creating many higher-wage jobs. Thus, many such jobs would disappear in the absence of immigration before reaching the wages that might induce young blacks and other native-born workers to accept them.

rising incarceration rates, and therefore that other policies besides immigration reform might be needed to change these trends.

Interestingly, we might expect black women to have suffered as much from the influx of immigrants as did black men; yet the employment rates of low-income black women improved dramatically in the 1990s, as a result of welfare reform and the expansion of financial supports for the working poor (like the Earned Income Tax Credit and child support subsidies).⁸³

Likewise, other forces are likely much more responsible for the decline in employment outcomes of black men and their rising incarceration rates. These include: 1) The declining availability of good-paying jobs to less-educated (and lower achieving) male workers, especially outside of the service sector; 2) The rising returns to illegal work, especially in the “crack” trade, in the 1980s; 3) The growing numbers of young blacks growing up in single-parent families and in poor neighborhoods; 4) Changes in attitudes and behavioral norms, on issues like schooling, employment and marriage; 5) Criminal justice policies that resulted in dramatically higher incarceration rates for those in the drug trade; and 6) Changes in child support enforcement that resulted in many default orders being set and many young men going into “arrests” on their payments.⁸⁴

Accordingly, it is unlikely that any changes in immigration law will dramatically improve employment opportunities and outcomes for young blacks. To the extent that we “reform” immigration, we would want to carefully consider the full range of benefits that accrue to our economy and society from immigration, as well as its costs.⁸⁵ But, when considering how to improve outcomes of young blacks, we should instead focus mostly on:

1. Improving educational outcomes and achievement, starting with pre-kindergarten programs and continuing into higher education;
2. Enhancing youth development opportunities and mentoring for adolescents;
3. Improving their early work experience and occupational training with high-quality career and technical education;
4. Reducing incarceration rates (without increasing crime) and also the barriers to work faced by ex-offenders;
5. Extending the EITC to childless adults, including non-custodial fathers; and
6. Reforming child support regulations and taxes on “arrests” to encourage more labor force participation by non-custodial fathers.

⁸³ See Blank (2002).

⁸⁴ See Edelman *et al.* (2006) and Holzer *et al.* (2005) for more evidence and discussion of these issues.

⁸⁵ The benefits include lower prices for important consumer commodities, like food and housing, that are heavily used by lower-income families; these lower prices help raise their real incomes and offset the lower wages that might be generated by competition with immigrants. The provision of health care and elder care, which frequently suffer from worker shortages, is likely enhanced by immigration as well.

References

- Blank, Rebecca. 2002. "Evaluating Welfare Reform in the United States." *Journal of Economic Literature*. 40:4, 1105-66.
- Borjas, George; Jeffrey Grogger and Gordon Hanson. 2006. "Immigration and African-American Employment Opportunities: The Response of Wages, Employment and Incarceration to Labor Supply Shocks." National Bureau of Economic Research Working Paper No. 12518.
- Edelman, Peter; Harry Holzer and Paul Offner. 2006. *Reconnecting Disadvantaged Young Men*. Washington DC: Urban Institute Press.
- Falcon, Luis and Edwin Melendez. 2001. "The Social Context of Job Search for Racial Groups in Urban Centers." In L. Bobo *et al.* eds. *Urban Inequality: Evidence from Four Cities*. New York: Russell Sage Foundation.
- Holzer, Harry J. 1987. "Informal Job Search and Black Youth Unemployment." *American Economic Review*. 77:2.
- Holzer, Harry J. 1986. "Reservation Wages and their Labor Market Effects for Young White and Black Males." *Journal of Human Resources*. 21:2.
- Holzer, Harry J. 1996. *What Employers Want: Job Prospects for Less-Educated Workers*. New York: Russell Sage Foundation.
- Holzer, Harry; Paul Offner and Elaine Sorensen. 2005. "Declining Employment among Young Black Men: The Role of Incarceration and Child Support." *Journal of Policy Analysis and Management*. 24:2.
- Kisichenman, Joleen and Kathryn Neckerman. 1991. "We'd Love to Hire Them But..." In C. Jencks and P. Peterson eds. *The Urban Underclass*. Washington DC: Brookings Institution.
- Lewis, Ethan. 2005. "Immigration, Skill Mix and the Choice of Technique." Federal Reserve Bank of Philadelphia Working Paper.
- Moss, Philip and Chris Tilly. 2001. *Stories Employers Tell*. New York: Russell Sage Foundation.
- Ottaviano, Gianmarco and Giovanni Peri. 2006. "Rethinking the Effects of Immigration on Wages." NBER Working Paper No. 12497.
- Pager, Devah. 2003. "The Mark of a Criminal Record." *American Journal of Sociology*.
- Reed, Deborah and Sheldon Danziger. 2007. "The Effects of Recent Immigration on Racial/Ethnic Labor Market Differences." *American Economic Review*. 97:2.
- Smith, Christopher. 2008. "Dude, Where's My Job? The Impact of Immigration on the Youth Labor Market." Unpublished Ph.D. dissertation, Department of Economics, Massachusetts Institute of Technology.
- Young, Alford. 2003. *The Minds of Marginalized Black Men*. Princeton University Press.

Julie Hotchkiss

Research Economist and Policy Advisor, Federal Reserve Bank of Atlanta

The Labor Market Experience and Impact of Undocumented Workers

(Version: March 28, 2008) by Julie L. Hotchkiss, Ph.D. and Myriam Quispe-Agnoli, Ph.D.

I. Introduction and Disclaimer

Thank you Mr. Chairman; I appreciate the opportunity to share with you and your fellow Commissioners the results of recent research I have undertaken with my colleague, Myriam Quispe-Agnoli, who is also here in the audience, on the issue of the impact and experience of undocumented workers here in the United States.

Before I begin, let me stress that the statements I make today are my own and do not represent the opinions or policy of the Federal Reserve Bank of Atlanta, or of the Federal Reserve System. Further, the motivation for undertaking this research was to inform the policy discussion, not to make specific policy recommendations.

II. Questions of the Analysis

- A. How are wages impacted when the concentration of undocumented workers increases?
- B. Is there any evidence of displacement of documented workers from firms that hire a greater share of undocumented workers?
- C. Would we expect any greater downward pressure on wages in response to the presence of undocumented workers than in response to the presence legal immigrants?

III. Structure of the Statistical Analysis and Caveats

While I'm sure you'd rather I get straight to the answers to the questions I just listed, it's important to make sure that you are aware of some of the caveats and limitations of the research. All statistical analysis is limited by the data available, statistical tools at hand, and, I must admit, the imagination of the researcher.

The analysis is performed with information on workers and firms in the state of Georgia only. This research was possible as a result of a data sharing agreement that allowed me to have access to the Georgia Department of Labor administrative records used for administering the Unemployment Insurance program. These data are highly confidential and restricted in their access.

While analysis using data from only one state may seem limiting, Georgia was determined by one study to have experienced the fastest growth in its undocumented population between 2000 and 2006.⁸⁶ In addition, Georgia is ranked as sixth in the nation for size of

⁸⁶ U.S. Department of Homeland Security, Office of Immigration Statistics (August 2007), estimates 123% growth.

Illegal Immigration and Crime – Just the Numbers

Arizona

Arizona Population 2015: 6,758,251

Arizona Illegal Immigrant Population 2015: 325,000

Arizona Citizen and Legal Resident Population 2015: 6,433,251

SCAAP Primary Offenses**Drug offenses:** $7310/6,433,251=113$ per 100,000 citizens1757/325,000 = 540 per 100,000 illegal immigrants – minus 10 percent is **486 per 100,000 illegal immigrants****Sex offenses:** $4222/6,433,251=0.000656$ – **66 per 100,000 citizens**620/325,000=190 per 100,000 illegal immigrants – minus 10 percent is **171 per 100,000 illegal immigrants****Kidnapping:** $1,028/6,433,251=0.000159$ – **16 per 100,000 citizens**402/325,000=123 per 100,000 illegal immigrants – minus 10 percent = **111 per 100,000 illegal immigrants****Assault:** $5,026/6,433,251=0.00078$ – **78 per 100,000 citizens**389/325,000=0.00119 – 119 per 100,000 illegal immigrants – minus 10 percent = **108 per 100,000 illegal immigrants****Traffic violations** (seems to be only DUI): $1569/6,433,251=0.000243$ – **24 per 100,000 citizens**228/325,000=0.00070 – 70 per 100,000 illegal immigrants – minus 10 percent is **63 per 100,000 illegal immigrants****Homicide** (murder, manslaughter, negligent homicide): $3318/6,433,251=0.000515$ – **52 per 100,000 citizens**494/325,000=0.00152 – 152 per 100,000 illegal immigrants – minus 10 percent is **137 per 100,000 illegal immigrants**

Florida

Florida Population 2015: 20,612,439

Florida Illegal Immigrant Population 2015: 775,000

Florida Citizen and Legal Resident Population 2015: 19,837,439

SCAAP Primary Offenses**Homicide:** $14,722-1449=13,273/(19,837,439)=0.000669$ – **67 per 100,000 citizens/legal residents**1449/775,000 = 0.00186 – 187 per 100,000 illegal immigrants – minus 10 percent is **169 per 100,000 illegal immigrants****Sex offenses:** $12,465-1386=11,079/19,837,439=0.000558$ – **56 per 100,000 citizens/legal residents**1386/775,000 = 0.00178 – 178 per 100,000 illegal immigrants – minus ten percent is **161 per 100,000 illegal immigrants****Drug offenses:** $14,671-882=13789/19,837,439=0.000695$ – **69 per 100,000 citizens/legal residents**

$882/775,000=0.00113$ -113/100,000 illegal immigrants, minus 10 percent is **102 per 100,000 illegal immigrants**

Burglary: $16,214-756/19,837,439=0.000779$ – **78 per 100,000 citizens and legal residents**

$756/775,000=0.000975$ – 98 per 100,000 illegal immigrants – minus 10 percent is **89 per 100,000 illegal immigrants**

Robbery: $12,737-441/19,837,439=0.000619$ – **62 per 100,000 citizens/legal residents**

$441/775,000=0.000569$ – 57 per 100,000 illegal immigrants – minus 10 percent is **52 per 100,000 illegal immigrants**

New York

New York Population 2015: 19,747,183

New York Illegal Immigrant Population 2015: 725,000

New York Citizen and Legal Resident Population 2015: 19,022,183

SCAAP Primary Offenses

Homicide: $10,509-1,122/19,022,183=0.00049$ – **49 per 100,000 citizens and legal residents**

$1,122/725,000=0.00154$ – 154 per 100,000 illegal immigrants – minus 10 percent is **139 per 100,000 illegal immigrants**

Sex Offenses: $5179-544/19,022,183=0.00024$ – **24 per 100,000 citizens and legal residents**

$544/725,000=0.00075$ – 75 per 100,000 illegal immigrants – minus 10 percent is **68 per 100,000 illegal immigrants**

Robbery: $7696-340/19,022,183=0.000386$ – **39 per 100,000 citizens and legal residents**

$340/725,000=0.000468$ – 47 per 100,000 illegal immigrants – minus 10 percent is **43 per 100,000 illegal immigrants**

Drug Offenses: $6780-340/19,022,183=0.000338$ – **34 per 100,000 citizens and legal residents**

$340/725,000=0.000468$ – 47 per 100,000 illegal immigrants – minus 10 percent is **43 per 100,000 illegal immigrants**

Assault: $3701-306/19,022,183=0.000178$ – **18 per 100,000 citizens and legal residents**

$306/725,000=0.000422$ – 42 per 100,000 illegal immigrants, minus 10 percent is **38 per 100,000 illegal immigrants**

Burglary: $7,137-272/19,022,183=0.00036$ – **36 per 100,000 citizens and legal residents**

$272/725,000=0.000375$ – 38 per 100,000 illegal immigrants - minus 10 percent is **35 per 100,000 illegal immigrants**

Texas

Texas Population 2015: 27,695,284

Texas Illegal Immigrant Population 2015: 1,600,000

Texas Citizen and Legal Immigrant Population 2015: 26,095,284

SCAAP Primary Offenses

Sex offenses: $24,497-2,208/26,095,284=0.00085$ – **85 per 100,000 citizens and legal residents**

$2,208/1,600,000=138$ per 100,000 illegal immigrants – minus 10 percent is **125 per 100,000 illegal immigrants**

Drug offenses: $18,870-1,536/26,095,284=0.00066 = 66$ per 100,000 citizens and legal residents
 $1,536/1,600,000=0.00096$ – 96 per 100,000 illegal immigrants – minus 10 percent is **87 per 100,000 illegal immigrants**

Assaults: $20,663-1,248/26,095,284=0.00074 = 74$ per 100,000 citizens and legal residents
 $1,248/1,600,000=0.00078$ – 78 per 100,000 illegal immigrants – minus 10 percent is **71 per 100,000 illegal immigrants**

Traffic violations: $6,632-1,152/26,095,284=0.00021 = 21$ per 100,000 citizens and legal residents
 $1,152/1,600,000=0.00072$ – 72 per 100,000 illegal immigrants – minus 10 percent is **65 per 100,000 illegal immigrants**

Robbery: $21,036-1,056/26,095,284=0.000765 = 77$ per 100,000 citizens and legal residents
 $1,056/1,600,000=0.0006$ – 66 per 100,000 illegal immigrants – minus 10 percent is **60 per 100,000 illegal immigrants**

Homicide: $16,024-960/26,095,284=0.000577 = 57$ per 100,000 citizens and legal residents
 $960/1,600,000=0.0006$ – 60 per 100,000 illegal immigrants – minus 10 percent is **54 per 100,000 illegal immigrants**

Ms. LOFGREN. Thank you, sir. Thanks to all the Witnesses for their testimony today.

Now, is the time when the Members of the Subcommittee can ask questions under the 5-minute rule. I'd like to recognize first the Ranking Member, Mr. McClintock, for any questions that he may have.

Mr. McClintock.

Mr. MCCLINTOCK. Thank you, Madam Chair.

Mr. Kirsanow, from your testimony, it seems that where is the distinction between macro- and microeconomics. From a macroeconomic standpoint, the economy as a whole, the biggest driver of economic growth is population; but from a microeconomic standpoint, how it affects an individual in that economy, is entirely different.

If we flood the market with unskilled or low-skilled labor, the overall economy will grow. The rich will get richer as wages are suppressed, but they'll do that at the expense of unskilled or low-skilled laborers whose wages are being suppressed. Could you elaborate on that?

Mr. KIRSANOW. Sure. What we have here, it's important to disaggregate the various components of the labor market. As you indicated, there's certain parts of the labor market that benefit from—and it's mainly legal immigration, but there's a devastating effect at the lower strata among people who are earning minimum-wage jobs or just above minimum-wage jobs from especially illegal immigration, for the reasons I just mentioned.

This is especially true right now. This couldn't be—the vortex of improbabilities in terms of trying to pass some type of immigration that relaxes immigration laws at least among low-skilled labor, this couldn't be the worst time because of the pandemic.

Off in the horizon is the prospect of a \$15 minimum wage that does two things:

(1) It's a magnet for even a greater influx of illegal immigrants, because we've seen that every time the minimum wage goes up there's a greater influx of illegal immigrants.

(2) It's going to cause a greater amount of competition between the two cohorts of illegal immigrants and low-skilled Americans. Again, as I said before, it's not just Black Americans, it's all Americans, but it happens to be that Black Americans are particularly concentrated in a certain area.

There's been a study done with respect to EEOC charges over the years. If you take a look at some of these EEOC charges they're quite alarming, where a number of American companies or employers specifically discriminate in overt ways against Americans but particularly Black Americans in favor of illegal immigrants, such as tendering only job applicant information in Spanish.

On one occasion they said, "You, Blacks, get out here and good-bye," and then brought in illegal immigrants. Those specific words were said. So, this is not something that's speculative. It happens and it's going to happen at a much greater level in this present atmosphere of pandemic, unemployment, and prospects that everyone's aware of across the world that the minimum wage is going to go up.

Mr. McCLINTOCK. All right—you requested the U.S. Commission on Civil Rights relating to the displacement of—

Ms. LOFGREN. Tom, you have frozen. Okay. Your Wi-Fi froze for a minute. You're back.

Mr. McCLINTOCK. Okay. Very good.

Mr. Kirsanow, I was asking about a specific question on U.S. Commission on Civil Rights relating to the displacement of jobs of Black workers, particularly Black males caused by illegal immigration to that study. How many fewer jobs for Black Americans came as a result of the competition from illegal immigrants?

Mr. KIRSANOW. I don't recall specifically. I'd have to refer to the study itself, but we are talking about, over a course of a 30-year period, about 1.8 million jobs, I believe. Every year it fluctuates because of the vagaries of the economy, whether it be minimum wage, whether it be the GDP, a host of issues. It is a substantial number.

In my day job—for the last 42 years I've been a labor and employment lawyer—I see this visually every day dealing with minority contractors who can't bid on a job successfully because they're employing legal workers that they have to pay minimum wage or above to, and their competition is employing illegal immigrants and they underbid them. So, this is a discrete and powerful problem here in the Black community.

Mr. McCLINTOCK. Now, you mentioned that Black employment declined alarmingly in the three decades prior to the Trump Administration, 18 points, I think, and you mentioned estimates of 40 percent that declined—competition from illegal immigrants. You mentioned that the evidence shows that illegal immigration depressed wage levels by between \$960 and \$1,500 annually. Mr. Kirsanow, is this discrepancy because low-skilled Americans are unwilling to work?

Mr. KIRSANOW. No, not at all. As I indicated in my testimony, we've had Witnesses, including, as I said, Professor Briggs, who said there is a lot of reasons why some employers prefer illegal immigrants:

(1) A lot of illegal immigrants are phenomenally good workers; and

(2) they can pay them less, they don't have to abide by many of the regulations in the statutes governing employment, they are less likely to join unions, there's a whole host of issues.

As I stated in my statement, there are—it's not very common that you find illegal immigrants filing charges with the Wage and Hour Division of the Department of Labor. They're not going to do that. They're not going to be filing charges with any other alphabet agency, and that's an attractive feature for some employers.

Mr. McCLINTOCK. Thank you.

Ms. LOFGREN. Does the gentleman yield back?

Mr. McCLINTOCK. I believe I'm over time.

Ms. LOFGREN. All right.

Mr. McCLINTOCK. Whatever my deficit is.

Ms. LOFGREN. Okay. I now would recognize the Ranking Member of the Full Committee, Mr. Nadler, for 5 minutes.

Mr. NADLER. Thank you, Madam Chair.

Professor Hunt, I want to thank you again for taking the time to testify at our hearing today and lending your expertise to the

discussion. As a professor of economics, you have extensively studied the impact of immigration on the economy and have concluded that it has a net-positive effect.

In addition, you testified that despite the common perception that immigration has a negative impact on native-born employment and wages, your research concluded otherwise. Can you elaborate on your findings, and specifically can you provide some specific examples of how so-called low-skilled immigrants benefit the economy?

Ms. HUNT. Indeed. Thank you very much. On this matter, I can again report on the consensus views of the National Academy Report. So, one might expect that if that immigration would either lower employment rates or would lower wages. It could be one or the other. So, if there is no evidence of lower employment rates, it may seem as a surprise—come as a surprise to many that the consensus is no effect on average wages.

There are various mechanisms that can lead to this outcome, and one I mentioned, it's the ability of native-born workers to specialize more than before when immigrants arrived. So, the evidence shows that native-born workers tend to move to jobs that use communications and English language more intensively.

Now, another factor is that firms can choose which technology to use in their production, and they choose it as a function of the composition of the workforce. So, for example, if there is an arrival of a large number of unskilled immigrants then what the employers do is adopt a more labor-intensive technology which can then absorb those additional lower-skilled workers without the negative effects on the incumbent workers.

Another factor is, as I mentioned, that there are offsetting effects of the arrival of immigrants in general. So, while they expect them to lower the wages of native-born workers who have extremely similar skills, they're likely to raise the wages of other workers with whom they have complementary tasks.

Now, more specifics on the contributions of the less-skilled immigrants, in addition to this specialization that I mentioned, they perform services that benefit native-born workers. So, one that has been well documented, for example, is that they lower the cost of child care which has led to increased labor force participation on the part of native-born women.

I'll use another example. If we think about agriculture, immigrants with lower skills also contribute a lot to this sector. In this sector the choice really is between employing less-skilled immigrants or having increased mechanization of agriculture. There really is no displacement here of native-born workers, so it simply benefits consumers of agricultural products.

Mr. NADLER. Well—

Ms. HUNT. —all of these, yes.

Mr. NADLER. Well, I want to ask some other questions, so if you can wrap up.

Ms. HUNT. Actually, I'm finished.

Mr. NADLER. Well, thank you.

Ms. Hincapié, let me turn to you. It's clear that if the 11 million undocumented individuals in the United States were given a chance to obtain legal status and apply for citizenship, their lives

would change immeasurably. You've spent more than two decades defending and advancing the rights of immigrants. In your view, what are the most significant impacts on an individual level that would result from legal status?

Ms. HINCAPIÉ. Thank you, Chair Nadler. Yes, I think there are a couple of things. One is, we've seen this, for example, with the DACA program and the success over the last 8 years of young immigrants being able to get legal status. It increased wages. They were able to purchase homes. They were able to purchase cars. They were able to take care of their families and, most importantly, to pursue their dreams—higher education, many of them started businesses, and many of them are working as essential workers, including in the healthcare industry. So, we see that immediate benefit, not just to them and their families but also to their employers and their local communities.

Chair Nadler, I would take this moment to also talk about the conversation that just took place with respect to wages, particularly in the low-wage context, which is the fact that low-wage workers are immigrants. First, there is a recognition that among the immigrants, many of them are Black immigrants, and they are experiencing record levels of racial discrimination in the workplace as well, and in the diversity of communities that we have.

Second is that the solution to the points that Mr. Kirsanow was raising, which I completely agree with in terms of the fact that many undocumented workers aren't coming forward to complain about wages, etc., the solution lies actually in making sure that we have robust labor and employment law enforcement. Pitting groups of low-wage workers against one another seems like a vehicle really that is used by forces that are intent on keeping wages low and workers divided amongst themselves.

The fact is that undocumented workers are not the ones who are depressing wages or working conditions; it's the employers that are knowingly hiring them and knowing that they can do so with impunity, or at least they think that they can do so.

So, for making sure that the answer: First, is legalization, making sure that undocumented workers are finally put on a path to citizenship; second, that we reallocate resources from detentions and deportation to robust labor and employment law enforcement so that those abusive employers cannot have an unfair economic advantage against the employers that are actually playing by the rules. Then typically—

Mr. NADLER. Thank you.

Ms. HINCAPIÉ. Thank you.

Ms. LOFGREN. The gentleman's time has expired.

We turn now to Mr. Buck, who is recognized for 5 minutes.

Mr. BUCK. I thank the Chair, and I just want to make sure that I mention how proud I was to work with the Chair for the last 2 years as the Ranking Member, and really felt like this was one of the Subcommittees that really seeks common ground in a very difficult area.

I thank you, and I look forward to working with Mr. McClintock and you in that common ground. There are obviously going to be areas in immigration where we disagree, and we have strong feelings, but hopefully we continue to find that common ground.

I want to just mention one thing that happened in my hometown, and then I want to give Mr. McClintock the rest of my time, and really address this to Mr. Kirsanow. The question, one of the employers in my hometown in the 1990s transitioned from American workers to undocumented, unauthorized, or illegal, choose your term.

I would suggest that Mr. Nadler turn off his video before he undresses. Great.

The effect on the town of probably 70,000, 200,000 people was that the wages at this particular plant went from \$18 \$14 an hour. The school district had 35 percent monolingual Spanish K-5 students. The hospital emergency room—the plant actually told their employees, gave them a statement in Spanish, tell your employees that the emergency room was their primary care physician. The effect on the judicial system. There are all kinds of effects from this form of immigration.

I just want to ask, Mr. Kirsanow, if you could try to talk about that a little bit, and then I want to yield to Mr. McClintock.

Mr. KIRSANOW. Thank you. Yeah, my comments were generally directed toward employment because we had done some studies of that, the Civil Rights Commission, but there are a host of adverse effects to having a broad population of illegal immigrants, one of which is the crime rates. I know there's a dispute as to this, but we took a look at some numbers, we did some studies with respect to crime rates.

We're talking—I'm not talking about all immigrants. We're talking about the cohort of illegal immigrants and especially male illegal immigrants. When you take a look at—I think it may be in some of my material.

If you take a look at the some of the largest States in the United States—by the way, this is difficult to ascertain because the Federal Government doesn't keep specific stats on the type of crimes, or the number of crimes committed by illegal immigrants. You've got to look to State data and then cross tab it with some Federal data and prison data.

On average, it appears in some States, for example, California, we were taking a look at homicide rates that illegal immigrants are up to three times more likely to commit murder than lawful residents. When you're talking about sex offenses, I think the level is three times as great also; kidnapping is four times as great. There's a whole host of categories where the amount of crime attributable to illegal aliens far exceeds that of lawfully present Americans. So, that's one aspect of it.

The effect on the public fisc is also significant. There's at least one study—and, again, there are competing studies on this—that the significance of this is there are competing studies and at least this is something that needs to be studied even more directly. The effect with respect to the placement of charges upon the public fisc with respect to medical care, emergency room care, the school districts, and a whole host of public services is greater the greater amount of illegal immigrants in that particular area.

Labor policies—

Mr. BUCK. Thank you. Now, I yield time to Mr. McClintock if I can.

Thank you very much for your response. I appreciate that.

Mr. McClintock, I yield to you the remainder of my time. Maybe not. Is he muted?

Ms. LOFGREN. You only have 36 seconds left.

Mr. MCCLINTOCK. There we go.

Mr. Kirsanow, you mentioned the fact of illegal immigration on the prosperity of African Americans, but doesn't that have the same effect of every race of the unskilled and low-skilled workers in every race including legal immigrants who are trying to get into the job market?

Mr. KIRSANOW. It does. It has an adverse effect on lawfully present Hispanics, Asians, Whites, and Blacks. It doesn't discriminate based on race. What it does do though is have a more pronounced effect on Black Americans only because that cohort is far more likely to have the same type of skill sets or lack of skill sets in educational levels or lack thereof as illegal immigrants.

So, this is something that's—it's a panopticon. It affects everyone but Blacks more readily, and then I think—I'd have to take a look at my data again, but I think the second most effect of lawfully present Hispanic workers because they are second most likely to be—

Ms. LOFGREN. The gentleman's time is expired. We appreciate that.

I'd now like to recognize the gentlelady from Washington for 5 minutes.

Ms. JAYAPAL. Thank you, Madam Chair. It occurs to me as I listen to this discussion that what we should really do is pass a pathway to citizenship for undocumented immigrants, level the playing field, and how about we invest in education for all our American citizens, Black, Latina, Latino, every Asian American, and White, and then it seems like we would be in a much better place.

Madam Chair, I am a proud immigrant of this country sent here by my parents by myself when I was 16 years old and naturalized after 17 long years. I believe strongly that immigrants are a crucial part of our Nation working on the front lines of COVID-19, contributing their skills and talents to their communities every single day.

The fact that nearly a quarter of the immigrant population in the United States is undocumented is a failure of our system, and frankly of Congress, to provide legal avenues for essential parts of our communities.

I want to focus today on the fact that immigration law today provides only one consequence for a violation, and that is deportation. A parent who steals baby formula because she or he can't afford it may be deportable with no judicial discretion. There is no chance for people to rectify their situation or alternative options that meet the scale of the infraction.

So, Ms. Hincapié, thank you for your work. I want to route my questions—and I have several of them for you—in the story of, Many Uch, a Cambodian refugee from my State who escaped with his mother from the Khmer Rouge and made it to the United States at the age of eight. Many grew up in a low-income neighborhood with few resources or support, and like many teens in his situation, got involved with drugs and gangs as a teenager.

At 18 he was caught driving the getaway car during a robbery and spent 3 years in prison. What would be the consequences for a refugee or any kind of immigrant who was charged with a crime like Mr. Uch?

Ms. HINCAPIÉ. Thank you for your leadership, Representative Jayapal. Our immigration system generally takes a one-size-fits-all approach to punishment. There's no proportionality, as you mentioned, no matter what the crime is. So, someone in Many's situation would almost certainly be subject to detention without a bond, and in some cases prolonged detention and eventually deportation. They most likely would never get a chance to present their case before an immigration judge.

Ms. JAYAPAL. Now, Mr. Uch was actually not deported at the time, thanks to tremendous community outpouring of support for him and a Republican district attorney that helped. Once he was released back into his community he married, became a father to U.S. citizen children, started a little league team, and opened a youth center to help kids like him stay out of trouble.

Ms. Hincapie, my colleagues on both sides of the aisle talk about the importance of second chances, and clearly Mr. Uch sees that second chance and made the best of it. Would any of this, ties to the community, community impact change his deportability? Would a judge be able to look at how he turned his life around and use discretion like they can for other people?

Ms. HINCAPIÉ. Unfortunately, not. I'm happy to hear from Many and his loved ones if he was able to do so, but for most people, the fact that they've turned their life around, etc., that does not matter. The judges do not have that discretion.

Ms. JAYAPAL. Now, I'm incredibly happy to say that just a few weeks ago Many became a U.S. citizen because he received a pardon from Washington State Governor Jay Inslee. How common are stories like Mr. Uch's, and how would a U.S. citizen in Mr. Uch's same situation be treated?

Ms. HINCAPIÉ. Yes. So, unfortunately, they're not common at all; they're rare. I think it's wonderful that there are people on both sides of the aisle to see that. Deportation is a one-size-fits-all punishment that is unnecessarily cruel and costly both economically and on a human level. So, again, his situation is common but not the result that he was able to have eventually.

Ms. JAYAPAL. So, we're talking about reforms to the immigration system today. How would a fair system with scaleable consequences treat a case like Many's?

Ms. HINCAPIÉ. This is one of the most complex areas. A scaleable system would allow us to redefine penalties in immigration enforcement and ensure that they're proportional where one could be alternatives to detention, fines, community service, treatment, programs, and a probationary period, which really depending on what the underlying action and activity was.

So, we need a system that provides judges and immigration authorities with the discretion to take the totality of the circumstances into account. As you mentioned, this is a time when our country is engaged in long, overdue bipartisan discussions about the necessary changes to our criminal legal system. We should be doing the same with our immigration system.

Ms. JAYAPAL. Thank you. There's really no other area of U.S. law that just has one consequence, and I think that this is a critically important area for us to focus on to establish scaleable consequences that are fair, encourage compliance, allow for second chances. I have included that in my roadmap to freedom resolution as a core principle as we look to reform the system.

Thank you, Ms. Hincapié, for your work, and I yield back, Madam Chair.

Ms. LOFGREN. The gentlelady's time is expired.

I understand that Mr. Biggs has had to leave. If he comes back, we will recognize him. Mr. Tiffany is now recognized for 5 minutes.

Mr. TIFFANY. Thank you, Madam Chair. I was just wondering if we can do anything about this unauthorized polar vortex that has hit northern Wisconsin with minus 25 tonight. Can we do anything about that?

Ms. LOFGREN. Well, we can pass a law and make it warm. How about that?

Mr. TIFFANY. Well, thank you for your—thank you for your time. I'm going to have a question here for Mr. Kirsanow in just a minute in regard to the Flores decision.

I think when you look back at the last 4 years, we don't need to go into any theoretical or academic exercise here to see what changes are necessary. The things that have been done over the last few years have been very beneficial to those that live in this country.

When you look at 2019, the highest wage increases for people, including in the lower-income strata that we've seen in decades, and that was because of getting control of the flow across the border, reducing the number of people coming across illegally from 10,000—1,000 a month last summer, so really that is a bold reform that truly has worked.

I would say to you that the Biden Administration has made two very significant mistakes for working-class Americans in his first couple weeks in office. First, killing the Keystone Pipeline. Two of the largest pipeline operators in the country are right here in Wisconsin, and we're going to have hundreds of people that make very good living that are going to lose their jobs.

More importantly, down on the border, we have a looming border crisis that has just come about over the last couple weeks. In fact, I'm anxious to see if one of my colleagues, who a couple of years ago went down to the border and showed herself openly weeping at the cages down there, if she's going to protest what's going on as a result of the Biden Administration's activities, when you hear of the caravan saying, Joe Biden is now President. We can come across the border whenever we want to.

There is a looming crisis that is happening down at the border, and I look forward to my colleague, in particular from New York, going down there and making a big hullabaloo about it like she did a few years ago.

My question to Mr. Kirsanow is, in regard to the Flores decision, as someone who is relatively new on this Committee or new on the Committee, relatively new to the Judiciary Committee as a whole, could you give us some background on the Flores decision and why that it is so important to fix that decision?

Mr. KIRSANOW. You know what, I'm probably the last person to answer that question. You'd have to refresh my recollection. I dealt with it about 2 years ago but not since that time.

Mr. TIFFANY. That is no problem.

Then I would like to address the question to—I'm sorry, the gentleman, his last name starts with a T, and I do not remember his name and it does not appear on my screen. I wanted to ask him about the tech giants claim to need high-skilled employees, but I've heard from some constituents that they've actually been squeezed out of their jobs that worked in the computer and tech fields as a result of too much immigration. Can you comment on that?

Ms. LOFGREN. I think it's Mr. Lettieri he's directing that to. Is that correct?

Mr. TIFFANY. Madam Chair, thank you very much. That is correct. Thank you very much.

Mr. LETTIERI. I'm sorry, I'm not sure I fully understood the question. The question is about skilled immigration and what happens to American workers with skilled immigration?

Mr. TIFFANY. Yeah. There's been talk by some of tech companies. They've always advocated for more immigration into this country, and they said we need these high-skilled people. You see publications like the Wall Street Journal that have very much advocated for that over the last few decades.

I'm beginning to hear from some constituents who have worked in the tech field that have worked on computer systems, those type of things, they say they're now being squeezed out. Have you heard any stories like that, and how do we ensure that we don't squeeze out our tech workers also?

Mr. LETTIERI. Well, the empirical work on high-skilled immigration is pretty conclusive when it comes to the benefits that skilled immigrants bring to our economy. So, setting aside any kind of anecdotal situations, which I'm not sure I'm familiar with what you're referring to, the benefits of immigration are strongest and most clear when it comes to skilled immigrants.

Now, there's a good debate worth having about the method for how we welcome skilled immigrants into our economy. My testimony dealt with two additive areas where I think we've really fallen short of taking advantage of what is an incredible national advantage. The fact that skilled and entrepreneurial people want to be here from around the world is an advantage that no other country enjoys the way the United States, does but for that reason no other country squanders in the way that we do as well.

So, in the same way that we would love to have more entrepreneurs in our country, we'd love to have more entrepreneurs, more college graduates, this is a way of really bolstering our economy on a broad basis and improving life for a broad array of American workers and communities. There's clearly ways that we can improve the way that we've welcomed skilled immigrants to our country.

Ms. LOFGREN. The gentleman's time has expired. We thank you.

We'll now turn to Mr. Correa, the gentleman from California, for just 5 minutes.

Mr. CORREA. Thank you, Madam Chair. Can you hear me?

Ms. LOFGREN. Yes.

Mr. CORREA. Thank you very much, Chair Lofgren. Thank you for holding this important hearing. We know our economy is better off because of hardworking immigrants, and this COVID-19 pandemic has shown that it is more apparent than ever. It's been undocumented, unauthorized immigrants that have continued to work in the fields harvesting our crops, processing our food, farm workers, sanitation workers, teachers, and childcare workers that have really kept us alive, so to speak and fed.

So, Mr. Lettieri, I wanted to ask you a question if I can. About a year ago, before the pandemic, I got a phone call from a lobbyist from the food processing industry, Mississippi, I believe is the State. He called me, and I said, "what are you doing calling me? I represent California not the south." He said, "look, you sit on the Immigration Subcommittee," and he said, "we just had 400 workers deported from our food processing plant." He said, "the whole town, the whole region, the economy is shut down completely," and he said, well, "it's not about wages because all those workers are Members of the Food and Commercial Workers Union." He said, "the only people that take those jobs are immigrants, not even the children want to take those nasty jobs." Those are the people we need to import to keep our food processing business going.

I heard testimony today those immigrants compete with local American citizens with residents for these jobs. This is not anecdotal. This advocate for the food processing industry was pleading for us for help for additional immigrants. Do you say that's the case? Is it competition or is it just, again, a structural issue? We don't have those workers in these industries that take those jobs that Americans just don't want.

Mr. LETTIERI. Well, thank you for the question, Congressman. I'll refer to Professor Hunt's testimony where she talked about the various ways that immigrants complement or compete with native-born Americans. It tends to be, from my understanding of the literature, it tends to be where a competition is the strongest, it's where the similarities are the strongest between the skill set of an immigrant and the skill set of the native-born worker.

Where there's strong agreement is that the distortive effects are clearest where there is a subset of the workforce that is not in the light, so to speak. It's not transparent and operating the labor market in the way that native-born Americans do and that creates this as we've heard in this hearing, there's widespread agreement that we can do more about it, but the economic demand is what is bringing people to this country looking for work, and there clearly is demand. So, I think it's a question of—

Mr. CORREA. If I may, in my short time.

Mr. LETTIERI. Sure.

Mr. CORREA. Would you say, as an issue of subwages, just give them a green card and then they will essentially work for the legal wages and they wouldn't be cutting or undercutting American citizens.

Mr. LETTIERI. I would say, without a doubt, the first step is bringing transparency into the labor market and operating on a level playing field, so without a doubt.

Mr. CORREA. Thank you very much.

The other issue that I have, and this is a question for Ms. Hincapié, is the issue of deported veterans and judicial discretion. Right now, in this country we have green card holders that go and fight in Afghanistan, other parts of the world. They are honorably discharged. Then they come back to the U.S., and they're convicted of a certain enumerated crime, and they're essentially deported.

The only time these deported veterans that have fought for our country can come back to our country is when they die, because then they have a right to be buried in a veteran cemetery in the United States. How can we address that issue of repatriating these legal immigrants that should be Americans who are deported because of our archaic immigration laws? What do we do?

Ms. HINCAPIÉ. Thank you, Representative Correa. This is a similar question that Representative Jayapal asked about. It is shameful that we allow people to go fight for our country, yet if they make a mistake, oftentimes that mistake, that crime that they may have committed was probably because of PTSD and the psychological impact of the war that they were fighting.

So, this is why we need to reform our system and give individuals a second chance and a chance at redemption. For those individuals who fought for our country and were deported, we should absolutely allow them to return to the United States, reunite them with their family, and put them on a path to citizenship.

Mr. CORREA. So, finally, we need judicial discretion in advocating, deciding some of these cases in our immigration system. Correct?

Ms. HINCAPIÉ. That is correct. Judicial discretion is needed throughout the entire system. Again, this level of a one-size-fits-all for all immigration cases just makes absolutely no sense.

Ms. LOFGREN. The gentleman's time has expired.

Mr. CORREA. Thank you, ma'am.

Ms. LOFGREN. I understand Mr. Roy had to step out for a minute. We'll recognize him if he's able to return. So, now I would recognize Ms. Spartz of Indiana for 5 minutes for her questions.

Ms. SPARTZ. Thank you, Madam Chair.

As someone who is a big fan of Milton Friedman who said that we cannot have open borders in a welfare state, I'd like to have a quick discussion with you, because ultimately, I don't see it as reforming our welfare system, which needs a lot of reforms, but we have to look at legal immigration.

I have to agree with the gentlewoman from Washington that we need to have a better legal immigration system. Solutions for legal immigration is the best solution. It's the best solution for Americans. It's the best solution for people who cross the border illegally. So, I think we have to do it better, and we need to see how we can better benefit our national interest.

So, my question is to—and I apologize if I say names wrong, but I'll try to do my best. So, Mr. Lettieri, he was mentioning about young skilled workers, and we can address this only if we have a legal system, otherwise we don't know who crosses the border.

So, if you look at the legal immigration system, what percentage would you allocate to skilled workers and young workers and more merit-based, which most countries have—skilled workers because

there is a benefit for that, too. So, if you look 100 percent, how would you allocate it within a legal immigration system?

Mr. LETTIERI. Well, thank you for the question, Congresswoman. I would be reluctant to give you a percentage, but I'll give you an answer about scale, which is that we are nowhere close to welcoming the number of skilled immigrants to this country that we could absorb easily and who could benefit our country in a number of ways.

I think that's particularly true when it comes to immigrant entrepreneurs who have enormous assets they can offer to our country. We know the importance of entrepreneurship and its role in innovation and the kind of industries that really keep our economy the envy of the world.

Again, this is a unique advantage of ours that not just skilled workers but entrepreneurial workers from around the country want to be here. We are nowhere close to maxing out that advantage, and so I don't know what the exact proportion is, but it needs to be much higher.

Ms. SPARTZ. Okay. What about, Ms. Professor Hunt, Dr. Hunt, you mentioned that you did a lot of research. What are your thoughts on the same question?

Ms. HUNT. Well, this is exactly where I think subjectivity comes up. One can't really give an objective answer to this question, so I also am going to say that I can't give a proportion because it depends a little bit on how you trade off certain things and how concerned you are about high school dropouts versus the overall growth rate. For example, the innovative high school immigrants increase the growth in GDP per capita, which will help everyone but perhaps with some delay.

I will just note one thing. The share of the population of the U.S. that's foreign born is 14 percent, one fourth, and that makes it 17th in the OECD in terms of the share. Switzerland, Australia, and New Zealand, have in the 25%–30% range of foreign born, most of them high skilled. So, I'm just confirming my fellow Witness in the sense that the U.S. actually as a share has not very many foreign high-skilled immigrants.

Ms. SPARTZ. Okay. Then maybe Ms. Hincapié, if I said it right, do you believe we should have security on the border and we should secure border regardless? How would we deal then with people that are here? Perhaps to deal with this is a problem right now. Do you believe we need to secure the border?

Ms. HINCAPIÉ. Thank you for your question. It's Hincapié, but you got close to it.

We actually have quite a bit of border security. We have, as a Nation, spent, since the Department of Homeland Security was created, for example, \$381 billion on both the border and interior enforcement. I think one of the great things about the Biden Administration and what is set forth in the U.S. Citizenship Act is to take a look at making sure that there is accountability and good order governance and management, as well as looking at the root causes of why people are coming, and creating legal channels so that people can come through the ports of entry, and seek asylum. Our asylum system has been decimated over the last 4 years, and so the

ability for people to apply for asylum through the right legal channels is really critical.

Ms. SPARTZ. So, we agree we need to have border security but maybe better enforcement.

Mr. Kirsanow, just quickly, do you believe how, if you look at a current situation and you talk about a lot of minority communities and really what's happening with our challenges in this community, how would you believe to address the current situation with people that I hear cross the border undocumented? It means that in this case—I'm sure that I use the right word—unauthorized to cross the border illegally, this is terminology. So, how would you believe the need to make sure that we still don't put a burden on the welfare system that is right now in trouble? We have a lot of people suffering and struggling. So, do you have some thoughts on that?

Mr. KIRSANOW. Yes. Thank you for the question. I would respectfully disagree that we have good border security. That is belied by the fact that we've got approximately 30–40 million illegal immigrants here. We don't even know the number, and tens of thousands are crossing every month, if not hundreds of thousands in the near future.

I think Milton Friedman has got it exactly right, you can't have a welfare State—you can either have a welfare State or open borders, but not both. Until we secure the border effectively, regardless of how much money we spend on it, until we secure that border, we're going to have a sieve coming across, because the United States is a magnet for a host of reasons:

- (1) It's the freest and best country in the world, and
- (2) you have wages that nobody else can match.

Ms. LOFGREN. The gentlelady's time has expired, but we'd ask you to wrap up the answer to your question. I don't want to cut you off.

Mr. KIRSANOW. I'm sorry. I went off a little bit about a tangent. The bottom line here is you have to have better border security than we have now. Otherwise, even if you regularize those who are here, it's still going to be a magnet for people to come in and continue to work illegally.

Ms. LOFGREN. The gentlelady's time has expired.

I'd now like to recognize the gentlelady from Texas, Ms. Garcia, for 5 minutes.

You need to unmute.

Ms. GARCIA. I am working on it. Thank you, Madam Chair.

Thank you, Madam Chair, for holding this very critical hearing. While our country has Witnessed and endured a tremendous amount of pain and struggle over the past 4 years, I'm committed to working with you and this Committee and the Congress to work tirelessly to improve the lives of our most vulnerable communities and all hardworking Americans.

As we prepare to reform our immigration system to accommodate our Nation's most pressing needs, we must assure that our immigration policies are rooted in our values of compassion, fairness, opportunity, and keeping families together. Therefore, I applaud the Biden-Harris Administration who on day one in office shared their

immigration vision and signed Executive Orders prioritizing immigration reform and national healing.

I think that what matters most to many of us, particularly those of us who have been working on this issue for many, many years, is that we do have to have immigration policy that keeps our families together. It must be a system that keeps our families together. That's why I want to start my questions today with Ms. Hincapié, because I noted that she said that she was one of 10 children, as I am. I know that she shares with me the value of family and faith and working together to ensure that we all get a good education and achieve our American Dream.

So, ma'am, I wanted to start with you because you're with the National Law Center. Last week, I was working with a constituent here in my office who was detained by ICE, in fact, it happened to be the very day of the Corpus Christi court hearing where a Federal District Court judge in Corpus Christi held the ICE deportation pause that the Administration had put in place through Executive Order as unlawful.

What is NILC doing to address this issue? How can we see some opportunities to continue to work together on this issue?

Ms. HINCAPIÉ. Yes, thank you, Representative Garcia. So, yes, the family reunification must be at the core and center of all our immigration policies. It's one of our tenets, and I believe that there's actually bipartisan support for family values and making sure that our families not only are not separated by our immigration policies—like we saw with the Muslim ban, we saw with the termination of DACA and temporary protected status but actually that we are reunifying families, as the Biden Administration has already started to begin the process of doing so with the creation of the task force, for example, for family reunification. Second, making sure that as we create legal channels, as we provide people on a path to citizenship, again, that people are able to stay together as a family, as well as in detention.

I think finally I would say, with respect to the Texas decision last week, which was just a temporary injunction—it did not say that the moratorium was unlawful—it basically said that one small part of that moratorium needed to be put on hold while the legal proceedings continued.

The moratorium that the Biden Administration has announced is critical. As a new Administration, they should be able to say, and have the legal authority to do so, to say we're going to hit the pause button while we decide what are the priorities under this new Administration and make sure that anyone who was in the Trump deportation pipeline does not get deported under the Biden Administration.

Ms. GARCIA. All right. It's my understanding, though, that it was extended 2 more weeks.

Ms. HINCAPIÉ. That's correct.

Ms. GARCIA. Right. So, are you all fighting it in court? Or what are the advocates doing in response to that?

Ms. HINCAPIÉ. Yes. So, there is a group of organizations that did intervene in that lawsuit. We are not part of that lawsuit. So, as interveners, they will get a chance to provide the perspective of im-

migrant families. Separately, the Department of Justice, under the Biden Administration, is also defending the moratorium.

Ms. GARCIA. Okay. Now, I want to move on to some of the ICE detention centers. Of course, we visited several codels, have been to several of them. I've been to many of them as a State Senator, not only here in Texas, but in other places. I'm mostly concerned with the lack of counsel, if you will, for a lot of these folks that are in detention and even through the legal process itself once they leave the detention centers.

So, I wanted to discuss the whole issue of, do you think that we need to make sure that we provide counsel at every stage of every proceeding, or at what point does your center recommend that we look at providing counsel for anyone that is detained by ICE?

Ms. LOFGREN. The gentlelady's time has expired, but we'll ask the Witness to answer promptly.

Ms. HINCAPIÉ. Absolutely. At the National Immigration Law Center, we work with local communities across the Nation to provide funding to provide universal legal representation. The statistics all show that when someone has a lawyer, they comply and show up for their legal proceedings, and then get to be able to go through the legal proceedings. Immigration law is considered one of the most complicated legal labyrinths, separate from tax law. So, again, having legal counsel is absolutely necessary.

Ms. GARCIA. Thank you. I yield back.

Ms. LOFGREN. The other gentlelady from Texas, Ms. Escobar, is recognized for 5 minutes.

Ms. ESCOBAR. Thank you so much, Madam Chair. Thank you for this very important hearing. I want to thank all our panelists for their great information.

I would like to address some things that I have heard through this hearing. I heard from one of our colleagues talk about successes over the last 4 years when it comes to immigration. I've heard from another colleague that we have to, quote, "secure the border before we attempt to address immigration reform," unquote. I've also heard from one of our panelists that our economy is some sort of zero-sum gain, a race to the bottom to preserve low-wage jobs for Americans, especially Americans of color. I find, also, of course, always we hear the talking point of open borders. So, I want to just take a few quick minutes to address that.

I represent the U.S.-Mexico border. I'm the only Member of this Subcommittee and I believe the only Member of the Judiciary Committee that lives, works, represents an actual border community. So, I can tell you, I can assure my colleagues, that we have, as a country, spent hundreds of billions of dollars securing and militarizing the border. The border communities have long been among the safest in the Nation and that we are very proud to recognize ourselves as the new Ellis Island.

I also want to mention that the last 4 years were not a success if you are a humanitarian. The last 4 years, my community bore witness to some of the cruelest anti-immigrant public policy that we will have ever witnessed in our generation. My district was a testing ground for family separation, separation that to this day we have not remedied, but that many of us are committed to remedying. We have seen force feeding in ICE facilities. We have seen

inhumane holding conditions and a complete obliteration of asylum law, among many other horrific practices, that, by the way, never addressed root causes, as Ms. Hincapié mentioned, and that never actually stopped migration.

I would also like to point out that migration has continued and that it will continue until we work collaboratively, which this current Administration has chosen to do with our Western Hemisphere partners.

I want to use a little bit of my time—I wanted to just say I needed to get that out so that I could help share with my colleagues the view from the border, the perspective from the border. I would also like to say, in 2019, I hosted about 20 percent of Congress in codels to the border. Once COVID—we’re past COVID, I invite my colleagues to join me on a visit. I would be delighted to show you the border through my eyes.

Mr. Lettieri, I want to ask you about the economic argument, because there’s so much that is advantageous about immigration. With the declining population, we need young people. As we’ve seen, really there is no impact on wages, study after study has shown, unless, again, we’re in a race to the bottom. As you know, and as you mentioned, immigrants are much more likely to start businesses than American-born citizens. They are more entrepreneurial. Can you discuss how entrepreneurship helps stimulate economic growth?

Mr. LETTIERI. Sure. Thank you for the question, Congressperson. It does so in a number of ways. Entrepreneurship is critical to our economy because it’s a driver of productivity gains, it’s a driver of job creation. Every year, the bulk of net new jobs created come from young and fast-growing companies. So, the engine of job creation really begins with new business formation.

I pointed out in my written testimony this is actually an area that should be a concern to policymakers today because we still have not recovered the startup rates and entrepreneurial activity that we had prior to the Great Recession. In spite of a very long economic expansion that followed, about a decade’s worth of economic expansion, we still haven’t seen startup rates go back up to where they were prior to the Great Recession.

So, again, as we think about immigration policy, my plea to the Committee is to think about its economic potential, particularly in this space of entrepreneurial dynamism and innovation. These are things that are just absolutely critical to our economy and where we know, study after study, the wide body of empirical work that’s been done on this demonstrates that immigrants are very good for American entrepreneurship. If you look at the Fortune 500 and you see that over 40 percent of Fortune 500 companies are founded by immigrants or the children of immigrants, anecdotally and empirically, there is really no argument to be made here that immigration is good for American entrepreneurship. Again, being more intentional about how we encourage that would be one of the key features of immigration reform.

Ms. ESCOBAR. Thank you. I’m out of time.

I yield back, Madam Chair.

Ms. LOFGREN. The gentlelady yields back.

We have three Members from Texas. I now recognize the third gentlelady from Texas, Ms. Jackson Lee, for 5 minutes.

Sheila?

Ms. JACKSON LEE. Thank you very much.

Let me acknowledge the Chair and the Ranking Member for this Committee. Let me be honest, and the virtual meetings pose some difficulties at times in muting and unmuting, but I'm always here and I'm always here at these Committee hearings where I'm called upon to be. So, forgive me for the unmute and mute process on these devices.

I'm delighted that the hearing is a concept that is partly a remedy or a cure, if you will, for the 4 years of devastation and demeaning of immigrants across America. Frankly, leaving the world questioning what our values really are. So, it is important that we start anew almost, having been on this Committee for a number years, to really go bold.

As I do so, let me also indicate that over the years I've served as a Ranking Member of this Committee, we have seen the opportunities taken to use African Americans as a wedge issue, and there are those who are probably listening at this point who happen to be African American, who may feel challenged by the increasing diversity of this Nation, inasmuch as their voices have always been for justice for all. I see that in my community and the collaboration that we have here in Texas, where there is much collaboration between immigrant groups and the African-American community, we do want to make sure that, in fact, all communities, as one of my colleagues said, have justice and access to economic opportunities, the kinds of wages, which include the minimum wage being raised to \$15 an hour, and really just the opportunity for education, business access, and healthcare access. That should be our objective, this is not the Ways and Means Committee or the Energy and Commerce Committee, but this is a Committee that can, in fact, provide an economic engine to this Nation and provide a pathway for citizenship but also for opportunity.

So, first, I'd like to submit into the record a document by Wade Henderson, a friend of ours, of the Leadership Conference on Civil and Human Rights, who's testified numerous times before this Committee.

Mr. Henderson points out—I ask unanimous consent to submit this for the record.

Ms. LOFGREN. Without objection, so ordered.

[The information follows:]

MS. JACKSON LEE FOR THE RECORD

The Leadership Conference
on Civil and Human Rights

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



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

**HEARING ON
THE BORDER SECURITY, ECONOMIC OPPORTUNITY, AND IMMIGRATION
MODERNIZATION ACT, S.744**

**COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE**

APRIL 22, 2013

Chairman Leahy, Ranking Member Grassley, and members of Committee: 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 for inclusion in the record of today's hearing on S. 744, the "Border Security, Economic Opportunity, and Immigration Modernization Act."

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

The Leadership Conference is extraordinarily pleased that Congress is making a concerted effort to move forward this year with a full-scale overhaul of our nation's immigration system. While my staff and I are continuing to study the details of S. 744, and while there are likely to be a wide range of opinions about the bill as it moves forward, I would like to begin my statement by setting out what I hope are a few general points of agreement.

First, I believe that everyone in this debate 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 realistic and more humane immigration enforcement. For many reasons, it is undoubtedly important to know who is coming here and under what circumstances, and to protect communities from people who



would do us harm when they have no authorization to be here. Yet as evidenced by record-high numbers of deportations in the past four years, the notion that the laws are not being enforced is simply not true. The real problem, when it comes to enforcement, is that ongoing efforts – particularly since the implementation of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 – too often take a heavy-handed and even cruel approach. Countless numbers of immigrants – regardless of their legal status – are needlessly locked up and removed, even when detention and deportation do not serve the public interest, because immigration judges and other officials no longer have the ability or the incentive to exercise common sense. At the same time, many of the most complicated and sensitive decisions involving immigration law enforcement are being made in many parts of the country by untrained state and local law enforcement officials, or worse, by private for-profit corporations that have a financial incentive to lock up as many people as possible.

As a nation, we can and should take more sensible measures, such as hiring additional inspectors and border patrol agents to work in ports of entry, making better use of technology, and working more closely with Mexico to cut down on problems like human trafficking and the drug trade. At the same time, enforcement efforts must ensure due process and protect the civil rights of all people who are affected.

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 many immigrants have broken the rules in order to get or stay here. We do not 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 all humans – 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, we believe 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. 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. Other families are kept apart by outright discriminatory federal policies, particularly the wrongly-named Defense of Marriage Act of 1996. Addressing these and numerous other problems in our immigration system is an essential component of the modern civil and human rights agenda.

Immigration Reform and the African-American Workforce

I am mindful that these are challenging times to take up an issue like immigration reform. Our economy is continuing to struggle, leaving far too many of Americans uncertain about their jobs and their economic well-being. Most recently, a horrifying act of terrorism in Boston has caused some to argue – very wrongly, in my opinion – that we should further delay fixing the massive, long-standing problems in our national immigration system. To the contrary, I believe the need for immigration reform remains as strong as ever.

That said, I would like to turn to another important yet complicated issue that affects the immigration reform debate: the impact that immigration 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. 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 half century, 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.

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* than in areas with low levels of recent immigrants.⁶ Finally, a study by the

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 Trasviña, *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.

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.



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 Committee 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 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 early 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 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, as a starting point. His

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.



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, 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 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. 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, including those admitted under the diversity visa program, 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

⁹ Available at <http://www.aflcio.org/content/download/60511/854621/UnityFrameworkAug2009.pdf>.



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 immigration enforcement raid at Howard Industries in Laurel, Miss., 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 unauthorized immigrants or the other elements of comprehensive reform. Our own public opinion research confirms this. Last month, Lake Research Partners conducted telephone polling of 805 African-American likely voters nationwide.

Our most recent polling finds that 75 percent of respondents rate the economy negatively, and 54 percent worry that they or someone in their household will lose a job in the coming year. With respect to immigrants, 45 percent of respondents believe that immigrants take jobs away from Americans, and 51 percent believe that they drive down wages for Americans. Despite these fears, however, we found that 66 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 16 percent opposing such reforms. Furthermore, 72 percent of respondents (69 percent in the Deep South) have a favorable impression of immigrants, with 68 percent believing they contribute to our economy and communities. Only 39 percent believe that immigrants drive down wages for African-American workers, a 20 percent decline since we conducted similar polling in 2007. Finally, our research in this and previous years confirms 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

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.

¹⁰ Polling conducted by Lake Research Partners, for The Leadership Conference on Civil Rights & Leadership Conference on Civil Rights Education Fund, March 25-30, 2013, among 805 African-American likely voters. The results are consistent with similar polling conducted for us by Lake Research Partners, December 8-17, 2007, among 700 African-American voters.



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, from the 2006 reauthorization through the Supreme Court case that is now awaiting a decision, the Voting Rights Act – the most important civil rights law governing our most important civil right – has been under steady attack by many of the same groups and individuals who claim to be interested in protecting black Americans from the effects of immigration. As the 2008 financial crisis began, many of those same individuals dishonestly blamed the Community Reinvestment Act, a decades-old civil rights law that could have in fact reduced predatory subprime lending if it had been more uniformly applied.¹¹ More recently, many have supported budget policies that drastically cut spending in areas that are most important to African Americans such as education and health care, in order to protect millionaires or defense contractors from making sacrifices. Finally, some immigration reduction advocates have even gone so far as to propose rewriting the 14th Amendment of our Constitution,¹² striking at a core foundation of our nation's civil rights protections that is deeply cherished by most African Americans. While there are certainly exceptions,¹³ it is clear that immigration reduction advocates have rarely gone out of their way to be our friends.

This concludes my remarks. Thank you for the opportunity to have my thoughts included in the record of today's hearing. I would be happy to answer any questions you may have.

¹¹ 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/112508ResponsefromBernankeonCRA.pdf> (explaining that he found no evidence to support the claim that the CRA was to blame for the mortgage crisis).

¹² *See, e.g.*, H.R. 140/S. 301, the Birthright Citizenship Act of 2013.

¹³ I would certainly note, for example, 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.

Ms. JACKSON LEE. Thank you.

First, Mr. Henderson points out that there is no consensus among economists on the role immigration plays in longstanding Black unemployment rates. Second, there are a lot of reforms to anti-discrimination labor laws and job training that would far more directly address Black unemployment. Third, African Americans still overwhelmingly support immigration reform that provides a path to citizenship. They really are not eager, these are his words, to appreciate—are not eager and may not appreciate and do not appreciate scapegoating or using them as a wedge.

I will say that there are probably voices that want to have more work, there are voices who want to be in college, there are voices who want to have access to business and access to capital, but we want to do it collectively. I want to say openly, let's do it collectively. I believe if we move this Nation to what H.R. 40, the Commission to Study and Develop Reparation Proposals, we will look globally at the treatment of African Americans and in this country and begin to go boldly.

Let me quickly ask two questions. I can't see the clock, so forgive me, but let me quickly ask a question to Ms. Hincapié on the issue of the importance of moving forward on the legal status of DACA recipients.

Ms. LOFGREN. You have a minute.

Ms. JACKSON LEE. Let me quickly ask Mr. Lettieri on my question of economics and how economics can empower new immigrants, individuals who may get access to citizenship mixed in with African Americans and Black immigrants, which have traditionally been second class as relates to the immigration structure.

So, Ms. Hincapié. Please forgive me, my voice is cracked.

Ms. HINCAPIÉ. No worries. Thank you, Representative Jackson Lee. Yes, so we at the National Immigration Law Center have had the great honor of representing courageous DACA recipients all the way up to the Supreme Court, and we have a temporary victory and represent 1.1 million class members who are DACA recipients or applicants for DACA. DACA is a temporary reprieve from deportation, and here is where we need you and your leadership; we need Congress to pass an improved version of the Dream and Promise Act swiftly so that they can become citizens ASAP.

Ms. LOFGREN. The gentlelady's time has expired. Let's ask Mr. Lettieri to very quickly answer her question, if he could.

Ms. JACKSON LEE. I thank the Chair for indulging. Thank you.

Mr. Lettieri, thank you.

Mr. LETTIERI. Thank you for the question. I think as I said in my testimony, one of the best ways to boost the benefits economically of immigration is to ensure that legacy city communities, which are often very diverse and have large communities of color from all different backgrounds, that they are exposed to the benefits of immigration the same way that large, booming coastal metro areas are. We currently have no intentional policy in that regard, and so those are areas that tend to miss out on the benefits, skilled immigration in particular, could bring to those communities and arrest the decline we see over many decades into the local economies.

Ms. LOFGREN. Thank you.

We now have—

Ms. JACKSON LEE. Thank you.

Ms. LOFGREN. I'd now like to recognize—Mr. Neguse is not here—Ms. Scanlon, the gentlelady from Pennsylvania, for 5 minutes.

Ms. SCANLON. Thank you, Chair Lofgren. Thank you to our Witnesses for being here for this hearing. I'm glad we're having this conversation about all the ways in which immigration can make our country a better and more prosperous place.

I do want to take a minute to address a nuance that we should always keep in mind. I mean, the empirical evidence has been clear for decades that a fair and robust immigration system is critical to our country's economic health, but the value of our immigrant neighbors is not simply a question of dollars and cents. Our immigrant communities bring with them innovation, culture, and resilience. We're lucky to have people from all over the world seek a brighter future in our borders.

In my district, 1–10 of my constituents are foreign born. Our immigrant neighbors drive innovation in business, educational excellence at our universities, and make immeasurable cultural contributions. My district's home to some of the largest immigrant populations from Ireland, Liberia, and Cambodia, in the U.S. In the schools in Upper Darby Township, which a township of 80,000 people, they speak more than 80 languages and dialects. We have folks who are Bengali, Sikh, Central American, Greek, and Korean. People from southeast Asia, Venezuela, Eritrea, Armenia, Bhutan, and a host of African countries call my district home. One of the leading drivers of our regional economy is research and technology, which is reliant upon talented foreign workers. So, all of which is to say that this is a huge and very important issue for my district.

Mr. Lettieri, you testified about entrepreneurial energy that immigrants bring to our community, and I certainly see that in my district. To paraphrase Lin-Manuel Miranda, immigrants get the job done.

So, we heard the research about immigrants being almost twice as likely to start businesses, and your report concludes that maybe we need a heartland visa. Can you just discuss a little bit more about how that would work and how it could revitalize some of the areas where we have population decline?

Mr. LETTIERI. Sure. Thank you for the question. So, what I called for in my testimony is really a two-prong approach to expanding the ways and opening new doors for skilled immigrants to connect with American communities. One is through a heartland visa, which would be targeted to places that are struggling economically and demographically. The second would be through a Startup Visa. Now, that would specifically open a door for immigrant entrepreneurs, much like more than a dozen other countries already do for the exact same type of talent that we turn away.

Both of those would have enormous job-creating, wealth-creating, economic growth-creating effects because simply what we know about the way that skilled immigrants interact with our economy. We see this in study after study. We see this in local communities as well.

Many of the communities that would be eligible for a heartland visa, the only reason that their economies have started to turn around recently, the only reason that they are seeing positive population growth is because they've been very intentionally more welcoming to immigrants. So, the economic potential there is very clear.

It's important to think about what happens if we don't take an approach like this. When you lose population, you're seeing a shrinking tax base, demand for local businesses, and degradation of local services, which encourage more people to leave, and you get into this downward spiral that's very hard to reverse. That need not be so, but this is just one of those areas where we have failed to connect the dots that immigration can be such a powerful economic development tool where we align the interests of communities with the aspirations of would-be immigrants.

Ms. SCANLON. In some of the areas in my district where there've been kind of a downgrading of the economy, ect., I'm thinking specifically of the African area of southwest Philadelphia, which is experiencing a revitalization as a result.

I wanted to get to a question for Professor Hunt. We've heard some discussion about the impactability of illegal immigrants on wages for low-income Americans. What we're talking about here is providing status for undocumented workers, bringing them out of the shadows, which I would think would make it harder for unscrupulous employers to pay substandard wages, or impose unsafe or illegal conditions with impunity. Can you talk about that a little bit?

Ms. HUNT. I agree with you. When workers have legal status, they have greater bargaining power that will increase their wages, and as an earlier witness said, they'll be more able to report poor workplace practices without fear of reprisal.

Ms. SCANLON. Okay. Making the workplace safer for everyone.

Ms. LOFGREN. The gentlelady's time has expired.

I think Mr. Buck and Mr. Roy were unable to return. So, I will now recognize myself.

First, I'd ask unanimous consent to put into the record statements from 17 organizations on this subject.

Without objection, so ordered.

[The information follows:]

MS. LOFGREN FOR THE RECORD

**ALLIANCE FOR
IMMIGRANT SURVIVORS**

February 10, 2021

Congressman Jerrold Nadler
Chair, House Judiciary Committee
2132 Rayburn House Office Building
Washington, DC 20515

Congresswoman Zoe Lofgren
Chair, Subcommittee on Immigration and
Naturalization
House Judiciary Committee
1401 Longworth House Office Building
Washington, DC 20515

Congressman Jim Jordan,
Ranking Member,
House Judiciary Committee
2056 Rayburn House Office Building
Washington, DC 20515

Congressman Ken Buck
Ranking Member, Subcommittee on
Immigration and Naturalization
House Judiciary Committee
2455 Rayburn House Office Building
Washington, DC 20515

Re: *The Needs of Immigrant Survivors and Comprehensive Immigration Reform*

Dear Chairman Nadler, Ranking Member Jordan, Congresswoman Lofgren and Congressman Buck,

As Congress moves forward in addressing our nation's immigration laws, we urge members to support provisions that protect immigrant survivors of domestic violence, sexual assault, human trafficking, and exploitation. Abusive partners, opportunistic predators, and manipulative employers often exploit victims' lack of immigration status, or dependent immigration status, as a way to maintain power and control and to keep victims silent. Victims of violence should never be forced to have to choose between living with abuse and facing deportation.

Congress sought to address this through the enactment of immigration provisions in the Violence Against Women Act in 1994 (VAWA), creating the "self-petition," which allows certain victims of domestic violence to apply for status without having to rely on their abusive spouses or parents. Since the initial passage of VAWA, Congress has reaffirmed its commitment to protecting immigrant victims from abuse through the "U" crime-victim visa, created in VAWA 2000, for those victims able to assist in the investigation or prosecution of certain crimes, and the "T" visa for victims of trafficking. Congress went on to further expand and strengthen these immigration protections in VAWA 2005 and VAWA 2013.

Unfortunately, despite current protections in US immigration law intended to address abuse and exploitation, many obstacles to immigrant survivors' access to safety and justice still remain. Over the last few years, the purpose and intent of VAWA's protections for immigrant survivors have been deeply undermined by heightened and indiscriminate immigration enforcement, as well as severe processing delays. Indeed, many immigrant women have found, and continue to find themselves in abusive or exploitative situations due to their lack of immigration status. For example:

- **Increased risk of violence in the home.** Immigrant victims of domestic violence are frequently threatened with deportation by their abusers, increasing their reluctance to seek help from the authorities or services.¹
- **Increased vulnerability to losing their children.** Undocumented individuals face an ongoing threat of deportation and for many with U.S. citizen children, this could mean separation from their children, who would likely be forced to live in foster care or with an abuser.²
- **Increased exploitation in the workplace** is a reality for many undocumented individuals, who often face poor working conditions, sexual abuse and harassment, and wage theft because they cannot obtain work authorization.³

In order to decrease the vulnerability of undocumented immigrants in the U.S. to victimization and abuse, **first and foremost, legislative solutions must include an earned pathway to legal status, with the possibility of citizenship**, that will ultimately help prevent further abuse and exploitation.

Second, abused dependent spouses and children must be provided a route to protect their immigration status. If abused immigrants rely on a spouse or parent for their own legal status, they should be provided an opportunity to independently petition for legal status rather than having to choose between deportation and continued abuse. For example, Congress should ensure that **all new pathways to citizenship**, such as lawful temporary immigrant status, which provide status for spouses or children made dependent on the primary applicant, must **also include a self-petition protection** (or an “off-ramp”) **in the event of abuse or exploitation**, so that victims are not forced to choose to stay in abusive relationships awaiting the conclusion of the immigration process. Furthermore, **abused spouses and children of nonimmigrant visa holders** (those who are here for temporary work or education purposes) should be permitted to maintain their own non-immigrant status so that they need not remain in abusive relationships to maintain their immigration status.

Third, Congress should **reduce trauma** experienced by immigrant victims by eliminating the detention or removal of victims and witnesses, with very limited exceptions. Advocates around the country have reported that immigrant survivors have been placed in detention, and in removal proceedings,⁴ resulting in the deportation of victims otherwise eligible for status under VAWA or the TVPA. In addition, the **confidentiality protections for survivor-based**

¹ Edna Erez & Shannon Harper, *Intersectionality, Immigration and Domestic Violence*, in *The Handbook of Race, Ethnicity, Crime, and Justice*, 457 (Ramiro Martínez, Jr., Meghan E. Hollis, and Jacob I. Stowell eds., 2018)

² David Thronson, and Judge Frank Sullivan, *Family Courts and Immigration Status*, 63 *Juvenile and Family Court J.* 1, 2012, 1-18.

³ Eunice H. Cho, Giselle Hass, & Leticia M. Salcedo, *A New Understanding of Substantial Abuse: Evaluating Harm in U Visa Petitions for Immigrant Victims of Workplace Crime*, 29 *Georgetown Immigration L.J.* 1, 2014, 1-43.

⁴ See, e.g. Alexandra Villareal, *US deporting crime victims while they wait for special visa*, Associated Press (July 18, 2018), available at: <https://www.apnews.com/81c9280f78bb4f899d7ad2f64a0240a8>. (last accessed February 9, 2021)

protections should be strengthened to limit information-sharing with Immigration and Customs Enforcement, to encourage victims to come forward to seek immigration relief.

Fourth, Congress should ensure the availability of “U” crime victim visas. Congress envisioned the U visa as a powerful tool for law enforcement: to promote public safety by encouraging immigrant victims to come forward, report crimes, and cooperate with law enforcement in investigations and prosecutions. The annual **allotment of U visas should be eliminated, or at the very least raised to meet the need,**⁵ and the process should be more **flexible for those who face barriers in obtaining certification** from a law enforcement agency. The scope of these visas should be expanded to encompass **child abuse and elder abuse as qualifying crimes** to assist these vulnerable victims, as well as those subjected to **unfair labor practices**, promoting increased safety and connection to support for survivors.

Fifth, support survivor self-sufficiency and remove vulnerabilities to further victimization by making public supports available for immigrant survivors. Economic barriers prevent victims from leaving violent relationships and recovering from the abuse. Congress must **improve and protect survivor access to critical safety-net benefits**, including healthcare, food, housing, and economic supports, to help survivors and their children avoid having to face the choice of remaining with abusive partners or staying in exploitative jobs or becoming homeless, and allow them to obtain medical care to recover from the abuse, both physically and psychologically, so they may pursue better paths to safety and stability.

In addition, **grant employment authorization to applicants seeking victim-related protections who currently struggle to survive during the long pendency of their applications.** USCIS processing times are at crisis levels. A report by the American Immigration Lawyers Association (AILA) shows that average processing times continued to climb, and the average case processing time has now risen by 101 percent from FY14 through FY19.⁶ Processing times for survivor-based forms of immigration protections like VAWA self-petitions and U and T visas have skyrocketed, undermining the effectiveness of these critical benefits. VAWA self-petitions now take between 18 and 23 months to be adjudicated.⁷ USCIS’ posted processing times for T visa applications for victims of human trafficking are between 19 and 29 months,⁸ In the case of U visas, the delay is even more egregious, as there is nearly a five-year backlog in the adjudication process. Current processing times for I-918 U visa petitions show that adjudications can take between 58 and 58.5 months.⁹ This is the posted time for placing

⁵ See, https://www.uscis.gov/sites/default/files/document/reports/I918u_visastatistics_fy2020_qtr4.pdf (As of the end of FY 2020, there were 161,708 applicants with pending U-visa petitions, and additional derivatives (e.g. victims’ children) languishing in limbo).

⁶ American Immigration Lawyers Association. “AILA Policy Brief: Crisis Level USCIS Processing Delays and Inefficiencies Continue to Grow” (February 26, 2020), available at <https://www.aila.org/advo-media/aila-policy-briefs/crisis-level-uscis-processing-delays-grow>

⁷ See USCIS Processing Times at <https://egov.uscis.gov/processing-times/> for processing times for I-360 VAWA self petitions adjudicated at the Vermont Service Center

⁸ *Id.* for processing times for I-914 Application for T Nonimmigrant Status processed at Vermont Service Center

⁹ See USCIS Processing Times at <https://egov.uscis.gov/processing-times/> for processing times for I-918 Petition for U Nonimmigrant Status adjudicated at the Vermont or Nebraska Service Centers

cases on the **U visa waitlist**, not the issuance of a full 4-year U visa. USCIS's own estimates show it could take between 5 and 10 years for applicants to obtain a U visa depending on when they filed.¹⁰ These egregious wait delays contribute to significant barriers for survivors including risks of violence, exploitation, manipulation, and trauma.

Sixth, put forth policies that encourage immigrant survivors of violence to come forward without fear. The last administration's policy changes left immigrant survivors of violence more vulnerable to threats from abusers and more fearful that they would be deported and separated from their children and communities.¹¹ A 2019 survey of 565 victim advocates and attorneys across the United States who work with immigrant victims revealed that over ¾ of respondents had worked with victims who were concerned about calling the police or accessing the court system for a civil or criminal matter related to the harm they had experienced.¹² Other research shows that immigrant victims of domestic violence without legal status can be half as likely to call police as those with stable legal status.¹³ Local police cooperation with immigration enforcement will heighten a victims' fears that a call to 911 could lead to their deportation, and reduce community trust. Keeping immigrant victims and witnesses in the shadows also serves to undermine overall public safety, as data from communities where local law enforcement agency policies limit assisting federal immigration enforcement by holding individuals beyond their release date without a court order have statistically lower crime rates.¹⁴

Similarly, as Congress addresses immigration legislation, **reject overly-harsh penalties that expand** grounds of inadmissibility, ineligibility, or deportability for domestic violence or sexual assault, which serve to doubly punish non-citizens in disparate ways, especially when these provisions fail to provide the ability to examine the underlying circumstances, or provide adequate humanitarian waivers. Such crime related restrictions **can actually have a negative impact on victims** by creating a chilling effect on their help-seeking. Many immigrant victims will be discouraged from contacting law enforcement for help if they know their family members will be deported with no possible waiver (including individuals with Lawful Permanent Residency status), or if they themselves risk arrest and deportation. This decrease in crime reporting will lead to communities that are less safe and in which victims are more isolated.

¹⁰ USCIS, U visa Filing Trends (April 2020), available at https://www.uscis.gov/sites/default/files/document/reports/Mini_U_Report-Filing_Trends_508.pdf

¹¹ See, e.g. Jesse Paul, *Colorado advocates see rise in immigrant domestic violence victims reporting deportation threats by their abusers*, Colorado Sun (July 29, 2019), available at <https://coloradosun.com/2019/07/29/colorado-domestic-violence-immigration-threats/> (last accessed February 9, 2021)

¹² Asian Pacific Institute on Gender-Based Violence, ASISTA, Casa de Esperanza, Tahirih Justice Center, et.al, *2019 Advocate and Legal Service Survey Regarding Immigrant Survivors* (2019), available at: <http://alturl.com/ta315>; Cory Englebrecht, *Fewer Immigrants Are Reporting Domestic Abuse. Police Blame Fear of Deportation*, New York Times (June 3, 2018), available at <https://www.nytimes.com/2018/06/03/us/immigrants-houston-domestic-violence.html> (last accessed February 9, 2021)

¹³ Leslye Orloff, Mary Ann Dutton, Giselle Aguilar Hass, & Nawal Ammar, *Battered Immigrant Women's Willingness to Call for Help and Police Response*, 13 UCLA Women's L. J. 43, 60 (2003). Tragically, many abused immigrants do not have legal immigration status precisely because their abusive spouses have deliberately blocked or withheld that status as a tool of abuse.

¹⁴ Tom Wong, *The Effects of Sanctuary Policies on Crime and the Economy*, Center for American Progress (2017), available at: <https://www.americanprogress.org/issues/immigration/reports/2017/01/26/297366/the-effects-of-sanctuary-policies-on-crime-and-the-economy/> (accessed February 8, 2021)

Seventh, **immigration enforcement activities should not be permitted in locations where survivors of violence go to seek assistance**, such as courts, victim services organizations, hospitals, churches and shelters without exigent circumstances.

Eighth, **protections for asylum-seekers** should be strengthened to meet the unique needs of women and girls through critical reforms so that victims of persecution are not returned to face violence and torture and so that their cases are adjudicated fairly. Recent policies, such as the Migrant Protection Protocols, expansion of expedited removal, expanded family detention and “zero-tolerance” policies have severely harmed survivors fleeing persecution. In particular, **making it clear that those fleeing gender-based persecution can be eligible for asylum, and eliminating the asylum-filing deadline** particularly impacts survivors of domestic violence and sexual assault. Women fleeing gender-based persecution (like female genital cutting, forced marriage, or “honor” violence), often do not know that they could be eligible for asylum, let alone that there is a time limit to apply.

Supporting and strengthening the purpose and intent of immigration protections created in the Violence Against Women Act, the Trafficking Victims’ Protection Act, and our nation’s asylum laws through these recommended measures will help protect victims and help make our communities safer. We urge you to include provisions that will help strengthen the protections for survivors of sexual assault, domestic violence, and other gender-based violence in future immigration reform legislation. If you have any questions or concerns, please contact the co-chairs of the Alliance for Immigrant Survivors:

Grace Huang at the Asian Pacific Institute on Gender-Based Violence (gjuang@api-gbv.org),
Cecelia Friedman Levin (cecelia@asistahelp.org),

Archi Pyati at Tahirih Justice Center (ArchiP@tahirih.org) or

Rosie Hidalgo at Casa de Esperanza: National Latin@ Network for Healthy Families and Communities (rhidalgo@casadeesperanza.org).

Thank you for your leadership throughout this process, and we look forward to working with you on these important issues.

Sincerely,

THE ALLIANCE FOR IMMIGRANT SURVIVORS



Statement of
Asian Americans Advancing Justice | AAJC

Submitted to:
**The House Judiciary Subcommittee
Subcommittee on Immigration and Citizenship**
for
Hearing Titled
“The U.S. Immigration System: The Need for Bold Reforms”

February 11, 2021

Contact Information: Megan Essaheb, Director of Immigration Advocacy, Asian Americans Advancing Justice | AAJC

Asian Americans Advancing Justice | AAJC appreciates this opportunity to submit a statement for the record of today’s hearing on “The U.S. Immigration System: The Need for Bold Reforms.” We write to express our strong support for a path to citizenship for (1) 11 million undocumented immigrants currently living in the U.S. including DACA recipients and for those with temporary status including people with Temporary Protected Status; and (2) Rep. Judy Chu’s Reuniting Families Act, which would update and modernize our immigration system.

Advancing Justice | AAJC works to advance the human and civil rights of Asian Americans through advocacy, public policy, public education, and litigation. Founded in 1991, Advancing Justice | AAJC is one of the nation’s leading experts on civil rights issues of importance to the Asian American community including immigration and immigrants’ rights, census, hate incidents, language access, technology, and telecommunications, and voting rights. We are part of the national affiliation, Asian Americans Advancing Justice comprised of five leading organizations advocating for the civil and human rights of Asian Americans and other underserved communities to promote a fair and equitable society for all. The affiliation’s members are: Advancing Justice | AAJC (Washington, DC), Advancing Justice - Asian Law Caucus (San Francisco), Advancing Justice - Los Angeles, Advancing Justice - Atlanta, and Advancing Justice - Chicago.

Asian Americans Advancing Justice co-convenes the Value Our Families campaign. The Value Our Families Campaign exists to protect, preserve, and strengthen the family immigration system and promote an immigration system that is informed by love, empathy and justice. We are a network of local and national community-based and advocacy organizations who reject attacks and proposed harmful changes to our current family-based immigration system. We see to build public support for an immigration system that protects and promotes family unity and contributes

to the American social and economic fabric. Value Our Families also supports passage of Rep. Judy Chu's Reuniting Families Act. See valueourfamilies.org for more information.

Legalization

Immigration is an important issue to Asian Americans. 92% of Asian Americans are immigrants or the children of immigrants. According to AAPIdata.com, there are around 1.7 million undocumented Asian people living in the U.S. Advancing Justice | AAJC supports a path to citizenship for the 11 million undocumented immigrants, including DACA recipients and TPS holders. We were very pleased to see the pathways to citizenship outlined in President Biden's factsheet on the US Citizenship Act. The over 120,000 Asian DACA-eligible population and close to 15,000 TPS recipients from Nepal would be eligible for the faster pathway to citizenship. So many of the 11 million undocumented immigrants are essential workers, small business owners or their family members who care for children, the elderly and the disabled so their family members can work. Like the 1965 Immigration and Nationality Act, President Biden's US Citizenship Act.

The Reuniting Families Act

Our current predominantly family-based immigration system was established by the Immigration and Nationality Act of 1965 (INA of 1965) to end the previous racist national origin quotas that began with the Chinese Exclusion Act of 1882 and which heavily favored immigrants from Northern and Western Europe. Today, the vast majority of immigrants coming to the U.S. through the family-based system, diversity lottery and refugee program are underrepresented people of color.

While our immigration system that centers family while promoting diversity has worked well for the U.S., it is outdated and long overdue to be updated. Years of bureaucratic processing delays and Congress's inability to act and keep up with population growth and labor market needs has resulted in extreme backlogs in the green card programs and a large undocumented population prohibited from being sponsored by harsh bars and decades-long waits. There are close to 4 million family-members in line to be sponsored through the family-based preference categories.¹ Some families wait for decades to be reunited with their loved ones. Nationals from Mexico, the Philippines, India, Vietnam and China have the longest wait times. It is past time for Congress to fix these problems and improve our immigration system.

The majority of Asian Americans have come to the U.S. through the family-based system. The expected inclusion of much, if not all, of Congresswoman Chu's bill in President Biden's bill presents a major victory for the Asian American advocates and activists who have worked for four years to defend the family-based system under the Trump administration and the Asian American voters who turned out in record numbers in the election. The Reuniting Families Act would resolve these problems. It would:

¹Annual Report of Immigrant Visa Applicants in the Family-sponsored and Employment-based preferences Registered at the National Visa Center as of November 1, 2019.
https://travel.state.gov/content/dam/visas/Statistics/Immigrant-Statistics/WaitingList/WaitingListItem_2019.pdf

- clear the family-based and employment-based backlogs, raise the country caps and reclassify lawful permanent residents as immediate relatives, provide relief for orphans, widows and stepchildren and protect the families of H-4 visaholders from losing work authorization or status;
- promote and preserve diversity by increasing diversity visas;
- provide equality for same sex partners in our immigration laws; and
- provide enforcement relief in our immigration system through eliminating the 3 and 10 year bar and providing family unity waivers of inadmissibility and deportability grounds.

When considering visa reforms, it is important to highlight the aging demographics of the U.S. In 2060, nearly one in four Americans will be 65 or older – double the number today.² Natural population growth is slowing and immigrants fill gaps in essential industries. The pandemic has elevated the importance of family as people have relied on extended family to help with childcare and care for elderly, sick or disabled family members so that others can continue to work.

While our employment-based system serves particular and important needs in our economy, our family-based and diversity visas along with our humanitarian programs have allowed immigrants to fill shifting labor market needs as they arise. This is particularly the case for jobs that do not require an advanced degree. Jobs in growing fields such as care work and health care as our population ages and growing service sector jobs in food preparation delivery such as the workers who have brought us and our loved ones food and other essentials during this pandemic.

Many immigrant families are also entrepreneurs. This point sticks out when we compare our system to Canadian immigration system. In the U.S., immigrants started 28% of all new U.S. businesses in 2011, despite accounting for just 12.9% of the U.S. population. Together, families pool capital to start businesses and build homes. Many immigrant business owners came through our family-based immigration system. A person's educational attainment is not the sole measure for the creativity, entrepreneurial spirit, or grit to open a small business or create innovation.

Reuniting families through the immigration system is not only humane - recognizing that for many people, families are a source of love and support - but also contributes to stability, prosperity and stronger communities: having support networks increases the odds of people succeeding and contributing to their communities. This focus on family unity is one reason the United States has been able to attract talented immigrants, and that family-based immigration encourages dynamism, learning and flexibility.

As we rebuild our economy after the COVID-19 pandemic, immigrant workers will continue to play pivotal roles in filling essential jobs and jobs where there are labor shortages. Those workers deserve the opportunity to become full and equal members of our society. Immigrant

² National Immigration Forum, "Room to Grow: Setting Immigration Levels in a Changing America."
<https://immigrationforum.org/wp-content/uploads/2021/02/Room-to-Grow.pdf>

workers and New American citizens too deserve to be able to reunite with family members abroad to provide emotional and tangible support.

Advancing Justice | AAJC urges Congress to include the legalization and Reuniting Families Act in the COVID relief budget reconciliation package. We note that according to the 2013 Congressional Budget Office (CBO)'s [cost estimate](#) for the Senate's comprehensive immigration reform bill (S.744), found that the bill would yield \$197 billion in deficit reduction over the first 10 years, and \$690 billion in deficit reduction during the following period between 10-20 years. This is largely due to the provisions clearing the green card backlogs and increasing permanent immigration, thereby increasing the working age population who in turn increase tax revenue and GDP. This is the year for Congress to finally pass legislation that offers the 11 million undocumented immigrants a path to citizenship and reforms and modernizes our visa system prioritizing family unity and diversity.

BOUNDLESS

2101 4th Ave. • Suite 850 • Seattle, WA 98121 • 1-855-268-6353 • be@boundless.com • www.boundless.com

**Statement of Boundless Immigration Inc.
Submitted to the Immigration and Citizenship Subcommittee of the
U.S. House of Representatives Committee on the Judiciary**

Boundless Immigration Inc. submits this statement for the record to provide the House Judiciary Subcommittee on Immigration and Citizenship with data relevant to its February 11, 2021 hearing on “The U.S. Immigration System: The Need for Bold Reforms.”

Boundless is a Seattle-based technology company that empowers families to navigate the immigration system more confidently, rapidly, and affordably.

This statement includes sections on the following topics, with links to more detailed resources:

- I. Family-based immigration
- II. Naturalization
- III. Undocumented immigrants

I. Our Family-Based Immigration System Too Often Keeps Families Apart

As part of his proposed immigration bill, the [U.S. Citizenship Act of 2021](#), President Biden calls for [an overhaul of family-based immigration](#) and an undoing of the Trump administration’s [systematic dismantling](#) of the legal immigration system.

One of the most egregious policies enacted in recent years is the [public charge rule](#), essentially an income test that makes it much harder for non-wealthy families to obtain green cards. The rule, [now under review by the Biden administration](#), goes against our core American values of inclusion and equality of opportunity. In addition, the Trump-era Presidential Proclamation 10014 continues to ban entry by all family-based immigrants except for the spouses and minor children of U.S. citizens, which we estimate is [blocking 358,000 individuals per year](#). Such policies that work to keep families apart have no place here, a nation built on the contributions of immigrants.

President Biden has also proposed shortening [lengthy green card wait times](#) and increasing [per-country green card caps](#). In some family-based visa categories, relatives are currently slated to wait [more than 100 years to receive a green card](#), which means that many close family members

of U.S. citizens will die before they are reunited with their families. We need to remove these unnecessary barriers to ensure that families can live and prosper together.

II. The Naturalization Backlog Negatively Impacts the U.S. Economy

The United States must streamline and simplify the naturalization process. Naturalization [benefits the economy](#) — naturalized citizens earn 8-11% more annually than non-naturalized immigrants, and if half of all those eligible were to naturalize, the increased earnings could boost GDP by up to [\\$52 billion a year](#). Currently, nearly 9 million immigrants qualify for U.S. citizenship, but the backlog in processing applications has left [more than 700,000 green card holders in limbo](#). Although the [coronavirus pandemic](#) temporarily froze naturalization interviews and [oath ceremonies](#), processing times were increasing long beforehand. It now takes U.S. Citizenship and Immigration Services (USCIS) around 10 months on average to approve a citizenship application, more than double the [processing time](#) between 2012 and 2016.

III. Protecting Undocumented Immigrants from Deportation Delivers Major Economic and Civic Benefits

Since it was first launched in 2012, the [DACA](#) (Deferred Action for Childhood Arrivals) program has protected around 800,000 young people from deportation. The Trump administration repeatedly tried to eliminate the program, and barred first-time DACA applicants from applying. But late last year, the federal courts [reinstated the program](#), and now President Biden proposes to create a pathway to citizenship not only for DACA recipients, but for all 11 million undocumented immigrants currently living in the United States.

Such bold reforms would deliver major economic and civic benefits. In 2017, DACA-eligible individuals and [Temporary Protected Status \(TPS\)](#) holders [held \\$25.2 billion in spending power](#) and contributed more than \$5.5 billion in taxes. When people no longer fear deportation, they also tend to become more engaged and active in their communities, and feel a greater sense of belonging.

According to [a recent Boundless report](#), nearly half the DACA recipients surveyed said they became more politically active after their application was approved, and 52% reported becoming more involved in their community. Their economic prospects also greatly improved — prior to approval, only 45% of DACA recipients were employed compared to 88% who reported having a job after they were approved. In addition, their average annual earnings increased from \$22,595 to \$47,979 per year.



Written Statement from Bridges Faith Initiative (BFI)

House Judiciary Committee

**A Hearing of the Subcommittee on Immigration and Citizenship:
*The U.S. Immigration System: The Need for Bold Reforms***

Thursday, February 11 2021, Rayburn House Office Building, 2141

I. Introduction

Bridges Faith Initiative (BFI) appreciates the Judiciary Committee Subcommittee on Immigration and Citizenship for holding this critical hearing, “The U.S. Immigration System: The Need for Bold Reforms.” As a national faith-based non-for-profit organization that is on the frontline, fighting for immigrant justice, our moral compass guides us to advocate for policies and laws that keep families together, protects vulnerable individuals, and treats everyone with human dignity. Afterall, unless we are Native American, we all have an immigrant story in the United States. Immigrants are not only people we should welcome, immigrants are us, our family, our neighbors, and our friends.

Over the past four-years we have been in crisis mode, pushing back on hundreds of newly introduced immigration rules, regulations, and policies that have inflicted unnecessary cruelty, hardships, and endangered the lives of the communities we support. That the past administration’s hundreds of policies and deterrence-based immigration approach has profoundly damaged our immigration system is reflected by the build-up of refugee camps at our Southern border, the mistreatment of unaccompanied children, separation of families, and the reduction in due process and access to justice afforded immigrants coinciding with an exponential growth in immigration detention facilities.

Many problems resounding in our immigration system today are attributable to the past administration, but many more are due to systematic flaws and that existed long before the Trump administration. Nonetheless, it is clear, the U.S. immigration system is inherently weak, and, so long as this is the case, implementing humanitarian protections and immigration laws will continue to fall foul to political exploitation.

BFI believes that bold action on immigration reform is needed, so long as these efforts translate into sensible, human-centered reforms that reflect contemporary realities. To this end, BFI is submitting this statement for the record to shine the spotlight on some of the egregious border policies that contradict our laws and moral values and offer recommendations on actions Congress can take that will have immediate, life-saving impacts in the lives of children, families and individuals. Notably, we are advocating for restoring and transforming our asylum system, protecting children, and rooting out systemic racism.

II. **Bold Immigration Reform Means Strengthening and Transforming our Immigration System so Fewer Children, Families and Asylum Seekers are placed in harms way**

Under U.S. [domestic law](#) and international treaty commitments, seeking asylum is lawful, however, policies and actions taken by the prior administration have made it extremely difficult for individuals fleeing for their lives to seek asylum. As it currently stands, the U.S. asylum system has been decimated by numerous regulatory actions, memos, proclamations, Executive Orders, and immigration agency policies. Under the guise of the pandemic the administration fulfilled its ultimate goal of bringing an end to asylum, even for unaccompanied children, by directing the CDC to issue an [order](#) to not allow individuals traveling without documents to enter the U.S. border. Consequentially, CBP has been bestowed with discretionary power to rapidly expel asylum seekers back to the harm that they fled from instead of allowing for individuals to be screened at the border.

Bold steps must be taken by Congress not only to right the wrongs of the past administration, but to pave the way for a better tomorrow-where protecting the lives of individuals at the border is central to our asylum system. Being bold means ending bad policies that are designed to deter asylum seekers, emanate from racial bias, ignore facts, and leaping forward with policies that do what our immigration system should do-treat people with dignity and respect. With this in mind, BFI recommends that Congress act swiftly to end Metering, Migrant Protection Protocols, and Title 42 and enact immigration reforms that will positively impact and protect asylum seekers, children and their families.

(1) Metering

[“Metering”](#) is a policy championed by the Trump administration whereby asylum seekers that arrive at a port of entry are told to wait in Mexico, usually placing their names on a list, until Customs and Border Patrol (CBP) officers determine that a particular port of entry has capacity to process them. Metering provides CBP with unbridled discretionary powers to determine who can and cannot enter the U.S. to seek asylum. As a result, [the legality of this policy is](#) tenuous at best, and horrific in practice as it overlooks the dire humanitarian needs and plight of asylum seekers and dehumanizes individuals by reducing them to a number.

On October 27, 2020, the Department of Homeland Security (DHS) Office of the Inspector General (OIG) released a report based on their investigation into metering, [CBP Has Taken Steps to Limit Processing of Undocumented Aliens at Ports of Entry \(dhs.gov\)](#). One of the main findings was that DHS leaders and CBP officers lied about processing capacity at ports of entry in order to justify

turning away asylum seekers. The [DHS OIG report](#) also found that then-Secretary Nielson, “told the ports that processing inadmissible aliens (who include asylum seekers) was not one of CBP’s main priorities, and they should consider re-assigning staff away from processing such aliens to focus instead on detection and apprehension of narcotics and currency smugglers.”

BFI recommends ending metering to right the Trump administration’s misguided policy and for Congress to take bold action to reform CBP. An agency with [rampant racism](#) and [white nationalism](#) should not have full control over the border and unfettered power to determine when, where, and who can and cannot seek asylum. There must be more Congressional oversight and efforts directed towards rooting out systemic racism and white nationalism at CBP. Finally, to better protect vulnerable unaccompanied children, Congress should take note of recommendations from the [American Academy of Paediatrics](#) and other child welfare experts and enact legislation making it mandatory for CBP stations to have child welfare experts not just border enforcement officers at ports of entry.

(2) Migrant Protection Protocols (MPP)

The second anniversary of the Migrant Protection Protocols (MPP), commonly referred to as, [Remain in Mexico](#), just passed on January 29. Under this policy migrants, asylum seekers that arrive on our southern border are forced to wait in Mexico until the conclusion of their immigration hearings. BFI was thrilled to hear that the [Biden administration has stopped](#) enrolling migrants in MPP, however, we are extremely concerned for the livelihood of thousands of individuals, including children, hundreds of toddlers and babies that have been returned to Mexico ¹.

On October 11, 2019, [Reuters News](#) was the first to report the following data collected by the Executive Office Immigration Review (EOIR) on children returned to Mexico since January 2019:

- 16,000 children under 18 years of age
- 4,300 children under 5 years of age
- 481 toddlers
- 500 infants

To put the data in perspective, as of October 3, 2019, 1/3rd of the 50,000 individuals who were returned to Mexico were children. While the sheer volume of children that have been sent to

Mexico is disturbing, BFI is appalled with dangerous and unhygienic living conditions that children are subjected to while having to wait for their immigration court hearings to conclude, which can take weeks to years. Essentially, the policy writ large has been allowed to continue without adequate child welfare protections. This, BFI, finds deplorable and we encourage Congress to conduct more oversight and investigate the plight of children returned to Mexico and allocate funding to community organizations that can help provide support to asylums seekers and families once they are permitted to enter the U.S.

As it is currently being implemented, the 'Remain in Mexico' policy is harmful to children in that it:

- Exposes them to actual and threats of violence,
- Increases their likelihood of catching life-threatening illness,
- Denies them of educational opportunities,
- Compounds the trauma that they have experienced in their home country, and
- Fails to ensure that children's basic needs are met like clean water, food and shelter.

BFI appreciates the Biden administration for taking immediate action to stop enrolling individuals in MPP, however, this crisis will not be over until every person enrolled in MPP is brought to safety and has their day in court.

(3) Centers for Disease Control and Title 42 Expulsions

Since March 2020, purportedly in response to the pandemic, the administration has been expelling asylum seekers, including unaccompanied children as opposed to affording them an opportunity to request asylum. Authority to expel asylum seekers at the border comes from the Center for Disease Control [Order suspending the right to introduce certain persons into the United States from countries where a quarantinable communicable disease exists](#). To this day, CBP has been using the order to rapidly turn away asylum seekers, without giving them the opportunity to seek asylum, even if they express a fear of persecution. From March 2020-October 2020, [204,000 migrants and asylum-seekers](#), including [8,800 unaccompanied children](#) have been expelled.

BFI is grateful that the [Biden administration](#) has called for the end to Title 42 expulsions for unaccompanied children. However, we are deeply concerned with the known and unknown harms that this policy has had in the lives of unaccompanied children and asylum seekers and urge Congress to take additional actions to prohibit all Title 42 expulsions. [Public health and medical](#)

[experts](#) have also weighed in to express their concerns with using the pandemic as a justification for expelling asylum seekers and arguing that:

The United States has the ability to both safeguard public health in the midst of the COVID-19 response and safeguard the lives of children, families and adults seeking asylum and other humanitarian protection at the U.S. southern border, as public health experts have [repeatedly stressed](#) in letters urging revocation of policies that expel, block and turn back to danger children, families and adults seeking refuge.

BFI supports the medical experts [recommendations](#).

III. BFI Bold Immigration Policy Recommendations

BFI is hopeful that America will return to a place where immigrant dreams are made, but, first, we have to attend to more serious matters, like re-committing to our international and domestic legal commitments to provide humanitarian protections and improving the way in which we treat individuals seeking protection. The Biden Administration's campaign promises and initial Executive Orders, and removal of the disparaging term 'alien' from the Immigration and Nationality Act are important first steps in the right direction. Recognizing that the damage to our immigration system requires complex and multifaceted bold human-centered solutions, BFI encourages Congress to take these bold steps forward without hesitation, lives are at stake.

The following are some key BFI recommendations to help Congress enact bold immigration reforms:

- End metering and reform CBP to ensure that policies and practices protect, not jeopardize the human rights, civil rights, and well-being of migrants. More needs to be done to address white nationalism amongst the rank and file of the CBP. No officer that is affiliated or supportive of white nationalist groups should be allowed to work at the border, this is common sense. Hire child-welfare staff to ensure that children's needs are protected.
- Rescind the Migrant Protection Protocols, also known as Remain in Mexico program, which allows non-Mexican asylum seekers to dangerous locations in Mexico while their asylum claims are adjudicated. Also, parole into the U.S. all asylum seekers with pending cases who are waiting in Mexico and release them to family, friends, or a community-based program while cases proceed in immigration court.

- Follow the medical experts [recommendations](#) and end expulsions under Title 42 in which individuals seeking asylum are expelled from the U.S. rather than processed and provided an opportunity to make an asylum claim.



CWS Statement to the House Judiciary Committee's Subcommittee on Immigration & Citizenship, pertaining to its [hearing](#) entitled "The U.S. Immigration System: The Need for Bold Reforms" on Thursday, February 11, 2020

As a 75-year old humanitarian organization representing 37 Protestant, Anglican, and Orthodox communions and 24 refugee resettlement offices across 17 states, Church World Service (CWS) urges the Subcommittee to affirm the need and urgency to pass a permanent, legislative solution that includes a pathway to citizenship for all 11 million undocumented immigrants and Temporary Protected Status (TPS) and Deferred Enforced Departure (DED) holders; reunites families; and welcomes asylum seekers and refugees.

CWS urges Congress to urgently pass legislation creating a pathway to citizenship for 11 million undocumented immigrants currently living in the United States, including undocumented youth and for those with temporary status including people with TPS and DED. It is long past time for the U.S. to create a humane, just immigration system that honors the dignity and sacred humanity of all people and provides a path to citizenship for all people who call the U.S. home. We urge Congress to work with the Biden administration to repeal harmful, anti-immigrant policies from the previous administration, such as the public charge rules, and transform U.S. immigration laws that removes the white supremacy embedded in our immigration laws and welcomes people from all religions, races, and national origins. CWS honors the leadership, work, and experience of millions of undocumented, LGBTQ, Black, indigenous, labor, and immigrant leaders fearlessly paving the way towards a humane and functional immigration system. CWS strongly supports the *Dream and Promise Act*, which would provide a permanent solution for undocumented youth and TPS/DED holders. It is equally imperative that Congress hold the administration accountable to end immigrant detention and deportations, particularly for Black immigrants who may have been denied a full and fair opportunity to seek asylum in the United States and would experience extreme hardship if returned.

CWS urges Congress to pass legislation that would restore and strengthen family reunification, clear the family visa backlogs, and expand the Diversity Immigrant Visa program. Congress should provide a meaningful legislative solution that upholds the sanctity of family unity and promotes the humane and timely reunification of immigrant and refugee families. Today, the [vast majority of immigrants](#) coming to the United States arrive with family visas. However, years of bureaucratic processing delays and lack of legislative reforms have prevented the United States from keeping up with population growth and labor market needs. This has resulted in extreme backlogs, including years- or decades-long wait times for many. CWS strongly supports the *Reuniting Families Act*, which would restore and modernize the family immigration system and increase diversity visas. This bill would clear the family-based and employment-based backlogs, raise the country caps, reclassify lawful permanent residents as immediate relatives, provide relief for orphans, widows, and stepchildren, and protect the families of H-4 visa-holders from losing work authorization or status. It would also expand the number diversity visas, provide equality for same sex partners in our immigration laws, and provide enforcement relief in our immigration system through eliminating the 3- and 10- year bars and providing family unity waivers of inadmissibility and deportability grounds. CWS stands united with faith communities to firmly support the family-based immigration system and diversity immigrant visa program, which have created the rich, vibrant, and multicultural communities that make up our congregations and have strengthened America today.

CWS urges Congress to support and pass the *Refugee Protection Act*, which would strengthen and modernize the refugee resettlement and asylum programs, support robust federal funding for refugee-related accounts, and hold the administration accountable to rebuild the resettlement program and to end all anti-asylum policies (such as Title 42 expulsions and Migrant Protection Protocols). An unprecedented 79.5 million people worldwide have been forced from their homes, of which 29.6 million are classified as refugees, having fled their countries to seek safety from persecution. Yet, the gap between the protection needs of refugees and available pathways to safety, such as refugee resettlement, has only widened. After four consecutive years of drastic cuts, refugee resettlement in the United States has fallen to its lowest level since Congress created the modern system in 1980. The unprecedented decimation of the United States Refugee Admissions Program (USRAP) during the worst refugee crisis on record has had devastating consequences on refugees left in harm's way, and on our faith communities who are ready to welcome. CWS also strongly supports the *GRACE Act* and the *Lady Liberty Act*, which would set a minimum floor refugee admissions goal of 125,000 refugees. We further urge Congress to consider [refugees' acute challenges](#) as part of any future COVID relief package.



CITIES for ACTION

A Vision for Immigration Action

JANUARY 2021

Local Leaders' Recommendations for Building Inclusive, Equitable, and Resilient Communities for All



Table of Contents

Letter from Local Leaders..... 1

About Cities for Action 4

Acknowledgments 4

Introduction..... 5

Partner with local leaders to support the successful economic, social, and
civic integration of immigrant families 6

A Coordinated Strategy for Immigrant Inclusion is Necessary for an Equitable
Response and Recovery to the COVID-19 Pandemic 9

Address immigration barriers that marginalize immigrant residents, separate
families, and limit our communities' capacity to thrive 11

Respect for local decision-making and expertise on public safety and
public health..... 15

Recognize the role of local governments in upholding our nation's values
and in addressing global challenges 17

Conclusion 19



CITIES
for
ACTION

Letter from Local Leaders

January 2021

As leaders who are part of Cities for Action, a coalition of nearly 200 mayors and county executives that advocates for pro-immigrant federal policies, we are proud to present to the Biden Administration and the 117th Congress a vision for immigration that will support the safety, health, and well-being of our communities.

We represent diverse jurisdictions from across the country—large and small, urban and rural, in “red” and “blue” states—that are united by our understanding that immigration uplifts and enriches our communities. We recognize the pivotal role immigrants play in our cities and counties. And we know that pro-immigrant policies and programs support and empower our localities to become even more inclusive, equitable, and civically engaged.

In the last four years, we have come together repeatedly to make our voices heard in response to attacks by the Trump Administration against immigrants and refugees. From defending DACA to responding to the public charge rule and attacks on welcoming cities, we have used our platforms to speak out against xenophobia and racism and to urge a federal approach that will help our communities thrive.

Now, as we greet a new year and new Presidential Administration and Congress, federal leadership on immigration is more important than ever. The COVID-19 pandemic has highlighted the contributions of immigrant essential workers and the interdependence of our communities, while also laying bare in sobering terms the urgency of addressing the structural and institutional inequities that have devastated our Black and Brown communities.

We welcome the opportunity to work with the Biden Administration and the 117th Congress to ensure an equitable response and recovery to the COVID-19 pandemic that includes our immigrant residents. We further set out the following priorities on immigration for our federal partners.

I. Partner with local leaders to support the successful economic, social, and civic integration of immigrant families

- ♦ Establish a White House Office of New Americans;
- ♦ Invest in additional resources, coordination, and technical support for language access at all levels of government;
- ♦ Enhance educational and employment opportunities for immigrants that support local economies; and
- ♦ Increase access to citizenship.

II. Address immigration barriers that marginalize immigrant residents, separate families, and limit our communities' capacity to thrive

- ♦ Create a pathway to citizenship;
- ♦ Provide meaningful and fair access to immigration benefits and status;
- ♦ Keep families together by rethinking enforcement and shifting away from detention;
- ♦ Create a national funding stream for immigration legal services; and
- ♦ Give local economies a boost by reforming employment-based immigration opportunities.

III. Respect for local decision-making and expertise on public safety and public health

- ♦ End efforts to condition federal funding on local cooperation with federal immigration enforcement;
- ♦ Respect local public safety and the administration of justice; and
- ♦ Facilitate greater support for immigrant crime victims who help law enforcement.

IV. Recognize the role of local governments in upholding our nation's values and in addressing global challenges

- ♦ Raise the annual refugee admissions ceiling and rebuild the resettlement infrastructure;
- ♦ Remove cruel and unfair barriers to asylum; and
- ♦ Recognize the strength and needs of transnational communities in responding to humanitarian and environmental disasters.

We look forward to working in pursuit of a more inclusive and equitable country for all.

SIGNED

Kathy M. Sheehan, Mayor, City of Albany, NY	Nick Hernandez, City Manager, City of Dodge City, KS	Mark Freda, Mayor, Municipality of Princeton, NJ
Timothy M. Keller, Mayor, City of Albuquerque, NM	Marcia Leclerc, Mayor, Town of East Hartford, CT	Tom Butt, Mayor, City of Richmond, CA
Mike Coffman, Mayor, City of Aurora, CO	David C. Stout, County Commissioner, County of El Paso, TX	Melvin Carter, Mayor, City of Saint Paul, MN
Steve Adler, Mayor, City of Austin, TX	Sylvester Turner, Mayor, City of Houston, TX	Erin Mendenhall, Mayor, Salt Lake City, UT
Mayor Lauren McLean, Mayor, City of Boise, ID	Steven M. Fulop, Mayor, City of Jersey City, NJ	Todd Gloria, Mayor, City of San Diego, CA
Martin J. Walsh, Mayor, City of Boston, MA	Greg Fischer, Mayor, Louisville-Jefferson County Metro Government, KY	Celine Kennelly and Mario Paz, Chair and Vice Chair, Immigrant Rights Commission, City and County of San Francisco, CA
Sam Weaver, Mayor, City of Boulder, CO	Eric Garcetti, Mayor, City of Los Angeles, CA	Sam Liccardo, Mayor, City of San Jose, CA
William W. Moehle, Supervisor, Town of Brighton, NY	Satya Rhodes-Conway, Mayor, City of Madison, WI	Pauline Russo Cutter, Mayor, City of San Leandro, CA
Byron W. Brown, Mayor City of Buffalo, NY	Jacob Frey, Mayor, City of Minneapolis, MN	Sue Himmelrich, Mayor, City of Santa Monica, CA
Lydia E. Lavelle, Mayor, Town of Carrboro, NC	Jennifer Gregerson, Mayor, City of Mukilteo, WA	Jenny A. Durkan, Mayor, City of Seattle, WA
Pam Hemminger, Mayor, Town of Chapel Hill, NC	John Cooper, Mayor, Metropolitan Government of Nashville and Davidson County, TN	Joseph A. Curtatone, Mayor, City of Somerville, MA
Thomas G. Ambrosino, City Manager, City of Chelsea, MA	Bill de Blasio, Mayor, City of New York, NY	Lyda Krewson, Mayor, City of St. Louis, MO
Lori E. Lightfoot, Mayor, City of Chicago, IL	Libby Schaaf, Mayor, City of Oakland, CA	Ronald Filippelli, Mayor, Borough of State College, PA
Mary Casillas Salas, Mayor, City of Chula Vista, CA	James Kenney, Mayor, City of Philadelphia, PA	Regina Romero, Mayor, City of Tucson, AZ
Patrick L. Wojahn, Mayor, City of College Park, MD	William Peduto, Mayor, City of Pittsburgh, PA	Allan Ekberg, Mayor, City of Tukwila, WA
Toni Preckwinkle, President, Board of Commissioners Cook County, IL	Kurt R. Metzger, Mayor, City of Pleasant Ridge, MI	Lindsey P. Horvath, Mayor, City of West Hollywood, CA
Michael B. Hancock, Mayor, City and County of Denver, CO	Ted Wheeler, Mayor, City of Portland, OR	Jim Provenza, Chair, Board of Supervisors, Yolo County, CA

About Cities for Action

In December 2014, a group of 25 mayors came together in New York City to form Cities for Action, a national coalition of local government leaders advocating for pro-immigrant federal policies and launching inclusive programs and policies within our localities. Since then, Cities for Action has grown in membership to nearly 200 mayors and county executives, representing nearly 70 million residents, over 17 million of whom are immigrants. Cities for Action members recognize that policies that strengthen our immigrant communities strengthen our cities and counties. The coalition's priorities are ensuring public safety for all of our constituents, regardless of immigration status, advancing immigrant rights, and promoting immigrant inclusion and engagement in civic life.

The specific priorities outlined in this vision document were developed through an engagement process with Cities for Action coalition members this fall. Following the November 2020 election, Cities for Action facilitated small group conversations with members to identify a set of key pro-immigrant advocacy goals that localities wanted to share with the incoming Biden Administration and 117th Congress. On December 16, 2020, the coalition held a virtual convening and strategy session attended by 68 participants from 31 localities to further discuss our priorities for the advancement of immigrant rights and integration. This vision document is the result of these conversations and workshops.

Acknowledgments

This document was written by G. Sussan Lee of New York City and Sonia Lin. The authors thank members of the Cities for Action Steering Committee for their input and guidance: Michelle Maziar and Luisa Cardona of Atlanta, Yusufi Vali and An Le of Boston, Nubia Willman and Laura Padilla of Chicago, Atim Otii of Denver, Nora Preciado of Los Angeles, Bitta Mostofi of New York City, Amy Eusebio and Romana Lee-Akiyama of Philadelphia, Bret Jacob of Providence, Adrienne Pon and Richard Whipple of San Francisco, and Cuc Vu and Joaquin Uy of Seattle.

Special thanks also to Ernestor De La Rosa of Dodge City KS, Lory Gonzalez-Flores of El Paso County TX, Kathy Griesmyer of Boise ID,

Edmundo Lijo of Saint Paul MN, and Nathaniel Sigal of Tucson AZ, and to localities who participated in the December 2020 convening and strategy session.

Last but not least, the authors thank Kristen Kussman of Seattle, Vanessa Saldivar of Denver, and Niti Suchdeve, Jemimah Cochrane, Zainab Kahloon, Sona Rai, Nicole Chin-Lyn, Harrison Neuhaus, Kristen Grennan, J. Carolina Chavez, Alfonso Lopez, and other New York City staff who contributed to this document. We also thank the Mayor's Fund to Advance New York City and the Open Society Foundations for their support of this project.

Introduction

As a coalition of nearly 200 U.S. mayors and county executives that advocate for pro-immigrant federal policies, Cities for Action is proud to present a vision for immigration that will support the safety, health, and well-being of our communities. As local government leaders, we have the privilege of proximity to our residents and understand their needs at the neighborhood, block, and even household level. Time and again, we have witnessed how inclusive policies result in stronger, safer, and more resilient communities, because immigrants are not only our neighbors and co-workers, but also our families.¹



In recent years, cities and counties have increasingly seized the opportunity to innovate and advocate on behalf of our immigrant residents in the absence of federal leadership and in the face of relentless attacks. In our jurisdictions, we have implemented policies and programs that advance the common welfare of all of our residents by providing concrete access and opportunities to our immigrant residents. At the federal level, Cities for Action members have also advocated for the Deferred Action for Childhood Arrivals (DACA) program, Temporary Protected Status (TPS), and other immigration reforms that support our communities, as well as defended against policies that harm immigrant families and our interest in safe, healthy, and economically thriving cities and counties.

After four years of Presidential action on immigration characterized by cruelty, xenophobia, and division and continued Congressional inaction, our country now has an opportunity to build a more resilient and inclusive society and enact long overdue immigration reforms. Public support for policies that keep families together and reaffirm our welcoming values is at an all-time high.² Moreover, a humane immigration system is more necessary than ever as cities and counties nationwide endeavor to ensure equitable, effective, and sustainable recovery from the COVID-19 pandemic.

As leaders of the nation's cities and counties—from large to small, urban to rural, in “red” and “blue” states—Cities for Action members are proud of our work individually and collectively to advance

pro-immigrant policies and innovative and inclusive integration programs. We are now ready, willing, and able to support bold federal action on immigration by the Biden Administration and the 117th Congress. We are encouraged to present the following recommendations on how national leaders can harness the leadership and expertise of localities to realize an immigration system that at once propels our economic vitality and community safety, ensures our humanity, and secures our leadership as a beacon for immigrants and refugees.

I. Partner with local leaders to support the successful economic, social, and civic integration of immigrant families

We are home to thriving immigrant communities that contribute to the dynamism and vitality of our cities and counties. From Boise to Boston, immigrants have brought new, vibrant life to our local industries, our Main Streets, and our schools, workplaces, houses of worship, and other civic institutions.

Our jurisdictions recognize the contributions of our immigrant residents and are committed to supporting their success, as we do with all residents. In fact, many innovative approaches to immigrant integration have been nurtured at the local level, from municipal identification document

programs, to the establishment of local offices dedicated to immigrant affairs or new Americans, to investments in citizenship access and immigration legal services.

In the absence of a national plan, localities have been on the frontlines of a broken and outdated immigration system and have taken up leadership in supporting immigrant integration and advancing immigrant success and well-being. We also understand the barriers that can inhibit immigrant residents from accessing opportunity and achieving success, including language barriers, fear in interacting with local government, challenges in accessing higher education and skills for employment advancement, and immigration restrictions limiting services and programs for vulnerable communities.

To achieve our shared mission of supporting immigrants' economic, social, and civic integration, cities and counties need strong partnership at the federal level. The Biden Administration and the 117th Congress should implement a national strategy for immigrant integration that includes the following action items:

- **Establish a White House Office of New Americans.** Such office would fund and promote immigrant integration and coordinate efforts across the federal government and with state and local partners. We know from our own experience the importance of having strong executive leadership to break down government silos, coordinate across multiple executive agencies, and ensure immigrant-inclusive approaches

by government on a range of issues, from education to health and social services to small business support. A White House Office of New Americans can additionally play a leadership role in convening local and state counterparts, as well as stakeholders from advocacy, education, labor, business, and philanthropy, to advance a comprehensive national strategy.

- **Invest in additional resources, coordination, and technical support for language access at all levels of government.**

The COVID-19 pandemic has highlighted the challenges that governments at all levels face in providing accessible, accurate, and timely information to all of our residents, regardless of language



or literacy level.³ As this public health crisis has made all too clear, language access is essential to the health, safety, recovery, and resiliency of our jurisdictions and needs additional federal support. The Biden Administration and Congress should make investments in expanding the multilingual capacity of government at all levels. Localities need stronger federal leadership to ensure accurate and timely translation and interpretation for crucial public services and programs. Federal-level coordination on standards and policy guidance can also help localities take a consistent approach to terminology, as well as share best practices and technological innovations. Language access is not simply good policy for our jurisdictions, it's also a matter of civil rights. Our governments must make sure we reflect the diversity of our communities in service to and communications with the public.

- **Enhance educational and employment opportunities for immigrants that support local economies.** As workers and as business owners, immigrants help drive our local and regional economies, yet they often face challenges reaching their full potential due to various barriers including language skills, limited networks and access to workforce development programs, the digital divide, lack of access to loans for small businesses, lack of access to financial aid and in-state tuition for students, exclusion from occupational and professional licenses as well as drivers

licenses, difficulty obtaining recognition of foreign credentials, uncertain immigration status, and workplace exploitation and discrimination.⁴ Localities and states have pursued equitable opportunity for immigrants through a variety of methods, from state laws offering in-state tuition and financial aid access for Dreamers,⁵ to innovative and accessible models for promoting immigrant entrepreneurship, workforce development, and workers' rights.⁶ Federal leadership is needed to promote successful local and state strategies and to help lower barriers and expand opportunity nationally through federal funding, policy guidance, and technical assistance.

- **Increase access to citizenship.** Naturalization not only strengthens immigrant ties to the U.S. and enhances the civic and political engagement of immigrant communities, it also increases individual earnings and supports increased

employment and home ownership.⁷ Recognizing the benefit to our jurisdictions, localities have implemented various models for promoting naturalization, as well as encouraging new citizen voter registration.⁸ The Biden Administration and the 117th Congress must address the numerous barriers erected by the Trump Administration that have made naturalization more expensive, confusing, and time-consuming for otherwise-eligible immigrants, such as eliminating increased fees, increasing eligibility for whole or partial fee waivers, and addressing culturally biased changes to the citizenship test. The Biden Administration and Congress must also increase investments in promoting citizenship and immigrant civic participation generally through dedicated funding and partnerships with cities and counties, as well as with libraries, labor unions, employers, colleges and universities, and other partners.





A Coordinated Strategy for Immigrant Inclusion is Necessary for an Equitable Response and Recovery to the COVID-19 Pandemic

Without federal leadership and a national strategy that addresses the vulnerabilities and disparate health and economic impacts of the COVID-19 pandemic, cities and counties will continue to struggle with implementing an equitable response and recovery. The pandemic has laid bare and exacerbated long-standing inequalities. Broad, inclusive relief and a tailored approach to specific challenges faced by immigrant families are necessary to safely get our entire communities back on track.

The pandemic has been devastating for communities that have for too long confronted structural and institutional inequity and racism. According to the Centers for Disease Control and Prevention (CDC), Latino and Black residents, including the foreign-born, have experienced higher case rates, hospitalization rates, and death rates, attributable to systemic disparities in socioeconomic status, access to health care, and increased exposure to COVID-19 through work.⁹ Local analysis looking at foreign-born residents has similarly found higher rates of COVID-19 cases and deaths in immigrant-dense neighborhoods.¹⁰ Indeed, immigrants have been on the frontlines of the pandemic as essential workers—doctors, nurses, home health aides, and other health care providers, as well as grocery workers, delivery workers, child care providers, agricultural workers, and workers at food processing facilities.¹¹ An estimated five million undocumented immigrants—nearly three in four undocumented immigrants in the workforce—are in essential roles, keeping our cities and counties running during this time of crisis.¹²

Immigrants have also been among the workers most affected by unemployment and the economic impacts of the pandemic, as industries with significant foreign-born workforces such as hospitality and food services have undergone massive job losses¹³ and small business owners fight for survival. For undocumented immigrant workers in particular, their exclusion from a range of federal, and to some extent state, relief and safety net programs has exacerbated economic vulnerability for themselves and their families, leading to a crisis in food and housing insecurity.

Localities have used a variety of pragmatic and inclusive strategies to address the health and economic crisis facing immigrant families in their jurisdictions. These include distribution of emergency food that is broadly accessible and culturally appropriate, emergency cash assistance to help address gaps in existing relief and benefits programs, eviction protections and rental assistance to protect immigrant tenants from eviction, and the use of multilingual videos, graphics, webinars, and other communications materials to get crucial information to different communities.¹⁴ Many cities and counties, however, face our own fiscal crisis.

We must also contend with significant fear and confusion in immigrant communities around access to public services and trust in government, especially following four years of anti-immigrant attacks by the Trump Administration such as the public charge rule and over-aggressive interior enforcement.¹⁵

Our ability to successfully recover from the pandemic relies upon federal leadership that recognizes the contributions of immigrants during the pandemic, the impact of the pandemic on all of our residents, and the interdependence that underlies the health, safety, and economic well-being of our communities. Without a mitigation and recovery strategy that is inclusive of all, our cities and counties will be hampered in our pursuit of an equitable and resilient post-COVID-19 future. This strategy should include:

- **Expanded access to pandemic relief and health care** to address gaping holes in the safety net faced by immigrant small business owners, essential workers, and unemployed workers and families. Addressing hunger, shelter, vaccine access, and health care must be a priority, regardless of immigration status.
- **Strong, coordinated outreach and multilingual messaging** that immigrants should not fear interaction with government and can safely access medical care—including COVID-19 testing, treatment, vaccines, and preventative care—as well as emergency food, shelter, and other resources during the pandemic.
- **Immigration relief that recognizes the contributions of immigrant essential workers** and sets them on a path to work authorization and citizenship, as well as enforceable protections for all workers, regardless of immigration status, to help them demand safe working conditions without the fear of retaliation.
- **Leadership to address a rise in racism and xenophobia** connected to the COVID-19 pandemic, through public messaging denouncing harassment, discrimination, and bias-motivated crimes, as well as training for government officials and the general public on resources available to address racism and xenophobia as a public health issue.
- **Tailored workforce and recovery strategies for immigrant-dense industries decimated by the pandemic** so that immigrant workers who helped build these industries have access to training and support that will allow them to return to work with dignity.
- **A moratorium on immigration enforcement** while the pandemic continues to threaten public health, and the release of vulnerable and immuno-compromised individuals from immigration detention.



CITIES *for* ACTION A Vision for Immigration Action

II. Address immigration barriers that marginalize immigrant residents, separate families, and limit our communities' capacity to thrive

In our cities and counties, we see up close the life-changing effects of federal immigration policy changes and enforcement on immigrants and citizens alike. In 2012, with the creation of DACA, the lives of hundreds of thousands of young immigrants, Americans in every way except for their citizenship status, changed for the better. In turn, DACA recipients changed for the better the local

economies and civic institutions of our cities and counties. In contrast, the changes to the public charge rule led to widespread confusion and fear among immigrant families uncertain about whether they would face severe immigration consequences for accessing help they needed and qualified for. Cities and counties continue to confront the chilling effects of the public charge rule, as our immigrant residents—including lawful permanent residents and many other immigrants not subject to the rule—are fearful of accessing critical care, including for their U.S. citizen children, even in the face of a national public health crisis.

There are myriad ways in which federal immigration policy, from seemingly technical changes at the agency level to broad-reaching executive or congressional action, have kept immigrant families from living full lives.

Reforming our immigration system to restore the focus on family unity, citizenship, dignity for workers, and the well-being of local communities will not only allow us to recommit to the American Dream but also allow our localities and, in turn, our country to grow.

We call on the Biden Administration and the 117th Congress to address barriers in federal immigration policy that keep our immigrant families from reaching their full potential and thus limit our cities and counties' full capacity to thrive, including:

- **Create a pathway to citizenship.**

We are heartened to see that the Biden Administration will recognize the importance of a pathway to citizenship for all 11 million of our undocumented residents.¹⁶ Cities for Action has long advocated for reform that values family and community ties and accounts for the



enormous contributions made by our residents who are undocumented, including those with DACA and TPS, and immigrant essential workers.¹⁷ These residents are integral parts of our families, as evidenced by the large number of mixed status families in our localities. And most have lived in our country for over a decade, becoming valued members of our communities.¹⁸ Creating a path to citizenship will support the stability of families and children¹⁹ and provide significant economic and other benefits to cities and counties.²⁰ As he has publicly committed, President Biden should introduce and Congress should pass legislation to bring relief to these American families within the first 100 days of his administration.

- **Provide meaningful and fair access to immigration benefits and status.**

The more than 400 policy changes adopted over the past four years have effectively dismantled the legal immigration system, creating enormous barriers for those who are eligible for immigration benefits.²¹ While more widely known changes—such as the public charge rule and the drastic increase in U.S. Citizenship and Immigration Services (USCIS) application fees—impose obvious barriers to status, lesser known, more technical changes—such as changes to the USCIS Policy Manual instructing officers to exercise their discretion in ways that dictate denials—have acted as invisible hurdles to relief. In addition, changes to

regulations governing immigration court procedures have made due process and access to relief more difficult to obtain for immigrants. Localities have a strong interest in our residents' ability to adjust their status, become naturalized, and remain with their families if they are eligible to do so, as obtaining legal status and eventually citizenship often results in significant economic gains for our residents in terms of growth, earnings, tax revenues, and jobs.²² Congress should exercise its oversight authority to hold both USCIS and the Executive Office for Immigration Review accountable to their Congressionally mandated missions to avoid misguided policies such as the public charge rule. Further, the new Administration must embrace our nation's historic identity as "a nation of immigrants,"²³ and reform USCIS and the immigration courts to make it the norm, and not the exception, for immigrants to fairly access immigration benefits and relief for which they are eligible.

- ♦ **Keep families together by rethinking enforcement and shifting away from detention.**

Immigrants—whether they be lawful permanent residents, temporary visa holders, or undocumented—have significant, deep ties to our families and are integral parts of our communities. Despite these ties, the federal immigration system has been increasingly characterized by an enforcement-only approach. The rise in detention,²⁴ deportations,²⁵ as well as the constant threat of enforcement, have

been hugely detrimental to the physical, mental, and economic well-being of our families and children.²⁶ When families are living under fear or instantly destabilized through increased enforcement, entire communities suffer, with community members becoming more fearful and mistrustful of public institutions, and less likely to participate in civic life and social services.²⁷ Moreover, instability and uncertainty in immigrant families in our communities makes our localities and nation less resilient and less able to meet our full social and economic potential. We are encouraged to see the Biden Administration commit to a 100-day moratorium on enforcement while it reevaluates enforcement priorities. This first step must lead to the Administration and Congress reorienting our immigration system to one that prizes family unification over costly and inhumane punishments like detention and deportation. The use of civil immigration detention must be sharply curtailed, and transparency and accountability for humane detention conditions and the human rights of detainees must be strengthened.²⁸

- ♦ **Create a national funding stream for immigration legal services.**

Deportation has always been recognized as a particularly harsh penalty, resulting in the loss of "all that makes life worth living."²⁹ And unlike other civil violations, alleged immigration violations can result in the loss of liberty, often for the duration of the removal proceeding, which can last for years. What is more, many immigrants facing deportation have a legal basis to

stay with their families, but often cannot avail themselves of the relief without the help of counsel.³⁰ Yet, immigrants are not guaranteed free legal representation in these proceedings. We have seen that locally funded immigration legal services models like the New York Immigrant Family Unity Project have resulted in dramatically fairer and better outcomes for immigrant families.³¹ Ultimately, however, the federal government must support due process for immigrants in the federal immigration system by creating a funding stream for the provision of immigration legal services and for building local capacity to meet the legal needs of immigrant communities. The Biden Administration and Congress should significantly expand efforts to connect indigent immigrants with legal representation, with priority for those in detention facing removal.

- **Give local economies a boost by reforming employment-based immigration opportunities.**

Despite recent rhetoric, immigration is a net positive for economic growth and complements rather than competes with the native-born workforce.³² In fact, by almost every measure, immigrants have proven crucial to local economic growth. Immigrants are proven job creators. They are twice as likely as native-born citizens to start businesses—both small and large³³—and more than 8 million Americans are employed at these businesses.³⁴ International students, who bring future talent, innovation,



and vibrancy to college towns across the country, contribute \$39 billion to the U.S. economy and support more than 455,000 American jobs.³⁵ Further, immigrants have proven critical to filling labor shortages in key sectors,³⁶ and as we have seen in the past year, immigrants are overrepresented in essential industries like health care, agriculture, construction, maintenance, and food services.³⁷ Many cities and counties across the country have recognized that without full integration of our immigrant residents and encouraging sustained immigration, we cannot properly prepare for our future demographic and economic needs.³⁸ We need a federal government that understands these needs and will support local economic growth through reforms in employment-based immigration opportunities, from creating a pathway to citizenship for essential workers to making it easier for localities to sponsor immigration depending on their unique economic development needs.

III. Respect for local decision-making and expertise on public safety and public health

As local leaders, we know the critical importance of community trust to maintain public safety and public health for all our residents. When crime victims and witnesses avoid local law enforcement because of their immigration status, our neighborhoods become less safe. When families are fearful that seeking medical care will have negative immigration consequences for them or their loved ones, our communities are less healthy.

This perspective stems from our daily experience leading our cities and counties. It is also supported by research showing how residents' fear about immigration enforcement—and fear about local cooperation with federal immigration enforcement—can make it harder for local authorities to investigate and address crime, as well as inhibit immigrant residents from seeking health care, including crucial preventative health services.³⁹

Localities across the country have sought to build and sustain strong relationships with immigrant communities through the adoption of policies and programs that reflect local needs and local realities. These include over 700 counties that have policies restricting



CITIES for ACTION A Vision for Immigration Action

local cooperation with U.S. Immigration and Customs Enforcement (ICE) detainers, over 200 counties that restrict ICE access to local jails without a warrant, and thousands of localities that limit the collection and/or disclosure of sensitive information such as immigration status from residents seeking help from local authorities, including law enforcement.⁴⁰ While local policies vary in scope and approach, they have in common a recognition that our communities' safety and health needs are paramount, and that local cooperation with federal immigration enforcement can potentially detract from or undermine local priorities.⁴¹

Unfortunately, this pragmatic perspective is frequently distorted and politicized by those looking for opportunities to spread fear and division about immigrants. In reality, research indicates that jurisdictions seeking to support community interactions with local government by maintaining separation between local law enforcement and federal immigration

enforcement see no impact on crime and have even been found to be generally safer and stronger economically.⁴² The Biden Administration and the 117th Congress must recognize and honor local expertise and:

- **End efforts to condition federal funding on local cooperation with federal immigration enforcement.**

Recent federal efforts to compel cities and counties to use our resources to assist federal immigration enforcement fail to recognize the detrimental local consequences of eroding community trust and imperiling public safety. At risk is local discretion—informed by local expertise—about how to balance community engagement needs, privacy concerns for vulnerable residents, the use of limited resources, and other factors to protect the community overall. The Biden Administration and Congress must end all efforts to compel localities to assist in federal immigration enforcement.



- ♦ **Respect local public safety and the administration of justice.** ICE and U.S. Customs and Border Protection (CBP) activity in our jurisdictions, including the use of deceptive tactics like impersonating local law enforcement and enforcement at sensitive locations such as courthouses, have increasingly created fear and confusion among immigrant communities about local officials and institutions. Deceptive tactics that make it difficult for residents to discern federal immigration authorities from local police drive a wedge between local government and our residents and undermine our public safety strategies.⁴³ Similarly, aggressive enforcement activities at or near institutions such as schools and courthouses chill immigrant civic participation and access to justice.⁴⁴ The Biden Administration must end the use of enforcement tactics that jeopardize public safety and the administration of justice, and the Administration and Congress must ensure that mechanisms are in place for stronger training, supervision, and agency accountability.
- ♦ **Facilitate greater support for immigrant crime victims who help law enforcement.** To successfully address crime, our law enforcement agencies rely on the cooperation of immigrant communities to report crime and help investigators. Many of our localities have successfully worked with immigrant crime victims and their representatives to use the U and T

visa programs to help immigrants who have assisted law enforcement despite vulnerability regarding their status. The Biden Administration should further support local law enforcement by making resources including training and technical assistance about these programs available to local agencies, as well as work with Congress to increase the number of available U and T visas annually.

IV. Recognize the role of local governments in upholding our nation's values and in addressing global challenges

Over one out of every thirty people in the world is an immigrant.⁴⁵ As war, violence, climate change, economic inequality, and other drivers of migration continue to multiply, the project of building welcoming and inclusive local communities becomes more crucial. Although immigration laws governing entry and status remain the province of national governments, the sense of belonging an immigrant achieves often rests on the policies and programs of local governments.

Local governments in turn have increasingly embraced immigrant and refugees' contributions to our demographics,⁴⁶ economies,⁴⁷ and culture⁴⁸ and sought opportunities to build relationships with and exchange best practices for immigrant

inclusion with other cities and localities internationally. As government leaders closest to the community, we have a shared interest in humane migration policies that reaffirm our humanitarian values. And just as cities have been at the forefront of global efforts to combat the climate crisis, so too have localities driven bold and aggressive integration agendas in the absence of global leadership.

The incoming administration should recognize the value of local voices in addressing global migration challenges and immediately rejoin the Global Compact on Migration. Additionally, we urge the Biden Administration to recommit to our nation's core welcoming values by taking steps to:

- **Raise the annual refugee admissions ceiling and rebuild the resettlement infrastructure.** After the last few years of record-low admissions, we are encouraged that the Biden Administration intends to raise the annual refugee admissions ceiling to 125,000. Our members have long recognized the enormous contributions of their refugee communities and the need to extend our welcome to new populations in need.⁴⁹ Many have even begun actively investing in policies and programs designed to attract more residents.⁵⁰ With the partnership of a federal administration that also recognizes the role the U.S. should play in upholding international humanitarian obligations and the long-term local revitalization benefits associated with resettlement, more

localities will be able to invest in their long-term vitality and in their commitment to humanitarian values.

- **Remove cruel and unfair barriers to asylum.** Over the last four years, there have been barriers enacted at every stage of the asylum process in the U.S., effectively dismantling the system.⁵¹ Even if asylum seekers make it past the almost insurmountable barriers at the border—like “metering,” “Remain in Mexico,” etc.—they are often subject to inhumane practices such as family separation and prolonged detention, even of children and families.⁵² Beyond running counter to our long-held, humanitarian values as a country, these barriers to asylum have harmed the public health, safety, and well-being of our members’ residents and communities.⁵³ The Biden Administration must not only rescind these roadblocks and rebuild the asylum system to be in line with our international obligations, but also reunite families separated at the border and act to address the additional trauma asylum seekers have been subjected to by federal policies over the last four years.
- **Recognize the strength and needs of transnational communities in responding to humanitarian and environmental disasters.** The U.S. has recognized for decades our moral obligation to provide safe haven for individuals unable to return to their home countries decimated by humanitarian and natural disasters. Many of our strongest immigrant communities—the Haitians

in Miami, the Salvadorans in L.A., the Nepalese in Dallas, etc.—came to this country during moments of crisis in their home countries. As the groundswell of bipartisan support for relief for countries in crisis like Venezuela has shown us, the anguish our immigrant communities feel in watching their families suffer from afar and in envisioning a future in which they may be forced to return to devastation is something localities also feel. The new Administration should consider the significant transnational ties of our local communities and redesignate for TPS for countries like Haiti, Nicaragua, El Salvador, Honduras, Nepal, Syria, Yemen, Sudan, South Sudan, Somalia, Guinea, and Sierra Leone; and newly designate for TPS or Deferred Enforced Departure countries such as Venezuela, Guatemala, the Bahamas, Cameroon, Yemen, and others.

Conclusion

The immigrant communities of our cities and counties have enriched our culture, revitalized our economies, and strengthened our social fabric. While it has been a privilege to stand up for and protect our immigrant residents against hateful rhetoric and harmful policies over the past several years, local governments are ready to partner with the new Administration and Congress to imagine and build a better, more humane immigration system. Doing so will help our immigrant communities thrive and allow our cities and counties to recover, prosper, and maintain our resilience in the years to come.



- 1 Immigrants—including naturalized citizens, lawful permanent residents, temporary lawful residents, and undocumented immigrants—make up almost 14% of the nation's population. See Abby Budiman, Pew Research Center, *Key Findings about U.S. Immigrants* (Aug. 20, 2020). About 12% of the nation's population (39.4 million people) are native-born Americans with at least one immigrant parent. About 16.7 million people in the country, 8 million of whom are citizens, live in mixed-status families—meaning, there is at least one undocumented family member living in the same household. See American Immigration Council, *Immigrants in the United States* (Aug. 6, 2020). One in 12 citizen children in the country live with at least one undocumented family member (5.9 million children in total). See *id.*
- 2 See Jens Manuel Krogstad, Pew Research Center, *Americans Broadly Support Legal Status for Immigrants Brought to the U.S. Illegally as Children* (Jun. 17, 2020) (75% of adults across the country say there should be a way for all undocumented immigrants to stay in the country legally, with majorities in both political parties express support with 89% of Democrats and 57% of Republicans); see also Mariana Sana, *Public Opinion on Refugee Policy in the United States, 1938-2019: Increasing Support for Refugees and the Sympathy Effect*, International Migration Review (Oct. 7, 2020) (favorable public opinion toward refugees has been on the rise since the beginning of the 21st century, and has sharply increased since 2017).
- 3 See Gaby Galvin, "Language Access Issues a Barrier During COVID-19," U.S. News and World Report (April 16, 2020); Emma Goldberg, "When Coronavirus Care Gets Lost in Translation," N.Y. Times (April 17, 2020).
- 4 See, e.g., Emily Flitter, "Few Minority-Owned Businesses Got Relief Loans They Asked For," N.Y. Times (May 18, 2020); Ariel G. Ruiz Soto, Jeanne Batalova, Michael Fix, Migration Policy Institute, *The Costs of Brain Waste among Highly Skilled Immigrants in Select States* (Dec. 2016); Kate Hamajl and Christian Gonzalez-Rivera, Center for Popular Democracy and Center for an Urban Future, *A City of Immigrant Workers: Building a Workforce Strategy to Support All New Yorkers* (April 2016); Roberto G. Gonzales, American Immigration Council, *DACA at Year Three: Challenges and Opportunities in Accessing Higher Education and Employment* (Feb. 1, 2016).
- 5 National Conference of State Legislatures, *Tuition Benefits for Immigrants* (Sept. 26, 2019).
- 6 Amanda Bergson-Shilcock, National Skills Coalition, *At the Intersection of Immigration and Skills Policy: a Roadmap to Smart Policies for State and Local Leaders* (Sept. 2018) (describing innovative local and state approaches).
- 7 Maria E. Enchautegui and Linda Giannarelli, Urban Institute, *The Economic Impact of Naturalization on Immigrants and Cities* (2015); Manuel Pastor and Justin Scoggins, Center for the Study of Immigrant Integration, University of Southern California, *Citizen Gain: The Economic Benefits of Naturalization for Immigrants and the Economy*, (2012).
- 8 See Cities for Citizenship, *Priced out of Citizenship: Municipal Strategies to Reduce the Financial Barriers to U.S. Citizenship in Light of New Fee Increases* (2020); New Americans Campaign, *Supporting Citizenship: An Opportunity for State and Local Governments* (July 2018) (describing different models).
- 9 Centers for Disease Control and Prevention, *COVID-19 Case Investigation and Contact Tracing among Refugees, Immigrant, and Migrant (RIM) Populations: Important Considerations for Health Departments* (updated Dec. 4, 2020), and *COVID-19 Hospitalization and Death by Race/Ethnicity* (updated Aug. 18, 2020) (also showing significantly higher case, hospitalization, and death rates among American Indian or Alaska Native persons).
- 10 See NYC Mayor's Office of Immigrant Affairs, Mayor's Office of Economic Opportunity, and Department of Consumer and Worker Protection, *Fact Sheet: COVID-19 Health and Economic Impacts on Immigrant Communities* (July 2020). See also Laura E. Martínez, Arturo Vargas-Bustamante et al., UCLA Latino Policy & Politics Initiative, *COVID-19 in Vulnerable Communities: An Examination by Race & Ethnicity in Los Angeles and New York City* (2020).
- 11 Giovanni Peri & Justin C. Wiltshire, U.S. Davis Global Migration Center, *The Role of Immigrants as Essential Workers during the COVID-19 Pandemic*; Julia Gelatt, Migration Policy Institute, *Immigrant Workers: Vital to the U.S. COVID-19 Response, Disproportionately Vulnerable* (March 2020).
- 12 Nicole Prchal Svajlenka, Center for American Progress, *Protecting Undocumented Workers on the Pandemic's Front Lines* (Dec. 2, 2020) (incorporating DACA and TPS holders in undocumented population estimates).
- 13 Rakesh Kochhar, Pew Research Center, *Hispanic Women, Immigrants, Young Adults, Those with Less Education Hit Hardest by COVID-19 Job Losses* (June 9, 2020).
- 14 See e.g. *Philadelphia Worker Relief Fund* (emergency cash assistance to workers excluded from federal and state relief); *San Francisco Right to Recover Program* (\$1285 to support COVID-19 positive workers to quarantine, available to all regardless of immigration status); *City of Los Angeles Emergency Renters Assistance Program* (temporary rent subsidy for tenants, regardless of immigration status); *New York City GetFoodNYC COVID-19 Emergency Food Distribution*, (range of emergency food services).
- 15 Miriam Jordan, "We're Petrified: Immigrants Afraid to Seek Medical Care for Coronavirus," N.Y. Times (updated May 12, 2020). See also *supra* note 9.
- 16 See Morgan Chalfant, "Immigration, Executive Action Top Biden Preview of First 100 Days," The Hill (Nov. 24, 2020).
- 17 In 2018, undocumented immigrants in the U.S. paid an estimated \$20.1 billion in federal taxes and \$11.8 billion in state and local taxes. See *supra* note 1 *Immigrants in the United States*. Further, a 2016 study found that deportation of all undocumented immigrants would immediately reduce the nation's GDP by 1.4% and reduce cumulative GDP over 10 years by \$4.7 trillion. See Ryan Edwards and Francesc Ortega, Center for American Progress, *The Economic Impacts of Removing Unauthorized Immigrant Workers* (Sept. 21, 2016).

- 18 Bryan Baker, Dep't of Homeland Security, Office of Immigration Statistics, *Population Estimates: Illegal Alien Population Residing in the United States: January 2015* (Dec. 2018).
- 19 The research literature finds that growing up with unauthorized immigrant parents places children—nearly 80% of whom were born in the U.S.—at a disadvantage. These children are more exposed to a number of risk factors than children of immigrants generally and all U.S. children, including lower preschool enrollment, reduced socioeconomic progress, and higher rates of linguistic isolation, limited English proficiency, and poverty. See Randy Capps, Michael Fix & Jie Zong, Migration Policy Institute, *A Profile of U.S. Children with Unauthorized Immigrant Parents* (Jan. 2016).
- 20 According to a series of reports prepared by the nonpartisan Congressional Budget Office and Joint Committee on Taxation, the immigration reform legislation passed by the Senate in 2013 would have decreased federal budget deficits by approximately \$1 trillion over 20 years, increased the nation's GDP by 3.3 percent in 10 years and 5.4 percent in 20 years, and increased average wages for all workers after 10 years. See American Immigration Council, *A Guide to S. 744: Understanding the 2013 Senate Immigration Bill* (Jul. 2013).
- 21 See Sarah Pierce & Jessica Bolter, Migration Policy Institute, *Dismantling and Reconstructing the U.S. Immigration System: A Catalog of Changes under the Trump Presidency* (Jul. 2020).
- 22 See Robert Lynch & Patrick Oakford, Center for American Progress, *The Economic Effects of Granting Legal Status and Citizenship to Undocumented Immigrants* (Mar. 20, 2013).
- 23 Until February 2018, the USCIS emphasized "America's promise as a nation of immigrants" as the driving force of its mission. See Richard Gonzales, "America No Longer A Nation of Immigrants," USCIS Says," NPR (Feb. 22, 2018).
- 24 From 2017-2019, the average daily number of people in U.S. immigration detention increased from approximately 33,000 to 47,000. The length of detention increased as well. See J. Reyes, Center for Migration Studies, *Immigration Detention: Recent Trends and Scholarship* (2019).
- 25 The U.S. has removed more than twice as many people in the first two decades of the 21st century as in the entire previous history of the United States. See Peter L. Markowitz, Center for American Progress, *A New Paradigm for Humane and Effective Immigration Enforcement* (Nov. 30, 2020).
- 26 Although enforcement affects all family members, the consequences are especially serious for children—including U.S. citizen children—whose parents are detained or deported. Studies have shown long term, negative effects on the health development, educational outcomes, and economic stability of children. See Lisbeth Rojas-Flores, et al., *Trauma and Psychological Distress in Latino Citizen Children Following Parental Detention and Deportation*, Psychological Trauma (May 2017); Randy Capps, et al., Migration Policy Institute, *Deferred Action for Unauthorized Immigrant Parents: Analysis of DAPA's Potential Effects on Families and Children* (Feb. 2016) (finding that families lost 40 to 90 percent of their income, or an average of 70 percent, within six months of a parent's immigration-related arrest, detention, or deportation).
- 27 See *Statement on the Effects of Deportation and Forced Separation on Immigrants, their Families, and Communities: A Policy Statement by the Society for Community Research and Action: Division 27 of the American Psychological Association*, American Journal of Community Psychology (Sept. 2018).
- 28 See Juan Borger, "US ICE Officers Used Torture to Make Africans Sign Own Deportation Orders," The Guardian (Oct. 22, 2020); Caitlin Dickerson, Seth Freed Wessler, Miriam Jordan, "Immigrants Say They Were Pressured into Unneeded Surgeries," N.Y. Times (Sept. 29, 2020); Staff Report, Committee on Oversight and Reform and Subcommittee on Civil Rights and Civil Liberties, U.S. House of Representatives, *The Trump Administration's Mistreatment of Detained Immigrants: Deaths and Deficient Medical Care by For-Profit Detention Contractors* (Sept. 2020).
- 29 *Ng Fung Ho v. White*, 259 U.S. 276, 284 (1922).
- 30 Ingrid V. Eagly & Steven Shafer, *A National Study of Access to Counsel in Immigration Court*, U. Penn. Law Review (Dec. 2015) (finding that even after controlling for all other factors—such as detention, jurisdiction, status, etc.—immigrants with legal representation were fifteen times more likely than those without to seek relief, and five-and-a-half times more likely to obtain such relief from removal).
- 31 See Jennifer Stave, Vera Institute, *Evaluation of the New York Immigrant Family Unity Project: Assessing the Impact of Legal Representation on Family and Community Unity* (Nov. 2017).
- 32 See Giovanni Peri, Cato Institute, *The Impact of Immigration on Wages of Unskilled Workers* (Fall 2017), (showing that immigration is not associated with wage declines for noncollege workers, and that higher immigration is associated with higher average wages).
- 33 Immigrants own more than 1 in 5 small businesses, and 1 out of every 5 Fortune 500 company was founded by a foreign-born individual. See Robert W. Fairlie et al., Ewing Marion Kauffman Foundation, *2016 Kauffman Index of Main Street Entrepreneurship*, (2016); New American Economy Research Fund, *New American Fortune 500 in 2018: The Entrepreneurial Legacy of Immigrants and Their Children* (Oct. 10, 2018).
- 34 New American Economy, *Entrepreneurship*.
- 35 New American Economy Research Fund, *Not Coming to America: Falling Behind in the Race to Attract International Students* (Jul. 9, 2020).
- 36 Eduardo Porter, "Short of Workers, U.S. Builders and Farmers Crave More Immigrants," N.Y. Times (Apr. 3, 2019).
- 37 Approximately 25% of workers in farming, fishing, and forestry occupations are undocumented, as are 16% of workers in construction and extraction occupations; 15% of workers in building and grounds cleaning and maintenance occupations; 8.7% of workers in food preparation and serving-related occupations; 7.7% of workers in production occupations; and 5.6% of workers in transportation and material moving occupations. See Nicole Prchal Svajlenka, Center for American Progress, *Protecting Undocumented Workers on the Pandemic's Front Lines* (Dec. 2, 2020).

CITIES for ACTION A Vision for Immigration Action

- 38 Immigration is projected to drive growth in the U.S. working-age population through at least 2035, and without immigrants, the country would face a labor shortage. See Jeffrey S. Passel & D'Vera Cohn, Pew Research Center, [Immigration Projected to Drive Growth in U.S. Working-Age Population Through at Least 2035](#) (Mar. 8, 2017); see also Ryan Allen, [Immigrants and Minnesota's Workforce Report](#) (Jan. 2017) (predicting that Minnesota's population and labor force growth will slow without a substantial increase in migration to the state, making it more challenging to fill job vacancies).
- 39 Tom K. Wong, et al., U.S. Immigration Policy Center, UC San Diego, [The Impact of Interior Immigration Enforcement on the Day-to-Day Behaviors of Undocumented Immigrants](#) (April 3, 2019) (also providing literature review of how restrictive state/local policies affect health-seeking behaviors of immigrant residents). See also Rob Arthur, "Latinos in Three Cities are Reporting Fewer Crimes Since Trump Took Office," [FiveThirtyEight.com](#) (May 18, 2017); Nik Theodore, [Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement](#) (2013).
- 40 Immigrant Legal Resource Center, [Growing the Resistance: How Sanctuary Laws and Policies Have Flourished During the Trump Administration](#) (Dec. 2019) (analyzing county-level policies nationwide regarding assistance with federal immigration enforcement).
- 41 See also Major Cities' Chiefs Association, [Immigration Policy](#) (2013).
- 42 Benjamin Gonzalez O'Brien, Loren Collingwood, Stephen Omar El-Khatib, [The Politics of Refuge: Sanctuary Cities, Crime, and Undocumented Immigration](#), *Urban Affairs Review*, Vol. 55 (2017) (finding evidence that local "sanctuary" policies have no effect on crime despite narratives to the contrary); Tom K. Wong, Center for American Progress, [The Effects of Sanctuary Policies on Crime and the Economy](#) (Jan. 26, 2017). See also David K. Hausman, [Sanctuary Policies Reduce Deportations Without Increasing Crime](#), *Proceedings of the National Academy of Sciences*, vol. 117 no. 44 (Nov. 3, 2020).
- 43 Beth Fertig, ["Immigration Arrest Tactics Come under Scrutiny for Mimicking NYPD," Gothamist](#) (Oct. 28, 2020); Doug Smith, ["Los Angeles Officials Urge ICE Agents to Stop Identifying Themselves as Police," L.A. Times](#) (Feb. 23, 2017).
- 44 See Maddie Hana, ["Concern Rises Following ICE Arrest of Mother after She Dropped off Child at South Philly School," Philadelphia Inquirer](#) (Feb. 18, 2020); Wes Parnell, Rocco Parascandola, Thomas Tracy, Larry McShane, "ICE Agents, While Arresting Undocumented Mexican Immigrant, Wind Up Shooting Second Man in Wild Brooklyn Street Brawl," *N.Y. Daily News* (Feb. 6, 2020); David Brand, ["Pregnant Mother Arrested by ICE at Queens Family Court is Sick and Isolated in NJ Jail," Queens Daily Eagle](#) (June 19, 2019); Editorial Board, ["ICE's Reckless Charlotte Arrests," Charlotte Observer](#) (Jan. 18, 2019); Heidi Glenn, ["Fear of Deportation Spurs 4 Women to Drop Domestic Abuse Cases in Denver," NPR Morning Edition](#) (March 21, 2017). See also ICE Out of Courts Coalition, [Safeguarding the Integrity of our Courts: The Impact of ICE Courthouse Operations in New York State](#) (2019).
- 45 See ["The Number of International Migrants Reaches 272 Million, Continuing an Upward Trend in All World Regions, Says UN," United Nations Dep't of Economic and Social Affairs, News](#) (Sept. 17, 2019).
- 46 See New American Economy, [From Struggle to Resilience: The Economic Impact of Refugees in America](#) (Jun. 2017) ("Recent estimates have indicated that by 2030, 20.3% of the U.S. population will be older than age 65, up from just 12.4% in 2000. Refugees can help lessen the anticipated strain this will place on our workforce and entitlement programs. An estimated 77.1% of refugees are working-age, compared to the just 49.7% of the U.S.-born population.").
- 47 Madeline Buiano & Susan Ferriss, The Center for Public Integrity, [Data Defies Trump's Claims that Refugees and Asylees Burden Taxpayers](#) (May 8, 2019) ("Researchers found that between 2005 and 2014, refugees and asylees here from 1980 on contributed \$63 billion more to government revenues than they used in public services.").
- 48 See, e.g., Susan Hartman, ["A New Life for Refugees, and the City They Adopted," N.Y. Times](#) (Aug. 10, 2014), ("[A]s many as one-fourth of Utica's population of 62,000 is made up of refugee families. . . . The immigrants have been an economic engine for the city, starting small businesses, buying and renovating down-at-the-heels houses and injecting a sense of vitality to forlorn city streets."); Michelle Jamrisko & Eric Englert, ["Trump May Not Want Refugees, but Rust Belt Mayors Do," Bloomberg News](#) (Mar. 17, 2017), (In St. Louis, "residents credit Bosnian refugees with opening restaurants, buying vacant homes, and turning around a South City neighborhood once ridden with crime.").
- 49 See Cities for Action, [As Pope Francis Visits U.S., 18 Mayors Join Forces to Commend Obama Administration, and Call on Them to Accept More Refugees Amid Syrian Crisis](#) (Sept. 23, 2015)
- 50 See Matthew La Corte, Niskanen Center, [Refugees are Revitalizing Some Great American Cities Facing Decline](#) (Jun. 21, 2016).
- 51 See Grantmakers Concerned with Immigrants and Refugees, [Dismantling of the U.S. Asylum System and Points of Leverage for Philanthropy](#) (Mar. 2019).
- 52 See Katherin C. McKenzie, et al., [Eliminating Asylum: The Effects of Trump Administration Policies](#), *Health and Human Rights Journal* (Aug. 24, 2020).
- 53 See Tiffany Hu, ["Law Profs. States Urge 9th Cir. To Block Trump Asylum Rule," Law360](#) (May 16, 2019), ("[M]ore than a dozen states and 21 localities filed two amicus briefs urging the Ninth Circuit to affirm the lower court injunction. Both briefs focused on the public health of immigrant communities....").



February 11, 2021

Chair Zoe Lofgren
Committee on the Judiciary
Subcommittee on Immigration and Citizenship
Washington, DC 20515-6216

Ranking Member Ken Buck
Committee on the Judiciary
Subcommittee on Immigration and Citizenship
Washington, DC 20515-6216

Re: Hearing “The U.S. Immigration System: The Need for Bold Reforms”

Dear Chair Lofgren & Ranking Member Buck:

On behalf of the Coalition for Humane Immigrant Rights (CHIRLA), the largest statewide immigrant rights organization in California, I submit this statement for the record for today’s hearing entitled “The U.S. Immigration System: The Need for Bold Reforms.” We define bold as legalizing the entire undocumented population including the deported and reforming the existing immigration system to ensure that family remains a core tenet. Below, we expand on those key provisions of bold reform.

A Successful Legalization Program

A legalization program must be inclusive, affordable, accessible and just. It is **inclusive** when it encompasses the entire population of the estimated 11 undocumented immigrants. It is **affordable** when no one is unable to participate because of any fees or penalties associated with legalization. It is **accessible** when



it is not subject to arbitrary deadlines and narrow application time frames. And it is **just** when no one is prohibited from applying because they have been criminalized or because they have been deported already. Finally, we believe it is essential that a bold immigration reform contains an update to the Immigration and Nationality Act's (INA) **Registry Date**.¹

The INA's Registry Date (INA § 249; 8 USC 1259)

The **Registry Date** operates as a statute of limitations on unlawful presence, and those who have been present since the set date are eligible to apply for a green card (legal permanent residency.) However, that date is currently set at January 1, 1972, which renders it nearly meaningless. Historically, the date has been set between 10-20 years from the most recent update. We recommend setting it at January 1, 2010 *and* including a mechanism so that it is continually updated to ensure that we do not wind up with a date, as is presently the case, that is set decades ago.

Below is a chart from a new Migration Policy Institute report that highlights the impact of adjusting the **Registry Date**.

¹ <https://www.migrationpolicy.org/research/us-legalization-unauthorized-immigrant-groups>.



TABLE 5
Unauthorized Immigrants Potentially Eligible to Adjust Status under Updated Registry Dates of January 1, 2000-2010, as of 2018

Registry Date	Eligible Population	Share of Unauthorized Population
2000	2,811,000	26%
2001	3,641,000	33%
2002	4,213,000	38%
2003	4,691,000	43%
2004	5,148,000	47%
2005	5,650,000	51%
2006	6,233,000	57%
2007	6,735,000	61%
2008	7,195,000	66%
2009	7,613,000	69%
2010	7,957,000	72%

Note: To calculate how many unauthorized immigrants would be eligible for each potential registry date, MPI looked at the year of immigration of each unauthorized immigrant in its five-year data file, and added up how many entered the United States before each registry date.
Source: MPI analysis of U.S. Census Bureau data from pooled 2014-18 ACS, and 2008 SIPP, with legal-status assignments using a unique MPI methodology developed in consultation with Bachmeier and Van Hook.

SOURCE: “[Back on the Table: U.S. Legalization and the Unauthorized Immigrant Groups that Could Factor in the Debate](#),” Migration Policy Institute, February 2021.

Family Unity Must Remain the Cornerstone of our Immigration System

CHIRLA is a Steering Committee member of the [Value Our Families](#) campaign and we wholeheartedly endorse its submitted statement for this hearing. Bold immigration reform must reaffirm the centrality of family unity by addressing the issues with the current visa system as well as the INA’s built-in obstacles to



family reunification. In particular, this entails addressing the current backlogs and per-country caps that see some relatives of U.S. citizens wait for decades to enter the United States. Others are already present, but they are unable to adjust their status due to the 3 and 10 year bars that would separate them from their families should they pursue an available visa at a U.S. consulate or embassy.

The INA must also be updated to reflect a modern definition of what constitutes a family to include e.g. grandparents and aunt & uncles. Finally, executive power to enact barriers like the Muslim and Africa bans must be eliminated, and wealth test provisions such as "public charge" must be struck from the INA in order to prevent a repeat of the abuses we saw under the previous Administration.

Thank you for considering CHIRLA's statement. Please contact me at cbergquist@chirla.org should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl J. Bergquist", is enclosed in a white rectangular box.

Carl Bergquist
Policy Counsel
Coalition for Humane Immigrant Rights (CHIRLA)



**First Focus Campaign for Children
Statement for the Record
U.S. House of Representatives Judiciary Committee
Hearing: “The U.S. Immigration System: The Need for Bold Reforms”**

February 11, 2021

Chairman Nadler, Ranking Member Jordan, and Members of the House Judiciary Committee, we thank you for the opportunity to submit this statement for the record for the hearing on the need for bold reforms to the U.S. immigration system, including a path for citizenship for undocumented people, the modernization of family-based immigration, and strengthening our asylum and refugee systems. We understand that President Biden’s immigration bill would reform all of these aspects of the immigration system, and we commend their inclusion.

The First Focus Campaign for Children is a bipartisan advocacy organization dedicated to making children and families a priority in federal policy and budget decisions. Our organization is committed to ensuring that our nation’s immigration policies promote the best interests of children by ensuring that all children are given their fundamental rights, are kept together with their families, and have the opportunity to live a healthy and successful life in the United States.

The American people agree that every law and policy must be guided by a “best interest of the child” standard.¹ However, children have historically been disregarded or targeted for intentional cruelty in U.S. immigration policy decisions. Children have few protections under current immigration law, and their best interests are often not considered when making critical decisions about their own or their family members’ ability to enter or stay in the United States. Overall, immigration law and policy’s failures to consider children’s best interests has negatively impacted children, their families, and their communities. Bold reform means creating an immigration system that protects children and ensures consideration of their best interests.

The Failure to Consider Children in Current Immigration Policy

Children of immigrants comprise approximately one in four of all children in the United States and are the fastest growing segment of the child population.² Of these children, approximately 5 million have a parent who is undocumented or is a DACA or TPS recipient.³ Additionally, children

¹ Bruce Lesley, *Voters Have Spoken and They Support Children*, First Focus on Children (Nov. 23, 2020), <https://firstfocus.org/blog/voters-have-spoken-and-they-support-children>.

² *Children in U.S. Immigrant Families*, Migration Policy Institute, <https://www.migrationpolicy.org/programs/data-hub/charts/children-immigrant-families?width=1000&height=850&iframe=true>. (Accessed Nov. 5, 2020).

³ Randy Capps, Michael Fix, & Jie Zong, *A Profile of U.S. Children with Unauthorized Immigrant Parents*, Migration Policy Institute (Jan. 2016), <https://www.migrationpolicy.org/research/profile-us-children-unauthorized-immigrant-parents>; Nicole Prechal Svajlenka, *What We Know About DACA Recipients in the United States* (Sept. 5, 2019), <https://www.americanprogress.org/issues/immigration/news/2019/09/05/4741777/know-daca-recipients-unitedstates/>.

and families make up most of those arriving at our borders in search of safe haven from violence and harm.⁴ However, current immigration law provides few protections for children who are immigrants themselves or children of immigrants and their families.

The current family-based immigration system allows U.S. citizens and legal permanent residents to petition for immigrant visas for certain family members. The backlog of family-based immigration means families might wait as long as 20 years to receive a visa, and U.S. citizen children face an even larger obstacle to family-based immigration. A child-parent relationship is prioritized in family-based immigration, but only if the parent has legal immigration status and is petitioning on behalf of their undocumented children. A U.S. citizen child cannot file a petition for their undocumented parents to obtain lawful immigration status until the child is over 21 years old, and thus is no longer a child. This is also the case for child asylees and refugees—while adult asylees and refugees can petition for status for their spouses and children, child asylees and refugees cannot petition for status for their parents. Immigration law also places additional burdens on family-based immigration for other family members and for those with legal permanent residency status, failing to acknowledge other family members who might be primary caregivers of children and creating a hierarchy of who is able to reunify with family.

Additionally, undocumented parents who face deportation face barriers to cancellation of removal, even if deportation would separate them from their U.S. citizen or legal permanent resident child. When seeking cancellation of removal, an individual must prove “exceptional and extremely unusual hardship”⁵ to a U.S. citizen spouse, parent or child. Case law defines “exceptional and extremely unusual hardship” as “substantially different from, or beyond that which would normally be expected from the deportation of an alien with close family members here.” Thus, U.S. immigration law requires the disproportionate suffering of children to stop a parent’s deportation. As mentioned earlier, immigration law also does not account for other family member who are primary caregivers of children and whose deportation might result in similar trauma and hardship for children. While other areas of law recognize the unique needs of children and are designed to preserve family unity and ensure children’s well-being, immigration law takes a distinctly different, and harmful, approach.

There are also children and families who arrive at our borders seeking safety from persecution and violence. These children and families often lack other safe channels, like refugee resettlement, to seek protection from persecution. Instead, after arriving at our border they face our complex immigration system, which includes adversarial proceedings before an immigration judge, without the guarantee of legal representation and often in some form of detention. Children in families are also subject to various asylum bars, including the safe third country bar and the one-year filing deadline.

Unaccompanied children have few but vital protections in immigration law. Under the 2008 Trafficking Victims Protection Act, unaccompanied children from countries that do not border the United States are immediately transferred to the custody of the Office of Refugee Resettlement (ORR), where they are placed in shelters with access to legal, medical, and mental health services before being promptly and safely released to a sponsor, most often a family member.⁶

⁴ *Southwest Border Migration FY 2020*, U.S. Customs and Border Protection (Oct. 14, 2020), <https://www.cbp.gov/newsroom/stats/sw-border-migration>.

⁵ 8 U.S.C.A. § 1229b.

⁶ 8 U.S.C. § 1232(b-c).

Unaccompanied children also have the right to first pursue their claim for protection in a non-adversarial process before U.S. Citizenship and Immigration Services (USCIS), and are exempt from the safe third country and one-year filing deadline bars for asylum.⁷ However, there are still many gaps in protection for unaccompanied children—they are not guaranteed legal representation in their immigration proceedings and generally face the same complex immigration system as adults.

Causing Children Harm

Immigration law's complete disregard for children's best interests result in high rates of family separation, emotional trauma, economic instability, and limited access to critical services and programs for children and families.

According to the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) deported approximately 28,000 parents of U.S. citizen children in 2019 alone.⁸ Children separated from their parents due to detention or deportation experience toxic stress, often exhibited in increased fear, anger, crying and changes in sleeping and eating habits.⁹ Additionally, families often experience economic hardship, including instability in housing and nutrition, because a parent's deportation or detention.¹⁰ Separation from parents or primary caregivers also deny children important foundational relationships that help them regulate their emotions, meet developmental milestones, and more fully engage with their family, peers, and community.

There are also many children and youth who were brought to the United States as minors, who have grown up in the United States, and are vital to our communities and our country. In 2012, the Department of Homeland Security created the Deferred Action for Childhood Arrivals (DACA) program, which granted young people eligible for the program relief from deportation and improved access to higher education, career opportunities, and basic necessities such as a driver's license or credit card.¹¹ However, DACA recipients and other immigrant youth still face barriers to higher education, including the lack of financial aid.¹² DACA recipients also face barriers to health coverage, as the Department of Health and Human Services has not yet expanded eligibility for CHIP, Medicaid, and the Affordable Care Act exchanges despite DACA recipients being lawfully present.¹³ DACA is not permanent, and has been under threat multiple times from some Republican

⁷ 8 U.S.C. § 1158(a)(2)(E), (b)(3)(C).

⁸ U.S. Department of Homeland Security, *Deportation of Parents of U.S.-Born Children: First Half, Calendar Year 2019* (Apr. 13, 2020), https://www.dhs.gov/sites/default/files/publications/ice_-_deportation_of_parents_of_us-born_children_first_half_cy_2019.pdf; U.S. Department of Homeland Security, *Deportation of Parents of U.S.-Born Children: Second Half, Calendar Year 2019* (July 22, 2020), https://www.dhs.gov/sites/default/files/publications/ice_-_deportation_of_parents_of_us-born_children_second_half_cy_2019.pdf.

⁹ Randy Capps et al., *Implications of Immigration Enforcement Activities for the Well-being of Children in Immigrant Families*, Urban Institute (Sept. 2015), <https://www.urban.org/sites/default/files/alfresco/publication-exhibits/2000405/2000405-Implications-of-Immigration-Enforcement-Activities-for-the-Well-Being-of-Children-in-Immigrant-Families.pdf>.

¹⁰ *Id.*

¹¹ *Consideration of Deferred Action for Childhood Arrivals (DACA)*, U.S. Citizenship and Immigration Services, <https://www.uscis.gov/humanitarian/consideration-of-deferred-action-for-childhood-arrivals-daca> (last updated Feb. 4, 2021).

¹² Christian Juarez, *The Obstacles Unauthorized Students Face in Postsecondary Education*, Center for American Progress (Dec. 21, 2017), <https://www.americanprogress.org/issues/immigration/news/2017/12/21/44414/obstacles-unauthorized-students-face-postsecondary-education/>.

¹³ Vanessa Lopez & Tim K Mackey, *The Health of Dreamers*, Health Affairs (Feb. 13, 2018), <https://www.healthaffairs.org/doi/10.1377/hlthaff.2018.0209.367466/full>; *Frequently Asked Questions: DHS DACA FAQ*, U.S. Citizenship and Immigration Services, <https://www.uscis.gov/humanitarian/consideration-of-deferred>.

Attorneys General and the Trump Administration. Moreover, only some immigrants are eligible for DACA, leaving others vulnerable to deportation.

Lastly, children of immigrants and their families face multiple structural barriers to critical public services and programs that support their healthy development, including CHIP, Medicaid, food assistance through SNAP, and economic support through TANF. Children and families who have recently received legal permanent residency must wait for a five-year period before being eligible for these benefits, and undocumented children and families are barred from accessing these benefits.¹⁴ Changes to the immigration system like the Trump administration's public charge rule acted as a scare tactic and led families to avoid critical services for which they were eligible.¹⁵ Additionally, barriers of cumbersome applications processes, lack of language access, and fear of enforcement based on immigration status prevent children of immigrants and their families from utilizing programs that contribute to children's health, development, and economic stability.¹⁶

Our immigration system also has a legacy of anti-Black racism, disproportionately impacting Black immigrants and their children. Black immigrants disproportionately face longer periods in detention, higher bond, and greater risk of deportation.¹⁷ Though 7 percent of non-citizens in the United States, Black immigrants make up one fifth of those facing deportation on criminal grounds, displaying the intersection of racism in our immigration and criminal legal systems.¹⁸ During the COVID-19 pandemic, almost half of the families in family detention were Haitian.¹⁹ As a result, Black children of immigrants face higher risk of family separation and emotional trauma, on top of other systemic barriers experienced by Black children in the United States.

Recommendations:

We cannot continue with immigration policy that disregards or intentionally harms children and their families. Congress now has an opportunity to enact bold reforms that are in children's best interests—promoting their safety, family unity, and the opportunity to grow into their full potential. Immigration reform should do the following:

1. **Create a clear, direct, and reasonable pathway to citizenship.** We understand that the Biden administration's immigration bill provides an 8-year path to citizenship for all undocumented people and immediate green cards for Dreamers and others with temporary status. We urge Congress to move forward with this path to citizenship.

[action-for-childhood-arrivals-daca/frequently-asked-questions#:~:text=An%20individual%20who%20has%20received,deferred%20action%20is%20in%20effect](#) (last updated Feb. 4 2021).

¹⁴ Tanya Broder, Avideh Moussavian, & Jonathan Blazer, *Overview of Immigrant Eligibility for Federal Programs*, National Immigrant Law Center (Dec. 2015), <https://www.nilc.org/wp-content/uploads/2015/12/Overview-immeligfedprograms-2015-12-09.pdf>

¹⁵ Hanutal Bernstein et al., *Amid Confusion over the Public Charge Rule, Immigrant Families Continued Avoiding Public Benefits in 2019*, Urban Institute (May 2020), https://www.urban.org/sites/default/files/publication/102221/amid-confusion-over-the-public-charge-rule-immigrant-families-continued-avoiding-public-benefits-in-2019_3.pdf

¹⁶ *Id.*

¹⁷ *Black Immigrant Lives are Under Attack*, RAICES, https://www.raicestexas.org/2020/07/22/black-immigrant-lives-are-under-attack/?ms=raices_ru (last visited Feb. 9, 2021).

¹⁸ Juliana Morgan-Trostle & Kexin Zheng, *The State of Black Immigrants*, Black Alliance for Just Immigration, <http://baji.org/wp-content/uploads/2020/03/sobi-fullreport-jan22.pdf> (last visited Feb. 9, 2021).

¹⁹ *Black Immigrant Lives are Under Attack*, *supra* note 17.

2. **Keep families together.** All immigration laws and policies related to children and their families must promote and prioritize family unity. All children should remain with their parents and other family members at the border, and immigration law must prohibit the separation of families as a deterrent for migration. Immigration law should enable immigration judges and DHS officials to exercise discretion in enforcement, admission and removal decisions to prevent the harm of family separation on children. The immigration system must also be modernized to eliminate discrimination and limitations in the family-based immigration system, including clearing current backlogs, increasing the number of family-based and diversity visas, and expanding which family members are eligible for visas as immediate relatives.
3. **Protect and promote children's fundamental rights.** Immigrant children must have equal access to services that support their safety, health and well-being, particularly legal representation to support their claims for humanitarian protection. We understand that the Biden administration's bill would provide guaranteed legal representation for all children who face immigration authorities. We urge Congress to ensure that all children have legal representation, and all vulnerable unaccompanied children are appointed an independent child advocate to advocate for their best interests.
4. **Promote children's healthy development and economic security.** Access to social supports ensure that all children grow up healthy, well fed, and with access to future opportunities. Immigration reform must ensure that children of immigrants and their families can access these supports, regardless of where they are on the path to citizenship.
5. **Adopt a Best Interests of the Child Standard for all immigration decisions.** A best interest of the child standard is one of many safeguards necessary to ensure that government policies consider the needs and rights of children. This standard would ensure that children's safety, views, family unity, liberty, development, and identity are considered in immigration policy,²⁰ and that policies are implemented equitably to ensure the non-discrimination of children based on their race, ethnicity, immigration, and other status.

We thank you again for the opportunity to submit this written testimony. We look forward to working with Congress to ensure immigration reform that is in the best interests of children. Should there be any questions regarding this statement, please contact Miriam Abaya, Senior Director for Immigration and Children's Rights at miriam@firstfocus.org.

²⁰ Jennifer Nagda & Maria Woltjen, *Best Interests of the Child Standard: Bringing Common Sense to Immigration Decisions*, Big Ideas 2015 – Pioneering Change: Innovative Ideas for Children and Families, 11, March 2015, <https://firstfocus.org/wp-content/uploads/2015/04/Best-Interests-of-the-Child-Standard.pdf>.



February 10, 2021

The Honorable Zoe Lofgren, Chair
The Honorable Pramila Jayapal, Vice Chair
The Honorable Ken Buck, Ranking Member

United States House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515

RE: February 11, 2021 Hearing, "The U.S. Immigration System: The Need for Bold Reforms,"
House Judiciary Committee Subcommittee

Dear Representatives Lofgren, Jayapal, and Buck:

The Interfaith Immigration Coalition (IIC) is made up of over 55 national, faith-based organizations across many theological traditions, with a common call to seek just policies that lift up the God-given dignity of every individual. In partnership, we work to protect the rights, dignity, and safety of all refugees and migrants.

The continued deportations and expulsions of Haitian migrants, including entire families, and people who have lived in the U.S. for decades makes this topic extremely urgent. As our nation grapples with admitting and articulating the true history of Black people in America during Black History Month, we call attention to these unjust deportations of Black asylum-seekers who face danger and violence if returned. This is not the country we should aim to be. President Biden himself pledged to bring a 'racial equity lens' to every aspect of his administration. Deportations of refugees to Haiti and African countries, including Cameroon, Congo, Mauritania and more after they are denied a fair asylum process is hypocritical and deadly.

In 2020, we released the "Interfaith Framework for Welcoming and Supporting Migrants, Immigrants, Asylum Seekers, and Refugees; Priority Recommendations for the Biden-Harris Administration to Restore Welcome from 2021-2025." Today, we respectfully request that this report, enclosed here, be included in the record of the February 11 hearing, "The U.S. Immigration System: The Need for Bold Reforms."

Our blueprint for immigration policy change contains three broad priorities:

- Bring accountability, compassion, fairness, and morality to immigration and other policies. Tear down walls and build communities.
- Decolonize the U.S.' role in other countries as they build and strengthen.
- Work with Congress to pass bold, humane, and compassionate immigration laws.

The extent of human suffering due to the prior administration's anti-immigration, anti-asylum, and anti-refugee policies cannot be measured or overstated. Many children and adults have died while in U.S. jails, their liberty denied for exercising their legal right to seek asylum. Thousands of people have been traumatized by their treatment at the hands of the U.S. Government and may never recover, including children and adults who had already fled violence; families subjected to forced separation at the border; and U.S. citizen children whose parents were deported.

As people of faith, we call on the Biden Administration and Congress to put humanity at the center of U.S. immigration administration. The path forward requires repealing cruel policies; strengthening the system we have today; creating avenues for healing; and transforming U.S. immigration laws into a pro-human, anti-racist paradigm. This is not just a goal, this is an imperative.

Sincerely,
Elissa Diaz, IIC Co-Chair and Policy and Advocacy Manager, Church World Service
Peniel Ibe, IIC Co-Chair and Policy Engagement Coordinator, American Friends Service Committee



**Interfaith Framework
for Welcoming and Supporting
Migrants, Immigrants,
Asylum Seekers, and Refugees**

Priority Recommendations for the Biden-Harris Administration to
Restore Welcome from 2021-2025

December 2020

The Interfaith Immigration Coalition is made up of over 55 national, faith-based organizations brought together across many theological traditions with a common call to seek just policies that lift up the God-given dignity of every individual. In partnership, we work to protect the rights, dignity, and safety of all refugees and migrants.

This report is a project of the Interfaith Immigration Coalition and was specifically endorsed by the following organizations and denominations

American Friends Service Committee / Quaker
Christian Reformed Church Office of Social Justice
Church World Service
Columban Center for Advocacy and Outreach
Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces
Cooperative Baptist Fellowship
Disciples Refugee & Immigration Ministries
Evangelical Lutheran Church in America
Franciscan Action Network
Friends Committee on National Legislation
Leadership Conference of Women Religious
Maryknoll Office for Global Concerns
National Advocacy Center of the Sisters of the Good Shepherd
National Council of Jewish Women
National Justice for Our Neighbors
NETWORK Lobby for Catholic Social Justice
Plymouth UCC Welcoming Migrants Committee, Des Moines, IA
Sisters of Mercy of the Americas Justice Team
Sojourners
Truah: The Rabbinic Call for Human Rights
Union for Reform Judaism
United Church of Christ Justice and Witness Ministries
United Methodist General Board of Church and Society

Table of Contents

Introduction	3
Reform Border Security, Interior Enforcement, and Detention Policies	4
• Customs and Border Protection and the Border	4
• Immigration and Customs Enforcement and Interior Enforcement	5
• Community-Based Case Management and Ending Reliance on Immigrant Detention	6
Champion Refugee Resettlement and Protect Asylum Seekers	10
• Refugee Resettlement	10
• Asylum Protections	13
• Return to the U.S. After Deportation	15
Improve Access to the Immigration System, Protections, and Public Benefits	17
• Discriminatory Policies that Brutalize, Criminalize, and Dehumanize Migrant Communities	17
• Deferred Action for Childhood Arrivals, Temporary Protected Status, Deferred Enforced Departure, and More	17
• Public Charge	20
• Family-Based Immigration	20
• Workers	21
• COVID-19 Relief	23
• 2020 Census	23
• Liberation for Sanctuary Leaders	24
Support Migrants Beyond U.S. Borders	25
• Root Causes of Forced Displacement	25
• International and Foreign Policy	26
Key Legislative Initiatives	27
Strive for Lasting Solutions	29

Introduction

Our diverse faith traditions compel us to welcome one another with love and compassion, regardless of place of birth, religion, or ethnicity. All of us are called to love our neighbor – all of our neighbors. Generations of immigrants and refugees have made this country stronger through their ideas, hard work, resilience, and traditions. U.S. policies on immigration and refugee resettlement should recognize the gifts, contributions, and struggles of immigrants and refugees, and ensure justice and protection for all.

We call on the new Administration and Congress to enact humane and equitable reforms to our immigration policies. Each day in our congregations, direct service programs, health care facilities, and schools, we witness the human consequences of a callous, punitive, and outdated immigration system. We see the exploitation of undocumented workers, the plight of separated families, and the fear in communities where immigrants and those perceived to be immigrants fall victim to hate. We see what it looks like when the U.S. – a nation built out of the enslavement of Black people and the destruction of Indigenous communities – uses the immigration system as a weapon. We see a direct connection between this country’s founding to today’s “crimmigration” system that is used to detain, politicize, silence, and deport migrants seeking a safer and more secure life in the U.S. This suffering offends the dignity of all human beings. The work to create a humane and just world for all people, regardless of immigration status, is inextricably intertwined with the work of racial justice to ensure the safety of dignity of Black lives. Compassionate and systemic immigration reforms will help heal our communities and our nation.

The Torah tells us: “The strangers who sojourn with you shall be to you as the natives among you, and you shall love them as yourself; for you were strangers in the land of Egypt” (Leviticus 19:33-34). In the Christian Bible, Jesus commands us to welcome the stranger, for “what you do to the least of my brethren, you do unto me” (Matthew 25:40). The Qur’an directs us to “do good to... those in need, neighbors who are near, neighbors who are strangers, the companion by your side, the wayfarer that you meet” (4:36). The Hindu Taittiriya Upanishad reminds us: “The guest is a representative of God” (1.11.2).

The Interfaith Immigration Coalition is rooted in these faith teachings and values, which call us to ensure that our laws promote and protect the dignity of each individual. We work for sustainable policies that:

1. Reform Border Security, Interior Enforcement, and Detention
2. Champion Refugee Resettlement and Protect Asylum Seekers
3. Improve Access to the Immigration System, Protections, and Public Benefits
4. Support Migrants Beyond U.S. Borders

This report outlines specific policy recommendations for the incoming Administration and 117th Congress. We urge policymakers to work in a bipartisan manner to pass reforms and legislation that protect the dignity and rights of every human being, including migrants, immigrants, and refugees. We call on the new Administration and Congress to enact anti-racist policies, understanding that immigration policy in the U.S. is currently rooted in white supremacy. As we advocate for just and sustainable policy, we are grateful for the leadership of immigrant rights organizations and our partners in this work.

Note that not all Interfaith Immigration Coalition members have policy positions for all areas discussed.

Reform Border Security, Interior Enforcement, and Detention

“Believers! Be upholders of justice and bearers of witness to truth for the sake of Allah.”
Quran 4:135

Customs and Border Protection and the Border

The federal government has dramatically expanded border walls and militaristic infrastructure over the past thirty years in the southwest region of the U.S. These barriers stifle the economic vibrancy and quality of life in our border communities. Border enforcement policies also tear families and communities apart, devastating our congregations, contributing to the deaths of thousands of migrants in remote desert regions, and violating the rights of both U.S. citizens and immigrants.

Border wall construction has decimated fragile ecosystems, severed and destroyed habitats for endangered species, desecrated Indigenous sacred sites and burial grounds, violated religious liberty, and taken private land from those who operate businesses and live along the border. While national protests have raised concerns about local policing practices, these same concerns exist for Customs and Border Protection (CBP), such as their use of lethal force, particularly against communities of color, lack of accountability, culture of impunity, and the militarization of policing.

There is great need to reform our immigration system, including border enforcement tactics, priorities, and accountability. Solutions do not involve expanding authority and resources for CBP, instead, progress forward involves increasing transparency and accountability. Instead of criminalizing migrants and militarizing our border communities, solutions should address the root causes of migration and make protection of human life a core mission.

Recommendations:

- Reform CBP to ensure that policies and practices protect, not jeopardize, the human rights, civil rights and well-being of migrants and border communities and ensure accountability.
- Reverse southwest border wall damage. Freeze all barrier construction on day one of the new Administration and rescind all outstanding contracts, remove concertina wire, and conduct a thorough review of wall contracts for potential criminal and civil violations. Partner with communities, Indigenous tribes, scientists, and other stakeholders to remediate the harmful environmental and other harmful consequences and restore tribal lands, wildlife refuges, water resources, and seized private land.
- Demilitarize and end the over-policing of the border region. The new Administration must repeal EO 13767¹ (border wall construction and additional Border Patrol agents); end the deployment of National Guard and Department of Defense (DOD) personnel to the border; end the 1033 program that transfers military weapons and equipment to the Department of Homeland Security (DHS); and remove internal checkpoints that block access to essential services.
- Invest in a transformational change at CBP. The hostile and callous culture at CBP must be replaced with a value system that recognizes and respects human dignity. Such a change will require significant investment of leadership, time, training, and funding.
- Invest in modernizing port infrastructure including by increasing channels for the travel of border residents, visitors, merchants, and immigrants by hiring qualified and accountable staff and expanding access to ports of entry.

¹ The White House (2017), <https://www.whitehouse.gov/presidential-actions/executive-order-border-security-immigration-enforcement-improvements>.

- Respect civil rights and the right to privacy. End the collection of DNA from migrants and the use of face scanning and similar technologies that violate human privacy. Any technology deployed in the border region must be approached with extreme caution and consideration to ensure robust protections for human rights and civil rights.

Immigration and Customs Enforcement and Interior Enforcement

Policies that strengthen relationships between local law enforcement and communities are essential for public safety. Separating local policing from immigration enforcement promotes the safety of the whole community. Immigrants, family members of immigrants, and individuals perceived to be immigrants should neither feel vulnerable, nor fear retribution or deportation, if they report being a victim or a witness to a crime. As we focus on building more inclusive communities, we support local and federal policing reforms that seek to eliminate racial profiling and disproportionate targeting of communities of color. We encourage policies that emphasize effective community-driven policing for the safety of all community members, citizens and non-citizens alike.

In a wholly egregious and tragic process, the past Administration ramped up deportations, in part, by broadening the definition of who could be subjected to enforcement actions – including removal. Increased deportation has been achieved through several means, including but not limited to surveilling immigrant communities even more closely, increasing the number of CBP checks on buses and trains, reopening DACA recipients’ removal cases, expanding expedited removal, and increasing funding for ICE and other federal enforcement agencies.

Separate Federal Immigration Enforcement and Local Community-Driven Policing

The new Administration should ensure that DHS, ICE, and CBP officials respect current policies to avoid enforcement actions at “sensitive locations,” such as schools, courthouses, places of worship, and healthcare facilities. Respecting this policy includes not employing false statements or trickery to lure or coerce someone to walk away from a sensitive location. Recent reports detail how ICE detained an asylum seeker and church caretaker who has lived with his family in the U.S. for 29 years, violating their own policy.² Additionally, ICE recently engaged in raids of sanctuary cities in full force, not just destroying communities, but amplifying a harmful narrative.³ These practices violate ICE guidelines on sensitive locations.

Recommendations:

- Oppose laws and policies that infringe on the rights of states, cities, localities, and police departments to refuse collaboration with ICE and not honor ICE detainer holds.
- End administrative programs that incentivize, encourage, resource, or mandate collaboration between local police and immigration officials.
- End the 287(g) program and rescind all current 287(g) agreements, including the 287 (g) programs that are located in jails.
- Investigate complaints that ICE officers are using questionable tactics, such as posing as police officers, and enforce standards and consequences to prevent such actions.
- Place a moratorium on all deportations starting day one of the new Administration, with ample time to study and investigate ICE and CBP practices to create new guidelines that can end deportations and family separation for good.

² Religion News Service (2020), <https://religionnews.com/2020/09/21/ice-apprehension-on-church-grounds-violated-federal-policy-say-faith-leaders>.

³ The Washington Post (2020), https://www.washingtonpost.com/immigration/trump-ice-raids-sanctuary-cities/2020/09/29/99aa17f0-0274-11eb-8879-7663b816bfa5_story.html.

- Protect and expand sensitive locations to ensure ICE will not enforce immigration at the following: health care facilities; schools and school bus stops; places that provide assistance for people such as children, pregnant women, and abuse victims; places that provide disaster or emergency services; places of worship; courthouses and lawyers' offices; and public assistance offices.

Stop Mass Deportations

We urge the new Administration to roll back policies that were implemented with the purpose of increasing deportation numbers. We also demand a moratorium on the deportation of asylum seekers during the COVID-19 pandemic. Immigration policy should be driven by research, public opinion, and the needs of immigrant communities. Policies that simply increase the number of immigrants who are detained and deported, during a pandemic and otherwise, are callous and do not increase public safety.

Community-Based Case Management and Ending Reliance on Immigrant Detention

People of faith who visit, accompany, or represent immigrants in detention facilities witness firsthand the toll incarceration takes on those detained, their families, and our communities. As long as immigrants are detained, facility conditions must be improved and access to due process must be upheld. We support policies that promote the use of community-based alternatives to detention and prevent the detention of immigrants. Vulnerable individuals, such as children, asylum seekers, those with disabilities or medical conditions, those who are unable to read or write, and transgender people should never be placed in detention facilities; if necessary, they should be sheltered in non-restrictive environments. Vigorous efforts should be made to reunite children and asylum seekers with family members.

Two 1996 laws, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) and the Antiterrorism and Effective Death Penalty Act (AEDPA), greatly expanded the number and types of crimes that lead to automatic detention and deportation to include lower-level offenses and nonviolent crimes, created fast tracks to deportation that bypassed hearings before a judge, and put many more immigrants in detention facilities while they fight their cases. The retroactivity of the laws and their implementation have torn apart families and communities unjustly. For example, mandatory detention does not permit individualized release determinations and, thus, prevents the consideration of family ties, employment, housing, and other factors that may be relevant to release determinations and conditions.⁴ Thus, the new Administration should work with Congress to repeal the harmful provisions in these laws.

The immigration detention system as we know it today constitutes a relatively new experiment in American history.⁵ The detained population stands at 22,340⁶ as of July 11, 2020, but while this number constitutes a marked drop in the averages seen over the course of the Trump Administration, this number in fact brings the system back to the approximate averages seen in detention during the early 2000s. Even this number, however, is historically anomalous if we extend our lens only a few decades further back.

The recent exponential growth of the immigration detention system is largely driven by profit, not sound policy. The U.S. immigration detention system is in fact a sprawling network of more than 200 facilities operating under a patchwork of contracts. More than 90 percent of immigrants detained by ICE are in fact held in county or local jails contracting with ICE, or in large prison complexes owned and/or operated by

⁴ American Bar Association (2010), https://www.americanbar.org/content/dam/aba/publications/commission_on_immigration/coi_complete_full_report.authcheckdam.pdf.
⁵ The New York Times (2018), <https://www.nytimes.com/2018/12/01/opinion/sunday/border-detention-tear-gas-migrants.html>.
⁶ Immigration and Customs Enforcement (2020), <https://www.ice.gov/detention-management>.

private prison companies. These prison companies have been central and causal to the growth of the immigration detention system.⁷

While steps have been taken to promote alternatives to detention, immigration detention is still relied upon excessively at great financial and moral cost.⁸ The exponential growth of the immigration detention industry has reached an all-time high, forged an unhealthy reliance on for-profit prison companies, and cultivated an irrational, immoral congressional mandate to detain tens of thousands of people every day.

Reduce the Use of Detention for Immigration Enforcement and Invest in Community-Based Case Management

Immigration detention by ICE and CBP makes communities less safe, not more. Recent studies show that communities where the local police cooperate more with federal immigration enforcement and consequently have higher deportation rates do not see any corresponding decrease in crime rates.⁹ On the other hand, studies consistently show that immigration and detention enforcement actions destabilize entire communities by creating financial and housing insecurity for families and contributing to fear and mistrust of local police and other state and local government entities.¹⁰

The COVID-19 pandemic has brought into sharp relief ICE's inability to protect public health in its detention practices. ICE's response to the pandemic has been a series of failures. For months into the pandemic and to this very day, immigrants in custody are not provided free soap in sufficient quantities. ICE has not provided free access to phones for all those behind bars during a pandemic, despite the agency having promised congressional staff it would do so.¹¹ A recent investigation illustrates further failings, including an insufficient supply of masks and hand sanitizer.¹² Throughout the pandemic, ICE has continued engaging in reckless and unnecessary transfers of people between facilities – transfers that have created new outbreaks within facilities and in surrounding communities.¹³

Twenty-one people died in ICE custody in fiscal year 2020,¹⁴ the highest death rate in 15 years, even as the number of people in custody decreased significantly because of Trump Administration policies sealing the southern border to people seeking asylum. Adding to the tragic loss of life in ICE custody, CBP officers killed two people in Texas¹⁵ and California¹⁶ in a two-week period in October 2020. The death toll in ICE and CBP custody underscores that these agencies operate within a culture of violence that results in sexual assault,¹⁷ violent abuse,¹⁸ medical neglect,¹⁹ and unsanitary conditions.²⁰

Evidence-based studies consistently prove community-based programs to be safer than a detention-based approach, up to 80 percent cheaper than detention, and effective at ensuring compliance rates of 90

⁷ Migration Policy Institute (2018), <https://www.migrationpolicy.org/article/profitting-enforcement-role-private-prisons-us-immigration-detention>.
⁸ Human Rights First (2020), <https://www.humanrightsfirst.org/resource/immigration-detention-and-covid-19-timeline-administration-fails-heed-warnings-worsens>.

⁹ The Marshall Project (2019), <https://www.themarshallproject.org/2019/09/23/do-deportations-lower-crime-not-according-to-the-data>.

¹⁰ Center for American Progress (2012), <https://www.americanprogress.org/wp-content/uploads/2012/08/DrebyImmigrationFamiliesFINAL.pdf>.

¹¹ The Hill (2020), <https://thehill.com/homenews/senate/498590-democrats-call-on-dhs-to-allow-free-calls-at-ice-detention-centers>.

¹² The Associated Press (2020), <https://apnews.com/article/c37254edd0acb3738fa4e916c3f249c6>.

¹³ BuzzFeed News (2020), <https://www.buzzfeednews.com/article/hamedaleaziz/ice-immigrant-transfer-jail-coronavirus>.

¹⁴ CNN (2020), <https://www.cnn.com/2020/09/30/us/ice-deaths-detention-2020/index.html>.

¹⁵ The New York Times (2020), <https://www.nytimes.com/2020/10/25/us/border-patrol-shooting-texas.html>.

¹⁶ The San Diego Union-Tribune (2020), <https://www.sandiegouniontribune.com/news/public-safety/story/2020-10-23/border-patrol-agent-reportedly-shoots-person-near-san-ysidro>.

¹⁷ ProPublica (2020), <https://www.propublica.org/article/ice-guards-systematically-sexually-assault-detainees-in-an-el-paso-detention-center-lawyers-say>.

¹⁸ USA Today (2019), <https://www.usatoday.com/in-depth/news/nation/2019/12/19/ice-detention-private-prisons-expands-under-trump-administration/4393366002>.

¹⁹ Project On Government Oversight (2019), <https://www.pogo.org/investigation/2019/05/medical-neglect-at-a-denver-immigration-jail>.

²⁰ Office of Inspector General, DHS (2017), <http://www.endisolation.org/blog/wp-content/uploads/2017/05/Management-Alert-on-Issues-Requiring-Immediate.pdf>.

percent or more.²¹ Most importantly, community-based alternatives offer a framework for migration processing that allows families to remain together and whole, making all our communities safer. A recent report, titled “A Better Way,” explores different models in the U.S. and globally.²²

Meaningful detention reform requires expansion of community-based, not-for-profit, alternatives to detention (ATD) programs. Expanding the least restrictive form of community-based ATDs would save money and should be emphasized as the new Administration pursues a reduction in detention at large. People of faith will continue accompanying immigrants as they navigate the immigration system.

Recommendations:

- End reliance on immigrant detention, including family detention, and eliminate mandatory detention and local bed quotas.
- End all federal contracts, and subcontracts, with private prison corporations, including those contracted through DHS.
- Ensure that immigration proceedings are not punitive, profit-driven ventures, but rather humane, civil proceedings that primarily address protection and immigration status adjustment.
- Invest in community-based alternatives to detention and case management programs, including for family case management.

Improve Existing Oversight and Quality of Detention Conditions

For as long as immigrants and other individuals are detained, existing detention facilities’ conditions must be improved. The new Administration can protect due process through increasing access to legal counsel, pro bono legal services, and legal orientation programs. This can include funding and expanding the DOJ’s Legal Orientation Program for immigrant detainees and setting up immigration court advice desks in communities with detention centers.

The new Administration should support reforms that ensure immigrant detainees are treated in compliance with specific requirements related to issues of humane treatment, detention facility standards, solitary confinement limitations, telephone access, facility location, investigation of grievances, transfers, language and translation services, recreational programs and voluntary work, medical care, vulnerable populations, and legal access. Furthermore, the new Administration should support additional measures that would address the lack of oversight and accountability in regards to humane standards in detention facilities across the country.

The detention system is marred by endemic corruption and abuse, with expansion particularly harming those most vulnerable. There are frequent deaths in ICE custody, deaths that ICE’s own reviews reveal to be attributed to medical negligence in approximately half of all cases.²³ Independent medical experts identify consistent substandard care, including unreasonable delays in obtaining care, poor practitioner and nursing care, and botched emergency response. Despite these findings, ICE has failed to investigate or remedy the unsafe conditions putting human lives in jeopardy. In the very same facilities where multiple deaths have occurred, egregious lapses in medical care and unconscionable delays in treatment persist.

²¹ Justice for Immigrants (2019), <https://justiceforimmigrants.org/what-we-are-working-on/immigrant-detention/real-alternatives-detention>.

²² National Immigrant Justice Center (2019), <https://immigrantjustice.org/sites/default/files/uploaded-files/no-content-type/2019-04/A-Better-Way-report-April2019-FINAL-full.pdf>.

²³ National Immigrant Justice Center (2018), <https://immigrantjustice.org/research-items/report-code-red-fatal-consequences-dangerously-substandard-medical-care-immigration>.

Such abuses are aggravated by massive failures in oversight and accountability. The DHS Inspector General has found ICE's contracting tools inadequate to hold detention contractors accountable²⁴ for failing to meet standards and uncovered grievous failings in the agency's inspections regime.²⁵

Furthermore, under the Trump Administration, ICE has dramatically ramped up its detention of immigrants with particular vulnerabilities, such as pregnant women and the elderly, leaving many exposed to inordinate harm.²⁶ ICE has also adopted a policy of automatic and prolonged detention of asylum seekers, in violation of its own stated policy that preferences release. Numerous legal challenges have brought limited relief as ICE continues to flout even court-ordered requirements to observe their own directives.²⁷ For survivors of trauma in particular, the experience of ICE detention can lead to quickly deteriorating mental health and a reliving of the harms recently fled.

Recommendations:

- Establish oversight for all facilities to ensure rigorous medical treatment standards and access to visitation and pastoral care.
- Increase access to detention facilities for non-governmental entities to help improve transparency and accountability in the detention process.
- Provide immigrants greater access to legal services while in detention and removal proceedings including accessible legal counsel and legal orientation programs.
- Investigate reports of medical abuse in all DHS detention facilities, particularly Irwin County Detention Center (ICDC) in Georgia.
- During a pandemic, greatly reduce population density in detention centers and ensure all detainees and staff have access to personal protective equipment, personal hygiene products, and are able to socially distance.

²⁴ Office of Inspector General, DHS (2019), <https://www.oig.dhs.gov/sites/default/files/assets/2019-02/OIG-19-18-Jan19.pdf>

²⁵ Office of Inspector General, DHS (2018), <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>

²⁶ U.S. Government Accountability Office (2019), <https://www.gao.gov/products/GAO-20-36>.

²⁷ American Civil Liberties Union (2018).

<https://www.aclu.org/blog/immigrants-rights/ice-and-border-patrol-abuses/under-court-order-ice-must-reconsider-asylum>.

Champion Refugee Resettlement and Protect Asylum Seekers

*“Do not mistreat or oppress a foreigner, for you were foreigners in Egypt.
Do not take advantage of the widow or the fatherless.”
Exodus 22:21-22*

Refugee Resettlement

An unprecedented 79.5 million people worldwide have been forced from their homes, of which 29.6 million have fled their countries to seek refuge from conflict and persecution.²⁸ As outlined in Refugee Council USA’s “Where are the refugees?” report, the Trump Administration has made countless policy and operational decisions that have dismantled the U.S. Refugee Admissions Program (USRAP).²⁹ The U.S. must act boldly to restore and strengthen its longstanding global leadership on refugee protection.

As the COVID-19 pandemic strains our public health and economic wellbeing, refugees are acutely vulnerable during this difficult time. Displaced populations urgently need aid and access to safety.³⁰ Refugees are particularly vulnerable to food insecurity, income disruptions, loss of housing, and medical or health emergencies – which make them a population ripe for exploitation, especially women head of households³¹ and unaccompanied refugee children.³² Displaced children are particularly vulnerable to violence and falling behind in their education, in addition to curtailed access to COVID-19 testing, treatment, and care.³³ While the U.N. High Commissioner for Refugees (UNHCR) continues to help countries provide emergency assistance, refugee resettlement is absolutely critical to help the most vulnerable refugees given that COVID-19 has exacerbated already dire humanitarian needs globally.

Refugees who are forced to flee conflict and persecution should not be denied safety and protection on the pretext, or even as a side effect, of responding to the pandemic. Securing public health and protecting refugees are not mutually exclusive.³⁴ Longstanding U.S. law can be respected even as we adopt stringent measures to protect public health. There are ways to respond to this pandemic in a manner which respects international human rights and refugee protection standards, including the principle of non-refoulement, through health screenings, treatment, and other safe processing procedures.³⁵ More than ever, as COVID-19 poses a global threat to our collective humanity, our primary focus should be on the preservation of life – regardless of status. Many refugees, displaced people, stateless people, and migrants have skills and resources that can also be part of the solution.

Restore and Strengthen Refugee Admissions and Family Reunification

On day one, the new Administration should notify Congress that the President proposes to raise the FY 2021 refugee admissions goal to 100,000, which is justified by grave humanitarian concerns and is in the

²⁸ United Nations High Commissioner for Refugees - UNHCR (2020), <https://www.unhcr.org/en-us/news/press/2020/6/5ee9db2e4/1-cent-humanity-displaced-unhcr-global-trends-report.html>.

²⁹ Refugee Council USA (2019), <https://rcusa.org/wp-content/uploads/2019/07/RCUSA-Report-1.pdf>.

³⁰ UNHCR (2020), <https://www.unhcr.org/news/briefing/2020/5/5eabde134/displaced-people-urgently-need-aid-access-social-safety-nets-coronavirus.html>.

³¹ UNHCR (2020), <https://www.unhcr.org/news/press/2020/4/5e998aca4/displaced-stateless-women-girls-heightened-risk-gender-based-violence-coronavirus.html>.

³² UNHCR (2020), <https://www.unhcr.org/news/press/2020/4/5e9d4c044/covid-19-pandemic-continues-forcibly-displaced-children-need-support.html>.

³³ UNHCR (2020), <https://www.unhcr.org/news/press/2020/4/5e9d4c044/covid-19-pandemic-continues-forcibly-displaced-children-need-support.html>.

³⁴ UNHCR (2020), <https://www.unhcr.org/news/press/2020/4/5ea035ba4/beware-long-term-damage-human-rights-refugee-rights-coronavirus-pandemic.html>.

³⁵ UNHCR (2020), <https://www.unhcr.org/news/press/2020/3/5e836f164/rights-health-refugees-migrants-stateless-must-protected-covid-19-response.html>.

national interest, pursuant to section 207 of the Immigration and Nationality Act (INA). Following such notification, set the FY 2021 admissions goal at 100,000 with regional-based allocations that account for the greatest resettlement needs. At least 1 percent of the refugee admissions goal should go toward resettling Unaccompanied Refugee Minors (URMs). The commitment to meeting these admissions goals must come with appropriate increases³⁶ to fund the overseas and domestic components of the USRAP, as well as clear messaging that helps maintain and build public support for increased refugee resettlement.

Family unity is critical to refugees' well being, integration, and success. Unfortunately, family reunification options within the USRAP are too narrowly defined and heavily backlogged, leaving many families permanently separated and without this vital protection. The next Administration should engage in an interagency process to help identify and resolve bottlenecks in Priority-3 (P3) and follow-to-join case processing that result in extreme and unnecessary delays. It is equally critical that the next Administration reunite refugee families by expanding the number of approved nationalities, types of family relationships, and categories of immigration statuses eligible for individuals in the U.S. to apply for their family members to be resettled. Further, case processing for married sons and daughters, siblings, grandparents, and grandchildren (Priority-4) and uncles, aunts, nieces, nephews, and first cousins (Priority-5) should be re-established so that these channels of family reunification are accessible.

Within the first month in office, the new Administration should appoint a senior coordinator in the White House with high-level security clearances to coordinate federal agencies and other stakeholders; establish specific benchmarks to meet admissions goals; and lead an interagency audit in FY 2021 of all existing refugee security checks to ensure that security vetting is fair, efficient, and narrowly tailored to its legitimate purpose.

Recommendations:

- Rescind the Muslim, refugee, and asylum bans: Presidential Proclamations 9645 and 9822 and Executive Orders 13769, 13780, 13888, and 13815.
- Rebuild refugee resettlement by increasing the FY 2021 admissions goal to 100,000, the FY 2022 goal to 125,000, FY 2023 to 150,000, FY 2024 to 175,000, and FY 2025 to 200,000 refugee admissions, with congressional consultation in accordance with U.S. law. The annual refugee admissions goal must be based on vulnerability, allocating resettlement slots according to regional needs.
- Restore and improve refugee processing, including by immediately accepting resettlement referrals from UNHCR and rebuilding the U.S. processing infrastructure.
- Issue, from the White House, an executive order to the State Department's Bureau of Population, Refugees, and Migration (PRM) and the U.S. Department of Health and Human Services's Office of Refugee Resettlement (ORR) to immediately comply with administrative changes to rebuild the overseas and domestic resettlement infrastructure.

Strengthen Refugee Integration in the U.S. and Modernize Resettlement Services

The new Administration should create an Office of New Americans (ONA) in the White House to build partnership across federal agencies and with national, state, and local stakeholders to help facilitate refugee and immigrant integration. The goal of a federal ONA should be to champion refugee and immigrant rights; improve services; and engage diverse immigrant and refugee communities through enhanced collaboration with all levels of government, community organizations, academic institutions, and the private sector. The ONA should ensure it continues to build bipartisan support for refugees and other humanitarian populations of concern with Members of Congress, governors, state legislatures, local

³⁶ Refugee Council USA (2020), https://drive.google.com/file/d/1SxI410xYzF5UgZS3UV8_5qg1UBRJsDio/view.

officials, and the American public. The ONA should coordinate with the interagency audit to review reforms that would strengthen refugee processing and integration.

The ORR, within the Department of Health and Human Services' (HHS) Administration for Children and Families (ACF), was originally established to assist refugees resettled by the U.S. Over the past three decades, its mandate has grown and the populations it serves have become more varied, their needs more complex, and their numbers more difficult to predict. ORR's services have been destabilized by more than a decade of under-resourcing and reprogramming funds out of refugee resettlement services to meet the needs of unaccompanied children. Further, the current ORR budget structure does not allow enough flexibility to target specific emerging needs such as professional recertification and long-term case management. While asylees are eligible for ORR services, given a variety of barriers and a lack of information, few asylees – just 10-15 percent – access any ORR benefits.

The new Administration should create funding structures to respond to the needs of all populations under ORR's mandate, and it should ensure all eligible individuals are aware of and are able to access its services. The new Administration should invest in case management capacity and tailored specialized services for asylum seekers during the adjudication of their cases, Central American Minors (CAM) program parolees, refugees arriving with particular skills who cannot access those industries for employment, refugees who are secondary migrants, asylees, and other particularly vulnerable populations.

The new Administration should focus on data collection and conduct longitudinal studies of refugees and asylees to fill a critical gap in generating an evidence-base through the Annual Survey of Refugees (ASR) to better understand asylee and refugee integration and economic contributions over time. The Administration should also collect comprehensive nationwide data on refugee and asylee needs, program outcomes, and secondary migration in order to identify the successes and gaps of the resettlement program and inform program changes.

Safeguard Humanitarian Admissions by Improving Complementary Pathways to U.S. Protection

The new Administration should invest in restoring and strengthening the entire U.S. protection system, including complementary pathways to resettlement. More information about complementary pathways to strengthen sustainable and strategic solutions for refugees can be found [here](#).

The Special Immigrant Visa (SIV) program provides a pathway for Afghans and Iraqis who face danger because of their service to the U.S. mission in Afghanistan and Iraq. Though Congress mandated that the State Department and vetting partner agencies issue visas within nine months, average processing times have always been several years long and have dramatically increased since 2017. The Administration should support Congress' efforts to authorize 4,000 Afghan SIVs until sufficient visas are approved to meet the backlog and projected future need of wartime partners – and engage the interagency process to implement efficiencies, reduce backlogs and delays, and ensure that all SIV processing agencies have appropriate staffing to issue SIVs expeditiously.

Private sponsorship models of refugee resettlement enable committed groups to take responsibility for integration services for newly arriving refugees, providing them with initial financial assistance, direct services, guidance, and mentorship.³⁷ They also allow groups located far from resettlement agencies to welcome refugees to their communities – and could serve as an “introductory” location seeking to welcome more refugees. Such models must ensure that privately sponsored refugees receive similar benefits to refugees resettled under the current public/private partnership model. Sponsorship programs must also collaborate closely with and be monitored by refugee resettlement agencies. The new

³⁷ Refugee Council USA (2020), https://drive.google.com/file/d/1ki--1vMRUP17orau1i_Kg6jmMAr2cvpa/view?usp=sharing.

Administration should re-establish options for private sponsorship in the U.S. by working with Congress to authorize visas under a new humanitarian category, and/or allowing co-sponsorship groups to resettle refugees in addition to the admissions goal established in the Presidential Determination.

The CAM Program provided a pathway to safety through resettlement or parole for children from the Northern Triangle of Central America to reunite with a parent lawfully residing in the U.S. This program, which was terminated under the Trump Administration, provided an important way for children to seek safety and reunify with a parent without undergoing a dangerous journey to the U.S. The Administration should restore and expand the CAM program, along with resources for safe transport and housing while children wait and funding for application preparation.

Asylum Protections

All those fleeing conflict and persecution deserve the opportunity to pursue safe and fruitful lives. We support policies that ensure individuals maintain the right to seek protection within our borders. Furthermore, our policies should not force people to return to deadly or dangerous conditions or to be handed over to persons who seek to exploit them. Nor should our policies exclude protection based on history of being victim to gang violence, domestic violence, or any other specific experience. The new Administration should roll back any policies that have made it more challenging to seek asylum, restrict who can be granted asylum, make it harder to access work permits while asylum claims are being adjudicated, and make it more difficult to become a sponsor.

We are deeply troubled that the Trump Administration has used every weapon in its arsenal to meticulously dismantle the U.S. asylum system by restricting access to due process, excluding specific populations from being able to make asylum claims, and implementing callous policies that expedite removal of asylum seekers and neglect to uphold its obligations under international and U.S. law. We also have specific concerns about the mistreatment of families and children who do not have adequate representation and therefore are further subjected to violence, trafficking, and persecution should their asylum claims be rejected.

Even during a global pandemic like COVID-19, there is no public health rationale for a categorical ban on asylum seekers.³⁸ The U.S. has the ability to both safeguard public health in the midst of the COVID-19 crisis and safeguard the lives of families, adults, and children seeking asylum and other humanitarian protection at the U.S. southern border. Public health experts have repeatedly recommended measures like social distancing, wearing masks or similar coverings, using hand sanitizer, demarcations and barriers, health screenings, sheltering in place at homes of family members through proven case management strategies, and more.³⁹ Such measures, rather than banning people seeking humanitarian protection, protect both public health and the lives of those seeking safety and freedom.

Beyond ICE and CBP's horrific treatment of all asylum seekers, including women and children, there are disparities within the system. White supremacy is at the root of the U.S. immigration system, and how anti-Blackness plays out demonstrates how egregious the problem of neglect and abuse of detainees is. The new Administration should reject counterproductive prevention-through-deterrence strategies so that no one is unlawfully deterred from seeking asylum or asking for protection at the border.

Expand Protections for All Asylum Seekers and Unaccompanied Children

³⁸ Just Security (2020), <https://www.justsecurity.org/69747/there-is-no-public-health-rationale-for-a-categorical-ban-on-asylum-seekers>.

³⁹ Human Rights First (2020), <https://www.humanrightsfirst.org/sites/default/files/PublicHealthMeasuresattheBorder.05.18.2020.pdf>.

Federal policy should ensure that every person seeking asylum in the U.S. is interviewed by a qualified asylum officer and provides for increasing the number of officers available to perform credible fear interviews. The new Administration should ensure the best interests and safety of children are paramount rather than curtailing existing protections. Proposals that would roll back protections for children from Central America should be rejected. All unaccompanied children should have access to independent child welfare, legal, and anti-trafficking experts who can assist in their identification, screening, and referrals as asylum applicants and trafficking victims. For the short time children are in CBP custody, they should receive adequate nutrition, housing, and medical treatment.

The new Administration should immediately end all “hotelling” practices, or the Temporary Housing Program, in which children are detained in hotels rather than detention centers before being expelled from the U.S. without due process. Because children are being held in custody of the contractor MVM Inc., there are concerns that children are not being granted access to their basic care and are not granted protections under TVPRA of 2008⁴⁰ and the Flores Settlement Agreement,⁴¹ subjecting these children to neglect and abuse.

The new Administration should immediately undo the multiple regulations and policies put in place to dismantle the asylum system and obstruct access to life-saving protection, including withdrawing from the so-called “Asylum Cooperative Agreements” with El Salvador, Guatemala, and Honduras, and terminating the asylum and transit bans and metering policies. Further, asylum seekers and parolees should have timely and equitable access to ongoing and automatic work authorization.

Recommendations:

- End expulsions under Title 42 in which individuals seeking asylum are rejected rather than processed and provide an opportunity to make an asylum claim.
- Strengthen protections contained in the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008 by increasing access to protection for unaccompanied children from contiguous countries to align with provisions protecting children from noncontiguous countries.
- Provide unaccompanied children with adequate services, while maintaining services and funding for other groups under the care and custody of the ORR within HHS.
- Improve implementation and oversight of the asylum screening process to ensure that all individuals are asked if they fear returning to their country of origin and are referred to the asylum process if such fear is expressed.
- Ensure that qualified U.S. Citizenship and Immigration Services (USCIS) asylum officers conduct credible fear interviews for detained asylum seekers and increase the number of officers.
- Rescind the Migrant Protection Protocols (MPP), also known as “Remain in Mexico” program, which allows border officers to expel non-Mexican asylum seekers to dangerous locations in Mexico while their asylum claims are adjudicated. Also, parole into the U.S. all asylum seekers with pending cases who are waiting in Mexico and release them to family, friends, or a community-based program while cases proceed in immigration court.

Increase Access to Legal Counsel and Initiate Immigration Court Reform

Everyone is deserving of legal representation. In fact, immigrants who have representation are 15 times more likely to pursue lawful status than those who do not have adequate resources or knowledge of the system.⁴² The new Administration should ensure that immigrants, asylum seekers, and unaccompanied children have legal representation so that they can fully present their case for protection. The new

⁴⁰ Public Law 110-457 (2008), <https://www.congress.gov/110/plaws/publ457/PLAW-110publ457.pdf>.

⁴¹ American Immigration Lawyers Association (2019), <https://www.aila.org/infonet/flores-v-reno-settlement-agreement>.

⁴² UCLA School of Law (2015), <http://ssrn.com/abstract=2581161>.

Administration should also reduce lengthy delays and strengthen the U.S. asylum system by expanding the number of immigration judges, improving the use of technology; enhancing training on culture, country conditions, trauma, and child protection; and expanding upon interpretation services available at the border, in detention, at asylum offices, and during court hearings – including for those who speak Indigenous languages and African dialects.

Finally, legislative and other management reforms are needed within the U.S. Immigration Court system to ensure participants are afforded fair consideration of their cases. In its recommendations to the new administration, the American Immigration Lawyers Association writes:⁴³

America needs a just and efficient immigration judicial system. Legislatively, the Biden administration should urge Congress to create an Article I immigration court that is independent from the Department of Justice. In the meantime, the new administration should take concrete steps within its executive authority to ameliorate the damage done by its predecessor and implement measures to increase judicial independence, fairness, and consistency in decision making.

Recommendations:

- Provide adequate interpretation services for speakers of dialects and Indigenous languages at the border, in detention, at the asylum offices, and during court hearings.
- Strengthen due process, judicial independence, fairness, and access to protection within the DHS and the DOJ’s Executive Office for Immigration Review (EOIR) adjudication and enforcement systems.
- Guarantee legal counsel for all children and asylum seekers.

Prioritize the Health and Safety of Black Migrants, Immigrants, and Asylum Seekers

The Trump Administration increased the swift deportations of Black migrants, limiting their access to due process through expedited removals and by coercing detainees to sign their own deportation papers. The deportation rate of Black immigrants is higher than other communities, and Black asylum seekers face among the highest rates of rejection. Throughout the COVID-19 pandemic, hundreds of Black migrants were deported – mainly Cameroonians, Congolese, and Haitian asylum seekers – who were sent back to the countries where they fled harm. Not only is this cruel, but it’s even more so during a global pandemic as these migrants are being sent back to countries with insufficient capacity to mitigate the spread and threat of COVID-19.

In order to combat the injustices Black immigrants and asylum seekers face every day, we urge the new Administration and Congress to stop detention and deportations, especially during the COVID-19 crisis; cut funds for ICE and CBP; seek accountability for the gross abuses by ICE and CBP officials; and extend or redesignate TPS to nationals of Cameroon, Mauritania, Haiti, and other African and Caribbean countries. All people deserve access to health and safety, not deportation to countries they initially fled because of persecution and violence. The U.S. must prioritize Black immigrants and asylum seekers’ experiences in policies and legislation to build a more just, humane, and equitable immigration system.

Return to the U.S. After Deportation

Deportation – banishment from one’s home, family, and established life – is a major life event that has profound impacts on the deported person, as well as their friends, family members, and community. Many of the people harmed by deportation are U.S. citizens, including the citizen children of those who are

⁴³ AILA Doc. No. 20110933, <https://www.aila.org/infonet/a-vision-for-america-as-a-welcoming-nation>.

deported. There are levers that exist in current law to facilitate return after deportation, and the new Administration should ensure that these levers work to reunify families and communities. Reunification would be a powerful example of progress for a nation that has experienced much division and pain in recent years. Changing the law is also a priority to facilitate more returns with access to permanent legal status and citizenship, but the following changes can be carried out after installation of a new Administration, without requiring an act of Congress.

Recommendations:

- Revise ICE Directive 11061.1⁴⁴ and their Frequently Asked Questions⁴⁵ on facilitating return to the U.S. after deportation to make the process clearer, fairer, more accessible, and more common. Promulgate a rule on this directive to make the changes permanent.
- Use humanitarian parole to allow people to return to the U.S. and resume their requests for relief from removal.
- Ensure that persons unable to obtain passports or equivalent documentation from their countries of origin can still travel on commercial transport.
- Create an Office of Removal Order Review to create a safety-valve for people whose individual circumstances warrant an opportunity for them to remain in or return to the U.S.
- End the regulatory departure bars to reopening and reconsidering immigration cases. Do not deport people while their motions for *sua sponte* reopening of removal proceedings, or other legal proceedings, are pending before the agency or in federal court.
- Reopen removal orders predicated on anti-asylum policies and ensure that applicants for asylum who were wrongfully denied protection are given the ability to return to the U.S. to seek relief.
- Permit people subjected to illegal workplace raids or other enforcement actions to receive advance parole to return to the U.S. and seek whatever relief may be available to them as a result of their mistreatment, including but not limited to U and T visas, non-LPR cancellation, and Deferred Action.

⁴⁴ Immigration and Customs Enforcement (2012), https://www.ice.gov/doelibr/foia/dro_policy_memos/11061.1_current_policy_facilitating_return.pdf.

⁴⁵ Immigration and Customs Enforcement, <https://www.ice.gov/faq/facilitating-return>.

Improve Access to the Immigration System, Protections, and Public Benefits

“The Spirit of the Lord is upon me, because God has anointed me to preach good news to the poor. God has sent me to proclaim release to the captives and recovering of sight to the blind, to set at liberty those who are oppressed, to proclaim the acceptable year of the Lord.”
Isaiah 61:1-2 and Luke 4:18-19

Discriminatory Policies that Brutalize, Criminalize, and Dehumanize Migrant Communities

As people of faith, it is against our shared values and beliefs to push white supremacist and exclusionary policies that discriminate on the basis of faith, national origin, and immigration status. Indeed, America was founded on the basis of freedom to practice religion. We must work to bring reunification and dignity to all Muslims, Africans, and immigrant families. The singling out and banning of people solely based on their religious traditions or birthplace hurts families, openly discriminates against communities of color, and creates a pathway for systemic religion-based discrimination. The new Administration must roll back policies that have been implemented to tear families apart, force people to choose between two unacceptable realities, or bar anyone access to life-saving immigration based on their identity or income.

Deferred Action for Childhood Arrivals, Temporary Protected Status, Deferred Enforced Departure, and More

Work with Congress to immediately provide permanent protection and a pathway to citizenship for all undocumented immigrants, including Deferred Action for Childhood Arrivals (DACA) recipients and Temporary Protected Status (TPS) holders.

The new Administration’s immigration agenda should include ensuring a pathway to citizenship for all undocumented immigrants in the U.S. in order to stabilize individuals and families, grow the U.S. economy, and strengthen our democracy. The legalization program should ensure access for all, regardless of income or financial situation.

We urge the new Administration to use its authority to grant Deferred Enforced Departure (DED) and TPS to those who are at risk of losing their status and to those countries for which TPS was eliminated under the Trump Administration. In September 2020, 213 state, local, and national organizations requested that the new Administration use DED and TPS to protect 2.2 million at-risk immigrants,⁴⁶ and we will continue urging the Administration to do so.

Recommendations:

- Pass a legalization program for all undocumented immigrants within the first 100 days. Ensure that no one is denied access based on their financial situation or previous interaction with an already discriminatory criminal legal system.
- Restore DACA in full to its 2012 implementation while legislation is passed.
- Halt all terminations of TPS for the six countries currently being protected by litigation.

⁴⁶<https://static1.squarespace.com/static/5c3cf9ab10598b47aa1cadf7/51f6b6a2ae86e6e063845515a/1600875050718/2020-09-28+NGO+Sign-on+Letter+to+Biden+re+DED.pdf>.

Deferred Action for Childhood Arrivals

While a legalization program is passed, DACA should be restored to its 2012 implementation in order to ensure protection for this vulnerable population. While being passed and following a legalization program, DACA should continue to exist in order to provide protection for those who may choose not to regularize their status or are otherwise not eligible for relief.

Temporary Protected Status and Deferred Enforced Departure

The Trump Administration dramatically rolled back TPS protections, putting hundreds of thousands at risk of family separation and being deported to unsafe conditions. Nearly 50,000 TPS holders whose status the Trump Administration attempted to terminate were Black and at thousands of other Black immigrants who would have benefitted from TPS never received it. These populations faced and continue to face extreme risks and vulnerability due to American police brutality and anti-Black systemic racism both outside and within the U.S. immigration system. The Trump Administration also undermined the law and Congressional intent both in TPS decision making at DHS and implementation at USCIS. The new Administration must use its authority to immediately restore protection for those at risk and commit to restoration of this vital humanitarian immigration law and related policy.

There are three distinct groups that lost or did not receive protection due to the Trump Administration's anti-immigrant agenda and improper use of TPS. These include:

- TPS holders from El Salvador, Haiti, Honduras, Nepal, Sudan, Nicaragua, and Honduras whose status was terminated.
- Venezuelans, Bahamians, and Lebanese nationals in the U.S. whose countries were not designated for TPS.
- Nationals from Syria, Yemen, Somali, and South Sudan who would have benefitted from redesignation.⁴⁷

Given the extreme vulnerability of these populations, the Interfaith Immigration Coalition recommends a day one use of DED to form a bridge of protection while TPS is restored and/or the new Administration works with Congress to pass permanent protection and a pathway to citizenship – two essential but potentially time-consuming acts. DED would be a highly efficient and immediately impactful strategy. DED for the three above-mentioned populations can be issued through a single presidential memorandum pursuant to the president's authority to conduct foreign relations and would be effective immediately.

Following DED, the new Administration's roadmap should be to restore TPS for all populations while simultaneously and aggressively working to pass legislation. While a legislative solution is necessary, the new Administration should also use TPS as the life-saving tool Congress intended it to be. TPS is a vital part of U.S. humanitarian immigration law, supplementing and providing a safety net when people slip through the cracks of the asylum and refugee systems. Finally, the new Administration should commit to working with Congress on other adjustment programs as needed for well-rooted populations in the U.S. on temporary protections such as TPS or DED.

The new Administration must also ensure USCIS is functional and properly adjudicating immigration benefits and adjudicating cases. Namely, the new Administration must issue Federal Register Notices on or before TPS decision dates, restore a robust public outreach and education program to assist TPS

⁴⁷ Redesignation is the Secretary of DHS' power to move up in time the date by which a person needed to be in the U.S. in order to apply for TPS. While TPS for Syria, Yemen, Somalia, and South Sudan – some of the world's worst humanitarian crises – was extended under the Trump Administration, no country received redesignation at any decision. Prior to the Trump Administration, TPS for Syria, Yemen, and South Sudan had been redesignated at every decision. Given deteriorating country conditions, redesignation has been warranted for all four countries.

holders in re-registration and other issues, and reduce processing delays so that TPS holders receive their documents on time. Under the Trump Administration, failures at USCIS in these categories cost TPS holders jobs, income, driver's licenses, loans, and more. In order to ensure TPS holders are protected and stabilized as Congress intended, USCIS must do its part.

Recommendations:

- Use DED on day one of the new Administration to:
 - Restore protection for TPS holders whose protection was terminated under the Trump Administration and work to designate countries for TPS as quickly as possible.
 - Protect countries the Trump Administration failed to designate, including Venezuela, the Bahamas, and Lebanon.
 - Protect Yemenis, Syrians, Somalis, and South Sudanese in the U.S. who would have benefited from redesignation if used properly by the Trump Administration.
- Work with Congress to immediately provide permanent protection and pathway to citizenship for TPS holders and commit to working with Congress on other adjustment programs as needed for well-rooted populations on temporary protections such as TPS and DED. The new Administration should support legislation that excludes harmful add-ons like increases in immigration enforcement and the militarization of border communities that further jeopardizes the lives of Black and Brown immigrants who are already subject to racialized policing by law enforcement.
- Restore the historical practice of DHS/USCIS timely publishing Federal Register Notices on or before TPS decision days.
- Address systemic issues such as processing delays and lack of public education and outreach at USCIS to ensure TPS holders are not harmed in the implementation of TPS decisions.

Use Deferred Enforced Departure as a Key Tool in U.S. Foreign Policy

DED is a key executive tool allowing the president to provide protection from deportation and work authorization to nationals in the U.S. in furtherance of U.S. foreign policy objectives. As human rights and humanitarian protection should be cornerstones of U.S. foreign policy, DED should be used as often as necessary to safeguard human life. The use of DED helps send a message to the world that the sanctity and dignity of each person is paramount. Mechanically, DED can be put in place quickly through presidential memorandum and can be used prior to a TPS designation for a country. For more information on our foreign policy positions, please refer to the International and Foreign Policy section.

Liberian Refugee Immigration Status

LRIF was passed as part of the 2019 National Defense Authorization Act, creating a pathway to citizenship for Liberians who have lived in the U.S. since 2014 or before. Many have held either TPS or DED for decades since the Liberian civil wars in the 1990s. USCIS' implementation of LRIF under the Trump Administration was botched due to little to no outreach or education, extreme processing delays, inefficient adjudication policy choices, and more.

In the fall of 2020, with just months left before the program's December 20, 2020 deadline, only a few thousand out of the 10,300 eligible had applied and only a few of these cases had been adjudicated or approved.⁴⁸

Recommendations:

⁴⁸ Catholic Legal Immigration Network, Inc. (2020). <https://cliniclegal.org/resources/humanitarian-relief/liberian-refugee-immigration-fairness-lrif/report-failing-our>.

- Review status of LRIF and work with Congress on additional legislation as needed.
- Review status of approvals and adjudications and overall implementation of LRIF at USCIS.
- Work with Congress to extend the program's deadline as needed to ensure all eligible are able to apply.
- Put in place a robust outreach and education program at USCIS and take other measures necessary to ensure the success of the program.

Public Charge

The DHS' dramatic expansion of the definition of the public charge significantly raises the barriers to maintaining and obtaining legal immigration status; it is unconscionable and cruel. Prior, "public charge" applied to immigrants who are likely to depend on cash assistance or need long-term medical care at the expense of the government. After the change, the definition is so broad that it denies immigrants legal status if they have used one of an expanded list of public benefits, including health and nutrition benefits, to survive. This dissuades people from utilizing life-saving benefits like SNAP and Medicaid out of fear that it can prevent them from obtaining a green card or from reuniting with loved ones in this country in the future.

This policy also affects U.S. citizens who are in mixed immigration status families, preventing citizen children and pregnant women from accessing programs that could help fulfill vital needs. The wealthy will pass easily through while hard working immigrants who are struggling to make ends meet will have to choose to put the health and safety of their families at risk in favor of a secure future. The new Administration must change the public charge definition to be less stringent to ensure the health and safety of all people seeking to advance their immigration status.

Recommendations:

- Rescind the Inadmissibility on Public Charge Grounds final rule and oppose other harmful public charge policies and regulations.⁴⁹
- Oppose public charge policies that require people to choose between enrolling in programs that provide basic health and safety or a secure immigration status.

Family-Based Immigration

Faith communities stand united in the value of family and the need to strengthen the family-based immigration system. The Immigration and Nationality Act of 1965 established our current family-based immigration system to end the previous racist national origin quotas. Unified families bring stability to individual households and strengthen neighborhoods and communities. Family members help one another navigate a new culture; pursue job opportunities; start businesses; and contribute economically, socially, and spiritually to society.

The Trump Administration has severely cut family-based immigration by creating barriers to obtaining these visas, such as the public charge rule, which particularly affects low-income immigrants of color. Additionally, the family-based system has confronted years of administrative delays due to government failure to process visas to the statutory caps, leaving millions of people stuck in backlogs and keeping families separated for years. The number of family-based visas should better reflect the realities of today's families, rather than arbitrary and outdated quotas.

Recommendations:

⁴⁹ <https://www.uscis.gov/green-card/green-card-processes-and-procedures/public-charge>

- Clear the family-based visa backlogs. Congress must authorize more green cards to provide for family unity, both for family members at risk of deportation inside the country and those separated by borders.
- Increase the family-based country caps and the diversity visas available.
- Eliminate the public charge “Wealth Test.” The Administration should rescind the new public charge rule and Congress should repeal the public charge ground of inadmissibility entirely.
- Clear the employment-based backlogs for people living in the U.S. on temporary visas to ensure that families stuck on temporary visa programs are able to access permanent status and citizenship.
- Create enforcement relief for families living under the threat of deportation and for family members barred by harsh immigration laws and seeking to sponsor loved ones or who live under the threat of deportation.
- Eliminate the 3-year, 10-year, and permanent bars to immigrate for the undocumented and the unjustly deported.
- Congress should create broad waivers allowing the government discretion and flexibility to provide relief for people deportable due to criminal convictions and to ensure a right to return for the deported, e.g. by waiving grounds of inadmissibility or deportability in the interest of family unity, for humanitarian purposes, or the public interest.
- Create parole programs for family members within the U.S. and those outside the U.S. stuck in long lines due to the backlogs.
- Expand sponsorship categories for additional family members to include grandparents and parents of minor U.S.-citizen children. Family relationships extend beyond current family sponsorship categories (spouse, children, parents, and siblings). For example, the pre-1977 INA provisions allowed the parents of minor U.S.-citizen children to legally immigrate or adjust their status if present as immediate relatives. Allow people to sponsor one more person who does not fall into the prescribed family categories or who is alone in the country of origin.
- Safeguard the interests of minors by immediately reuniting them with their parents, and allowing for the repatriation of deported individuals, especially if they have U.S.-citizen children.

Workers

Immigrants are valued members of our communities and contribute greatly to the prosperity of this country. All workers benefit from the enforcement of health, safety, and wage-and-hour laws, as well as the right to organize, but immigrants are often denied these protections. Employers must abide by labor protections and standards for all workers, regardless of immigration status. As people of faith, we seek policies that decrease immigrants’ vulnerabilities to exploitation and reduce unfair and discriminatory hiring and firing practices.

Since the 1940s, two guest worker programs have brought low-wage immigrants to the U.S. for temporary agricultural and non-agricultural work. Unfortunately, these programs give guest workers a very restrictive immigration status and have inadequate workplace protections. Recognizing that many guest workers have experienced extreme exploitation and abuse, sometimes akin to human trafficking, the new Administration should ensure adequate enforcement of workplace protections.

Strengthen, Implement, and Monitor U.S. Labor and Employment Laws

The new Administration must ensure robust implementation of existing U.S. labor and employment laws, including the Fair Labor Standards Act,⁵⁰ the National Labor Relations Act,⁵¹ and their state equivalents.

⁵⁰ U.S. Department of Labor (2011), <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/FairLaborStandAct.pdf>.

⁵¹ National Labor Relations Board (1935), <https://www.nlr.gov/guidance/key-reference-materials/national-labor-relations-act>.

The new Administration, and DOL in particular, should improve work site monitoring, create more robust enforcement mechanisms, and increase awareness about U- and T-visas. In addition, DOL should utilize its authority to certify U- and T-visas in an expeditious and timely manner based on its role as a law enforcement agency. Given DOL's proximity to and engagement with the most vulnerable workers, it is essential that DOL has sufficient resources to identify and provide redress for exploitation, and to hold employers accountable.

Recommendations:

- Increase the number of federal DOL inspectors responsible for all U.S. wage and hour violations.
- Ensure all statutory and administrative remedies that redress workplace grievances apply equally to all workers, regardless of immigration status.

Guarantee Equal Rights and Equal Treatment of All Workers

Currently, each guest worker program imposes a temporary, non-immigrant status that ties workers to particular employers and makes their ability to obtain a visa dependent on the willingness of the employer to make a request to the U.S. government and to continue to employ them. To ensure workers – including farm and other guest workers – fully realize their rights and can access meaningful justice, it is essential to remove the ability of employers to threaten workers with deportation by ensuring job portability. Similarly, the new Administration should support policies that protect and guarantee the rights of workers to effectively exercise their labor rights; form unions; and bargain collectively without fear of intimidation, retaliation, or retribution from employers.

All workers should be afforded access to permanent lawful status, meaningful opportunities to apply for citizenship, and the ability to live lawfully with their families in the U.S. Without this ability, migrant farm workers and other guest workers will be a permanent underclass in our society, a social group that creates and prepares the food we eat but can never sit at the table. The new Administration should also support policies that would offer undocumented farm workers the chance to earn lawful status by meeting certain work requirements, and should revise the H-2A agricultural program to ensure farmworkers' labor rights are protected.

Recommendations:

- Untie workers from particular employers to reduce vulnerability to exploitation.
- Ensure freedom of association for all workers, including guest workers.
- Create an opportunity for all workers to pursue a path to citizenship.

Reform the Electronic Employment Verification (E-Verify) System

The E-Verify program has proven detrimental to migrants, employers, and U.S.-citizen employees alike. It has led to increased discrimination and unfair hiring and firing practices. Mandatory expansion of the current E-Verify program would lead to more problems, particularly in the absence of increased rights and protections for immigrant workers. Access to employment opportunities in the U.S. should not be compromised by the continuation of employment criteria or income standards that are unrealistic for many workers, especially those who have been subjected to labor violations and exploitative wages. It is immoral for our nation to benefit from the labor of individuals who contribute to our economy while preventing them from being fully part of our society.

Recommendations:

- Review adverse effects of the E-Verify system on the agricultural industry and temporary workers, and develop recommendations for reform and privacy protections.
- Establish key worker protections, including the creation of an administrative and judicial review process, to allow workers to contest and have remedies for erroneous non-confirmations.
- Shift the burden to the U.S. government to prove that an individual is ineligible to work, rather than requiring an individual to disprove non-confirmation.

COVID-19 Relief

Throughout the COVID-19 pandemic, we've seen Congress come together then fall apart on providing suitable and significant relief to Americans during a time that's gutted the economy and put people at risk of losing a steady income, access to safe food and water, healthcare, and housing. Unsurprisingly, immigrant communities have disproportionately been harmed by this reality, and Congress has done nothing to try to mitigate that problem.

Signed into law in March 2020, the CARES Act provided relief to Americans through various means, including sending stimulus checks directly to individuals.⁵² Unfortunately, the CARES Act withheld economic relief from families who identify a spouse or claim any dependent using an Individual Taxpayer Identification Number (ITIN). The Migration Policy Institute estimates that due to these restrictions, about 15.4 million people in mixed-status families were excluded from the stimulus payments.⁵³ Not only does excluding people from receiving relief hurt these families directly, it also hurts the U.S. as a whole and slows economic recovery.

The new Administration must include mixed status families and undocumented immigrants in any and all future COVID-19 relief packages to ensure that everyone affected by this virus has equal and fair access to government relief.

2020 Census

The new Administration must include the full Census count when making political apportionment and public benefits funding decisions. As people of faith, we understand the importance of counting and representing all people. In a democracy, every person matters and every voice should count, starting with being counted in the Census.

In March 2018, the Department of Commerce announced that it would be adding a question about citizenship to the 2020 Census. It was immediately clear that adding a question about citizenship would suppress response rates among immigrants, thus undermining the integrity of the Census. After more than a year of litigation fights, the Supreme Court ruled that the Trump Administration's reason for adding the question "appears to have been contrived,"⁵⁴ but left the possibility open for the Administration to provide an answer.

The Trump Administration then moved onto other means of undermining the census and excluding immigrants from the Census count. Throughout the COVID-19 pandemic, there have been concerns about the Census Bureau meeting their deadlines for delivering data to the Trump Administration on time before the December 31 deadline. This was the reasoning for the Administration's premature ending of the Census count. We know that stopping the count with only a few days notice made it more challenging to count hard-to-reach communities, including immigrant communities.

⁵² H.R. 748 - Coronavirus Aid, Relief, and Economic Security Act (2020), <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>.

⁵³ Migration Policy Institute (2020), <https://www.migrationpolicy.org/content/mixed-status-families-ineligible-pandemic-stimulus-checks>.

The more explicit attempt at excluding immigrants from the Census count comes with another Supreme Court case on the constitutionality of the Trump Administration's order to exclude undocumented immigrants from the Census count, specifically from the data that informs apportionment of political representation. This is a clear attempt at further disenfranchising the most vulnerable people living among us. The new Administration must ensure that everyone living in the U.S. is counted in the 2020 Census and that all people receive political representation.

Liberation for Sanctuary Leaders

Over the last four years, dozens of people around the U.S. have taken refuge in houses of worship as their only option to be safe from deportation, and to keep their families intact. Their stories can be found [here](#). Some of these families have roots in the U.S. spanning more than two decades; some have U.S.-citizen children. Many had previously received stays of removal for years under the Bush and Obama Administrations, only to become targets under the Trump Administration. Others arrived at the border seeking refuge, pleading for protection from unimaginable violence. They were met with an immigration system that threatens to send them back to countries where they will face harm or even death.

At its very core, sanctuary represents resilience and human dignity. Families living in sanctuary have been pleading with elected officials to find national policy solutions to this issue, which would have implications for thousands of people. Sanctuary leaders have faced targeted retaliation from DHS. ICE has threatened to impose exorbitant fines, upwards of \$497,999, as well as potential criminal prosecution.

Faith communities across denominations and traditions have stood in solidarity and advocated alongside those claiming sanctuary demanding freedom and family unity. Those in sanctuary have suffered enough. Their confinement has been long and the injustices they experience are ongoing. The new Administration can bring them the relief they need and deserve.

Recommendations:

- Exercise favorable prosecutorial discretion to grant a stay of removal to each person living in sanctuary on day one of the new Administration.
- Lift the deportation orders against all people living in sanctuary within the first 200 days.
- Work with Congress to ensure all private bills for people fighting their deportation receive stays of removal.

Support Migrants Beyond U.S. Borders

*"None is our enemy, none is stranger to us, we are in accord with one and all."
Guru Granth Sahib*

Root Causes of Forced Displacement

The teachings of our faith traditions are clear – people have the right to dignity and the necessary conditions to provide for themselves and their families no matter where they live and, when necessary, they have the right to migrate to meet those needs or to reunite their families. We are convinced that migration should be driven by choice, not necessity.

No immigration strategy is truly comprehensive or long-term if it does not address the economic, social, environmental, and political factors which compel migration. Forced migration is a symptom of deeper social and economic issues, including oppression, violence, insecurity, and unequal social and economic conditions. The root causes of those conditions are often directly related to U.S. foreign policy and ill-conceived trade agreements as well as the actions of U.S. business and corporate actors.

Recommendations:

- Re-envision U.S. foreign policy in order to strengthen human rights and local self-determination.
- Address the consequences of U.S. foreign and trade policies that contribute to spiraling violence and poverty including US trade policy, the militarized war on drugs, training and support of corrupt security forces, etc.
- End U.S. support to governments that engage in human rights violations; including illegal land grabs; environmental degradation; corruption of democratic institutions; and the persecution of Indigenous, faith, and grassroots leaders.
- Support effective poverty reduction and trade policies that provide greater benefit and protection for Indigenous populations, small farmers and businesses, and women-led organizations in migrant-sending countries; eliminate funding for programs that promote privatization of public services, thus restricting inclusive access.
- Partner with local communities to address the poverty, violence, and repression that drive forced migration.
- Ensure the active engagement of civil society and vulnerable populations in the design and implementation of U.S. aid and trade initiatives.
- Invest in locally developed violence reduction and prevention programs and initiatives that address the root causes of forced displacement at a community level.
- Advance local efforts to create educational and job opportunities, especially for women, girls, and youth.
- Support regional initiatives that take into account specific country contexts and reject “one size fits all” approaches.
- Address climate change, and mitigate its effects, which negatively impact already vulnerable communities around the world and drive forced migration.

International and Foreign Policy

Re-Envision U.S. Foreign Policy that Strengthens Human Rights Laws and Standards

All interdicted migrants must be adequately screened by an appropriately trained individual for protection concerns, including persecution, torture, and human trafficking. The detention and deportation of migrants without such screening violates international law. To the degree that this is happening because of pressure from the U.S. government on other governments in the region, this constitutes *refoulement* by proxy.

The new Administration should adjust all trade agreements to ensure respect for human and labor rights, as well as environmental standards. The new Administration should modify or revoke agreements that negatively impact livelihoods and rural economies and lead to increased poverty and migration. The U.S. should also reshape trade policies and international financial institutions to support local communities in sending countries. Investment in development that defends basic human rights of all people would provide sustainable alternatives to migration for individuals seeking safe futures for their families and would reduce the need for costly border enforcement, detention, and deportation systems. Further, investing in women and girls has a profound multiplier effect that benefits local communities.

The new Administration should reduce its reliance on militarized and armed approaches to the prevention of violence or to stop people from migrating. It is imperative that the U.S. cut off funds and training to police and armed forces implicated in human rights abuses and corruption. A militarized approach contributes to violence and distrust in communities and leads to egregious human rights violations. The new Administration should focus on strengthening judicial independence, the capacity of prosecutors to independently investigate police and military abuses, and the ability of civil society to hold government actors accountable for corruption and abuse.

Recommendations:

- Strengthen human rights conditions on the transparency of U.S. security assistance to Mexico and Central American countries and combat corruption within entities charged with border and migration enforcement.
- Increase accountability through internal affairs units, witness and whistleblower protection, vetting, and civil society groups performing independent oversight.
- Support effective national poverty reduction and trade policies that provide greater benefit and protection for indigenous populations, poor farmers, and small businesses in key migrant-sending countries; and support employment opportunities for youth.

Key Legislative Initiatives

*“Open your mouth for the mute, for the rights of all who are in need.
Open your mouth, decree what is just, defend the needy and poor.”
Proverbs 31: 8-9*

As faith organizations inspired by a common call to seek just policies that affirm the dignity of every person, we are committed to pursuing legislative solutions that ensure:

Inclusive COVID-19 Relief for Refugees, Immigrants, and All Neighbors: Meaningful COVID-19 relief must prioritize Americans with few resources; Black, Indigenous, and other People of Color (BIPOC); and our immigrant and refugee neighbors. Crises test who we are as a nation and we are stronger when we are united, extend compassion to our neighbors, and listen to public health experts. People struggling to overcome poverty, BIPOC, and immigrants and refugees – many of whom work on the frontlines of the pandemic – face unique challenges in surviving this pandemic. **We call for legislative solutions that fully support all of our neighbors during this pandemic.**

Pathways to Citizenship for Dreamers and TPS Recipients: We stand in solidarity with the more than one million people who have lost protection from deportation. Undocumented young adults, many of whom are recipients of DACA and TPS, are part of the fabric of our communities. The new Administration should support [H.R. 6](#), the American Dream and Promise Act, which would create a pathway to citizenship for young people who have grown up in the U.S. – commonly referred to as “Dreamers” – and other long-term U.S. residents who have lived and worked in the U.S. under the TPS and DED programs. **We call for legislative protection and a pathway to citizenship for these individuals.**

Reduced Funding for Deportation, Detention, and Border Militarization: Cruel enforcement policies are fiscally and morally irresponsible. Congress has the power to limit spending on enforcement that tears families apart and erodes legal protections for vulnerable migrant populations. Our government spends around \$20 billion annually on the machinery of immigration enforcement, including barrier/wall construction, agents, deportations, and detention centers. **We call for an end to this harmful spending pattern and to focus instead on true reforms.**

Ending Reliance on Immigrant Detention: Faith communities witness firsthand the toll of incarceration. There is systemic abuse within a network of over 200 detention facilities where, before the global COVID-19 pandemic, 45,000 people were detained per day. ICE habitually and recklessly overspends what Congress allocates and increasingly more vulnerable populations are being incarcerated – including families, pregnant women, and asylum seekers. **We call for oversight of existing practices and direct ICE to prioritize less costly, more efficient, community-based alternatives to detention.**

Restoring U.S. Commitment to Resettle Refugees, Protect Vulnerable Populations, and Value Immigrants of All Backgrounds: The Trump Administration consecutively set record-low refugee admissions goals, cutting the resettlement program by more than 80 percent and imposing refugee, Muslim, asylum, family, and African bans while prolonging family separation and curtailing access to family-based immigration. Immigration based on factors like wealth, race, national origin, and religion undermines our shared national and faith values. **We call for legislative solutions that restore and strengthen refugee and asylum protections, facilitate refugee and immigrant integration, and expand access to family-based immigration and the diversity visa program.**

We support the following pieces of legislation:

- [S.2936 / H.R.5210](#) - The Refugee Protection Act (RPA) is a comprehensive blueprint for restoring and reinvigorating our resettlement program and asylum system. This bill would modernize the U.S. refugee resettlement program and the U.S. asylum system, improve family reunification, and strengthen protections for refugees and asylum seekers. A one-page summary is available [here](#).
- [S.1123 / H.R.2214](#) - The National Origin-Based Antidiscrimination for Nonimmigrants (NO BAN) Act would repeal all versions of the refugee, Muslim, and asylum bans, requires travel restrictions to be fact-based and time-limited, and prevents future discriminatory travel bans by broadening the Immigration and Nationality Act's (INA's) nondiscrimination clause to prohibit discrimination against any immigrant or visa applicant based on religion or country of origin.
- [S.3470 / H.R.4928](#) - The New Deal for New Americans Act would set a minimum refugee admissions goal of 110,000, eliminate roadblocks to citizenship for eligible residents, establish a National Office of New Americans in the White House, and provide social, economic, and civic support to refugees and rebuild the capacity and infrastructure of local communities to welcome refugees.
- [H.R.3391](#) - To Offer Refugees College Help (TORCH) Act would require states to charge in-state tuition rates for institutions of higher education to refugees, asylees, and special immigrant visa holders when they are first resettled.
- [S.4011 / H.R.7569](#) - The Immigration Enforcement Moratorium Act would halt deportations and many immigration enforcement activities during COVID-19 – and defund the CDC order. It would provide for supervised release for people who've received removal orders to prevent prolonged detention; halt in-person check-ins with ICE ERO; service of NTAs; referrals for migration-related prosecutions; and at the border, provide for processing and parole (not detention) of individuals who make claims for relief under the immigration laws. It would also suspend all in-person court proceedings, and for detained individuals, establish a procedure for conducting custody determinations and provide for telephonic hearings provided the respondent requests such a hearing in writing.
- [HR.1011 / S.2907](#) Protecting Sensitive Locations Act that prohibits immigration enforcement actions within 1,000 feet of a sensitive location unless there are exigent circumstances or if written prior approval has been obtained from certain officials. The prohibition shall apply to Department of Homeland Security officers and agents, as well as state employees pursuing immigration enforcement actions. Sensitive locations include: health care facilities; schools and school bus stops; places that provide assistance for people such as children, pregnant women, and abuse victims; places that provide disaster or emergency services; places of worship; courthouses and lawyers' offices; and public assistance offices.
- [H.R.6537 / S.3645](#) - The Federal Immigrant Release for Safety and Security Together Act (FIRST Act) would provide urgent and critical restrictions on immigration detention and enforcement during COVID-19. This bill would reduce detention levels and civil immigration enforcement activity to protect the health of those held in custody and all of our communities.
- [H.R.3799](#) - The Reuniting Families Act would preserve and strengthen family-based immigration, clear the backlogs, and promote humane and timely reunification of families. Immigration is fundamentally about people planting permanent roots in a new country. It should take into account the human need to live with and care for one's family. Our current family-based immigration system, including the diversity visa program, has contributed to strong, vibrant, and diverse American communities. Family unity promotes physical and mental health and well-being, security, integration, and prosperity. Yet, today, there are nearly four million people in the family immigration backlog, and the current system has not been updated in 20 years – keeping spouses, children, and their parents separated for years and often decades.
- [H.R.8046](#) - Improving Opportunities for New Americans Act would direct the DOL to study the factors that lead to the underemployment and unemployment of immigrants and refugees who

hold professional credentials earned outside the U.S. Many immigrants and refugees remain unable to fully contribute their talents to the workforce because of systemic barriers, including the lack of recognition of their international education and experience, outdated occupational and professional recertification processes, and insufficient access to meaningful workforce development and adult education services.

Remedied Root Causes of Forced Migration: Addressing forced displacement effectively and responsibly means providing protection for those who flee violence while focusing on the conditions forcing people to flee. Congressional funding must end reliance on militarized and armed approaches to the violence prevention and migration. **We call for legislation that would demilitarize foreign assistance, prioritize adherence to human rights, fund civil society-based violence prevention programs, and expand refugee protection in the Northern Triangle of Central America and Mexico.**

Strive for Lasting Solutions

*"Love and good faith must so dominate the human heart that men will regard the stranger as a familiar friend, the malefactor as one of their own, the alien even as a loved one, the enemy as a companion dear and close."
Abdu'l-Baha*

We will continue to press the new Administration and Congress to work in a bipartisan manner to pass legislation that protects the dignity and rights of every human being – including migrants, immigrants, and refugees. Let us work together towards these solutions, to build a future that values the unity of families; protects the safety of all communities; unites people rather than tears them apart; centers the voices of impacted communities and BIPOC; and addresses the root causes of migration, including the imminent threat of climate change.

We implore the new Administration to support policies that celebrate diversity and protect all people, with a focus on those who have historically and are currently victimized by U.S. immigration policy. The creation, adoption, and implementation of immigration policies under the Trump Administration was rooted in white supremacy and bolstered by racist and xenophobic rhetoric, inciting even more violence than what was being legislated. As a community, we will hold the new Administration and Congress accountable to implement anti-racist policies that help create a more just, fair, equal, and equitable society.

As a matter of faith, we are called to act.



Statement for the Record by Kids in Need of Defense (KIND)

“The U.S. Immigration System: The Need for Bold Reforms”

House Judiciary Subcommittee on Immigration and Citizenship

February 11, 2021

Kids in Need of Defense (KIND) is the leading national organization working to ensure that no child faces immigration court alone. KIND was founded by the Microsoft Corporation and the United Nations Refugee Agency (UNHCR) Special Envoy Angelina Jolie. We have served more than 20,000 unaccompanied children in removal proceedings, trained over 50,000 attendees in pro bono representation of these children, and formed pro bono partnerships with over 670 corporations, law firms, law schools, and bar associations. KIND’s social services program facilitates the coordinated provision to unaccompanied children of counseling, educational support, medical care, and other services. And the organization’s programs in Mexico and Central America work to address the root causes of forced migration and help protect the safety and well-being of migrant children at every phase of their migration journey.

From this on-the-ground vantage, KIND has observed the urgent need for bold reforms in the U.S. immigration system’s protection framework for unaccompanied migrant children, who are among the world’s most vulnerable individuals. Without a parent or legal guardian, they have traveled hundreds or thousands of miles to the United States to escape dangers that include extreme violence, sexual abuse, and human trafficking. Many of these children have fled northern Central America, a region gripped by humanitarian crisis. Upon arrival to the United States, they are thrust into a complex and adversarial legal system, in most cases without an attorney. These children face daunting obstacles in navigating that system and pursuing potentially life-saving humanitarian protection.

The unique vulnerabilities of unaccompanied children demand commensurate protections in law and policy—ones affording them enhanced procedural and substantive safeguards across their migration journey. The U.S. immigration system is no less in need of modifications that would substantially increase the efficiency and orderliness of its operations. KIND applauds important steps that the current Congress and the Biden administration have taken towards furnishing those protections and forging those efficiencies. Such actions include the imminent introduction of the U.S. Citizenship Act of 2021, which the White House indicates would ensure legal counsel for unaccompanied children and other vulnerable individuals.¹ KIND also commends President Biden’s Executive Orders impacting unaccompanied children, which, among other critical outcomes, establish a Task Force on Family Separation dedicated to reunifying families separated under the Trump administration, and advance the creation of in-country refugee processing pathways that would provide viable alternatives to children’s dangerous trek north to the United States.

¹ See “Fact Sheet: President Biden Sends Immigration Bill to Congress as Part of His Commitment to Modernize our Immigration System” (Jan. 20, 2021); <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-president-biden-sends-immigration-bill-to-congress-as-part-of-his-commitment-to-modernize-our-immigration-system/>.

Congress and the Biden administration should build boldly on these promising advances. While sweeping changes are necessary to ensure appropriate protections for unaccompanied children and to achieve efficiency in the immigration system, the present statement focuses on two key priorities: (1) the passage of legislation that, like the provisions contained in the U.S. Citizenship Act, mandate attorneys for all unaccompanied children; (2) systemic changes ensuring the fair adjudication of children's cases within the immigration courts. The safety, well-being, and in too many instances, lives of unaccompanied children hang in the balance of these reforms.

Congress must guarantee legal representation for all unaccompanied children

The time is long overdue for Congress to pass legislation ensuring that all unaccompanied children have attorneys. This is a nonpartisan, good government proposition rooted in fundamental fairness and government efficiency. Indeed, it is virtually impossible for unaccompanied children to successfully navigate the U.S. immigration system without legal representation. That system is both complex and adversarial, pitting children against federal prosecutors seeking their removal during high-stakes court hearings. Attorneys are essential to upholding children's legal rights in those hearings, assessing their eligibility for humanitarian relief, and guiding case preparation. Government statistics bear out this necessity: the most recent available Executive Office for Immigration Review (EOIR) data, covering the period of FY 2018 and the first half of FY 2019, reveals that immigration judges were *70 times less likely* to grant relief to unaccompanied children without counsel than their represented counterparts.² Yet though legal representation is vital to ensure the fairness of unaccompanied children's cases, there is no right to appointed counsel in their immigration proceedings. In fact, over half of unaccompanied children currently lack attorneys.³ Far from a novel problem, year after year many if not most unaccompanied children face immigration court and federal prosecutors alone⁴—including children as young as three or four.

Legal representation of unaccompanied children also increases government efficiency. As EOIR's backlog nears 1.3 million cases,⁵ measures that protect due process while at the same time strengthening immigration court efficiency and conserving resources are more important than ever. Counsel for unaccompanied children serves all these ends. Specifically, attorneys help screen out inapplicable forms of protection for children and identify when those children are not eligible for relief in the U.S. immigration system. In fact, EOIR's most recent available data shows that unaccompanied children with attorneys were *almost 4 times more likely* to voluntarily depart to their countries of origin than children without them.⁶ Ensuring counsel for unaccompanied children also helps prevent postponement of hearings to afford children an opportunity to find lawyers. And because attorneys play a critical role in explaining immigration court procedures to children, they make hearings more efficient and preserve judicial resources. Finally, children who are represented

² KIND calculated this figure based on Executive Office of Immigration Refugee (EOIR) data published by the Congressional Research Service in its report titled "Unaccompanied Alien Children: An Overview," p. 15 (Oct. 9, 2019); <https://fas.org/sgp/crs/homsec/R43599.pdf>.

³ See KIND Fact Sheet (Jan. 2020); <https://supportkind.org/wp-content/uploads/2019/12/KIND-Fact-Sheet-January-2020.pdf>.

⁴ See, e.g., TRAC Immigration, "Representation for Unaccompanied Children in Immigration Court" (<https://trac.syr.edu/immigration/reports/371/>).

⁵ TRAC Immigration, "Immigration Court Backlog Tool" (through Dec. 2020); https://trac.syr.edu/phptools/immigration/court_backlog/.

⁶ KIND calculated this figure based on Executive Office of Immigration Refugee (EOIR) data published by the Congressional Research Service in its report titled "Unaccompanied Alien Children: An Overview," p. 15 (Oct. 9, 2019); <https://fas.org/sgp/crs/homsec/R43599.pdf>.

by counsel have an extraordinarily high appearance rate in immigration court. From FY 2005 through FY 2019, 98% of children with attorneys appeared for court.⁷ By helping keep children in the system, the provision of counsel promotes orderly, efficient EOIR operations.

Importantly, legislation ensuring unaccompanied children’s legal representation would expand the existing federal program’s enlistment of private sector attorneys who represent cases pro bono. KIND, for example, leverages every dollar received in donations into seven dollars in pro bono services. Counsel for unaccompanied children therefore not only serves due process and government efficiency; it constitutes a model public-private partnership that demonstrates the power of the private sector to advance public objectives. Without delay, then, Congress should pass legislation ensuring that no unaccompanied child faces immigration court alone.

Through authorizing legislation, ongoing oversight, and the appropriations process where appropriate, Congress should ensure that immigration courts fairly adjudicate unaccompanied children’s cases.

Even when represented by legal counsel, unaccompanied children face unique obstacles—including incomplete cognitive development and the absence of a legally responsible adult upon their arrival to the United States—to navigating the U.S. immigration system. Only by adjudicating their cases in a way that ensures heightened procedural protections like those mandated under the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA)⁸ can the government achieve due process and fundamental fairness for this vulnerable population. This adjudication responsibility falls in significant part to EOIR—into whose proceedings the Department of Homeland Security (DHS) is required to place all unaccompanied children from noncontiguous countries, as well as unaccompanied children from Mexico and Canada who meet TVPRA-mandated screening criteria. Any failure on EOIR’s part to properly discharge that duty can result in children’s return to grave danger in their countries of origin.

Unfortunately, structural defects in the current immigration court system frustrate due process and judicial independence for unaccompanied children and other noncitizens. EOIR and the immigration courts operate within the executive branch, leaving them subject to the political interference of the administration in power. The courts’ specific residence in the Department of Justice means that the Attorney General functions as both chief prosecutor and lead judge, an irreconcilable conflict of interest that risks the pursuit of policy priorities at the expense of fundamental fairness. Compounding these problems, immigration judges are in the Attorney General’s employ and classified as government attorneys, an arrangement giving DOJ far-reaching control over judges’ case management, court location, and employment status.

The Trump administration aggressively exploited these infirmities by driving new policies and rulings that advanced its anti-immigrant agenda while weakening due process for unaccompanied children and limiting the ability of judges to reach fair and impartial decisions in these children’s cases. For example, in September 2017, DOJ’s General Counsel Office issued a memorandum to the EOIR Director concluding that EOIR is not bound by DHS’s determination that a child meets the legal definition of an “unaccompanied alien child.”⁹ The Attorney General issued decisions in *Matter of*

⁷ American Immigration Council, “Fact Sheet—Immigrants and Families Appear in Court: Setting the Record Straight” (Jul. 19, 2019); [Immigrants and Families Appear in Court | American Immigration Council](#).

⁸ William Wilberforce Trafficking Victims Protection Reauthorization Act, Pub. L. No. 110-457, 122 Stat. 5044 (2008) (“TVPRA”).

⁹ P.L. 107-296.

*Castro-Tum, Matter of L-A-B-R-, and Matter of S-O-G- & F-D-B-*¹⁰ that limited those judges' use of administrative closure, continuances, and termination of proceedings, respectively—key docket management tools that help ensure children have adequate time to acquire legal counsel and prepare their cases, as well as complete out-of-court processes essential to establishing eligibility for relief. Those processes include the pursuit of humanitarian protection benefits available only through U.S. Citizenship and Immigration Services (USCIS), an agency that often takes months, if not years, to adjudicate applications and petitions. And EOIR imposed a 60-day case completion deadline in detained unaccompanied children's cases, further discouraging scheduling accommodations and restricting the ability to obtain relief through USCIS.¹¹ Together, these changes placed children at risk of losing essential protections guaranteed them under the TVPRA while prompting hasty decision-making at the expense of due process.

Congress should address such systemic due process barriers in at least two critical ways. First, to ensure full observance in removal proceedings of the legal rights of unaccompanied children and others, and to foster independence, fairness, and impartiality in judicial decision-making, Congress should pass authorizing legislation creating an independent immigration court system under Article I of the Constitution—a system free from the political interference of any administration. This legislation would dramatically advance due process and access to justice, helping guarantee that all unaccompanied children receive a fair day in court.

Second, Congress should engage in continuing oversight, and use appropriations channels where appropriate, to ensure that EOIR adopts all necessary measures to fairly adjudicate children's cases. Among other actions, EOIR, together with DHS, must ensure that the legal safeguards guaranteed such children under the TVPRA and other laws attach for the full duration of their cases. EOIR USCIS should establish special corps of immigration judges and adjudicators guided by unaccompanied children's best interests, steeped in trauma-informed interviewing and adjudication techniques, and who have undergone in-person trainings in which child welfare and protection experts participate. That immigration judge corps should preside over EOIR dockets dedicated to unaccompanied children, which would not only help ensure fairness in decision-making, but also increase legal service providers' efficiency in identifying and meeting children's representation needs, and by extension, government efficiency in case processing. EOIR must also provide unaccompanied children the time and scheduling accommodations necessary to obtain counsel and prepare their cases, and end the use of due process-deficient video-conferencing technology in unaccompanied children's court hearings unless requested by the child's attorney or child advocate because it is in the child's best interests.

Conclusion

In their first weeks, the 116th Congress and the Biden administration have already made appreciable progress toward advancing a humanitarian protection framework equal to unaccompanied children's unique vulnerabilities. But much work remains. By passing legislation mandating legal counsel for unaccompanied children, and ensuring through legislation and oversight that the immigration courts fairly adjudicate their cases, Congress would bring about essential reforms that would not only enhance the immigration system's efficiency and safeguard due process for these children, but in many cases save their lives.

¹⁰ 27 I&N Dec. 271 (A.G. 2018); <https://www.justice.gov/eoir/page/file/1064086/download>; 45 27 I&N Dec. 405 (A.G. 2018); <https://www.justice.gov/eoir/page/file/1087781/download>; 46 27 I&N Dec. 462 (A.G. 2018); <https://www.justice.gov/eoir/page/file/1095046/download>.

¹¹ See KIND, "A Timeline: How the Trump Administration is Rolling Back Protections for Children" (updated Jul. 2020); <https://supportkind.org/wpcontent/uploads/2020/07/A-Timeline-Updated-July-2020-1.pdf>.

Statement of
National Korean American Service & Education Consortium (NAKASEC) Network
HANA Center - Chicago, IL
Korean American Voters League - Houston Area, TX
Korean Resource Center - Orange County & Los Angeles, CA
Minkwon Center - Flushing, NY
NAKASEC VA - Northern VA
Woori Center - Montgomery County, PA

Submitted to:
The House Judiciary Committee
Subcommittee on Immigration and Citizenship
for
Hearing Titled
“The U.S. Immigration System: The Need for Bold Reforms”
February 11, 2021

Contact Information: Michelle Liang, Policy Manager, michelle@nakasec.org

The National Korean American Service & Education Consortium (NAKASEC) Network appreciates this opportunity to submit a statement for the record of today’s hearing on “The U.S. Immigration System: The Need for Bold Reforms.” We write to express our strong support for President Biden’s immigration bill in accord with our nation-wide “Citizenship for All: 100 Days Campaign” demands comprising: (1) a pathway to citizenship for 11 million undocumented immigrants currently living in the U.S. excluding categorical or expanded criminal bars; (2) Rep. Judy Chu’s Reuniting Families Act, which would update and modernize our immigration system; and (3) Rep. Adam Smith’s Adoptee Citizenship Act, which would correct a technical loophole in the Child Citizenship Act of 2000 and establish a path of return for adopted individuals who were deported as adults. We understand that both (1) a path to citizenship for 11 million undocumented immigrants and (2) Rep. Judy Chu’s Reuniting Families Act are included in President Biden’s immigration bill and commend their inclusion.

Founded in 1994, the National Korean American Service & Education Consortium’s (NAKASEC) mission is to organize Korean and Asian Americans to achieve social, economic, and racial justice. The NAKASEC Network also serves more than 30,000 low-income families across the country through public health and social services, immigration legal services, and housing counseling.

The National Korean American Service & Education Consortium (NAKASEC) is a co-convenor of the Value Our Families campaign. The Value Our Families Campaign exists to protect, preserve, and strengthen the family immigration system and promote an immigration system that

is informed by love, empathy and justice. The Value Our Families Campaign is a network of local and national community-based and advocacy organizations who reject attacks and proposed harmful changes to our current family-based immigration system. It seeks to build public support for an immigration system that protects and promotes family unity and contributes to the American social and economic fabric.

Immigrant communities cannot wait any longer. There are more than 11 million undocumented immigrants living in the United States today without a pathway to citizenship. Of these 11 million undocumented immigrants, [almost 20% are Asian American](#); that is to say, [1 in 6 Asian Americans](#) are undocumented. As a consequence of our faulty immigration system, more than 3.5 million immigrants have been deported from the United States. Families and communities have been torn apart and separated, inflicting irreversible psychological trauma between parents and children, brothers and sisters, and spouses and loved ones.

The results of the 2020 elections have generated for the first time in more than 10 years an unprecedentedly auspicious political opportunity. Due in no small part to Black, Brown, Asian, and immigrant organizers in Georgia and across the United States, a Democratic trifecta has risen to power in our Congress and the White House, paving the way for a political landscape that makes advocating and legislating for Citizenship for All possible.

The solution that our communities require is an immediate and unconditional pathway to citizenship in the United States for all 11 million undocumented immigrants- not only for DACA recipients, TPS recipients, and essential workers.

As such, the NAKASEC Network has launched a nation-wide “Citizenship for All: 100 Days Campaign” to hold the Biden administration and Congress accountable to deliver on his promise to legislate citizenship for all in his first 100 days. He and a Democratic-majority Congress have both the power and responsibility to fulfill that promise to our people. Our Citizenship For All platform supports the following components:

1. Pathway to Citizenship For All: Every immigrant, from the undocumented to TPS holders to the parents of undocumented young people, deserves U.S. citizenship for full participation in this country. We need legalization of all 11 million undocumented immigrants living in this country, without expanded or categorical criminal bars.
2. Family Reunification: Strong families are a cornerstone of the U.S., and are critical to the social and economic health of this nation. Family immigration, strengthened by the Reuniting Families Act, must continue to allow them to remain together and reunify in a timely manner.
3. Citizenship For All Adoptees: Despite being adopted by U.S. citizen parents as children, thousands of intercountry adoptees do not have citizenship, and many adoptees have been deported as a result. As stated in the Adoptee Citizenship Act, all adoptees deserve

citizenship, and all deported adoptees deserve a pathway of return to the only home they have ever known.

Pathway to Citizenship For All

All people who desire to access a pathway to citizenship, including those who are formerly or currently incarcerated, should be able to do so without having to prove that they are worthy because of their ability to speak English, make money, or be physically fit. We should be able to access a pathway to citizenship because immigrants are human beings deserving of safety, security, health, love, and to remain with their families.

Any legislation to legalize undocumented immigrants should not introduce any new bars to legalization. Legislation should instead eliminate existing grounds of removability, i.e. by providing universal waivers for both inadmissibility and deportability grounds as in the Reuniting Families Act of 2019 (H.R. 3799) and by repealing bars including against crimes involving moral turpitude (CIMT) as in the New Way Forward Act (H.R. 5383).

In Appendix A, Justin's Story, and Appendix B, Chan's Story, please read stories of our undocumented community members underscoring the urgency of citizenship for all 11 million undocumented immigrants.

Family Reunification

Our current family-based immigration system was established by the Immigration and Nationality Act of 1965 (INA of 1965) to end the previous racist national origin quotas that began with the Chinese Exclusion Act of 1882 which heavily favored immigrants from Northern and Western Europe. Today, the vast majority of immigrants coming to the U.S. through the family-based system, diversity lottery and refugee program are underrepresented people of color.

However, years of bureaucratic processing delays and Congresses inability to act and keep up with population growth and labor market needs has resulted in extreme backlogs in the green card programs and a large undocumented population prohibited from being sponsored by harsh bars and decades long waits.

This issue holds particular relevance to Asian American communities. Asian Americans comprise [40% of the backlog for family-based immigration](#). Family-based immigration is also the predominant method through which Asian Americans immigrate into the United States.

The Reuniting Families Act would resolve these problems that render our families separated across oceans. It would:

- Clear the family-based and employment-based backlogs, raise the country caps and reclassify lawful permanent residents as immediate relatives, provide relief for orphans, widows and stepchildren and protect the families of H-4 visaholders from losing work authorization or status;
- Promote and preserve diversity by increasing diversity visas;
- Provide equality for same sex partners in our immigration laws; and
- Provide enforcement relief in our immigration system through eliminating the 3 and 10 year bar and providing family unity waivers of inadmissibility and deportability grounds.

We are pleased to see the inclusion of the Reuniting Families Act in President Biden's immigration bill.

Citizenship for Adoptees

After the Korean War, intercountry adoption became more prevalent with South Korea becoming the largest sender of children for adoption for the next four decades. Currently, over 350,000 transnational adoptees live in the United States; approximately one-third of these are of Korean descent and over half are Asian American. The vast majority of adoptees were adopted as children by Caucasian, U.S. citizen parents.

In 2000, President Bill Clinton signed the Child Citizenship Act into law. However, a technical loophole in the law, which made the Child Citizenship Act proactive but not retroactive, left the adopted children of thousands of Americans without citizenship.

Adoptees without citizenship in the United States live in fear of separation from their families and the only home they have ever known. Increased security measures prevent many from receiving government identification and accessing employment, health care, and other vital benefits. An unknown number of American adoptees have already been deported as a result of this loophole. (João Herbert, an adoptee who was deported at 22 to Brazil, was murdered in Brazil in 2004.) Adoptees who are returned to their birth countries suffer language and culture differences, and in many cases, are denied legal status as a result of their American adoptions. In other words, adoptees who never received US citizenship often become stateless after deportation.

Over the last twenty years, multiple attempts to correct the technical loophole in the Child Citizenship Act have failed. However, bipartisan support for the Adoptee Citizenship Act remains steady. In the 116th Congress, 61 Democrats and 31 Republicans pledged their support and were prepared to vote in favor of passage. On Sept. 23, 2020, a coalition of organizations urged the House Subcommittee on Immigration and Citizenship to include disenfranchised adoptees among the vulnerable population of essential workers affected by the COVID-19 pandemic. In 2020, over 180 organizations signed a letter in support of a prompt passage of the Adoptee Citizenship Act.

We support the passage of the Adoptee Citizenship Act, as standalone legislation or for inclusion in any legislation providing a pathway to citizenship. The Adoptee Citizenship Act would:

- Grant retroactive U.S. citizenship to all individuals internationally adopted into the U.S. before the age of 18 (Section 320(b) of the Immigration and Nationality Act (8 U.S.C. 1431(b))).
- Create a clear pathway of return for adoptees who have been deported, provided all past crimes have been properly resolved (Section 320(b) of the Immigration and Nationality Act (8 U.S.C. 1431(b))).

Please refer to Appendix C, Anissa's Story, to read the testimony of a deported Jamaican adoptee who is currently living in Panama, separated from her daughter in the United States.

Conclusion

In its current form, the United States immigration system makes it impossible for the millions of immigrants seeking to build a new life in this country to gain status and security. The harmful ramifications of the U.S. immigration system are especially pertinent to immigrants of color, women, disabled immigrants, and poor immigrants. Without the security of U.S. citizenship, millions of immigrants and their families live in the fear of being separated from their loved ones through deportation, and are denied access to critical public benefits and rights like healthcare, higher education, driver's licenses, and gainful employment. Of great urgency for our network members and the communities they represent are (1) a pathway to citizenship for all 11 million undocumented immigrants, (2) a strengthened and updated family-based immigration system, and (3) a pathway of return for adopted individuals. We commend the House Judiciary Committee for taking these first steps to attaining these goals and urge Congress to bring to passage bold reforms to the U.S. immigration system this year, before the closure of this unique political window.

Appendix A, Justin's Story

"My parents and I came to the United States when I was two years old. Like other parents, we came here because we wanted a better life, future, and opportunities for our family. We first went to Southern California, San Fernando Valley and then I grew up around LA. Later, we moved to the Orange County area.

Because of how much my parents worked, I had a difficult childhood. At a young age, I always felt a sense of loneliness because my parents were never around. At the time, I didn't realize that they were working long hours to provide for me. My parents wanted the best for me, but I felt that they thought that their work was more important which made me feel alone.

When we moved to Fontana, that's where it felt like everything I was going through was manifesting. I was away from all my friends, and I didn't know how to deal with it. And then eventually, from junior high to high school, I met a group of guys that were like me. Our parents were never home and we were always home alone. So we'd all hang out, make some fun, smoke, and drink. Soon I started getting myself involved with those types of guys and then eventually, at 16, I ended up joining a gang.

It felt like I was living a double life. My parents never knew that I was in a gang. I never missed a day of school, but after school, I'd hang out with those guys. I wanted to be cool, and there was a lot of peer pressure to fit in.

I was the youngest one in a gang and the rest of the guys were older than me, so I looked up to them. I was willing to do anything that they were doing. Drinking, smoking, and hanging out late at night, to three in the morning. Even fighting. I would see the older guys fight and see the respect they'd get. I also wanted that same respect. Growing up in Orange County, I used to get bullied a lot by older guys, so I've always felt that resentment. After joining a gang, I felt like I was getting out all of the loneliness and resentment that I had been feeling.

But eventually, I got incarcerated. My type of thinking at that time was definitely very warped and twisted. I was having fun and I felt like nobody else in high school around my age was living that type of life. I felt very exclusive, and it got to the point where I thought it was okay. I thought it was okay to hurt people. I justified it all that I could get away with it. So, me and my friends, we ended up shooting another gang and then we were charged and convicted. We were sentenced to life in prison.

At first, the reality didn't hit me yet. I thought, "I'm still young. I grew up in a good household." I had this sheltered kind of thinking, like, "nothing bad will ever happen to me." So I had that type of mindset, the first year, and then we went to trial, and we got convicted. At that time, I was 17 years old. I still remember that day, it was October 18 2007, when they found us guilty for all these charges. And we were sentenced to 82 years to life.

At that moment, that was the starting point of my change. Because that's when I realized, like, this is serious, this is for life. They're telling me that I'm never ever going to get out. So that's when reality hit me. And that's when I started thinking about all the choices that I made. All the people that are hurt, and all the pain that I put my family through. I even thought about my little dog Snow. I thought about how lonely she'd be and who would take care of her. I started thinking about all those things. At that point, I just, I just believed that my life was over, and I didn't want to be known or remembered as this young kid, this young punk that was a gang member that committed this crime. I wanted to be someone different.

Eventually I was able to get parole and was released from prison early, but as soon I was released, I was detained by ICE agents because of my undocumented status. The agents were waiting for me outside upon my release and took me to their facility in Bakersfield. This was

around the time when Coronavirus was spreading, so it was going crazy and a lot of people in the facility were catching it.

Fortunately, I was released after only 10 days after being granted parole by the Governor, but despite that I still felt devastated. I was devastated by the fact that just because I was born in a different country, I'd have to be detained again, whereas other people born here don't have to go through that process. It's inhumane, and I know many people that are still stuck in that detention center.

I'm currently out on an ankle monitor. But there is a little sense of fear that I could be detained again, pending deportation, if they do decide to deport me back to Korea.

From the Biden Administration and Congress, I hope that people like us, people like me, are able to stay with our families. My father passed away while I was in prison, so my mother is all I have and I am all that she has, so I want to be able to build my life here, build something that I can give back.

I believe I'll be more of a value here than in Korea. I understand the culture, understand the struggles the young kids go through, and I can share my story of gang culture and prison experience and help many people. I want to build my life over here, and I hope that something that I have committed as a teenager won't hold me accountable for the rest of my life. I've served my time, and I've addressed all those issues in front of the parole board members and even before the Governor of California. But I hope that Biden or anybody else in Congress is able to see us people for who we are today. Not the things that we have done decades and decades ago, but the value that we're able to bring today, and I'm impacting people's lives as much as I can being of service.

But without status, I can't get a job, and I need a work permit which takes a long process, so I can't just work anywhere I want to. There's a whole lot of obstacles that I have to go through. I feel like people aren't willing to invest in me because of my undocumented status and that I can be taken away anyway. Even in my personal life, I feel like sometimes I'm hesitant to build relationships or meet somebody, knowing the fact that I can be taken away at any moment. I feel like, in a sense, I'm free, but I'm still in prison.

I try not to let those mental things get in the way. I just want to give back as much as I can. I know, as a young kid, I've taken so much from my community, but now, as a young man, I just want to give and give and give and continue to change people's lives wherever I go.

But I can't do that. Because I'm not a citizen, I can't do that. But I want to. I want to be able to stay here with my family, to go to school, to get the job that I want. I want to be able to meet people, to marry somebody and start a family here and not have everything feel like it's in shambles or limbo. There are certain things that I don't think about, that I can't think about

because I have to deal with this first. And I don't want to bring anybody down along with me going through this process.

I want to be somebody notable, somebody that's making drastic change in our community for people like me, and I want those people to know that there are people like us fighting every day for not just freedom, but to be better and to encourage people to be better around us.”

More stories like Justin and Chan's are published at citizenship4all.live/our-stories

Appendix B, Chan's Story

“When I was a teenager and I thought there was a problem with me, I absolutely refused to tell other people about it sometimes because of pride, sometimes because of shame. I never really opened up to my friends, my parents or teachers about my depression until after high school and a few years into community college. Success, particularly academic success, defined a lot of my self-worth when I was that age. Some kids would try to be on par with their parents and teachers' expectations; others would strive to go even beyond those expectations. But, I couldn't even get near where I wanted to be. And after a certain point, I didn't even know where I wanted to be. I wasn't motivated because I couldn't see where I was going. And with no citizenship, another issue I had was that, legally, I didn't understand my boundaries either.

When I felt stuck and tried to look for alternatives, such as grants, scholarships or loans, I'd be hit by the same wall because I am not a citizen. I started internalizing these failures as my own, not the failures of a legal system. If I were to meet a wall, my depression would kind of coil around it, because it was kind of malleable and could weave into different contexts. It got to a point where I attempted suicide about seven times, not just in high school, but in total. I still remember one of those times, I was standing above a bridge. My feet were on the lower part of the railing and I was looking down at the highway, thinking about how fast those cars were going and then myself, kind of just standing in place.

I was wondering what's left for me to do. What other options do I have before I fall one last time? In hindsight, it's very frightening to know that I was so desensitized to my own life's worth that the only thing on my mind was to jump. I say “in hindsight,” but I still live with depression. But, now, my idea of living with depression is, kind of, coming to terms with it. I can't think of a phrase that better encompasses all the different points in my head. They're not something I expect to “beat,” in the conventional sense. Instead, I've been able to live with myself a little better, understand myself more.

When I first started learning about immigration justice, I went to DC and that was when I saw, for the first time, a big rally. I met many Dreamers, a lot of other people who are really great people. We shared a lot with each other; we reflected together. It wasn't so much the people had a problem-- but it was clear there was, simply put, different levels of success. These narratives

with happy endings--whether it's the Dreamer narrative or "depression-is-just-a-phase"-- I found them soul-crushing, not because anyone was out to hurt me, but because these seemingly harmless narratives influenced how we interact with each other, how we express ourselves. They reminded me that I was different or weak.

A lot of the time when people are shown in a very positive light, it's often so blinding that it scares those who are in a darker place. I realized that these people around me at that time were very motivated, very successful, very driven. They had a purpose. They had a plan. They had a future. I saw a lot of drive with this movement to get people recognized because of their success and their ability to excel. But there was no mention of people who are struggling. And when I say struggling I don't mean struggling to go further and beyond. I am talking about the [kind of] struggling where you're in a spot that is far below par. And in my case, I'm not really struggling, just failing instead.

And since my story contained so many failures, I felt like I couldn't bring up my story there among the Dreamers; it wouldn't fit. There are numbers that tell us how much Dreamers are contributing to this economy. How many immigrants are working and making this much, so on and so forth. These statistics do not include people who are not contributing or can't contribute yet. It's a very obvious point but, because of that, from my perspective we don't count as people in their numbers and in their narrative.

To me, Citizenship4All would mean one less unjustified wall. We shouldn't have to feel like we have to prove ourselves, to earn citizenship and rights. Many people, including myself, will be able to at least consider walking forward, now that there's options and potential that come with citizenship. With Citizenship4All, I want people to understand that it's okay to not be okay, that they do not have to be the ideal to deserve these things. And moving forward, I hope people try to keep themselves more open to the circumstances of other people, to try not to assume that just because you have succeeded in one way that another person can also succeed in that same exact way, even if they are given the same resources. And especially for anyone younger who ends up reading this, I hope that you can understand it is okay to look for help.

You are not weak for looking for help. You are stronger by looking for help, because that means you were able to acknowledge your struggle and are willing to take the necessary steps to move forward. Looking for help does not mean you're giving in; if anything, you're making more options for yourself."

More stories like Justin and Chan's are published at citizenship4all.live/our-stories

Appendix C, Anissa's Story

"I was born in Jamaica in 1970. My mother moved to Panama when I was 4 years old and then abandoned me and my younger sister with my grandfather. That was a horrible experience

because we suffered sexual abuse by my uncles, but when we told my grandfather, he accused us of lying and sent us to an orphanage. At the orphanage, my sister and I weren't fed properly and we would get donations from the U.S. military, the donations would come in and they would take pictures with us and send the pictures back to the States and then take all of the gifts away.

When I was 11 years old, my sister and I were adopted by a military family. My adoptive father was a U.S. Sergeant who had been serving in Panama. We were even almost "US Army Family of the Year" and were flown all the way to Washington D.C. to have our pictures taken.

Growing up in America, I always felt different because I was adopted. This became worse when I turned 13 because I was diagnosed with a rare cancer in my left leg that caused me to lose my leg three inches above the knee. I would hear, "Don't be ungrateful—if you were not adopted you would have been dead from cancer."

After I graduated from high school, my mother pushed me to marry for insurance purposes. She told me, "you need someone to cover your leg costs once you graduate you won't be covered by your father's insurance." He turned out to be physically abusive and pushed me down the stairs three months after having my daughter, Vanessa. After that, I knew I had to leave him because I didn't want that kind of life for Vanessa.

Life as a single mother with zero support was hard and I took a seasonal position at a retail store to pay heating bills and be able to afford Christmas gifts for Vanessa. Things were going well for a while and I even earned enough to fix up my car a little. One day, an old high school friend came to the store to return gifts but couldn't find her receipt. She asked me to help her out so I did. I put the money back on her card and didn't think anything more about it.

A few months later, the sheriff came knocking on my door asking questions. When I told them what my friend had told me and that I'd helped her out because she was my friend, they arrested me. I was told if I accepted a plea, my work would write a letter and I'd get out on work release in six weeks.

When I was incarcerated, ICE came to see me. I didn't know who they were or what ICE even stood for. I got confused because they started asking me "what border did you cross?" and I was like "huh, I'm an American, I was adopted". When they left, I thought I was fine because I was adopted, but then ICE came back and told me I wasn't a citizen and I was going to be deported.*

**Note: Anissa's parents filled out the proper paperwork for her naturalization, but the U.S. government failed to issue her legal permanent residency (green card) until 6 years later which made her ineligible for citizenship because she was over 18. Neither she nor her parents were ever notified.*

I called my mom and I told my mom, "I just got an order of deportation." Her response was "how is that possible?" and that she'd talk to a lawyer. The last time we spoke, my mom said that

she wouldn't be talking to me anymore since she could get in trouble for child trafficking because of how my adoption paperwork was handled. She said they did the best they could, and this was happening to me because I broke the law. Meanwhile, because of my disability, I was placed in an infirmary where I was locked in for 23 hours of the day with one hour to shower and make phone calls.

I cashed out my 401k to get a lawyer, but then she passed away from an asthma attack. I was going to cash out a second one to hire another lawyer, when one of the ICE Agents said "Ripley, you're not the first adoptee to be deported and you won't be the last." He convinced me that I would be deported no matter what and it would be easier to fight from the outside. What could I do? I only had one leg and my prosthetic was broken. The ICE agents often didn't even shackle me saying "well where she's gonna go?"

When I was deported to Jamaica, the Jamaican government didn't believe I belonged and I had to explain that I was adopted. Eventually, I was able to cash out my second 401k to rent a room and bring Vanessa to Jamaica. Money went quickly. Vanessa and I moved to Panama and I got a job at a call center (the highest paying job I could find) where I made \$3.47 an hour. Life in Panama was hard and neither of us spoke Spanish. We found a house in a dangerous place called Veracruz. I was even robbed at gunpoint. Being poor in the US is one thing but being poor in a third world country is another.

I don't get any COVID assistance that the government here is giving out because they assume I'm American. I can't get health insurance because my cancer is a pre-existing condition and when I went to the free clinic the doctor wouldn't treat me because of my accent and told me I could afford the real clinic. It's hard with my prosthetic—I could only get a new one because of donations from adoptees back in the U.S. I can't lie on my stomach because I have a very large uterine fibroid that needs surgery but I can't afford it. The U.S. doesn't want me and Panama doesn't know what to do with me. Life is very hard here. It's a struggle everyday.

When Vanessa was in high school, a friend from church suggested I send her back to the U.S. to get her GED. Sending her back was the hardest thing I ever had to do in my life, but I did it because I knew she could have a better life. I only see her every 2-3 years. I want to be there for her, hold her when she cries, be her mom. But it's very hard, I can't do anything for her and I can't even afford to help her when she needs it. We were supposed to have our Christmas in April this year but it had to be cancelled because of COVID. My sister just passed away this year and I had to say goodbye to her over Skype. Vanessa is almost 30. What if she has kids? I don't want to be a grandma through skype.

If adoption is supposed to be a forever happy family, why am I deported? The phrase "adoptee without citizenship" is mind-boggling. I don't believe that makes any sense."



STATEMENT FOR THE HOUSE OF REPRESENTATIVES COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON IMMIGRATION AND CITIZENSHIP

Hearing on the U.S. Immigration System: The Need for Bold Reforms
February 11, 2021

NETWORK Lobby for Catholic Social Justice is a national organization of more than 90,000 social justice advocates across the United States inspired by Catholic Sisters. NETWORK educates, organizes, and lobbies for social and economic transformation through federal policies.

NETWORK is pleased to submit this statement to the U.S. House Subcommittee on Immigration and Citizenship of the Committee on the Judiciary for the hearing 'The U.S. Immigration System: The Need for Bold Reforms.' We appreciate the subcommittee conducting this important hearing.

NETWORK believes in the dignity of all people and has advocated for bold immigration reforms for the past 50 years. Catholic Social Justice teaches that all people are made in the image and likeness of God and so possess an equal and inalienable worth. Because of this essential dignity, each person has a right to what is necessary to reach her or his full potential as intended by God.

The COVID-19 pandemic has exposed the weaknesses of our immigration system. 5.5 million [undocumented immigrants are essential workers](#), including 425,000 who are healthcare workers. Immigrants have always been at the heart of our national community and identity, but this pandemic has demonstrated that without immigrants, we cannot survive. For example, 1.7 million undocumented workers are essential to our food supply. Undocumented individuals have always been essential in this country and the pandemic has only amplified that truth. Undocumented immigrants can no longer be defined by their legal status. They are members of our communities. They have families of their own. They are equal.

The United States has often highlighted the contributions of essential workers and expressed gratitude to them throughout these painful 11 months. However, undocumented individuals are frequently excluded from that gratitude, as they were with the distribution of [stimulus checks](#). Our undocumented neighbors have worked through this pandemic without equal treatment or government support. COVID-19 relief is necessary for all of us, and 'us' includes our undocumented community members. People do not lose their dignity or their humanity simply because of they lack the correct paperwork.

During the past four years, we have also witnessed continued violence and negligence on our borders against those most in need. [Since 2017](#), 39 adults have died, all while in U.S. custody, or immediately after being released, with independent experts finding that subpar care contributed to these deaths. One Louisiana detention center had multiple reports of no access to soap for bathing or any cleaning supplies. [This research](#) was concluded prior to the pandemic; however, reports from immigrant advocates have not indicated any improvement. Erika Pinheiro, litigation director of *Al Otro Lado*, [reported](#) a continued problem "with ICE hospitalizing people, releasing them, and then they die," and the death goes unreported by ICE. Last summer, a U.S. District Judge [stated that](#) ICE has demonstrated "deliberate indifference to the risk of an outbreak" and that the agency has "lost the right to be trusted."

In the United States today, we have families separated on our border enduring inhumane treatment and within our borders, undocumented people working without basic protections. The previous Administration took an already broken immigration system and broke it in new ways, without any consideration of for the families and people whose lives are at stake.

Repairing our nation's broken immigration system requires acknowledging the positive contributions of undocumented immigrants currently residing in the U.S. and providing a real pathway for them to apply for citizenship. The United States must also provide opportunities for new immigrants to enter our country through family-based visas, humane guestworker programs, and other visa-based systems based on contemporary circumstances rather than arbitrary allotments.

Now we must act boldly in order to heal and transform our immigration system. It is time for Congress to enact policies to reunite families, provide real opportunities for undocumented immigrants to apply for citizenship, welcome asylum seekers, and grow compassion in our communities.

Sources:

1. <https://www.americanprogress.org/issues/immigration/reports/2020/12/02/493307/protecting-undocumented-workers-pandemics-frontlines/>
2. <https://www.migrationpolicy.org/content/mixed-status-families-ineligible-pandemic-stimulus-checks>
3. <https://www.americanoversight.org/investigation/conditions-in-migrant-detention-centers>
4. <https://www.hrw.org/news/2020/04/30/us-new-report-shines-spotlight-abuses-and-growth-immigrant-detention-under-trump>
5. <https://www.pbs.org/wgbh/frontline/article/how-ice-data-undercounts-covid-19-victims/>
6. <https://www.sfchronicle.com/news/article/Judge-orders-Bakersfield-immigration-holding-15465171.php>



820 First Street NE, Suite 350, Washington, DC 20002 | 202-347-9797
info@networklobby.org | networklobby.org | networkadvocates.org
facebook.com/NETWORKLobby | twitter.com/@NETWORKLobby

PRESIDENTS' | ON HIGHER EDUCATION
ALLIANCE | AND IMMIGRATION



Statement for the Record of

Miriam Feldblum
Executive Director

Presidents' Alliance on Higher Education and Immigration

**For House Judiciary Committee Subcommittee on Immigration and
Citizenship**

Hearing on the U.S. Immigration System and the Need for Bold Reforms

Thursday, February 11, 2021

2141 Rayburn House Office Building

Washington, D.C. 20515

I. INTRODUCTION

The nonpartisan, nonprofit Presidents' Alliance on Higher Education and Immigration (Presidents' Alliance) brings college and university presidents and chancellors together on the immigration issues that impact our students, campuses, communities, and nation. The Presidents' Alliance works to advance just immigration policies and practices at the federal, state and campus level. The Alliance is composed of over 500 presidents and chancellors of public and private colleges and universities, enrolling over five million students in 43 states, D.C., and Puerto Rico. Our members represent the full range of nonprofit higher education institutions, including doctoral, master's, baccalaureate, and associate's level colleges and universities as well as special focus institutions.

Due to our work at the intersection of higher education and immigration, a great deal of our advocacy concerns the effects of both broad and student-specific immigration reform to our current system. The Presidents' Alliance supports reforms consistent with our heritage as a nation of immigrants and the academic values of equity, openness, diversity, and inclusion. Our detailed immigrant and international student recommendations are enclosed (see Appendices A and B at the end of this document); below is an overview of our priorities and recommendations related to immigration reform.

II. ROADMAP TO CITIZENSHIP AND REMOVING ROADBLOCKS TO SUCCESS

1. Roadmap to citizenship for Dreamers, TPS recipients, and other immigrant students

Like most undocumented immigrants, our undocumented students and scholars, including those with Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status (TPS), built a life in the United States and invested in the success of themselves, their communities, and the country.¹ In April 2020, the Presidents' Alliance and New American Economy produced the first estimates of the number of undocumented students in higher education that showed there are approximately 450,000 undocumented students in higher education, 216,000 of whom are DACA recipients or DACA-eligible.² In another report commissioned by the Presidents' Alliance, the Migration Policy Institute estimates that 98,000 undocumented students graduate high school every year.³

A roadmap to citizenship for Dreamers and legal status for all undocumented immigrants enjoys strong support according to new polling. Eighty-three percent of Americans support allowing undocumented immigrants who came to the United States as children to remain here with a path to citizenship, including 66 percent of Republicans.⁴ Another poll found that 80 percent of Americans back legal status for undocumented immigrants, and 64 percent want a path to citizenship.⁵ Citizenship during COVID-19 is even more essential. Currently, DACA recipients and TPS holders represent a combined estimated 333,800 essential workers on the frontline of the pandemic, and an estimated five million of those on the frontline are undocumented.⁶

¹ For our complete legislative priorities on domestic students, please see Appendix A.

² Presidents' All. on Higher Educ. and Immigr. & New Am. Econ., *Undocumented Students in Higher Education: How Many Students are in U.S. Colleges and Universities, and Who Are They?* (Apr. 2020), <https://www.presidentsalliance.org/report-undocumented-students-in-higher-education-how-many-students-are-in-us-colleges-and-universities-and-who-are-they/>.

³ Jie Zong & Jeanne Batalova, *How Many Unauthorized Immigrants Graduate from U.S. High Schools Annually?*, Migr. Pol. Inst. (Apr. 2019), <https://www.migrationpolicy.org/research/unauthorized-immigrants-graduate-us-high-schools>.

⁴ Tim Malloy & Doug Schwartz, *61% Optimistic About Next Four Years with Biden in Office, Quinnipiac University National Poll Finds; 68% of Americans Support the \$1.9 Trillion Stimulus Relief Bill*, Quinnipiac Univ. Poll (Feb. 3, 2021), https://poll.qu.edu/images/polling/us/us02032021_usn68.pdf.

⁵ Robert P. Jones et al., *Immigration After Trump: What Would Immigration Policy that Followed American Public Opinion Look Like?*, Public Religion Research Institute (2021), <https://www.prrri.org/wp-content/uploads/2021/01/PRRI-2021-Immigration-Post-Trump.pdf>.

⁶ Nicole Prchal Svajlenka, *A Demographic Profile of DACA Recipients on the Frontlines of the Coronavirus Response*, Ctr. for Am. Progress (Apr. 6, 2020 9:01 AM), <https://www.americanprogressaction.org/issues/immigration/policy/2020/04/daca-recipients-on-the-frontlines-of-the-coronavirus-response/>.

2. Higher education access and affordability

Domestic immigrant students, including those with TPS and DACA, encounter numerous barriers to affording and enrolling in higher education in the United States. “Non-qualified” immigrants are barred from accessing public benefits, including postsecondary benefits such as in-state tuition and financial aid, unless a state makes them explicitly eligible.⁷ Congress should remove the bar on postsecondary benefits for immigrants from federal law, as well as the portion of immigration law that prohibits states from providing such benefits to undocumented students based on state residency.⁸ Congress should prohibit the denial of federal financial aid—including federal loans, Pell grants, and work-study programs—for immigrants. Lastly, we believe that Congress should pass legislation to ensure non-discrimination based on immigration status for the above benefits.

3. Access to professional and occupational licensure

Licensure represents a credential that the federal, state, or local government issues to an individual seeking to be employed in certain fields and usually requires that an individual satisfy state-specific educational, training, testing, and other requirements. Over 1,100 different occupations require a license, and approximately 25 percent of all workers nationwide are required to obtain a license in order to work in their occupations. There should be no barriers to federal or state licensing based solely on immigration status that would prevent an otherwise qualified individual from receiving a professional or occupational license.

Please see Appendix A for more detailed recommendations regarding domestic immigrant students.

III. COMPREHENSIVE INTERNATIONAL STUDENT STRATEGY

Due to the absence of a clear U.S. strategy to attract and retain international students to the United States, harmful policy changes and unwelcoming rhetoric promulgated by the prior administration, and increasing competition from other countries, the United States is losing our edge in the global competition for talent.⁹ Our graduate science programs in particular are dependent on international students and scholars. Both of the vaccines approved for use today were developed with internationally collaborative science and with the help of foreign and immigrant students. Congress should articulate the value of international students and send a message that they are welcome to succeed here.

International students create jobs and help grow our economy. For every eight international students we welcome, three U.S. jobs are created or supported.¹⁰ These students and their dependents have contributed \$38.7 billion and nearly 416,000 jobs to the U.S. economy, helping many of our institutions and communities to make up for lower state budgets for higher education and to offer lower tuition rates to domestic students.¹¹ But at last count, we had lost more than 42,000 jobs and \$1.8 billion as students chose to study in other countries.¹² Recent

⁷ <https://www.americanprogress.org/issues/immigration/news/2020/04/06/482708/demographic-profile-daca-recipients-frontlines-coronavirus-response/>; Svajlenka & Tom Jawetz, *A Demographic Profile of TPS Holders Providing Essential Services During the Coronavirus Crisis*, Ctr. for Am. Progress (Apr. 14, 2020, 9:05 AM), <https://www.americanprogress.org/issues/immigration/news/2020/04/14/483167/demographic-profile-tps-holder-providing-essential-services-coronavirus-crisis/>.

⁸ Personal Responsibility and Work Opportunity Reconciliation Act, H.R.3734, 104th Cong., § 401-423 (1996).

⁹ Illegal Immigration Reform and Immigrant Responsibility Act, H.R. 2202, 104th Cong., § 505 (1996).

¹⁰ For our complete legislative priorities on international students, please see Appendix B.

¹¹ Press Release, New NAFSA Data Show First Ever Drop in International Student Economic Value to the U.S., NAFSA Association of International Educators (Nov. 16, 2020), <https://www.nafsa.org/about/about-nafsa/new-nafsa-data-show-first-ever-drop-international-student-economic-value-us>.

¹² *Id.*

¹³ *Id.*

polling shows that 53 percent of people favor laws that attract and retain international students and scholars, and only 19 percent oppose them out right (28 percent remain unsure).¹³

Please see Appendix B for more detailed recommendations regarding the incorporation of a national strategy to recruit and retain international students in immigration reform.

IV. INCREASING ENTRY AND ACCESS FOR REFUGEE STUDENTS

Refugee students and scholars have long enriched college and university campuses with their resilience, talent, and diverse perspectives and backgrounds. They have made invaluable contributions to communities in every state through their study, teaching, research, and vocational training, despite facing steep barriers to higher education. However, much more needs to be done to ensure that refugee students have access to higher education in the United States. The UNHCR reports 79.5 million people displaced worldwide, including 26 million refugees.¹⁴ Of these, only three percent of refugees are able to access higher education at all.¹⁵ The UNHCR has set a goal of fifteen percent of eligible refugees accessing higher education by 2030.¹⁶ U.S. colleges and universities can and should help reach that goal.

Congress must continue its commitment to uphold the refugee resettlement program and support and enact changes that better enable refugee students to enter the United States to pursue higher education. The current F-1 international student visa poses a number of significant obstacles for refugee students, including requirements to prove that they are non-immigrants who intend to depart the United States after their education, demonstrate financial support for the entirety of their academic program, and abide by limitations on employment. Congress should pursue legislative changes that would provide specific pathways for refugee learners, including exploring the creation of a "refugee student visa program" to address the specific challenges and needs that this population encounters.¹⁷ Helping refugee students overcome obstacles to entry into the United States, access higher education at our colleges and universities, and achieve their fullest social, economic, and civic integration not only aligns with our aspirations as a nation of refuge and maintains our humanitarian commitments, but it would strengthen our nation's economy and help meet our critical skills gaps.

¹³ New Paradigm Strategy Grp., Immigration and Education: NP Omnibus Results for August 2020 4 (2020), available at <https://www.presidentsalliance.org/wp-content/uploads/2020/09/NPSG-Presidents-Alliance-Q-Toplines-Aug-2020-Omnibus-1.pdf>.

¹⁴ United Nations High Comm'r for Refugees, *Global Trends Forced Displacement in 2019*, United Nations (2019), <https://www.unhcr.org/globaltrends2019/>.

¹⁵ United Nations High Comm'r for Refugees, United Nations, *Stepping Up: Refugee Education in Crisis 37* (2019), available at <https://www.unhcr.org/steppingup/wp-content/uploads/sites/76/2019/09/Education-Report-2019-Final-web-0.pdf>.

¹⁶ *Id.* at 39.

¹⁷ The International Refugee Assistance Project (IRAP) recommends the "creation of a new student visa specifically designed for refugee students" in their report, *Expanding Complementary Pathways for Refugees and Displaced Persons: A Blueprint for the U.S. Government 87* (2020), available at <https://refugeerights.org/wp-content/uploads/2020/11/Expanding-Complementary-Pathways-for-Refugees-and-Displaced-Persons-A-Blueprint-for-the-U.S.-Government.pdf>.

APPENDIX A: DOMESTIC IMMIGRANT STUDENT RECOMMENDATIONS*1. Higher Education Access and Affordability***A. Repeal PRWORA Prohibition on Postsecondary Benefits for “Non-Qualified Aliens”**

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), enacted in 1996, bars the provision of “state and local public benefits” for non-qualified “aliens” unless the state passes an affirmative law making them explicitly eligible, including “postsecondary benefits.”¹⁸ Under PRWORA, some courts view in-state tuition, financial aid, and even admission as public benefits.¹⁹ This provision potentially undermines future expansions of federal and state benefits. Federally, a court may read this ban to supersede any subsequent legislation that does not “affirmatively provide” for the eligibility of undocumented people, similar to the ongoing litigation around emergency financial grants in the CARES Act and their intersection with this provision of PRWORA.²⁰ On a state level, the requirement that a state pass an “affirmative” law or policy, makes it much harder for states to offer these benefits to immigrant students. Thus, any expansion of federal or state aid must be coupled with the elimination of this prohibition. We recommend that Congress amend 8 U.S.C. § 1611(c)(B) as follows:

(B) any retirement, welfare, health, disability, public or assisted housing, ~~postsecondary education~~, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

We also recommend that Congress amend 8 U.S.C. § 1621(c)(B) as follows:

(B) any retirement, welfare, health, disability, public or assisted housing, ~~postsecondary education~~, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

Congress should also add conforming language stating the individuals who cannot satisfy the immigration administration requirements found in 20 U.S.C. §§ 1091(a)(4)(B), 1091(a)(5), and 1091(g) (and all other relevant sections) can still apply for and receive postsecondary education benefits.

B. Ensure Federal Financial Aid for Individuals Who Obtain Relief through Dream Act or Similar Legislation

Congress should enact legislation that prohibits the denial of federal financial aid, including federal loans, Pell and other grants, and work-study-based programs for immigrant youth and adult learners (including DACA recipients, TPS holders, and undocumented students) who obtain relief through legislation. Individuals under a Dream Act–like bill may either have “conditional permanent resident” (CPR) status (such as H.R.6, the American Dream and Promise Act) or an “interim” status, which would not generally qualify them for federal financial aid (i.e., because this would make them “non-qualified aliens.”). In the former situation, affirmative language would not be needed, as conditional permanent residents will

¹⁸ Personal Responsibility and Work Opportunity Reconciliation Act, H.R.3734, 104th Cong., § 401–23 (1996).

¹⁹ Kate M. Manuel, Cong. Rsch. Serv., R43447, Unauthorized Aliens, Higher Education, In-State Tuition, and Financial Aid: Legal Analysis 30 (2016).

²⁰ Off. of Postsecondary Educ., *Higher Education Emergency Relief Fund Litigation Updates*, U.S. Dep’t of Educ. (June 17, 2020), <https://www2.ed.gov/about/offices/list/ope/heerfupdates.html>.

generally be eligible for all benefits as lawful permanent resident (LPR or commonly known as “green card” holders) status holders (aside from naturalization), including federal financial aid and Pell grants. Thus, the below language (modified and taken largely from H.R. 3591, the American Hope Act of 2017) would only be needed when legislation grants an initial status different or less than CPR or LPR status:

- (a) In General.—Notwithstanding 8 U.S.C. § 1611 subsections (a)(5) and (g) of section 484 of the Higher Education Act of 1965 (20 U.S.C. § 1091) or any other provision of the Higher Education Act of 1965 (20 U.S.C. § 1001 et seq.), and subject to subsection (b) of this section, an alien who adjusts status to that of a [name of immigration status] under this Act is eligible for the following assistance under title IV of such Act (20 U.S.C. § 1070 et seq.):
- (1) Federal grants under part A (20 U.S.C. § 1070 et seq.).
 - (2) Federal work-study programs under part C (42 U.S.C. § 2751 et seq.).
 - (3) Federal student loans under parts D and E (20 U.S.C. § 1087a et seq.).
 - (4) Services not otherwise covered under paragraphs (1) through (3).
 - (5) Need analysis and refunds calculated under parts F and G (20 U.S.C. §§ 1087kk et seq.; 1088 et seq.).
- (b) Other Requirements.—An individual described in subsection (a) may only receive the assistance described in subsection (a) for which such individual would be otherwise eligible (but for such individual’s immigration status).

C. Repeal IIRIRA’s Section 505 Prohibition on In-State Tuition Based on Residency

Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) bars states from providing “postsecondary education benefits” to those who are “not lawfully present” based on in-state residency unless all citizens of the United States are eligible for those benefits regardless of state residency.²¹ Many states have circumvented this prohibition by basing in-state tuition on high school attendance and graduation in the state, but § 505 still presents a burden to states, often being cited in litigation challenging in-state tuition laws. There is also the possibility that the courts will strike down state in-state tuition laws based on a novel reading of § 505. Repealing this law would allow states to affirmatively offer in-state tuition through residency status, and it would protect those states that have currently expanded in-state tuition to undocumented immigrants. We recommend that Congress pass legislation with the following language, taken largely from S.952:

Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. § 1623) is repealed. The repeal shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–546).

²¹ Illegal Immigration Reform and Immigrant Responsibility Act, H.R. 2202, 104th Cong., § 505 (1996).

D. Implement Federal Anti-Discrimination Based on Immigration Status Provision for Higher Ed Access

To ensure non-discrimination based on immigration status in the higher ed context, we also recommend that Congress enact legislation with the following language:

Notwithstanding any other law, an individual may not be denied admission, enrollment, grants, scholarships, in-state tuition (or any other tuition discount), or any postsecondary benefit by an agency of a State or local government, or by appropriated funds of a State or local government, or an institution of higher education on the basis of the individual's immigration status if the individual is otherwise qualified.

2. Professional Licensing

Professional, commercial, and business licenses (also known as “occupational licenses”) represent the licensure framework required for an individual working in a specific field or career. This licensure represents a credential that the federal, state, or local government issues to an individual seeking to be employed in certain fields, and usually requires that an individual satisfy state-specific educational, training, testing and other requirements. Nearly one in four jobs require some sort of license to practice. Over 1,100 different occupations require a license, and approximately 25 percent of all workers nationwide are required to obtain a license in order to work in their occupations. There are a variety of federal prohibitions on licensure that the below language attempts to address.

A. Repeal PRWORA Federal and State Prohibition on Federal Professional and Occupational Licensing

Congress should enact legislation rescinding the federal and state prohibition on professional and commercial licenses to non-qualified immigrants. We recommend that Congress amend 8 U.S.C. § 1611(c)(1) as follows:

(A) any grant, contract, ~~or loan~~ ~~professional license, or commercial license~~ provided by an agency of the United States or by appropriated funds of the United States

We also recommend that Congress amend 8 U.S.C. § 1621(c)(1):

(A) any grant, contract, or loan ~~professional license, or commercial license~~ by an agency of a State or local government or by appropriated funds of a State or local government

C. Prohibit Denial of Federal and State Licenses Based on Immigration Status

Congress, through its constitutional authority to regulate immigration, should enact legislation that prohibits both the federal government and states from denying licensure based on immigration status to an immigrant who is otherwise qualified. We recommend that Congress enact one of the following language versions, taken and modified from S.744, the Border Security, Economic Opportunity, and Immigration Modernization Act (but removing the requirement that an individual possess an employment authorization document to benefit from the non-discrimination provisions):²²

Notwithstanding any other law, an individual in the United States may not be denied a professional, commercial, or business license on the basis of his or her immigration status if the individual is otherwise qualified.

²² Border Security, Economic Opportunity, and Immigration Reform Act, S.744, 113th Cong., § 3105 (2013).

D. Licensing and Legislative Protections for Immigrant Youth, TPS and DED Recipients

Many forms of immigration relief legislation grant conditional permanent resident (CPR) status to applicants, a qualified immigrant status that enables individuals to apply for and receive professional and occupational licenses. There is a pressing need for potential applicants and applicants with pending applications to access licensing before obtaining CPR status, including those with Deferred Action for Childhood Arrivals (DACA), Temporary Protected Status (TPS), or Deferred Enforced Departure (DED). Specifically, these individuals need to fully utilize their work permits and participate in licensed fields to save up funds to apply for relief. We recommend that Congress enact legislation with the following language as part of any Dream legislation:

Notwithstanding any other law, for the purposes of professional, commercial, and business licenses, individuals with Deferred Action for Childhood Arrivals, Temporary Protected Status under Section 244 of the Immigration and Nationality Act (8 U.S.C. § 1254a(b)), a grant of Deferred Enforced Departure, or an employment authorization document obtained under this Act, shall not be denied a professional, commercial, or business license on the basis of their immigration status if otherwise qualified.

APPENDIX B: INTERNATIONAL STUDENT RECOMMENDATIONS

Congress should articulate the value of international students and send a message that they are welcome to succeed here by enacting the following policies.

A. Welcome the Best and Brightest to the United States

- a. Establish a coordinated U.S. strategy to recruit, support and retain international students and scholars.** Universities and colleges have been working hard to stem the decline in international student enrollments, but without a national recruitment strategy we are at a disadvantage with other competitor countries. A coordinated, national recruitment strategy should rely on active collaboration between government, higher education institutions, and international exchange organizations and should result in a strategic plan for enhancing global competitiveness with respect to attracting international students, scientists, and scholars from a wide variety of cultures, backgrounds, and perspectives to the United States.
- b. Expand dual intent to include foreign student (F) visa applicants.** The United States should modernize immigration law by expanding dual intent to include international students applying for F-1 visas attending U.S. colleges and universities, a concept that is currently available in other nonimmigrant categories such as specialty workers (H-1B) and intracompany transferees (L-1). Such a change would permit individuals who are being screened for a visa or when entering the United States to communicate an interest in transferring to another legal status after the completion of their degree, which current law prohibits by assuming all foreign students will be “non-immigrants.”
- c. Exercise oversight to ensure the State Department and relevant agencies improve visa application processing for students and scholars.** The unpredictable timeframe for security clearances and administrative processing runs counter to the critical needs of time-sensitive experiments and research. The lack of transparency when applications take longer than 60 days further frustrates the ability of scientists and researchers to do their work.
- d. Exercise oversight to ensure that the Department of Homeland Security improves USCIS processing times.** USCIS should prioritize predictable processing times and implement technological improvements. There are dire consequences for students and scholars falling out of or violating immigration status. Reasonable and reliable processing times are critical to ensuring maintenance of status. However, as the American Immigration Lawyers Association describes in a [January 2019 report](#), USCIS processing delays have reached “crisis levels.” For example, as of January 16, 2019, the processing time for extension of foreign student status is 11.5 to 15 months at the USCIS Vermont Service Center. The delays in processing work authorizations for Optional Practical Training (OPT) are particularly concerning and will jeopardize our ability to recruit and retain talented international students if not resolved immediately.

B. Support and Retain Talent in the United States

- a. Adjust immigration law to permit a smoother entry to work for skilled graduates of U.S. higher education institutions.** Our nation would do well to allow those educated by our institutions to stay and contribute their knowledge and skills to our economy. There is broad, bipartisan support for “stapling a green card” to the diploma of international students graduating from U.S.

colleges and universities. Congress should create a direct path to green cards for foreign student alumni, eliminate the green card backlogs, and prevent future backlogs. Priority should be given to those with PhDs, master's, bachelor's and associate's degrees from U.S. higher education institutions and should represent the wide range of fields of study needed in our economy.

- b. Enact family-friendly policies for students and scholars by providing limited work authorization for spouses of individuals with F status.** Earning a U.S. degree, especially a master's degree or Ph.D., often requires many years of study. Providing the option of work authorization for spouses will help to attract and retain these talented international students who contribute to U.S. innovation and competitiveness.
- c. Permit limited opportunities for individuals to earn money while studying in the United States.** This option would be an important step toward providing students with access to resources that could support their enrollment. The current restrictions on work, makes it harder for non-wealthy international students to consider studying here. Such a change in policy would contribute to more diversity in sending countries and income levels of students, thus advancing our foreign policy interests.
- d. Provide flexibility for higher education institutions to admit foreign students for innovative and evolving educational programs.** Immigration policy should be modernized to keep pace with current education models, including low residency programs, online courses and programs requiring multiple study abroad experiences.
- e. Direct the Department of Homeland Security to streamline the now long-delayed adjudication of requests from SEVIS-certified higher education institutions to offer new programs.** U.S. Immigration and Customs Enforcement (ICE) conducts extensive reviews and vetting before certifying schools to admit foreign students. After certification however, a separate adjudication is required to admit foreign students to newly created programs or majors. This process now takes months, if not years, during which time the school may not offer the programs or major to any foreign students. This unnecessary re-review process wastes ICE resources and limits access to new study options.
- f. Direct the Department of Homeland Security to preserve experiential learning opportunities for foreign students and authorize employment for their families.** The prior administration created great uncertainty by proposing to scale back or eliminate OPT as a priority. While a U.S. District Court rejected a Washington Alliance of Technology Workers union (WashTech) lawsuit challenging the one-year and two-year STEM OPT extension, the plaintiffs have filed an appeal. Experiential learning, OPT for international students, is a key component of U.S. higher education. Access to this opportunity attracts international students, and our competitor countries use their similar programs to attract students away from the United States.
- g. Ensure that any changes to the H-1B Specialty Occupation Visa program facilitate the ability of international student alumni of and scholars at U.S. higher education institutions to access these temporary work visas.** Wage prioritization, for example, should take into account that new graduates of our institutions often start off in H-1B status before advancing in their careers to eventually transition to lawful permanent residence status. Early career professionals must have access to these visas, or we will risk cutting off the talent pipeline that we need to grow our economy.



**SPLC Action Fund Statement for the Record for February 11, 2021 Hearing
on “The U.S. Immigration System: The Need for Bold Reforms”**

The SPLC Action Fund respectfully requests that this statement be made part of the record for the Thursday, February 11, 2021 hearing “The U.S. Immigration System: The Need for Bold Reforms” before the Subcommittee on Immigration and Citizenship of the United States House of Representatives Committee on the Judiciary.

The SPLC Action Fund is a catalyst for racial justice in the South and beyond, working in partnership with communities to dismantle white supremacy, strengthen intersectional movements, and advance the human rights of all people. Along with our partner organization, the Southern Poverty Law Center, the SPLC Action Fund works alongside immigrant communities to advocate for a just, humane, and functional immigration system.

Fairness, freedom, and opportunity should be at the center of our immigration system. Yet for too long, we have had a dysfunctional and punitive immigration system that was only made more chaotic and crueler under the Trump administration. We now have the unprecedented opportunity to rebuild our immigration system to live up to our ideals. To do so, we must do more than just roll back the previous administration’s cruelest policies. Instead, we must reimagine our immigration system, and develop and implement a bold vision that welcomes people seeking safety and opportunity in the United States.

The SPLC Action Fund makes the following recommendations based on our current advocacy priorities. We acknowledge that this list of needed reforms is not exhaustive, and defer to other organizations to address other issues.

Create a Pathway to Citizenship

Most people who do not have immigration status have lived in the United States for longer than a decade and many are part of mixed-status families with spouses, children or other family members who are U.S. citizens.¹ Over two-thirds of people without immigration status work in essential, frontline jobs that have kept our country running during the COVID-19 pandemic.² Undocumented immigrants provide healthcare services, clean medical facilities, help build temporary hospitals, grow our food, and deliver our groceries. Many are business owners and entrepreneurs. They have kept our economy running, our hospitals functioning, and our kitchens

¹ Jens Manuel Krogstad, Jeffrey S. Passel & D’Vera Cohn, 5 Facts About Illegal Immigration in the U.S., Pew Research Center, June 12, 2019, <https://www.pewresearch.org/fact-tank/2019/06/12/5-facts-about-illegal-immigration-in-the-u-s/>.

² FWD.us Estimates Show Immigrant Essential Workers are Crucial to America’s COVID-19 Recovery, FWD.us, Dec. 16, 2020, <https://www.fwd.us/news/immigrant-essential-workers/>.



stocked. It is no surprise that majorities of both Republicans and Democrats support a pathway to citizenship for people without current immigration status.³

The SPLC Action Fund supports the pathway to citizenship that would be created by the U.S. Citizenship Act of 2021,⁴ as well as an immediate path to citizenship for DREAMers, current holders of Temporary Protected Status, and farmworkers and other essential workers. Congress must pass legislation to create a roadmap to citizenship for every immigrant who calls this country home without acquiescing to unnecessary, draconian enforcement mechanisms as a trade-off.

End Discriminatory Immigration Policies

Too often, prejudice and fear have guided our immigration policies and led to unjust and discriminatory restrictions on asylum and migration. While the Biden administration has revoked the Trump administration's discriminatory Muslim and African bans, protections must be put in place to stop future administrations from enacting similar discriminatory policies. Congress must pass the No Ban Act to prohibit future presidents from discriminating based on religion and require that any future travel restrictions be based on facts and implemented only if no less severe policy option is available. In addition, Congress and the Biden Administration must review all existing immigration policies to ensure that they are free from discrimination and do not unfairly target people from non-European countries.

Build a Fair and Humane System for People Who are Seeking Protection in the United States

The Trump Administration gutted our asylum system, leaving tens of thousands of people who have fled persecution and violence trapped in unsafe conditions along the southern border. Under the Migrant Protection Protocols, more than 60,000 people seeking asylum have been forced to wait indefinitely in Mexico for their hearings in U.S. immigration court. Many of these individuals are deprived of access to basic needs, creating a humanitarian crisis that is perversely hidden from the American public. Some have been raped, kidnapped, or killed. Thousands of other asylum seekers have been unlawfully turned back at ports of entry by CBP officers on the pretense of insufficient processing capacity. Those who eventually succeed in entering the country have often been deemed ineligible for asylum merely because they transited through third countries en route to the United States.

³ Nicola Narea, Poll: Most Americans Support a Path to Citizenship for Undocumented Immigrants, Vox, Feb. 4, 2021, <https://www.vox.com/policy-and-politics/2021/2/4/22264074/poll-undocumented-immigrants-citizenship-stimulus-biden>.

⁴ President Biden Sends Immigration Bill to Congress as Part of His Commitment to Modernize our Immigration System, the White House, Jan. 20, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-president-biden-sends-immigration-bill-to-congress-as-part-of-his-commitment-to-modernize-our-immigration-system/>.



Dinora and her 17-year-old daughter were among those turned away at the border by CBP officers.⁵ They had fled Honduras after being kidnapped and raped by MS-13 gang members. They expected to receive protection in the United States but were instead forced to put their names on a “waitlist” and live under dangerous conditions in a Mexican border town in the hope that their numbers would eventually be called. This is cruel and unacceptable.

The federal government has detained asylum seekers in immigration prisons, often denying them humanitarian parole despite the lack of any public safety concerns or risk that they will not appear for their hearings. These practices illegally punish people seeking protection in the U.S. For example, the New Orleans Immigration and Customs Enforcement (ICE) Field Office implemented a blanket parole denial policy that has left thousands of asylum seekers languishing in ICE prisons throughout the Deep South despite having followed asylum procedures at the border and having met the legal criteria for release on parole, pursuant to DHS’s own 2009 Parole Directive. Black asylum seekers also face discriminatory denial of parole at significantly higher rates than white asylum seekers.

If the United States is to live up to its moral and legal obligation to provide refuge and protection to those who need it, we must do better. Congress must take its oversight responsibilities seriously and ensure that DHS treats asylum seekers appropriately and humanely, while holding the agency accountable for any failure to comply with its legal obligations. In addition, appropriations must be shifted away from deterrence-based measures to ensure that people arriving at the U.S. border are welcomed and supported.

End Detention and Implement Humane Cost-Effective, Community-Based Management for Those Who Need It

Each day advocates at the Southern Poverty Law Center and the SPLC’s Southeast Immigrant Freedom Initiative hear reports of abuse by ICE and its private contractors. At the Stewart Detention Center in Lumpkin, Georgia, agents of a private SWAT team tortured a man in a wheelchair by hitting him with 60 pepper-ball bullets. ICE also uses coercive tactics, including threats of violence and direct physical abuse, to force people in restraints to submit to fingerprinting. People who have refused to sign deportation papers have been pepper sprayed to obtain compliance. Black immigrants in detention frequently report disparate treatment, unconscionable abuse and torture.

ICE has also refused to follow basic guidelines to protect the people in its custody from the spread of COVID-19. People in ICE custody do not have enough soap, personal protective equipment or even information about COVID-19 in languages they can understand. With 21 reported deaths in

⁵ SPLC Argues in Court Against “Turnback” Policy that Blocks Immigrants from Seeking Asylum, May 10, 2019, <https://www.splcenter.org/news/2019/05/10/splc-argues-court-against-turnback-policy-blocks-immigrants-seeking-asylum>.



fiscal year 2020, eight of which were caused by COVID-19, fiscal year 2020 saw the highest death toll of people in ICE custody in 15 years.⁶ Thousands of people in ICE custody have been infected.⁷ ICE has also denied tens of thousands of detained immigrants health care and disability accommodations in 158 immigrant prisons across the country.⁸

Holding thousands of immigrants in detention does nothing to fix our broken system. Instead, it is an anti-immigrant tool that must be dismantled. People seeking to build a better life in the United States or who are fleeing violence, persecution, or war, should find refuge—not be thrown into jail. Immigrant detention is a betrayal of the ideals to which we aspire as a country. We cannot purport to be leaders on human rights, freedom, and equality while holding people seeking protection and a better life in cages. It is inhumane, cruel, and a waste of taxpayer dollars. Instead of being separated from family and held in cages, such individuals should be allowed to stay with family or friends in their communities.

Congress must act to close ICE detention facilities and invest in programs that provide access to legal services and other community-based resources for those who need them.

End Local Law Enforcement Involvement with Immigration Enforcement

People who come to the United States are part of our communities, families, and workplaces and should not be unfairly targeted because of the color of the skin or the language they speak. Programs like 287(g) Agreements (named for the section of the Immigration and Nationality Act that authorizes it), the Warrant Service Officer program, and Basic Ordering Agreements, all of which allow or incentivize local law enforcement collaboration with federal immigration enforcement, encourage racial profiling and create intense distrust of local law enforcement among immigrant communities; making the entire community less safe. Information-sharing programs transform a local arrest for even the most minor alleged infraction into the first step in the deportation process. Local and state law enforcement and federal immigration enforcement are two separate undertakings and should remain distinct from one another.

People without immigration status often fear that any police interaction could eventually result in deportation and the life-changing repercussions that stem from it. As a consequence, they avoid interactions with local law enforcement—even when they are victims of or witnesses to crime. According to one study, Mexican immigrants who are undocumented are 61% less likely to say they would report a crime they had witnessed and 43% less likely to report being the victim of a

⁶ Noelle Smart & Adam Garcia, Tracking COVID-19 in Immigration Detention: A Dashboard of ICE Data, the Vera Institute of Justice, <https://www.vera.org/tracking-covid-19-in-immigration-detention>, last reviewed on Feb. 10, 2021.

⁷ Id.

⁸ *Fraihat, et al. v. US Immigration and Customs Enforcement, et al.*, <https://www.splcenter.org/seeking-justice/case-docket/fraihat-et-al-v-us-immigration-and-customs-enforcement-et-al>.



crime if they know that local law enforcement is working with ICE.⁹ Similarly, in a 2012 study, 44% of Latinx people—regardless of their immigration status—reported being less likely to contact police officers if they were victims of a crime because they feared that they would be asked about their own or someone else’s immigration status.¹⁰ The number of people who said they would not report a crime increased to 70% among people who were undocumented. Collaboration between local law enforcement and federal immigration enforcement makes immigrant communities, and the local community in general, more vulnerable and prevents law enforcement from investigating and solving crimes.

Investigations by the U.S. Department of Justice (DOJ) have found that sheriff’s offices participating in 287(g) programs illegally engage in racial profiling. Not only did deputies and staff in the Maricopa County Sheriff’s Office in Arizona racially profile Latinx people, but they would also unlawfully stop, detain and arrest Latinx people and retaliate against “individuals who complain[ed] about or criticized[d]” the sheriff’s office.¹¹ In North Carolina’s Alamance County, DOJ found “reasonable cause to believe [the sheriff’s office] engages in a pattern or practice of unconstitutional policing. Specifically, we find that ACSO [Alamance County Sheriff’s Office] – through the actions of its deputies, supervisors, and command staff – unlawfully targets, stops, detains, and arrests Latinos.”¹²

Our immigrant friends, neighbors, colleagues, and family members should not have to fear that simply going to work or school, or interacting with a local police officer or sheriff’s deputy, could result in detention and deportation proceedings. Congress must repeal the 287(g) program entirely and prohibit state and local law enforcement officers from performing the functions of immigration officers. Congress must also repeal various sections of the U.S. Code to end cooperation between state and local law enforcement agencies and federal immigration enforcement, including 8 U.S.C. § 1252c, 8 U.S.C. § 1373, and 8 U.S.C. § 1644. Further, Congress should defund any DHS programs that pay county sheriffs to hold people on detainers pursuant to Basic Ordering Agreements. Congress should also repeal 8 U.S.C. § 1103(a)(11), which authorizes the Attorney General to enter into cooperative agreements with states and localities to detain immigrants in removal proceedings, and should bar information-sharing between state and local law enforcement and federal immigration enforcement.

⁹ Tom K. Wong, *Sanctuary Cities Don’t ‘Breed Crime’*, Washington Post, April 24, 2018, <https://www.washingtonpost.com/news/monkey-cage/wp/2018/04/24/sanctuary-cities-dont-breed-crime-they-encourage-people-to-report-crime/>.

¹⁰ Laura Muñoz Lopez, *How 287(g) Agreements Harm Public Safety*, Center for American Progress, May 18, 2018, <https://www.americanprogress.org/issues/immigration/news/2018/05/08/450439/287g-agreements-harm-public-safety/>.

¹¹ U.S. Department of Justice, Civil Rights Division, *United States Investigation of the Maricopa County Sheriff’s Office*, Dec/ 15, 2011, https://www.justice.gov/sites/default/files/crt/legacy/2011/12/15/mcso_findletter_12-15-11.pdf.

¹² U.S. Department of Justice, Civil Rights Division, *United States Investigation of the Alamance County Sheriff’s Office*, Sept. 18, 2012, <https://www.justice.gov/iso/opa/resources/171201291812462488198.pdf>.



Ensure that ICE and CBP are Accountable to the People

Both ICE and CBP have been allowed to act outside the law with virtually no accountability. At the same time, the budget for these agencies has increased dramatically. The annual budget for the Border Patrol rose from \$363 million in 1993 to nearly \$4.9 billion for FY 2020 — a 10-fold increase. Congress must use its oversight authority to ensure accountability for ICE and CBP leadership and personnel. These agencies cannot be allowed to remain unchecked as they commit abuses and deprive people of their rights with impunity.

Since ICE and CBP's relatively recent establishment in 2003, the government has authorized the dramatic expansion of their role in the U.S. immigration system. The Trump administration further expanded these agencies and weaponized them to advance a politicized anti-immigrant agenda. But the well-documented mass cruelty committed by ICE and CBP is not simply limited to the whims of revolving political leaders.

The everyday operations of these agencies — including apprehensions, detention, and deportations, and most recently, expulsions — are in accordance with the stated policies and practices of ICE and CBP. The government has vested ever-increasing authority with these agencies to conduct draconian enforcement activity to address what is, at its core, a humanitarian issue.

Congress should reverse this misguided approach and rein in the broad purview of these agencies. Funding for ICE and CBP should be significantly reduced. Those funds should be redirected to community programs that support immigrants and their families and assist in the transition to living in the United States. Funding alternatives to expensive operations like ICE detention, such as case management and similar programs, will save taxpayers' dollars while respecting the human rights of immigrants and asylum seekers. This will also help create an immigration system that is both functional and grounded in human dignity.

Ensure Fair Access to the Courts

Under a functional immigration court system, immigrants would receive full and fair hearings before impartial judges who apply the law equitably and make decisions based on the facts before them. Unfortunately, this does not currently happen because the structure of our immigration court system is fundamentally flawed. As a result, life-and-death decisions by immigration judges often have more to do with the luck of the draw than with the rule of law. In order to create a fair and just immigration system that is consistent with our values, Congress should:

- Establish independent Article I immigration courts outside the Attorney General's unilateral control that will ensure impartial case-by-case adjudication free of political pressure by the Attorney General;

SPLC | ACTION

- Require that immigration judge hiring be based exclusively on merit and free of political influence;
- Adequately fund and staff the courts to ensure that record-keeping is modern and accessible, cases are heard within a reasonable period of time, adequate interpretation is available in all cases, and the backlog of cases is addressed promptly;
- Repeal, in part, 8 USC 1252 to enable meaningful judicial review of all factual and legal questions to decrease deference to the Department of Justice and ensure that systemic immigration court dysfunction is efficiently reviewable and remediable in Art. III courts;
- Establish congressional oversight mechanisms by which decisions in the new courts can be periodically surveyed to ensure consistency with governing law.
- Provide adequate funding for legal representation for indigent immigrants in removal proceedings — as well as for all unaccompanied children. Legal representation is a hallmark of our court system, yet immigrants, including young children, often do not have access to lawyers. Without representation, meritorious cases may be denied merely because the person did not understand the system. Legal representation is necessary for immigrants to get the fair and impartial hearings that they deserve and that are required by law.

Protect immigrant workers and end exploitative labor practices

Throughout the South, immigrant workers play an essential role in our economy. They process poultry, meat, and seafood; they harvest produce; they pack and ship food and other goods. Southern states have ignored the basic protections and benefits needed to provide dignity and safety in the workplace. The COVID-19 pandemic has only highlighted the meager protections available to workers in the South generally, and immigrants specifically. Immigration reform must include protections for immigrant workers.

Under the nation's largest low-wage guest worker programs (J-1, H-2B, and H-2A), U.S. employers recruit more than 300,000 foreign workers each year to perform temporary, low-skill labor in farming, forestry, seafood-processing, landscaping, tourism, construction, and other labor-intensive industries. But far from being treated like “guests” in the United States, they're systematically exploited and abused by labor recruiters and employers. To obtain their jobs, guest workers frequently must pay exorbitant fees to unscrupulous labor recruiters, leaving them deeply in debt and susceptible to abuse. Many are routinely cheated out of wages, forced to live in squalid conditions, subjected to labor trafficking, denied proper medical care or compensation for injuries, or held virtually captive by employers and labor brokers who confiscate their visas and identity documents.

Arkansas-based Lowry Farms — a large farm labor contractor that employs guest workers at sugarcane farms in Louisiana — has breached its contract and violated the Fair Labor Standards Act, according to a lawsuit by the Southern Poverty Law Center. Under federal laws, Lowry was



required to ensure that guest workers had access to water and shade, received fair wages, and were protected from fraud and misrepresentation.¹³ It failed on all counts and exploited guest workers, many of whom had to borrow money before leaving Mexico to pay for their work visas, hotels, food, and transportation to the work site.

In addition, agricultural and domestic workers, many of whom are immigrants, are currently excluded from the protections in the Fair Labor Standards Act and the National Labor Relations Act. This discrimination is not simply a historical event — the law continues to discriminate against Black, Brown, and immigrant communities.

To protect immigrant workers, Congress should:

- Extend the Migrant and Seasonal Agricultural Worker Protection Act to include guest workers. This act is the primary federal employment law that protects seasonal laborers and farmworkers. Its protections currently do not apply to H-2A workers;
- Pass the Protect Our Workers from Exploitation and Retaliation Act (POWER Act S. 2929/H.R.5225). This legislation would provide immigration relief and protections from immigration enforcement to immigrant workers who report unsafe or unfair labor practices;
- Pass the Fairness for Farmworkers Act (H.R. 1080/S. 385) to ensure farmworkers receive basic minimum wage and overtime pay protections; and
- Pass the Domestic Worker Bill of Rights (H.R. 3760/S. 2112) which would create a basic set of labor protections for domestic work.

Our immigrant neighbors play a vital role in the economic, social, cultural, and political life in the Southeast, where the SPLC Action Fund primarily works, and across the United States. People in the Southeast come from all over the world—Latin America, Africa, the Caribbean, Asia and Europe—adding to the vibrancy of our communities and revitalizing rural areas that were in decline. They should be able to live their lives free from fear and have the same freedom, liberty, and opportunity that those who were born in the United States enjoy. Congress must radically reimagine the way the United States addresses immigration to meet the needs of current migration patterns so that people coming to this country have a fair opportunity to build a better life for themselves.

For further information, please contact Kelli Garcia, federal policy counsel, by email at kelli.garcia@splcenter.org or by phone at 202-916-7368.

¹³ Liz Vinson, SPLC Sues Farm Labor Contractor for Underpaying H-2A Guest Workers and Threatening to Deport Them for Speaking Out, Southern Poverty Law Center, August 14, 2020, <https://www.splcenter.org/news/2020/08/14/splc-sues-farm-labor-contractor-underpaying-h-2a-guest-workers-and-threatening-deport-them>



Rabbi Jonah Dov Pesner, *Director*
Susan Friedberg Kalson,
Chair, Commission on Social Action of Reform Judaism

Arthur and Sara Jo Kobacker Building
2027 Massachusetts Avenue NW, at Kivie Kaplan Way,
Washington, DC 20036
202.387.2800 @theRAC RAC.org

February 11, 2021

U.S. House of Representatives Committee on the Judiciary
Subcommittee on Immigration and Citizenship
6320 O'Neill House Office Building
Washington, D.C. 20515

Re: Reform Jewish Movement's support of compassionate, just, and equitable immigration and refugee policy in the 117th Congress

Dear Chairwoman Lofgren, Vice Chairwoman Jayapal, and Ranking Member Buck,

On behalf of the Union for Reform Judaism, whose nearly 850 congregations across North America encompass 1.5 million Reform Jews, and the Central Conference of American Rabbis, whose membership includes more than 2,000 Reform rabbis, I write to convey our profound support for the passage of compassionate, just, and equitable immigration and refugee policy in the 117th Congress. We are grateful to the leadership of the Subcommittee on Immigration and Citizenship for holding today's hearing.

A sweeping, legislative fix to our broken immigration system has taken on new urgency. Over the past four years, the Trump administration stepped up deportations, drastically cut refugee admissions numbers, barred asylum seekers from making asylum claims without due process, criminalized unauthorized border crossings resulting in family separation, forced immigrants to choose between advancing their immigration status and accessing essential public benefits like health care, nutrition, and housing, and more.

We call upon Congress and the new administration to recognize and address the racism that underpins the U.S. immigration system, ensuring it is no longer used as a weapon, including against Black and Brown communities within and beyond U.S. borders. We demand that the criminal justice and immigration detention systems, both profit-driven and interconnected, are no longer used to further harm immigrants and communities of Color. We call on Congress alongside the new administration to enact anti-racist policies that reimagine the foundation of the immigration system and ensure accountability and oversight to uphold an equitable system.

No less than 36 times, the Torah instructs us on how to treat the *ger*, the foreigner among us. God commands, "The stranger who resides with you shall be to you as one of your citizens; you shall love them as yourself, for you were strangers in the land of Egypt" (Leviticus 19:34). Guided by this repeated injunction to love the stranger, the Reform Jewish Movement has long



The Religious Action Center of Reform Judaism is the Washington office of the Union for Reform Judaism, whose more than 800 congregations across North America encompass 1.5 million Reform Jews, and the Central Conference of American Rabbis, whose membership includes more than 2,000 Reform rabbis.



been committed to fixing our fractured immigration system and ensuring just and compassionate immigration policies are enacted.

DACA, TPS, and DED

As you know, the Deferred Action for Childhood Arrivals (DACA) program provided security to over 800,000 undocumented young people who grew up in this country and wish to continue to contribute to it. Painfully, the Trump administration's repeated and shameful efforts to terminate DACA put these youth at risk of deportation. The previous administration also terminated Temporary Protected Status (TPS)—a humanitarian form of immigration status for those who cannot safely return to their home country due to extraordinary circumstances, like armed conflict and environmental disaster—for 98 percent of all holders.

Congress must immediately pass permanent protections for DACA recipients and TPS visa holders that include a pathway to citizenship. We call upon Congress to pass legislation like the American Dream and Promise Act of 2019 (H.R. 6 in the 116th Congress), which would provide pathways to citizenship for immigrant youth and recipients of TPS and Deferred Enforced Departure (DED). As many of these immigrants have called the U.S. home for decades, these bills would be an important step towards providing undocumented and under-documented immigrants with permanent protection.

Refugee Resettlement

The world is facing the worst refugee crisis in global history. There are 79.5 million people worldwide who have left home to escape conflict and persecution, surpassing the previous record of displaced persons after World War II. Refugees—those forced to flee their country for fear of persecution, war, or violence—account for about 26 million of those displaced.

The Trump administration consecutively set record low refugee admissions ceilings, leaving the U.S. with a Fiscal Year (FY) 2021 admissions goal of 15,000 refugees, the lowest since the adoption of the Refugee Act of 1980. We applaud the Biden-Harris administration's commitment to raise the refugee admissions goal to 125,000 in FY 2022, and we encourage Congress to do everything in its power to support this robust resettlement goal.

We also call upon Congress to pass the National Origin-Based Antidiscrimination for Nonimmigrants Act, the NO BAN Act (H.R. 2214/S. 1123 in the 116th Congress). This legislation would repeal all versions of the refugee, Muslim-targeted travel bans and asylum bans, require travel restrictions to be fact-based and time-limited, and prevent future discriminatory travel bans like those under the Trump administration.

Asylum

The U.S. asylum system has been meticulously dismantled over the past several years, with the Department of Homeland Security (DHS) and Immigration and Customs Enforcement (ICE) often restricting asylum seekers' access to due process, representation, and proper care, all things that the U.S. is obligated to provide under law. Members of Congress have also attempted to squash asylum through legislation like the Secure and Protect Act of 2019 (S. 1494 in the 116th Congress), which would have barred thousands of Central American asylum seekers from



The Religious Action Center of Reform Judaism is the Washington office of the Union for Reform Judaism, whose more than 800 congregations across North America encompass 1.5 million Reform Jews, and the Central Conference of American Rabbis, whose membership includes more than 2,000 Reform rabbis.



applying for life-saving protection in the United States, jailed kids and families for long periods of time, and quickly deported children who arrive in the United States alone without due process.

We demand that Congress does everything in its power to reject policies that undermine the U.S. asylum system, urge the passage of legislation that upholds the integrity of the asylum system, and supports the rights and dignity of all migrants, regardless of faith, race, sex (sexual orientation and gender identity), nationality, place of birth, ability, or socioeconomic status. We call upon Congress to ensure that all who claim a well-founded fear of persecution are granted fair and legal access to the asylum system and that unaccompanied minors be granted the utmost protection, representation, and care.

Border & Interior Enforcement and Detention

The new administration must reduce and work to end reliance on immigration detention. This enforcement strategy has failed to uphold basic standards of care for adults, families, and children alike and has stripped immigrants of their dignity and autonomy.

We encourage Congress to decrease funding for ICE and Customs and Border Protection (CBP) and encourage you to ensure that no appropriated funds are used towards increased militarization of the border and border communities, harsh or inhumane border or interior enforcement, or a physical barrier like a wall on the Southwest border. Instead, we encourage increased oversight and accountability for the actions of agency officials, the end of contracts with for-profit prisons and detention centers, an end to cooperation between ICE and local law enforcement, and the investment of funding in alternatives to detention (ATD) programs. We have also called on the administration to uphold the standard for the detention and release of unaccompanied minors as outlined in the Flores Settlement Agreement, while refusing to make use of the indefinite family detention loophole. Congress can play a key role in investigating and holding ICE and CBP accountable.

Finally, as you ensure national security through safe, common-sense, and humane border enforcement, we encourage you consult with immigrants, border communities, environmentalist groups, and Indigenous communities. This will help ensure that border enforcement methods are non-invasive, are proven methods of enforcement, and do not implicitly or explicitly disproportionately negatively impact certain groups of people.

Thank you for the opportunity to share our Movement's perspective on this critical issue. Should you have any questions, please do not hesitate to reach out.

Sincerely,

Rabbi Jonah Dov Pesner
Director, Religious Action Center of Reform Judaism



The Religious Action Center of Reform Judaism is the Washington office of the Union for Reform Judaism, whose more than 800 congregations across North America encompass 1.5 million Reform Jews, and the Central Conference of American Rabbis, whose membership includes more than 2,000 Reform rabbis.





Statement for the Record from

Sanaa Abrar
Advocacy Director
United We Dream

**Submitted to the House Judiciary, Immigration and Citizenship Subcommittee
Hearing on The U.S. Immigration System: The Need for Bold Reforms**

Thursday, February 11, 2021

Contact: Sanaa Abrar, sanaa@unitedwedream.org



United We Dream is the largest immigrant youth-led network in the United States. We create welcoming spaces for young people—regardless of immigration status—to support, engage, and empower them to make their voices heard and win. We have an online reach of five million and are made of a powerful membership of 750,000 members and 112 local groups across 28 states.

Led by and accountable to youth leadership, United We Dream advocates for a multi-racial democracy where immigrants and communities of color live safely, with dignity and can thrive.

We appreciate the Subcommittee for acknowledging the need for bold action to overhaul and modernize our immigration system and to examine President Biden's vision for immigration reform as well as other legislative proposals and reforms necessary to unite American families, and accelerate our economic recovery as we emerge from the COVID-19 pandemic. It is clear both this Administration and Congress are committed to finally resolving long standing problems in our immigration systems and creating a pathway to citizenship for the 11 million undocumented people who have been living in the US for so long under threat of deportation and without so many protections and rights.

We wish the Committee felt compelled to hear from directly impacted people as well as policy experts. Hearing from those who have to navigate the immigration system themselves or who are altogether left out of it unprotected is paramount to understanding the impact these policies have on our communities. United We Dream members and immigrants at large want to be included and heard in building a system that is innovative, people-centered, fair and humane and which will ultimately impact them the most.

It is especially important now that we have come out of an administration that only sought to leverage the root issues of the system to weaponize it even more against immigrants. Moreover, under the Trump administration, immigrant youth, their families and communities of color have experienced first hand the impact of white supremacist immigration and criminal legal systems. Inherently racist from conception, the Trump administration has mercilessly amplified the message and expanded the consequences of a discriminatory and wilfully negligent agency. These systems are unleashed in their full force as a single, unified deportation force acting upon vulnerable communities. At the border, the implementation of cruel and unnecessary policies [including MPP (Migrant Protection Policy) and Zero Tolerance] has caused irreparable harm to those seeking refuge and a better life in our country. Immigration bans, at first implemented under the guise of security, are now enforced under the pretense of public health.



This statement is to address the need for bold action from the administration and from Congress, on offering urgently needed solutions to those who have been here and on creating a fair and humane system that will welcome those yet to come. To that end, we will go over our priorities when it comes to legislation that impacts our membership and communities followed by our in depth review and support for many components of President Biden's US Citizenship Act of 2021.

We agree that our current immigration system is broken and in need of a complete overhaul and appreciate President Biden's bold framework as a solid start to that goal. We recognize it as the most progressive piece of legislation to provide pathways to citizenship to millions that we have seen and urge Congress to pass it this year still.

Our top priority is to win a pathway to citizenship for all undocumented people, and to achieve this, we support and welcome any and all opportunities to win permanent solutions for undocumented people that do not grow the deportation force of ICE and CBP.

We welcome the effort put forth by the President Biden team and are in support of it, but recognize that in order to get this right for the 11 million and move forward legislation that helps people without hurting people, this will take time. Ultimately, our goal is for this expansive legislation to pass in both chambers of Congress and be signed into law by President Biden by the end of this year. To that end, we also believe we can have more than one shot at creating pathways to citizenship for different subsets of the undocumented population. Yes, we must move forward a process to pass legislation for the 11 million into law and we see early opportunities to swiftly move forward and pass into law bills that have already been tested and passed by the House within the first 100 days of this Congress.

United We Dream is in full support for the passage of an improved Dream and Promise Act along with the Farm Workforce Modernization Act as a package by March 12 in the House. As bills that moved through House committee markups in the previous Congress and won bipartisan support, these bills can now be brought to the floor ahead of House recess in March to make a clear statement to the Senate that legalization for millions of immigrants can be achieved as soon as possible. This would change the lives of over 3.5 million people (2 million immigrant youth, 400,000 TPS holders, 1 million farmworkers) and provide them with a pathway to citizenship. We also support the swift passage of legislation in the Senate that would protect immigrant youth, TPS holders and farmworkers within the first 100 days. Senator Dick Durbin has already reintroduced the Dream Act and Senator Chris Van Hollen has introduced the SECURE Act, which together offer a pathway to citizenship



for immigrant youth and TPS holders. This comes along with a parallel strategy in our push for citizenship for essential workers, immigrant youth and TPS holders to be included in the second President Biden reconciliation package bill expected in April (there are 5.2 million undocumented essential workers).

Meanwhile we continue to support the advancement of broad legislation that offers a pathway to citizenship to all 11 million people. In President Biden's proposal, we would like to highlight the importance of three pieces: (1) the expedited pathway to immigrant youth, TPS holders and farmworkers to achieve citizenship within 3 years, (2) in repealing the 3 and 10 year bars from the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and (3) the overhaul of the immigration system with reforms to asylum rules, visas and border management. For us, a pathway to citizenship for all is just the beginning.

The President's proposal offers an eight year path to citizenship for those who are not immigrant youth, TPS holders or farmworkers. This would mean five years in temporary status before being able to receive legal permanent residency (LPR) and being able to apply for naturalization three years after that. We recognize this is an improvement from previous proposals (the latest was 13 years), but still we believe five years is still too long to be in temporary status, which is a precarious state of being in the United States and longer than a full presidential term. Unfortunately, as we've learned, that can mean terrible things to those most vulnerable. The truth is our people deserve better, over 66% of undocumented people have been in the United States for over 10 years. They should all be expedited straight into LPRs like immigrant youth, TPS holders and farmworkers.

We also praise the previously mentioned repeal of the 3 and 10 year bars in President Biden's proposal. Barring deported immigrants from the country solely because of their unlawful status when apprehended has already been proven not to work as a deterrent and only serves to punish and keep people who would otherwise be able to adjust their status from doing so. Repealing a section of it is a good beginning to reimagining an immigration system that is centered around people and their needs instead of keeping them out. However, we must further decouple the criminal legal system from the immigration system. In short, the IIRIRA created the modern and deadly detention and deportation apparatus by also¹

- Expanding the range of criminal convictions that could result in deportation of legal permanent residents;

¹ Human Rights Watch. "US: 20 Years of Immigrant Abuses," April 25, 2016. <https://www.hrw.org/news/2016/04/25/us-20-years-immigrant-abuses>.



- Making it more difficult to apply for asylum;
- Authorizing mandatory and prolonged detention and drastically increased the number of those in detention;
- Creating fast tracks for deportation used to deny people asylum and much more.

For us it is clear the entire IIRIRA should be repealed, we hope President Biden and Congress will take a first step by supporting and passing New Way Forward, legislation that seeks to address many of the deeply rooted inequities and harms our immigration system is built upon.

President Biden's proposal also prioritizes keeping families together. By recognizing LGBTQ+ families, allowing immigrants with approved family-sponsorship petitions to join family in the United States on a temporary basis while they wait for green cards to become available, and including the NO BAN Act, the proposal broadens the ways in which families and communities can be reunited. We recognize these efforts as positive changes and hope they are honored by not creating absurd and prohibitive evidence requirements. Moreover, by including the NO BAN Act into his proposal, President Biden purposefully limits the ability of the executive branch to create travel bans altogether and specifically prohibits discrimination on the basis of religion. By codifying the effort, he is ensuring future presidents will not be able to bring such discriminatory policies back.

The proposal also takes several steps to protect undocumented workers. A couple of bright spots for us are the provision of U-visas for those victims of serious labor violations and the protections for workers from deportation in cases of workplace retaliation. We look forward to seeing language on these provisions on what will be considered a "serious labor violation" and we are hopeful this will not become an impossible qualification to meet. On the other hand, employment verification systems, which the proposal intends to make improvements to, are historically detrimental and punitive to undocumented workers, keeping people from dignified and protected labor. They are an unnecessary burden on workers and employers and should not exist.

The President's proposal would also increase the number of some visas (Diversity visas from 53,000 to 80,000) while trying to retrieve others that might not reach their cap, streamlining the process to adjusting statuses and providing work permits to some non-immigrant visas. These are all good measures to be taken but they will not be enough to address the need from immigrants and the economic needs of the country. "Numerous studies have documented that immigrants are needed to replace the large number of



retiring Baby Boomers and that the future growth of the U.S. workforce will come from immigrants and their children.”² We will simply need more visas.

When it comes to the border, shifting the framework from border security to border management is a definite improvement the President Biden administration has brought to this issue. We appreciate the exclusion of further financing of detention and deportation from this proposal. It sits in stark contrast to previous attempts and avoids premature compromise on our values. As previously mentioned, enforcement has exponentially increased since 1996 and it has failed in deterring migration³ or keeping us safe. From 2005 to 2020, ICE’s budget has increased by 171 percent and CBP’s by 176 percent.⁴ Unfortunately, the bill does include supplementation for technologies and infrastructure which will further militarize our borders and affect our border communities.

We would like to point out people live at the border, on both sides of it. Entire communities have been divided and devastated by policies created by those far from them. We must take these communities into consideration when contemplating higher surveillance, armaments and barriers to border crossing. How the danger might not be in those crossing the border unauthorized but in the fear instilled in those communities and in the potential for abuses of power and authority by those entrusted to protect us. In that light, we look forward to learning more about the Border Community Stakeholder Advisory Committee mentioned in President Biden’s framework and expect border community members to be included in the accountability work of the Department of Homeland Security.

Lastly, the President Biden proposal turns to address the root causes of migration and our asylum system. We praise the improvements promised. Such as giving back discretion to judges and adjudicators, establishing legal orientation programs, reinstating the Central American Minors program, increasing U-visas and eliminating 1-year deadlines for asylum applications. However, the US has much work to do in assessing its past and present impact in Central American countries and how to best offer aid. The proposal sets aside \$4 billion for aid to countries but it is conditioned on reducing endemic corruption, violence, and poverty. We will be watching for the requirements and strings attached to this aid.

² Svajlenka, Nicole Prchal. “Immigrant Workers Are Important to Filling Growing Occupations.” Center for American Progress, May 11, 2017. <https://www.americanprogress.org/issues/immigration/news/2017/05/11/431974/immigrant-workers-important-filling-growing-occupations/>.

³ NW, 1615 L. St, Suite 800 Washington, and DC 20036 USA 202-419-4300 | Main 202-857-8562 | Fax 202-419-4372 | Media Inquiries. “5 Facts about Illegal Immigration in the U.S.” Pew Research Center (blog). Accessed February 10, 2021.

<https://www.pewresearch.org/fact-tank/2019/06/12/5-facts-about-illegal-immigration-in-the-u-s/>.

⁴ Bolter, Muzaffar Chishti, Jessica Bolter Muzaffar Chishti and Jessica. “As #DefundThePolice Movement Gains Steam, Immigration Enforcement Spending and Practices Attract Scrutiny.” migrationpolicy.org, June 24, 2020.

<https://www.migrationpolicy.org/article/defundthe-police-movement-gains-steam-immigration-enforcement-spending-and-practices-attract>.



We recognize the monumental task ahead and look forward to the challenge. We also understand there are even more issues that have eluded even the most thorough of proposals. We would like to highlight a few here for your consideration.

Climate change is already impacting migration patterns. Most current asylum seekers have fled the devastation caused by the increasing number of hurricanes to hit already devastated countries. President Biden has already promised to increase the number of asylum seekers we will be taking in to 125,000 a year. But he has not addressed the steadily increasing need when it comes to climate refugees. In 2018 the World Bank has estimated that by 2050, there will be 143 million more climate refugees.⁵ There should be a new class of refugees created for this issue alone and we cannot wait until the need is overwhelming.

We need independent immigration courts. Although President Biden addresses this by giving back some discretion to judges and adjudicators, it is not enough. The immigration courts cannot be impartial and ensure a fair process while it is under the jurisdiction of the Department of Justice and its influence. This was demonstrated when former Attorney General Jeff Sessions imposed quotas on immigration judges.⁶ This must not happen, again, Congress must make immigration courts independent under Article 1.

Although President Biden adds no funding for immigration enforcement or deportation, his proposal makes no attempt at defunding enforcement agencies like Immigration and Customs Enforcement (ICE) or Customs and Border Protection (CBP). These agencies have proven themselves dangerous and unnecessary time and again when it comes to the detention and deportation of immigrants. They have abused⁷ their authority⁸ and power⁹, and broken human rights laws. We demand they be defunded and ultimately disbanded.

Along the same lines, since detention is not needed, we also demand detention camps be closed, both private and publicly owned. President Biden has already signaled his

⁵ Kumari Rigaud, Kanta, Alex de Sherbinin, Bryan Jones, Jonas Bergmann, Viviane Clement, Kayly Ober, Jacob Schewe, Susana Adamo, Brent McCusker, Silke Heuser, and Amelia Midgley. 2018. Groundswell: Preparing for Internal Climate Migration. The World Bank. Pg 2. <https://openknowledge.worldbank.org/handle/10986/29461>

⁶ NPR.org. "Justice Department Rolls Out Quotas For Immigration Judges." Accessed February 10, 2021.

<https://www.npr.org/2018/04/03/599158232/justice-department-rolls-out-quotas-for-immigration-judges>.

⁷ Martinez, Arlene. "ICE Detention Centers Rife with Abuse, Investigation Finds." USA TODAY. Accessed February 10, 2021.

<https://www.usatoday.com/story/news/nation/2019/12/23/ice-detention-centers-rife-abuse-investigation-finds/2736084001/>.

⁸ NPR.org. "DHS Inspector General Finds 'Dangerous Overcrowding' In Border Patrol Facilities." Accessed February 10, 2021.

<https://www.npr.org/2019/07/02/738179391/dhs-inspector-general-finds-dangerous-overcrowding-in-border-patrol-facilities>.

⁹ United We Dream. "ICE & CBP Abuse Tracker." Accessed February 10, 2021.

<https://unitedwedream.org/the-truth-about-ice-and-cbp/ice-and-cbp-abuse-tracker/>.



willingness to close private prisons, it should follow that private detention camps are next since they actually represent the majority of those incarcerated by private companies.¹⁰

Ultimately, enforcement agencies and detention camps exist because immigrants are criminalized and punished for moving across borders and migrating, a global phenomenon. Before these agencies existed, before immigration laws were weaponized to punish people, borders were porous and migrants were allowed to move in search of a better life. We also call for the decriminalization of immigration and the detaching of local law enforcement from immigration enforcement. As mentioned before, IIRIRA should be repealed, but there are other laws that also contribute to the deportation pipeline, like Sections 1325 and 1326 of the Title 8 of the federal code, which criminalize unlawful entry and re-entry into the country. Such codes should be repealed. Furthermore, agreements between federal immigration enforcement agencies and local law enforcement like 287(g), Secure Communities, Operation Stone Garden and others should be ended. They do not make communities safe, instead they spread fear and distrust of local police.¹¹

Finally, we support President Biden's proposal and other legislation in granting permanent protections to as many people as possible. We don't believe these different pieces of legislation to be mutually exclusive as long as they provide a pathway to citizenship for people without further increasing the deportation force. At the end of the day, we welcome any and all legislative efforts to achieve those results.

In spite of relentless assault on immigrant freedoms in the past administration, we along with our families have organized in the streets and all levels of government and have delivered a clear message to President Biden - we demand a pathway to citizenship for all undocumented people and we will not tolerate further terror in our communities.

We will keep organizing and building until every member of our community is protected and can thrive.

¹⁰ Luan, Livia. "Profiting from Enforcement: The Role of Private Prisons in U.S. Immigration Detention." migrationpolicy.org, April 30, 2018. <https://www.migrationpolicy.org/article/profitting-enforcement-role-private-prisons-us-immigration-detention>

¹¹ Lopez, Laura Muñoz. "How 287(g) Agreements Harm Public Safety." Center for American Progress, May 8, 2018. <https://www.americanprogress.org/issues/immigration/news/2018/05/08/450439/287g-agreements-harm-public-safety/>.

**Young Center for Immigrant Children's Rights Statement for the House Committee on the
Judiciary Hearing, Subcommittee on Immigration and Citizenship**

**The U.S. Immigration System: The Need for Bold Reforms
February 11, 2021**

Unaccompanied immigrant children have been at the front lines of the comprehensive assault on immigrants for the last several years. Treating children as both scapegoats and guinea pigs, the Trump administration mounted a campaign to villainize immigrant children, keep them in government custody indefinitely, incarcerate their parents and sponsors and strip away procedures intended to provide them with a fair hearing. It is past time for the federal agencies that have responsibility over immigrant children in adversarial removal hearings to recognize and treat children as children; to consider their best interests in every decision; and to ensure their safety while in the United States and before ordering their return to home country.

The Young Center for Immigrant Children's Rights plays a unique and specific role among the many government and non-governmental actors who interact with and make decisions about unaccompanied and separated immigrant children in the United States. Since 2004, the Young Center has been appointed as the independent Child Advocate for thousands of unaccompanied and separated children from around the world. Our interdisciplinary staff of lawyers and social workers, supported by hundreds of bilingual volunteers, apply the "best interests of the child principle" enshrined in United States child protection law and the Convention on the Rights of the Child to advocate for each child's best interests. The Young Center also engages in policy initiatives to develop and promote standards for protecting the best interests of children while they are subject to decision-making by government officials.

Below are proposals for bold reforms to protect the rights of all immigrant children:

1. Ensure A Child's Best Interests Is a Primary Consideration in Every Decision

In every decision made about an immigrant child, the child's best interests shall be a primary consideration. [Every state, the District of Columbia, and Puerto Rico has laws requiring courts to consider the best interests of children](#) when making decisions about them. Most statutes, as well as international law, consider: a child's safety; a child's expressed interests; a child's right to family integrity; a child's right to liberty; a child's right to development; and a child's right to identity. A "best interests of the child" standard encompasses both a substantive right—the child's right to have their best interests considered in any decision about them—and procedural protections to ensure "[an evaluation of the possible impact](#)" of decisions on a child. This does not preclude other considerations, such as the child's stated interests, a parent's stated interests, or concerns for the safety of others. But the individual child's best interests must inform every decision, with decisionmakers held accountable for meeting this obligation. Congress and federal agencies should [require consideration of children's best interests in every decision](#), and ensure that policies and procedures address children's unique status.¹

¹ In 2016, the federal Interagency Working Group on Separated and Unaccompanied Children released a Framework for Considering the Best Interests of Children, which defines "best interests" for children in immigration proceedings and sets forth proposed changes to agency policy and practice that would ensure consideration of children's best interests in every decision. *See* Subcomm. on Best Interests, Interagency

2. Prioritize Children’s Safety and Placement with Family

When a child is first identified by immigration authorities the sole focus should be finding a safe placement with family, minimizing time spent in institutional, government care. Children apprehended with parents or other family members shall not be separated unless the parent or family member poses an imminent danger to the child, a decision that would be promptly reviewed by a judge with family law expertise. A child’s immigration case should not begin until the child is in safe family or community-based housing. Congress and federal agencies should ensure that children’s release to family is prioritized, that immigrant children receive the same protections as children in other proceedings (e.g., those set forth in the Family First Prevention Services Act)², and that children are not subjected to adversarial immigration proceedings while in government custody, unless they affirmatively request a hearing.

3. Establish Community and Home-Based Care as the Norm, Not the Exception

Neither unlicensed nor secure settings conform with ORR’s best interests mandate and the health needs of children. In the domestic U.S. child welfare system, there is a long trend towards the use of family- and community-based settings for children. The passage of laws like the [Family First Prevention Services Act \(2018\)](#)³ establishes Congress’s stance that family is the best setting for children. Congress and federal agencies should ensure that children in government custody are not separated from parents and legal guardians; are released expeditiously with adult (non-parent) family members to avoid harmful separations; and when placed in government custody, are reunified with family as quickly as possible. For children without family, the government must prioritize placement in small, community-based settings—the minimum standard for any child separated from a parent or family. HHS must end the use of congregate care facilities (which range from 50- to 100- to 400- to 1400-bed facilities) and also secure facilities; and it must reorient its programs so that children receive services in the community while they live with family.⁴

Working Grp. on Unaccompanied and Separated Children, *Framework for Considering the Best Interests of Unaccompanied Children* 5, 9-11 (2016).

² Family First Prevention Services Act, 42 U.S.C. § 622 (2018).

³ *Id.*

⁴ Our recommendation for the appropriate care of children with behavioral, developmental, or mental health symptoms is safe reunification with family and support for the family to access community-based services. Children without sponsors, and children who cannot be quickly released to sponsors, should be placed with a family or in a facility of 25 children or fewer which would provide extensive support, including case management and psychological/psychiatric services overseen by qualified, pediatric experts. In contrast, the current ORR system often places children in secure settings that further traumatize them and exacerbate existing problems, leading to indefinite detention. Community and family-based settings are in line with mental health experts’ and child welfare recommendations, as well as the United Nations Convention on the Rights of Persons with Disabilities, which requires an absolute ban on deprivation of liberty on the basis of disability. See Human Rights Watch, *Children with disabilities: Deprivation of liberty in the name of care and treatment* (Mar. 7, 2017), available at <https://www.hrw.org/news/2017/03/07/children-disabilities-deprivation-liberty-name-care-and-treatment#>; Bazelon Center for Mental Health Law, *Diversion to What? Evidence-Based Mental Health Services That Prevent Needless Incarceration* (Sept. 2019), available at www.bazelon.org/wp-content/uploads/2019/09/Bazelon-Diversion-to-WhatEssential-Services-Publication_September-2019.pdf.

4. Strengthen and Safeguard Due Process

Universal legal representation and access to independent Child Advocates are basic guardrails for unaccompanied children in adversarial proceedings. Congress and federal agencies must expand representation to all unaccompanied children in removal proceedings. HHS must expand access to independent Child Advocates wherever children are detained or appear in immigration court. DOJ must end the use of “video-telephonic hearings” or VTCs for any child in government custody, unless the child requests an emergency hearing; it must provide full and simultaneous interpretation for children in their best language; and it must develop separate spaces and separate procedures for the adjudication of children’s claims, so that children have a fair opportunity to be heard and understood. Providing those threshold protections is not only possible, but overdue.

5. Require Specialization

Every decisionmaker in a child’s case must have specialized training in child development, the impact of trauma on a child, and experience working with children from different cultural backgrounds. Without such training, adults risk misunderstanding children or missing critical information, which undermines children’s right to a fair process. To the extent possible, decisionmakers in children’s cases should work exclusively on children’s cases, to minimize the possibility that children are seen or treated as adults, or that adult standards are applied to children’s cases. Congress and federal agencies should quickly establish programs to ensure adequate and ongoing training for all decisionmakers in children’s cases.

6. Prevent Repatriation to Unsafe Situations

A system designed to “do no harm” to children must consider the consequences of decisions, including the decision to repatriate a child who is not yet an adult and not yet able to fend for herself, protect herself, and meet all of her needs without the care of family members or the assistance of others. For these reasons, the principle of “safe repatriation” must have teeth. This principle imposes upon the government the burden to prove that a child will be safe upon return before the child is repatriated. Absent that determination of safety, the child will have the opportunity to seek protected status that lasts until adulthood. Congress should enact laws explicitly prohibiting the return of children to unsafe situations, and DOJ and DHS should collaborate to establish a procedure through which children who are denied relief but who have provided evidence of unsafe repatriation will be provided safety and protection—for example, following the model proposed in [Reimagining Children’s Immigration Proceedings](#).⁵

7. Extend Childhood to Age 21

There is consensus in the scientific community that children continue to develop and mature well into their 20s. Federal and state law recognize the importance of treating youth or young adults between the ages of 18 and 21 differently than adults. The [Federal Fostering Connections to Success and Increasing Adoptions Act](#)⁶ provides federal funding to states that allow youth to remain in foster care after they turn 18 years old. U.S. immigration law itself is inconsistent in how it defines childhood. The [Immigration and Nationality Act](#) defines a “child” as someone who is under the age of 21 (and unmarried). It also includes provisions to protect children from

⁵ Young Ctr. for Immigrant Children’s Rights, *Reimagining Children’s Immigration Proceedings: A Roadmap for an Entirely New System Centered around Children* (2020).

⁶ Fostering Connections to Success and Increasing Adoptions Act, 42 U.S.C. § 675 (2008).

“aging out” of that status due to backlogs in processing applications for benefits. Congress should work to reform immigration law so that all immigrant youth are recognized as children until they reach at least the age of 21.

8. All Children Share the Same Rights and Protections

All immigrant children in immigration proceedings, whether just arriving at the border or encountered within the United States should hold the same rights. These include the right to express their wishes, to safety, liberty, family unity, identity, and their right to have their best interests considered in all decisions. In 2015, a federal court held that [the protections of the Flores agreement apply equally to unaccompanied and accompanied children](#). As recognized in that decision, there is little justification for treating immigrant children in fundamentally different ways simply because of when they arrived or where they were apprehended in the United States, particularly when those circumstances may be beyond the child’s control. To prevent the disparate treatment of immigrant children, Congress and federal agencies ensure that protections for immigrant children—both procedural and substantive—apply to all immigrant children, regardless of the location, time, or manner in which they are apprehended or present themselves to immigration authorities. If extending these protections to children will impact the immigration case of a parent or other accompanying family member, any distinctions in treatment should be resolved in the child’s favor, taking all steps necessary to preserve the child’s right to family integrity.

For more information please contact:

Jennifer Nagda

Policy Director

Young Center for Immigrant Children’s Rights

jnagda@theyoungcenter.org

Mary Miller Flowers

Senior Policy Analyst for Child Protection

Young Center for Immigrant Children’s Rights

mmillerflowers@theyoungcenter.org

Ms. LOFGREN. I'll just say thank you to all the Members who were able to participate today in this hearing. We have a lot of work ahead of us on this Subcommittee, and in the Full Committee as well, when it comes to the issue of immigration. There are some themes of disagreement that have emerged here today, but I think there are also some elements of consensus that we can work on.

When I listen to questions about immigration security and enforcement, I don't think there's a single person in the Congress who is against enforcing the laws of the United States. What we're saying is the laws need to serve the best interest of the United States. When I think about farmworkers—and I authored a bill for the farmworker segment of the economy that was agreed to both by the United Farm Workers union and the growers and farmers of the United States. When you talk about unlawful entry or unauthorized entry, 80 percent of the farmworkers or better are undocumented and a majority of them came more than 10 years ago. So, we're talking about border enforcement in 2005. We have to take a comprehensive, fact-based view of what's going on, and then the screen is what's best for the United States of America.

I'm interested in all the testimony which has been very interesting and helpful. Mr. Lettieri, I was interested in your heartland visa. I'm just about ready to introduce a startup visa that I've been working on for many months, with the help of the academic community and venture capitals and the like. The heartland visa is an interesting idea.

Right now, we have mayors who sometimes step forward and say send us refugees, because they need that workforce, but we don't have a capacity to say send us entrepreneurs or somebody who's going to establish a center of excellence that's going to grow the economy in a different way. Be more specific, if you would, on how the heartland visa would work.

Mr. LETTIERI. Thank you, Chair Lofgren. I'd love to.

(1) So, what we propose in our heartland visa is that, given the fact that 80% of the country's counties are seeing a shrinking of their prime working age population, which is a startling fact, many places would love to have a specific type of visa program by which they could welcome, they could opt in.

(2) In our concept, a county or an eligible area has to opt in and say we want to be a part of this program. You have to commit resources to implementing it so that new immigrants can be a success.

(3) The would-be visa holder has to opt in to settling into that particular place. So, it's a dual opt-in type of match that ensures that there's going to be a lot of information transparency on both sides and they are going to have a good fit between the immigrant and the local community.

The idea is that communities that are struggling with this demographic and economic decline that's affecting so much of the country, would have its own class of high-skilled visas that it would be eligible for so that the benefits of high-skilled immigration will be more broadly felt around the country than it is today.

There's a reason that this idea has gotten the broad bipartisan support of, say, the U.S. Conference of Mayors. You mentioned mayors in your question. They have almost unanimously endorsed

this. Many individual mayors from legacy cities, such as Akron and Dayton, have publicly endorsed this as well for the very reason that they know the role that immigration is playing in their economy today. The big challenge that they have is U.S. Federal policy doesn't support their local efforts. So, they can do everything that's possible that they can do in their toolkit as a mayor, but still they're running up against the barriers presented by Federal policy.

So, the idea here is let's open the door that supports the local work on the ground and opens up a new channel for skilled immigrants to connect with communities that would love to have them.

Ms. LOFGREN. Well, thank you very much. As I said, I'm just about ready to introduce my startup visa, but I think I'm going to put that on a temporary hold and do a chapter two to have it include also a heartland visa.

Mr. LETTIERI. We will work with you on that.

Ms. LOFGREN. I live in San Jose, California, where about half of the people who live here were born in another country. They're Americans by choice. We had, before the pandemic, probably the biggest GDP growth of any area in the United States, and it was fueled by the tech sector and fueled by people who came to get their Ph.D.s and then started companies here, which then ended up hiring many, many, many Americans.

The anti-immigrant policies that flowed at times during the last Administration discouraged people from coming as students. We had a decline in the number of people coming as foreign students. That really was a tremendous adverse impact on the pipeline of people going in to start companies. What we saw was that recruiters from other parts of the world, and especially Canada, came down to Silicon Valley and started recruiting people away because they would provide for legalization and we would not. For a while, I think it's all been upended by COVID, but it will change once the virus is in the rear-view mirror, hopefully soon.

The tech economy in Toronto was actually growing faster than the tech economy in Silicon Valley, and it was almost entirely because of their immigration policies. We can change that. We can make the United States more prosperous if we use good sense in crafting our immigration policies.

So, I want to thank every one of our Witnesses for their testimony.

Mr. MCCLINTOCK. Madam Chair?

Ms. LOFGREN. I'm sorry?

Mr. MCCLINTOCK. McClintock here. A couple of quick things. I'd like to ask unanimous consent that the Republican Staff Report on Trump immigration successes be entered into the record.

Ms. LOFGREN. Without objection.

Mr. MCCLINTOCK. I'd also like to ask unanimous consent—I believe Mr. Biggs had a statement and I have that to included.

Ms. LOFGREN. Without objection, that will be included.

Mr. MCCLINTOCK. Okay. Thank you.

[The information follows:]

MR. McCLINTOCK FOR THE RECORD



**How the Biden Administration’s Immigration Proposals Risk
Undoing the Successes of the Trump Administration**

Republican Staff Report

Rep. Jim Jordan, Ranking Member
Committee on the Judiciary
U.S. House of Representatives

Rep. Tom McClintock, Ranking Member
Subcommittee on Immigration and Citizenship
U.S. House of Representatives



February 8, 2021

EXECUTIVE SUMMARY

President Donald Trump and his Administration enhanced U.S. border security and returned the rule of law to U.S. immigration policy. Despite constant obstruction from Democrats and unprecedented interference by activist federal courts, the Trump Administration succeeded in improving border security and immigration enforcement nationwide. Now, with President Joe Biden's promises and actions to end the Trump Administration immigration policies, the Biden Administration appears poised to return to the radical left-wing policies that will incentivize illegal immigration and promote an unending flood of foreign nationals into the United States.

In 2016, almost 63 million Americans voted for President Trump in part due to his pledge to address the crisis of border insecurity and illegal immigration. President Trump kept his promise to the American people. For example, in just four years:

- The Trump Administration completed over 450 miles of border wall along the southwest border, fencing that will assist U.S. Customs and Border Protection in its mission to keep illegal aliens and dangerous drug traffickers out of the country.
- The Trump Administration rolled back the unconstitutional executive actions by the Obama-Biden Administration that incentivized illegal immigration. President Trump sought to end other unwise executive policies started by the Obama-Biden Administration—such as Deferred Action for Childhood Arrivals—but was hamstrung by activist judges.
- The Trump Administration's immigration policies prioritized safety and security of Americans. President Trump ended the dangerous Obama-Biden practice of "catch and release" that allowed criminal aliens to roam American neighborhoods. President Trump prioritized the quick and safe removal of illegal aliens through the expanded use of expedited removal.
- The Trump Administration cracked down on asylum abuse in part by working with neighboring countries so that aliens seeking asylum do so in the first safe country they enter—rather than waiting until they reach the U.S.

President Biden's immigration policies will rehash the failed policies of the Obama-Biden Administration and will only make Americans less safe. These radical ideas will not only affect border communities, but they will also lead to the release of dangerous criminal aliens into neighborhoods around the country. For example:

- President Biden has proposed ending or rolling back President Trump’s immigration successes, pledged to reinstitute “catch and release,” and has implemented a 100-day moratorium on removals of deportable aliens.¹
- President Biden has promised to reverse Trump Administration funding restrictions on far-left sanctuary jurisdictions that ignore federal immigration law and refuse to cooperate with immigration authorities.
- President Biden has proposed legislation to grant amnesty to the millions of illegal immigrants currently in the United States. This proposal would repeat the mistakes of the 1986 amnesty, which only made illegal immigration worse by encouraging more people to come into the country illegally.
- President Biden has pledged to undo the Trump Administration’s public charge regulation, which assesses an alien’s likelihood of needing U.S. taxpayer-funded benefits upon arrival in the U.S.
- President Biden’s radical approach to immigration policy ignores the hard truths of the current state of migration. With an open borders policy, criminals are incentivized to cross the border illegally. In light of recent activist court rulings, criminal aliens are incentivized to bring children with them because they know immigration authorities must release them.

Hidden underneath left-wing criticism of the Trump Administration’s immigration policies is the reality that the Trump Administration made the U.S. safer. The Trump Administration took specific and concrete steps to end the pull factors that incentivize illegal immigration into the U.S. and to implement immigration policy that puts the safety and security of Americans first.

As President Biden begin his presidency, his Administration would be wise to retain the Trump Administration’s immigration policies. If the Biden Administration continues to undo President Trump’s immigration policy successes and implement a radical immigration agenda, it will result in less security at the border, reduced interior enforcement, and an increased risk from criminal and other aliens who want to do us harm. Those most hurt by the Biden Administration’s radical immigration agenda will be U.S. citizens and lawful permanent residents.

¹ On January 26, 2021, a federal judge in the Southern District of Texas issued a 14-day temporary restraining order blocking implementation of the Biden Administration’s 100-day moratorium on removals. *Texas v. U.S., et al.*, No. 6:21-cv-00003 (S.D. Tex. Jan. 26, 2021).

FINDINGS

Administrative Amnesty:

- After taking office, President Trump focused on ending the unconstitutional administrative amnesty programs from the Obama-Biden Administration that caused a border surge and harmed legal immigrants. He rescinded the unconstitutional Deferred Action for Childhood Arrivals (DACA) and Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) programs and ended *de facto* amnesties like Temporary Protected Status.
- On his first day in office, President Biden took steps to reverse President Trump's action and continue administrative amnesty programs, even with a caravan of migrants traveling to the southern border.

The Border Wall:

- Throughout the duration of the 2016 presidential campaign, then-candidate Donald Trump promised to protect the nation and ensure greater security by constructing an adequate wall along the southwest border. During President Trump's time in office, the U.S. built more than 450 miles of physical border wall along the southwest border.
- On President Biden's first day in office he signed an executive order halting construction of the border wall. His decision ignores the requests of Border Patrol agents on the ground and the necessity of the border wall in keeping the illegal border crossings down.
- President Trump also implemented Migrant Protection Protocols (MPP), pursuant to statutory authority, to send the message to foreign nationals that simply because they make it to the U.S. and claim asylum, they will not be released into the U.S. while awaiting their immigration court proceedings.
- President Biden promised to end the MPP and to allow asylum-seekers to remain in U.S. while their immigration cases are pending, even though most asylum claims are without merit and take many years to make it through the process. The Biden Administration has already announced that aliens arriving at the border will no longer be enrolled in MPP, effectively ending the program.

Interior Security:

- President Trump promised during his 2016 campaign that he would end the dangerous process of "catch and release"—the process that stems from the government's legal inability to hold illegal immigrants for an extended period. Under President Trump, foreign nationals arriving illegally at the border were no longer released into the interior of the U.S. Instead they were transferred to ICE custody for processing, a process that deters illegal immigration and fraudulent asylum claims.

- The Trump Administration removed nearly one million deportable aliens from the U.S. The Trump Administration also made certain federal funding provided to states and localities contingent upon cooperation with federal immigration authorities.
- President Biden instituted a 100-day moratorium on removals, which will send criminals and unvetted aliens into U.S. communities.²

National Security and Rule of Law:

- President Trump took early action in his presidency to protect the national security of the U.S. and enhance the rule of law. On January 27, 2017, President Trump signed Executive Order 13769, which suspended the travel of certain foreign nationals from specific countries traveling to the U.S. and aliens seeking to enter the U.S. as refugees pursuant to section 212(f) of the Immigration and Nationality Act (INA). In 2019, the Trump Administration issued a regulation aimed at ensuring that aliens who cannot support themselves financially, and who are thus likely to be reliant on federal taxpayer-funded benefits, are inadmissible.
- The Trump Administration took a realistic approach to determining the refugee ceiling. This approach of “humanitarian immigration benefits programs” resulted in lower numbers of refugee spots available for U.S. resettlement, and in resources normally used for refugees being utilized to reduce asylum case backlogs.
- The Trump Administration’s Attorneys General certified decisions of the Board of Immigration Appeals to reverse the holdings and make the new holdings binding on the immigration courts. Decisions regarding asylum eligibility grounds, the effects of criminal convictions such as DUI on the removal of criminal aliens, and criminal sentencing for purposes of removability have provided fairness in the law, adherence to the statute, and clarity to immigration judges.
- Due to these necessary efforts by the Trump Administration to reduce illegal immigration and by instituting reforms to make the courts more efficient, immigration case times were significantly reduced.
- President Biden has already signed a proclamation rescinding Executive Order 13780, the subsequent Order to 13769, and has signaled that he will raise the refugee ceiling. These actions, along with his other open border policies, will result in even more insecurity in the immigration system.

² *Id.*

TABLE OF CONTENTS

EXECUTIVE SUMMARY 1

FINDINGS 3

TABLE OF CONTENTS 5

ADMINISTRATIVE AMNESTY 6

 1. *Deferred Action for Childhood Arrivals* 6

 2. *Deferred Action for Parents of Americans and Lawful Permanent Residents* 9

 3. *Temporary Protected Status* 10

BORDER SECURITY 12

 1. *The Border Wall* 12

 2. *Title 42 Order* 13

 3. *Asylum Reforms* 15

 4. *Migrant Protection Protocols* 17

 5. *Expedited Removal* 18

INTERIOR SECURITY 19

 1. *Catch and Release* 19

 2. *Removals and Arrests* 21

 3. *Sanctuary Cities* 23

NATIONAL SECURITY and RULE OF LAW 24

 1. *Executive Orders 13769 and 13780* 24

 2. *Executive Office of Immigration Review Reforms* 26

 3. *Public Charge Regulation* 28

 4. *Refugee Ceiling* 30

 5. *Immigration Cases Certified by the Attorney General* 30

CONCLUSION 31

ADMINISTRATIVE AMNESTY

In immigration policy, amnesty refers to the federal government's pardoning of illegal immigrants for their unlawful status in the country. The government has provided amnesty by statute—such as the 1986 Immigration Reform and Control Act—and by unilateral administrative fiat—such as the Obama-Biden Administration's Deferred Action for Childhood Arrivals (DACA) program. When the federal government provides amnesty to large segments of illegal immigrants, whether administratively or by statute, there are adverse consequences to U.S. citizens and legal immigrants. Widespread amnesty damages the integrity of the U.S. Constitution, results in subsequent surges in illegal immigration, and creates application processing delays for those seeking legal immigration benefits.

President Trump sought to reign in the out-of-control use of administrative amnesty in U.S. immigration policy. He attempted to undo the Obama-Biden Administration's unconstitutional DACA program, which led to a crisis of unaccompanied alien children (UACs) at the southwest border. President Trump ended the designation of Temporary Protected Status (TPS)—meant to allow immigrants to remain in the U.S. if conditions in their home country are unsafe for return—for certain populations where conditions in their home countries had improved such that TPS was no longer necessary.

President Biden, however, has signaled his intention to return to the radical administrative amnesty policies of the Obama-Biden Administration. President Biden campaigned on his leadership in “the creation and expansion” of the DACA program and the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA).³ He has pledged to fully reinstate the DACA program and to “explore all options to protect [Dreamers]’ families”⁵ In addition, President Biden has pledged to review and overturn the Trump Administration's termination of TPS for certain populations and to “offer” those TPS holders “a path to citizenship.”⁶ If the Biden Administration is successful in re-instituting these programs, a large number of illegal immigrants could receive lawful status in the United States, eroding the rule of law and harming the millions of aliens who entered the country through legal channels.

1. Deferred Action for Childhood Arrivals

President Trump sought to end the Obama-Biden Administration's unconstitutional DACA program, a radical policy that incentivized UACs to illegally enter the country in hopes of receiving amnesty. DACA caused a surge of illegal immigration and harmed legal immigrants. President Trump understood that the DACA program was outside the Executive Branch's constitutional authority and should properly fall to Congress to implement as a permanent, statutory change. When the Trump Administration tried to end DACA in the same

³ Biden Harris Campaign, *The Biden Plan For Securing Our Values As A Nation Of Immigrants*, <https://joebiden.com/immigration/> [hereinafter “The Biden Plan”].

⁴ The term “Dreamers” commonly refers to illegal aliens who were brought to the United States at a young age by their parents. However, no Democrat-led legislation specific to providing legal immigration status for Dreamers has contained a provision requiring that the aliens must show they were brought to the U.S. by their parents.

⁵ The Biden Plan, *supra* note 3.

⁶ *Id.*

manner that the Obama-Biden Administration created it, activist courts stepped in to block its termination. The Supreme Court, however, never reached a decision on the constitutionality of DACA.⁷

DACA began as one of the many executive overreaches by the Obama-Biden Administration. On June 15, 2012, the Obama-Biden Administration announced an unprecedented administrative amnesty program that sanctioned illegal immigration, deferred removal action for illegal aliens who met certain criteria, and allowed these aliens to work in the United States.⁸ The DACA program was aimed at illegal aliens “who were brought to this country as children.”⁹

- As of June 30, 2020, U.S. Citizenship and Immigration Services (USCIS) received over 960,000 initial DACA applications and approved nearly 827,000 of these applications.¹⁰ USCIS has approved nearly 2 million of the 2.1 million renewal applications.¹¹
- With DACA’s implementation, the message was clear: Young illegal aliens in the United States could live and work here legally without repercussion or removal.
- Predictably, the number of UACs entering the country illegally grew significantly following the implementation of DACA. According to the Congressional Research Service, the number of UAC apprehensions by year increased over 400 percent in just four years—from 16,067 in Fiscal Year (FY) 2011 to 68,541 in FY 2014.¹²

The Obama-Biden Administration acknowledged that DACA was incentivizing UACs to make the dangerous trip to the southwest border.

- In 2014, the Obama-Biden Administration launched a “public messaging campaign in Central America, highlighting the dangers of the journey, and correcting the misinformation the coyotes are putting out about supposed ‘free passes’ if you come to the United States.”¹³
- DACA implementation overwhelmed U.S. Citizenship and Immigration Services (USCIS), the federal agency responsible for processing the DACA applications, because USCIS did not have the staff in place to adjudicate the large volume of incoming

⁷ U.S. Dep’t of Homeland Sec. v. Regents of the University California, 591 U.S. ____ (2020).

⁸ Memorandum from Janet Napolitano, Sec’y, Dep’t of Homeland Security, to David Aguilar, Acting Comm’r, CBP, et al., “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children” (June 15, 2012).

⁹ *Id.*

¹⁰ U.S. Citizenship and Immigration Services, Number of Form I-821D, Consideration for Deferred Action for Childhood Arrivals, Status, by Fiscal Year, Quarter, and Case Status: Aug. 15, 2012 – Jun. 30, 2020 (Nov. 16, 2020); available at https://www.uscis.gov/sites/default/files/document/reports/DACA_performanceedata_fy2020_qtr3.pdf.

¹¹ *Id.*

¹² William A. Kandel, Congressional Research Service, Unaccompanied Alien Children: An Overview (Oct. 9, 2019).

¹³ Jeh Johnson, Sec’y, U.S. Dep’t of Homeland Sec., Remarks by the Secretary of Homeland Security Jeh Johnson: Border Security in the 21st Century, (Oct. 9, 2019).

applications. The *New York Times* reported in 2014 that legal immigration and lawful permanent residents suffered as a result of DACA processing delays:

Many thousands of Americans seeking green cards for foreign spouses or other immediate relatives have been separated from them for a year or more because of swelling bureaucratic delays at a federal immigration agency in recent months. The long waits came when [USCIS] shifted attention and resources to a program President Obama started in 2012 to give deportation deferrals to young undocumented immigrants, according to administration officials and official data.¹⁴

The Obama-Biden Administration’s implementation of DACA plainly violated Article I, Section 8 of the U.S. Constitution, which gives Congress—not the President—the authority “to establish an uniform Rule of Naturalization.”¹⁵

- While the Supreme Court has indicated on several occasions that the President has some measure of “inherent” power over immigration,¹⁶ the Court has settled on the view that the formation of immigration policy “is entrusted exclusively to Congress,”¹⁷ and that “[t]he plenary authority of Congress over aliens . . . is not open to question.”¹⁸
- The Obama-Biden Administration created DACA despite the Constitutional constraints and despite President Obama’s own admission that “democracy” prevented him from being able to “just bypass Congress and change the [immigration] law myself”¹⁹

Instead of opposing the Obama-Biden Administration’s hijacking of Congressional authority, House Democrats hailed DACA’s creation and urged its use. In fact, not long after DACA’s creation, Zoe Lofgren, the then-Ranking Member of the Subcommittee on Immigration and Border Security, noted that she “applauds” the program “and wants to make sure every eligible DREAMer receives the information they need.”²⁰

President Biden promises to continue and expand DACA. In fact, on his first day in office, Biden signed an executive order aimed at “preserving and fortifying” DACA²¹ The continuation of this program will have the same effects as its initial implementation during the Obama-Biden Administration.

¹⁴ Julie Preston, *Program Benefiting Some Immigrants Extends Visa Waits for Others*, N.Y. TIMES, Feb. 8, 2014.

¹⁵ U.S. Const. art. I, § 8, cl. 4.

¹⁶ *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 542 (1950).

¹⁷ *Galvan v. Press*, 347 U.S. 522, 531 (1954).

¹⁸ *INS v. Chadha*, 462 U.S. 919, 940–41 (1983).

¹⁹ Barack Obama, President, United States, Remarks by the President on Comprehensive Immigration Reform in El Paso, Texas, (May 10, 2011).

²⁰ Website of United States Congresswoman Zoe Lofgren, *Deferred Action*, available at <https://lofgren.house.gov/issues/immigration/deferred-action>.

²¹ Executive Order, *Preserving and Fortifying Deferred Action for Childhood Arrivals (DACA)* (Jan. 20, 2021).

- In fact, U.S. Customs and Border Protection (CBP) has recently seen an increase in the number of UACs apprehended on the southwest border.²²
- According to CBS News on November 26, 2020, “within the next 120 days, CBP projects border crossings by unaccompanied alien minors to increase by 50%”²³ The surge will only keep growing with the continued promise of additional Biden Administration amnesty for illegal immigrants.

2. *Deferred Action for Parents of Americans and Lawful Permanent Residents*

On June 15, 2017, The Trump Administration rescinded the Obama-Biden Administration’s unconstitutional memorandum implementing DAPA.²⁴ The Obama-Biden Administration had announced this administrative amnesty in November 2014 to prevent the removal of illegal aliens who have “a son or daughter who is a U.S. citizen or lawful permanent resident.”²⁵ This amnesty would reward the illegal-immigrant parents of U.S.-citizen children and lawful permanent residents for their illegal behavior.

The Obama-Biden Administration never implemented DAPA due to a court-ordered injunction;²⁶ however, millions of illegal aliens were potentially affected.

The Migration Policy Institute estimated in 2014 that 3.71 million illegal aliens would have been potentially eligible to apply for DAPA at the time.²⁷ The Obama-Biden Administration similarly estimated the number to be 4.1 million illegal aliens.²⁸ The number of illegal aliens who are potentially eligible for a DAPA-like amnesty today is likely higher.

Resurrecting DAPA today will have serious adverse consequences to national immigration policy and will continue the left-wing erosion of Congress’s constitutional authority over immigration law. DAPA will also hurt those immigrants who came to the United States through lawful channels by overwhelming USCIS operations and resulting in higher processing wait times for those seeking immigration benefits.

²² Camilo Montoya-Galvez, *U.S. Agents Apprehend 1,000 Migrant Children in 6 Days as Crossings Along Mexican Border Rise*, CBS NEWS (Nov. 26, 2020), <https://www.cbsnews.com/news/migrant-children-detained-ice-agents-mexican-border-crossing/>.

²³ *Id.*

²⁴ Memorandum from John F. Kelly, Sec’y, Dep’t of Homeland Sec., to Kevin McAleenan, Acting Comm., CBP, et al., “Rescission of November 20, 2014 Memorandum Providing for Deferred Action for Parents of Americans and Lawful Permanent Residents (“DAPA”)” (June 15, 2017).

²⁵ Memorandum from Jeh Johnson, Sec’y, Dep’t of Homeland Sec., to Leon Rodriguez, Dir., USCIS, et al., “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children and with Respect to Certain Individuals Whose Parents are U.S. Citizens or Permanent Residents” (Nov. 20, 2014).

²⁶ *United States v. Texas*, 136 S. Ct. 2271 (2016) (per curiam).

²⁷ Press Release, Migration Policy Institute, *MPI: As Many as 3.7 Million Unauthorized Immigrants Could Get Relief from Deportation under Anticipated New Deferred Action Program* (Nov. 19, 2014).

²⁸ Elise Foley, *Obama Moves to Protect Millions from Deportation*, HUFFINGTON POST (Nov. 20, 2014).

3. *Temporary Protected Status*

Under U.S. immigration law, Temporary Protected Status (TPS) allows aliens already in the U.S. from certain countries where conditions are unsafe for return to live and work in the United States legally. The left has used TPS as a *de facto* amnesty program to open the flood gates to any and all immigrants. The Trump Administration sought to end TPS for several countries, consistent with statute, where domestic conditions were safe to allow for aliens to return home. However, activist federal courts blocked the Administration's efforts by enjoining the terminations.

U.S. law allows the Secretary of the Department of Homeland Security (DHS) to designate a foreign country for TPS, normally for eighteen-month increments.²⁹ The Secretary may then grant TPS to eligible nationals of that country.³⁰

- TPS permits aliens in the United States (regardless of immigration status) from countries where “there is an ongoing armed conflict within the state,” where “there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary, disruption of living conditions in the area affected,” or where “there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety” to remain in the United States and work legally during the designated period.³¹
- By law, and after a review of the circumstances, if the Secretary determines that the foreign country no longer meets the conditions for the TPS designation, the Secretary must terminate the designation.³²

What was intended by Congress to be a temporary measure has, over time, become a permanent, automatically renewed designation—with some countries even being designated for TPS for decades.³³

- For instance, Honduras and Nicaragua were initially designated for TPS in 1999 due to Hurricane Mitch, which struck the country in October 1998. Similarly, El Salvador was initially designated in March 2001 based on a series of earthquakes. All three countries still are designed for TPS—decades after these natural disasters.
- There are currently over 400,000 TPS recipients in the United States.³⁴ According to the Pew Research Center, illegal immigrants with TPS accounted for “about 3% of the 11

²⁹ 8 U.S.C. § 1254a(b)(1).

³⁰ See 8 U.S.C. § 1254a(a)(1)(A).

³¹ See INA § 244(b).

³² 8 U.S.C. § 1254a(b)(3).

³³ Arthur, Andrew R., “Temporary Protected Status: The Biggest Misnomer in Immigration,” Center for Immigration Studies (October 31, 2017).

³⁴ Information Provided by U.S. Citizenship and Immigration Services.

million unauthorized immigrants living in the U.S. in 2015”³⁵ Pew also noted its assumption that “nearly all immigrants with TPS are in the U.S. without authorization,” and that only “a small number may be in the U.S. on a valid temporary visa, especially from countries granted TPS in the past few years.”³⁶

Consistent with statute, the Trump Administration’s DHS Secretary determined that the temporary conditions existing at the time of the initial designation were no longer in effect for Sudan, Nicaragua, Haiti, and El Salvador, and announced plans to terminate those TPS designations.³⁷

- Despite the DHS findings, a nationwide federal court injunction has prohibited the DHS from ending TPS for nationals of these countries.³⁸ Therefore, these TPS holders continue to live and work in the U.S. under a *de facto* amnesty.
- Once these individuals have been in the United States for many years, Democrats claim that it is immoral to terminate TPS and make them return home. In fact, Democrats often seek to pass legislation to provide green cards to TPS holders.³⁹
- Activist judges in the federal court system have also ensured a path to citizenship for certain TPS holders—even those who came to the U.S. illegally—thereby making what Congress intended as a temporary program into a permanent immigration benefit.⁴⁰

President Biden has pledged to “protect” TPS holders from “being returned” to their home countries and has promised to offer them a path to citizenship.⁴¹ In fact, President Biden’s own immigration bill grants lawful permanent resident status to TPS holders.⁴² If his Administration is successful in extending TPS beyond its purpose in law, these decisions will continue to incentivize illegal immigration and erode the rule of law from the country’s immigration policies.

³⁵ Pew Research Center, *More than 100,000 Haitian and Central American Immigrants Face Decision on Their Status in the U.S.* (Nov. 18, 2017), available at <http://www.pewresearch.org/fact-tank/2017/11/08/more-than-100000-haitian-and-central-american-immigrants-face-decision-on-their-status-in-the-u-s/>.

³⁶ *Id.*

³⁷ Termination of the Designation of Sudan for Temporary Protected Status, 82 Fed. Reg. 47,228 (Oct. 11, 2017); Termination of the Designation of Nicaragua for Temporary Protected Status, 82 Fed. Reg. 59,636 (Dec. 15, 2017); Termination of the Designation of Haiti for Temporary Protected Status, 83 Fed. Reg. 2,648 (Jan. 18, 2018); and Termination of the Designation of El Salvador for Temporary Protected Status, 83 Fed. Reg. 2,654 (Jan. 18, 2018).

³⁸ Ramos, et al v. Nielsen, et al., No. 18-cv-01554 (N.D. Cal. Oct 3, 2018); see also *CASA de Maryland v. Trump*, No. 18-cv-00845 (D. Md. Nov. 29, 2018) (enjoining the government from terminating TPS for Salvadorans).

³⁹ The American Promise Act of 2019, H.R. 2821, 116th Cong. (2019).

⁴⁰ See *Flores v. USCIS*, 718 F.3d 548, 553–54 (6th Cir. 2013); *Ramirez v. Brown*, 852 F.3d 954 (9th Cir. 2017); *Velasquez v. Barr*, Nos. 19-1148, 19-2130, 2020 WL 6290677.

⁴¹ The Biden Plan, *supra* note 3.

⁴² The White House, President Biden Sends Immigration Bill to Congress as Part of His Commitment to Modernize Our immigration System, (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-president-biden-sends-immigration-bill-to-congress-as-part-of-his-commitment-to-modernize-our-immigration-system/>.

BORDER SECURITY

President Trump promised to secure our southwestern border by building a wall and enforcing the immigration laws as enacted. He delivered on that promise by completing 450 miles of border wall, implementing policies aimed at reducing frivolous asylum claims, and instituting a program to make those border crossers who claim asylum wait in Mexico for the duration of their immigration court proceedings, among other things. Doing away with any of these policies will make the U.S. less secure and will send the message that we have returned once again to the open borders policies of the Obama-Biden Administration. President Biden has indicated that he and his Administration do not take seriously the concerns and requests of the men and women of Border Patrol who asked for the construction of the border wall system. President Biden signed an executive order within the first hours of taking office to halt all border wall construction.⁴³

1. The Border Wall

President Trump was elected to office with a promise to protect the nation and to improve national security by constructing an adequate wall along the southwest border.⁴⁴ He understood that a sovereign nation must protect its borders for the health and security of its people.

President Trump succeeded in carrying out his promise to construct a border wall. The wall has improved border security and assisted the law-enforcement officers at the southern border in their mission.

- Since President Trump took office, the U.S. has built more than 450 miles of physical border wall along the southwest border.⁴⁵
- The border wall system uses a “mix of personnel, technology, and [physical] infrastructure . . . to achieve operational control of the border.”⁴⁶
- The border wall system at the southwest border serves as a substantial deterrent to illegal immigrants, drug traffickers, human traffickers, and other criminals.
- The law-enforcement officers who serve at the southern border use the border wall to funnel any individuals seeking to cross to official ports of entry. This funneling method keeps the law-enforcement officers safe as well as keeping an accurate track of individuals who enter the country. The border wall system helps “secure the Southern

⁴³ Bo Erickson, *Biden signs executive actions on COVID, climate change, immigration and more*, CBS NEWS (Jan 21, 2021), <https://www.cbsnews.com/news/biden-signs-executive-orders-day-one/>.

⁴⁴ *Trump doubles down on ‘impenetrable physical’ wall during immigration speech*, FOX NEWS (Sept. 1, 2016), <https://www.foxnews.com/politics/trump-doubles-down-on-impenetrable-physical-wall-during-immigration-speech>.

⁴⁵ Rafael Carranza, *Here’s where US-Mexico border wall construction stands as Trump wraps up presidency*, USA TODAY (Jan. 12, 2021), <https://www.usatoday.com/story/news/nation/2021/01/12/trump-visits-alamo-texas-where-does-border-wall-construction-stand/6638315002/>

⁴⁶ Press Release, U.S. Dep’t of Homeland Sec., *The Border Wall System is Deployed, Effective, and Disrupting Criminals and Smugglers* (Oct. 29, 2020), <https://www.dhs.gov/news/2020/10/29/border-wall-system-deployed-effective-and-disrupting-criminals-and-smugglers>.

border from illicit cross border activity and [encourages] lawful entry in a safe and legal manner through available ports of entry.”⁴⁷

During the campaign, President Biden pledged to stop border wall construction despite its proven track record of helping to slow down and prevent illegal immigration, human trafficking, and drug trafficking.⁴⁸ Instead, President Biden promised to reallocate the money from the border wall construction to improve screening at ports of entry.⁴⁹ This naïve approach ignores the fact that criminals do not cross at ports of entry like law-abiding individuals. Most crossings by criminals, coyotes with children, and UACs happen in between ports of entry where there is no physical structure or border wall system to prevent the crossing.

The goal of any Administration—Democrat or Republican—should be to uphold the sanctity of our national border and encourage fewer illegal crossings. Unfortunately, President Biden made stopping border wall construction one of his first actions upon taking office.⁵⁰ He signed an executive order to reverse course on the Trump Administration’s successful implementation of new border wall system. In doing so, President Biden signaled to migrants that the border is wide open and that an illegal crossing is possible. In fact, new caravans of Central Americans are already on their way to the southwest border with the goal of crossing into the U.S.⁵¹

2. Title 42 Public Health Order for the COVID-19 Pandemic

Immigration and other travel to the U.S. can pose a significant threat during a pandemic. Title 42 of the U.S. Code allows the Director of the Centers for Disease Control and Prevention (CDC) to suspend, for public health purposes, the entry to the U.S. of individuals from a country in which there is a communicable disease outbreak, if there is a serious threat of introduction of that disease to the U.S.⁵²

Pursuant to those emergency authorities in Title 42, and in close cooperation with the governments of Mexico and Canada, President Trump issued an executive order in March 2020 that CBP would use to restrict entry from the southern and northern borders due to the ongoing COVID-19 public health emergency.⁵³ This order allows for expulsion of aliens during times of a national health emergency.⁵⁴ The Trump Administration’s DHS announced that to “prevent the introduction of COVID-19 into our border facilities and into our country, aliens subject to the

⁴⁷ Press Release, U.S. Dep’t of Homeland Sec., DHS and CBP Celebrate 400 Miles of New Border Wall System (Oct. 29, 2020), <https://www.dhs.gov/news/2020/10/29/dhs-and-cbp-celebrate-400-miles-new-border-wall-system>.

⁴⁸ The Biden Plan, *supra* note 3.

⁴⁹ *Id.*

⁵⁰ Bo Erickson, *Biden signs executive actions on COVID, climate change, immigration and more*, CBS NEWS (Jan 21, 2021), <https://www.cbsnews.com/news/biden-signs-executive-orders-day-one/>.

⁵¹ Emily Jacobs, *New Migrant Caravan En Route to U.S. from Honduras*, N.Y. POST, Dec. 10, 2020, <https://nypost.com/2020/12/10/honduran-migrants-headed-to-us-border-after-countrys-natural-disasters/>.

⁵² 42 U.S.C. § 365.

⁵³ Press Release, U.S. Dep’t of Homeland Sec., Fact Sheet: DHS Measures on the Border to Limit the Further Spread of Coronavirus (Mar. 23, 2020), <https://www.dhs.gov/news/2020/10/19/fact-sheet-dhs-measures-border-limit-further-spread-coronavirus>.

⁵⁴ *Id.*

order will not be held in congregate areas for processing by CBP and instead will immediately be turned back.”⁵⁵

As the pandemic wears on and the shutdowns in other countries continue, the number of illegal crossings at the southern border have continued to rise.

- Nearly 120,000 migrants were encountered by CBP along the southwest border and expelled during just the first two months of FY 2021.⁵⁶
- Over 197,000 migrants were encountered by CBP along the southwest border and expelled from March through September of 2020.⁵⁷

However, with the successful agreements between the U.S. and Mexico, the U.S. is able to quickly and safely return Mexican nationals and Central Americans back to Mexico while reducing the risk of COVID-19 in border facilities.

- Based on the agreement with Mexico, Mexican officials agreed to immediately accept any migrants who were Mexican or Central American, with the U.S. Border Patrol handling the other nationalities.⁵⁸
- This agreement allowed the U.S. to dramatically reduce the number of individuals in Border Patrol custody and to safely process the other individuals.

President Biden and far-left open borders advocates have repeatedly denounced the Trump Administration’s border security measures in the face of the COVID-19 pandemic. Rescinding the Title 42 order would be detrimental to the health and safety of Americans during the global pandemic and would cause a crush of illegal immigrants at the border. In a preview of the adverse consequences of rescinding the order, in November 2020, a federal judge ruled that UACs could no longer be expelled pursuant to the Title 42 order.⁵⁹ In just six days following this decision, CBP apprehended nearly 1,000 UACs on the southwest border.⁶⁰

President Biden’s policies will continue to needlessly fill CBP facilities with illegal immigrants apprehended at the border and risk spreading COVID-19 in these facilities. If he chooses, like President Obama did, to release all illegal immigrants into the interior of the United

⁵⁵ *Id.*

⁵⁶ U.S. Customs and Border Protection, U.S. Border Patrol Monthly Enforcement Encounters 2021: Title 42 Expulsions and Title 8 Apprehensions, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics>.

⁵⁷ U.S. Customs and Border Protection, U.S. Border Patrol Monthly Enforcement Encounters 2020: Title 42 Expulsions and Title 8 Apprehensions, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics-fy2020>

⁵⁸ Alexandra Kelly, *Illegal Border Crossings Drop by Half Amid Coronavirus Pandemic DHS Says*, THE HILL (Mar. 23, 2020), <https://thehill.com/changing-america/resilience/refugees/489034-illegal-border-crossings-drop-by-half-amid-coronavirus>.

⁵⁹ P.J.E.S. v. Wolf, 1:20-cv-02245 – Document 80 (D.D.C. 2020).

⁶⁰ Camilo Montoya-Galvez, *U.S. Agents Apprehend 1,000 Migrant Children in 6 Days as Crossings Along Mexican Border Rise*, CBS NEWS (Nov. 26, 2020), <https://www.cbsnews.com/news/migrant-children-detained-ice-agents-mexican-border-crossing/>.

States, this action will only further endanger the American people and risk additional spread of COVID-19 throughout the country.

3. *Asylum Reforms*

Hundreds of thousands of migrants have traveled to the U.S. to claim a credible fear of persecution and seek asylum in recent years. In fact, during FY 2019 alone, USCIS officers received over 105,000 new credible fear cases.⁶¹ Human smuggling organizations tell migrants that if they claim asylum upon entering the U.S. they will not be deported—even if their claim does not meet the legal standard for asylum—and that they will likely be released into the United States and allowed to work legally while the asylum case proceeds.⁶² Most asylum claims are ultimately denied because they do not meet the statutory standard for asylum.⁶³

- In fact, from FY 2008 through the fourth quarter of FY 2019, USCIS referred 81 percent of aliens who claimed a credible fear of returning to their home country to the Executive Office for Immigration and Review (EOIR) for adjudication, but only 14 percent were ultimately granted asylum by an immigration judge.⁶⁴
- According to the Heritage Foundation, “[i]n many cases, the abuses are flagrant. For example, the U.S. government rejects about 90% of asylum claims after review. Even when cases are resolved, if they result in a deportation order, many do not report for deportation.”⁶⁵
- Many times illegal aliens are “coached on how to make asylum claims” and “human smugglers have been discovered assembling fake families that then claim refugee status.”⁶⁶

To prevent abuses of the asylum process and ensure that those seeking to enter and remain in the U.S. do so in accordance with the rule of law, the Trump Administration

⁶¹ Andrew R. Arthur, *Astounding Asylum Number in DOS Refugee Report for FY 2021*, Center for Immigration Studies (Oct. 26, 2020), <https://cis.org/Arthur/Astounding-Asylum-Numbers-DOS-Refugee-Report-FY-2021>.

⁶² *Unprecedented Migration at the U.S. Southern Border: The Exploitation of Migrants through Smuggling, Trafficking, and Involuntary Servitude: Hearing before S. Comm. On Homeland Security and Governmental Affairs, 116th Cong. (2019)* (statement of Brian S. Hastings, Chief, Law Enforcement Operations, U.S. Border Patrol, U.S. Customs and Border Protection and Randy Howe, Exec. Dir. For Operations, Office of Field Operations, U.S. Customs and Border Protection), [https://www.hsgac.senate.gov/imo/media/doc/Testimony-Hastings%20and%20Howe-2019-06-26.pdf?utm_source=google&utm_medium=google&utm_term=\(not%20provided\)&utm_content=undefined&utm_campaign=\(not%20set\)&gclid=undefined&dclid=undefined&GAID=74095436.1606326571](https://www.hsgac.senate.gov/imo/media/doc/Testimony-Hastings%20and%20Howe-2019-06-26.pdf?utm_source=google&utm_medium=google&utm_term=(not%20provided)&utm_content=undefined&utm_campaign=(not%20set)&gclid=undefined&dclid=undefined&GAID=74095436.1606326571).

⁶³ Executive Office for Immigration Review Adjudication Statistics, Asylum Decision and Filing Rates in Cases Originating With a Credible Fear Claim, <https://www.justice.gov/eoir/page/file/1062976/download>.

⁶⁴ Executive Office for Immigration Review Adjudication Statistics, Credible Fear and Asylum Process: Fiscal Year (FY) 2008 – FY 2019, <https://www.justice.gov/eoir/file/1216991/download>.

⁶⁵ Lora Ries, *Securing the Border and Fixing Our Broken Immigration System*, THE HERITAGE FOUND. (Sept. 21, 2020), <https://www.heritage.org/immigration/commentary/securing-the-border-and-fixing-our-broken-immigration-system>.

⁶⁶ *Id.*

announced several new asylum policies. These policies were aimed at reducing abuse of the U.S. asylum system and encouraging migrants to claim asylum in the first safe country they enter.

- The Trump Administration issued policies to ensure that aliens with certain criminal convictions, including illegal reentry, are ineligible for asylum,⁶⁷ and to prevent those aliens who entered the U.S. illegally from obtaining asylum.⁶⁸ The Trump Administration issued a final rule to limit the ability of asylum applicants to obtain employment authorization.⁶⁹
- The Trump Administration also worked to prevent migrants who have transited through a safe third country on their way to the U.S. from being eligible for asylum upon arrival in the U.S., incentivizing the migrants to claim asylum in the first safe country they entered.⁷⁰
- To discourage abuse of U.S. asylum laws, the Trump Administration executed “Safe Third Country” agreements between July and September of 2019 with Guatemala, Honduras, and El Salvador.⁷¹ These agreements are necessary so that illegal aliens seeking asylum are incentivized to apply for asylum in the first safe country in which they arrive instead of traveling through several countries to apply for asylum in America.⁷² The agreements permit repatriation of certain asylum seekers to these countries where they can seek protection instead of the United States.⁷³
 - The Administration executed agreements with these three countries in particular because “[d]uring Fiscal Year 2019, more than 71% of migrants apprehended at the U.S. Southwest border were nationals of El Salvador, Guatemala, and Honduras.”⁷⁴
 - On December 15, 2020, El Salvador began implementation of its asylum cooperative agreement. Then-Acting Secretary DHS Chad Wolf stated that “[i]mplementation of the Asylum Cooperative Agreement between the United States and El Salvador is a critical step in the establishment of a truly regional approach to migration, and, more specifically, to the offer of protection to those migrants who are victims of persecution.”⁷⁵

⁶⁷ Procedures for Asylum and Bars to Asylum Eligibility, 85 Fed. Reg. 67,202 – 67,260 (Oct. 21, 2020).

⁶⁸ Aliens Subject to a Bar on Entry Under Certain Presidential Proclamation; Procedures for Protection Claims, 83 Fed. Reg. 55,934 – 55,953 (Nov. 9, 2019).

⁶⁹ Asylum Application, Interview, and Employment Authorization for Applicants, 85 Fed. Reg. 38,532 – 38,628 (June 26, 2020).

⁷⁰ Asylum Eligibility and Procedural Modifications, 84 Fed. Reg. 33,829 – 33,845 (July 16, 2019).

⁷¹ U.S. Dep’t. of Homeland Sec., FACT SHEET: DHS AGREEMENTS WITH GUATEMALA, HONDURAS, AND EL SALVADOR, https://www.dhs.gov/sites/default/files/publications/19_1028_opa_factsheet-northern-central-america-agreements_v2.pdf.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Press Release, U.S. Dep’t. of Homeland Sec., El Salvador Begins Implementation of Asylum Cooperative Agreement, (Dec. 15, 2020), <https://www.dhs.gov/news/2020/12/15/el-salvador-begins-implementation-asylum-cooperative-agreement>.

⁷⁵ *Id.*

- The Trump Administration worked with these host countries and other international organizations “to expand [the countries’] systems for offering humanitarian protections.”⁷⁶ Under these agreements, the Trump Administration sought to ensure the integrity of the U.S. asylum process and deter abuses that clog the asylum system.

President Biden has promised to “end” the Trump Administration policies that restrict asylum for those who travel through a third country on their way to the U.S.⁷⁷ President Biden’s plan specifically calls to “[e]nd the Asylum Cooperative Agreements the U.S. has signed with Honduras, El Salvador, and Guatemala.”⁷⁸ On February 6, 2021, the Biden Administration announced the suspension and initiation of action to terminate these agreements.⁷⁹ This action is a mistake. It will only further encourage migrants to make the dangerous journey to the southwest border where they may enter and remain in the U.S. based on a claim of asylum—whether or not they a credible fear of returning home.

To further preserve the integrity of the U.S. asylum process, on December 10, 2020, the Trump Administration published a final rule regarding procedures for asylum and withholding of removal pursuant to authorities under the Immigration and Nationality Act.⁸⁰ Specifically, this final rule enables the Departments of Justice and Homeland Security “to more effectively separate baseless claims [of asylum] from meritorious ones” and “ensure groundless claims do not delay or divert resources from deserving claims.”⁸¹ These reforms are necessary and reasonable, largely codifying existing law to ensure its uniform application. It would be a mistake for the Biden Administration to roll them back.

4. *Migrant Protection Protocols*

The Obama-Biden Administration’s immigration policy was a dramatic failure and left behind humanitarian crises at the border and pervasive abuse in the U.S. asylum system. President Trump implemented Migrant Protection Protocols (MPP), pursuant to statutory authority, to send the message to foreign nationals that simply because they make it to the U.S. and claim asylum, they will not be released into the U.S. while awaiting their immigration court proceedings. Under MPP, aliens seeking asylum at the southwest border are processed and then wait in Mexico for the duration of their immigration court process.

- The overwhelming majority of migrants claim asylum when they reach the U.S. In order to be considered for asylum, a migrant must only have to claim a “credible fear of

⁷⁶ *Id.*

⁷⁷ The Biden Plan, *supra* note 3.

⁷⁸ Biden-Sanders Unity Task Force Recommendations at 103, <https://joebiden.com/wp-content/uploads/2020/08/UNITY-TASK-FORCE-RECOMMENDATIONS.pdf> [hereinafter “Biden-Sanders Unity Recommendations”].

⁷⁹ Statement of U.S. Sec’y of State Anthony Blinken, Suspending and Terminating the Asylum Cooperative Agreements with the Governments El Salvador, Guatemala, and Honduras (Feb. 6, 2021).

⁸⁰ Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review, 85 Fed. Reg. 80,274 (Dec. 11, 2020).

⁸¹ Press Release, U.S. Dep’t of Justice, The Departments of Justice and Homeland Security Publish Final Rule on Procedures for Asylum and Withholding of Removal, (Dec. 10, 2020), <https://www.justice.gov/opa/pr/departments-justice-and-homeland-security-publish-final-rule-procedures-asylum-and>.

persecution or torture” in his or her home country.⁸² This extremely low bar leads to many migrants to make an asylum claim and to have the opportunity to make their case before an immigration judge. As a result, asylum cases start to backlog, and—before MPP—those migrants had to be detained or released inside the U.S.

- To address this problem, the Trump Administration used the authority delegated by Congress in 1996 to implement an agreement through which these migrants can wait in Mexico for their U.S. immigration court date.⁸³ No prior administration had ever sought to use the statutory authority to implement such an agreement.⁸⁴ Although an activist federal court enjoined the MPP agreement, the Supreme Court eventually stayed the injunction in March 2020.⁸⁵
- As of October 1, 2020, nearly 70,000 aliens were enrolled in MPP.⁸⁶ According to DHS, MPP has helped decrease “the volume of inadmissible aliens arriving in the United States on land from Mexico”⁸⁷

President Biden immediately ended MPP by announcing that there would be no new enrollees into the program.⁸⁸ In doing so, President Biden now ensures that migrants who enter the United States and claim asylum may await their immigration court dates while living and working in the U.S. regardless of whether their claim has merit.⁸⁹ This radical plan will only incentivize more illegal entry into the U.S. and clog the asylum system with meritless claims for relief. Simply put, the Biden Administration’s termination of MPP signals to foreign nationals that they can once again take advantage of U.S. asylum policy.

5. Expedited Removal

Federal law allows DHS to quickly and safely remove certain aliens who are apprehended at the border or on the interior of the U.S. through an authority known as expedited removal.⁹⁰ Specifically, if an illegal alien apprehended along the border or on the interior cannot prove a continuous two-year period of presence in the U.S. immediately prior to the date of apprehension, by statute, the alien could be subject to expedited removal. However expedited removal has historically not been applied so broadly. The Trump Administration expanded the use of expedited removal in part to address the onslaught of illegal immigration into the U.S. during the Obama-Biden Administration.

⁸² Questions and Answers: Credible Fear Screening, U.S. Citizenship and Immigration Services, <https://www.uscis.gov/humanitarian/refugees-and-asylum/asylum/questions-and-answers-credible-fear-screening>.

⁸³ Pub. No. L. 104-208 (1996).

⁸⁴ 8 U.S.C. § 1225(b)(2)(C).

⁸⁵ Ariane de Vogue, *U.S. Supreme Court Lets ‘Remain in Mexico’ Policy Stay In Place*, CNN, (Mar. 11, 2020) <https://www.cnn.com/2020/03/11/politics/supreme-court-remain-in-mexico/index.html>.

⁸⁶ Migrant Protection Protocols Metrics and Measures, U.S. Dep’t of Homeland Sec., https://www.dhs.gov/sites/default/files/publications/migrant_protection_protocols_metrics_and_measures_1.pdf.

⁸⁷ *Id.*

⁸⁸ Jose Luis Gonzalez, *‘The nightmare is over’: Optimism in Mexico as Biden rolls back Trump’s immigration policies*, REUTERS (Jan 21, 2021), <https://www.reuters.com/article/us-usa-immigration-mexico-biden-idUSKBN29Q2T9>

⁸⁹ The Biden Plan, *supra* note 3.

⁹⁰ 8 U.S.C. § 235(b)(1).

- Typically, expedited removal is used to remove an illegal alien inside the interior of the United States who been apprehended within 14 days of their illegal entry.⁹¹
- On July 23, 2019, then-Acting DHS Secretary Kevin McAleenan expanded the use of expedited removal to include any illegal alien apprehended within two years of his or her illegal entry.⁹² This new change did not apply to UACs or to any alien claiming asylum.⁹³
- Acting Secretary McAleenan explained that “we are past the breaking point and must take all appropriate action to enforce the law, along the U.S. borders and within the country’s interior.”⁹⁴

President Biden will likely end the expanded use of expedited removal, claiming that this quick and safe return of illegal immigrants to their home country is inhumane because it does not afford them the ability to go through immigration proceedings.⁹⁵ The result of ending expedited removal, however, will be the release of additional unvetted illegal aliens into the interior of the country.

INTERIOR SECURITY

Border security is always a focus of immigration law and policy, but the security of the interior of the United States is, and should be, equally important. Interior security policies include those aimed at arresting visa overstayers and aliens who have otherwise violated the terms of their visa, worksite enforcement to ensure employers do not hire and employ illegal aliens, and the arrest and removal of deportable aliens. Where President Trump enhanced immigration enforcement on the interior of the U.S., President Biden has pledged to reduce interior enforcement, a move that will only endanger American citizens and legal immigrants.

1. Catch and Release

President Trump promised during the 2016 campaign that he would end the dangerous Obama-Biden process of “catch and release.” The process of catch and release, especially in the case of family units, stems from the government’s inability to hold illegal immigrants in custody for an extended period.

- Under catch and release, aliens apprehended at the border are released into the interior of the U.S. during the pendency of their immigration court proceeding—which can

⁹¹ Press Release, U.S. Dep’t of Homeland Sec., Acting Secretary McAleenan Announces a New Designation of Aliens Subject to Expedited Removal (July 23, 2019), <https://www.dhs.gov/news/2019/07/23/acting-secretary-mcaleenan-announces-new-designation-aliens-subject-expedited>.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ See The White House, Executive Order on Creating a Comprehensive Regional Framework to Address the Causes of Migration, to Manage Throughout North and Central America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United States Border § 4(b)(ii) (Feb. 2, 2021).

sometimes take years. Many released aliens never even attend required court proceedings, and even if they do and are ordered removed, many will never leave.

- In part, the problem of catch and release exists due to a 1997 settlement agreement in *Reno v. Flores*, entered into by the Clinton Administration, in which the government agreed to set standards for the care and release of minors in the custody of the Immigration and Naturalization Service.⁹⁶ The agreement created a policy favoring release over detention.⁹⁷
- Initially the *Flores* agreement was interpreted to apply only to unaccompanied alien minors. However, in 2015, an activist federal judge in California reinterpreted the agreement to apply to accompanied alien minors too and the U.S. Court of Appeals for the Ninth Circuit upheld that reinterpretation.⁹⁸
- The *Flores* reinterpretation meant that immigration authorities must release a child brought to the U.S. by a parent or other family member pursuant to the agreement. Due to limited family detention space, the government is forced to release the entire family when releasing the child, given the obvious dangers of releasing a child without an adult.
- The reinterpretation thus created an incentive for aliens to come to the U.S. illegally with children, converting these children into a guarantee of release into the interior of the U.S.

Under President Trump, foreign nationals arriving illegally at the border were no longer simply released into the interior of the U.S. as a matter of course. On September 23, 2019, then-Acting Secretary McAleenan announced the end of “catch and release” of Central American families arriving at the southwest border.⁹⁹ Instead, illegal immigrants were enrolled in the MPP program, repatriated to another country as part of a safe third country agreement, or transferred to ICE custody to the maximum extent possible during any required legal proceedings. These reforms to end “catch and release” deterred illegal immigration and avoided fraudulent or frivolous asylum claims.

President Biden’s immigration policy suggest that he will restart the Obama-Biden Administration’s failed “catch and release” policies by reducing ICE detention, ending safe third country agreements and ending the MPP program.¹⁰⁰ He has also implemented a 100-day

⁹⁶ Stipulated Settlement Agreement, *Flores v. Reno*, No. CV 85-4544-RJK(Px) (C.D. Cal. Jan. 17, 1997).

⁹⁷ *Id.* at 9.

⁹⁸ *Flores v. Lynch*, 828 F.3d 898 (9th Cir. 2016).

⁹⁹ Press Release, U.S. Dep’t of Homeland Sec., Acting Secretary McAleenan Announces End to Widespread Catch and Release (Sept. 23, 2019), www.dhs.gov/news/2019/09/23/acting-secretary-mcaleenan-announces-end-widespread-catch-and-release.

¹⁰⁰ The Biden Plan, *supra* note 3.

moratorium on removals,¹⁰¹ making it clear that removing illegal aliens from the interior of the U.S. is not a priority for his Administration.¹⁰²

2. *Removals and Arrests*

Democrats have loudly promised to “Abolish ICE,” the federal immigration agency responsible for arresting and removing illegal aliens.¹⁰³ The Trump Administration emphasized that removing foreign nationals who have no legal right or claim to be in the U.S. is a laudable and necessary function of the federal government. These removals ensure the safety and security of American citizens and legal immigrants.

Contrary to Democrat claims that the aliens apprehended at the southern border or arrested in the interior are all deserving of entry into the U.S., the fact is that federal immigration authorities arrest and remove large numbers of dangerous criminal aliens.

- During FY 2020, ICE removed over 185,000 deportable aliens to their home countries despite the worldwide travel shutdowns caused by the COVID-19 pandemic.¹⁰⁴ Of the aliens removed, 64 percent had criminal convictions or pending criminal charges—totaling 399,235 overall convictions or charges.¹⁰⁵
- During FY 2019, ICE removed more than 267,000 deportable aliens.¹⁰⁶ More than 86 percent of the illegal aliens arrested in FY 2019 by ICE had criminal convictions or pending charges.¹⁰⁷ According to ICE, these arrests included:
 - “More than 1,900 convictions and charges for homicide;
 - More than 1,800 convictions and charges for kidnapping;
 - Over 12,000 sex offenses, with more than 5,000 convictions and charges for sexual assault;
 - More than 45,000 convictions and charges for assault;
 - More than 67,000 convictions and charges for crimes involving drugs;
 - Over 10,000 convictions and charges for weapons offenses; and
 - More than 74,000 convictions and charges for Driving Under the Influence.”¹⁰⁸

¹⁰¹ On January 26, 2021, a federal judge in the Southern District of Texas issued a 14-day temporary restraining order blocking implementation of the Biden Administration’s 100-day moratorium on removals. *Texas v. U.S.*, et al., No. 6:21-cv-00003 (S.D. Tex. Jan. 26, 2021).

¹⁰² Franco Ordonez, *On Immigration, Activists’ Demands May Exceed Biden Realities*, NPR, (Dec. 13, 2020) <https://www.npr.org/2020/12/13/944791054/on-immigration-activists-demands-may-exceed-biden-realities>.

¹⁰³ Daniela Diaz, *These Democrats Want to Abolish ICE*, CNN (July 3, 2018)

<https://www.cnn.com/2018/07/02/politics/abolish-ice-democrats-list/index.html>.

¹⁰⁴ Immigration and Customs Enforcement, *ICE Annual Report, Fiscal Year 2020* (Dec. 2020) at 4.

¹⁰⁵ *Id.*

¹⁰⁶ ICE Statistics, U.S. Immigration and Customs Enforcement, <https://www.ice.gov/statistics>.

¹⁰⁷ ICE details how border crisis impacted immigration enforcement in FY 2019, U.S. Immigration and Customs Enforcement (Feb. 24, 2020), www.ice.gov/features/ERO-2019.

¹⁰⁸ *Id.*

- In addition, ICE removed criminal aliens, terrorists, and human rights abusers from the U.S., such as:
 - Honduran national Jose Elias Jovel-Castro, “a three-time previously deported criminal alien who [was] wanted for homicide in Honduras”;¹⁰⁹
 - Gilberto Jordan, a former member of the Guatemalan military wanted for his participation in the 1982 massacre of 200 men, women, and children in Las Dos Erres, Guatemala;¹¹⁰ and
 - Iraqi national Yassin Muhiddin Aref, who was convicted of “seven counts relating to material support of terrorism and weapons of mass destruction.”¹¹¹

Within hours of taking the oath of office on January 20, 2021, President Biden implemented a 100-day moratorium¹¹² on all removals.¹¹³ This shortsighted action will inevitably result in the release of criminal aliens into U.S. neighborhoods and a surge in illegal crossings at the border. The Supreme Court has held that immigration authorities cannot detain aliens with final order of removal unless there is a significant likelihood of removal in the reasonably foreseeable future.¹¹⁴ Thus, the 100-day moratorium will also provide those aliens scheduled to be removed with an avenue to file *habeas corpus* petitions in federal court to challenge their continued detention, and likely force their release on to the streets of American cities.

Also on January 20, President Biden signed an executive order to “reset the policies and practices for enforcing civil immigration laws.”¹¹⁵ Later that day the Acting DHS Secretary issued a memo outlining those new priorities.¹¹⁶ The memo effectively guts immigration enforcement. It flagrantly disregards the immigration enforcement laws passed by Congress and signed into law by Republican and Democrat presidents alike. The new policies effectively preclude the arrest and removal of many dangerous and other criminal aliens, including gang members, domestic abusers, certain sex offenders, those with state law firearms offenses, and those with multiple criminal convictions.¹¹⁷

¹⁰⁹ Press Release, U.S. Immigration and Customs Enforcement, ICE Removes Honduran National Wanted for Murder (Oct. 9, 2020).

¹¹⁰ Congressional Notification, U.S. Immigration and Customs Enforcement, ICE Removes Former Member of Guatemalan Army Linked to 1982 Massacre, (Mar. 3, 2020).

¹¹¹ Press Release, U.S. Immigration and Customs Enforcement, ICE Removes Iraqi Man Convicted of Terrorism Related Charges (June. 10, 2019).

¹¹² On January 26, 2021, a federal judge in the Southern District of Texas issued a 14-day temporary restraining order blocking implementation of the Biden Administration’s 100-day moratorium on removals. *Texas v. U.S.*, et al., No. 6:21-cv-00003 (S.D. Tex. Jan. 26, 2021).

¹¹³ Franco Ordonez, *On Immigration, Activists Demands May Exceed Biden Realities*, NPR (Dec. 13, 2020), www.npr.org/2020/12/13/944791054/on-immigration-activists-demands-may-exceed-biden-realities.

¹¹⁴ *Zadvydas v. Davis*, 533 U.S. 678 (2001).

¹¹⁵ Executive Order, Executive Order on the Revisions of Civil Immigration Enforcement Policies and Priorities, (Jan. 20, 2021).

¹¹⁶ Memorandum from David Pekoske, Acting Sec’y, Dep’t of Homeland Sec., to Troy Miller, Sen. Off. Performing the Duties of the Comm., CBP, et al., “Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities (Jan. 20, 2021).

¹¹⁷ *See id.*

3. *Sanctuary Jurisdictions*

A “sanctuary jurisdiction” is one that refuses, to one extent or another, to cooperate with federal immigration authorities in enforcing federal immigration law regarding unlawful and criminal aliens. Sanctuary jurisdictions pose a significant risk of harm to the community and to the immigration officers who must apprehend dangerous criminal aliens.

After President Trump took office and began to tackle the threat of illegal immigration, the Trump Administration made certain federal funding provided to states and localities contingent upon their cooperation with federal immigration authorities. Far-left cities and states responded by strongly resisting the Trump Administration’s effort to crack down on sanctuary jurisdictions.

- A growing number of local law-enforcement agencies refused to honor ICE detainers, which are standard requests to a local law-enforcement agency to detain an alien for up to 48 hours after their release from local custody to allow ICE an opportunity to take custody and initiate removal proceedings. According to DHS, “some jurisdictions do not honor ICE detainer requests to hold or provide adequate notice of release of criminal aliens who are already in custody.”¹¹⁸
- Illegal aliens make up significant portion of the federal criminal cases filed in U.S. district courts.¹¹⁹ These cases are referred to DHS so that the alien can be removed after serving their sentence.¹²⁰
- Many Americans have been victimized at the hands of criminal aliens who were allowed to go free when law enforcement refused to honor ICE’s detainer.

Sanctuary jurisdictions endanger the health and safety of the communities in which the aliens are released and any federal immigration officer who must enter a sanctuary jurisdiction to apprehend an alien to be removed.¹²¹

- Democrats often complain about armed teams of ICE officers who must go into communities to apprehend dangerous criminal aliens. Former Acting DHS Secretary Chad Wolf explained, however, that these teams would be unnecessary if local officials aided ICE officials with enforcement.¹²²

¹¹⁸ To Make America Safe Again, We Must End Sanctuary Cities and Remove Criminal Aliens, U.S. Dep’t of Homeland Sec. (Feb 15, 2018), <https://www.dhs.gov/news/2018/02/15/make-america-safe-again-we-must-end-sanctuary-cities-and-remove-criminal-aliens>.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² Justin Coleman, *DHS chief: Swat-like teams wouldn’t be needed if sanctuary cities would help ICE*, THE HILL (Feb 18, 2020), thehill.com/policy/national-security/department-of-homeland-security/483430-dhs-chief-swat-like-teams-to-back-up.

President Biden opposes funding restrictions for sanctuary jurisdictions.¹²³ The sad truth is that based on President Biden's promises to reverse the Trump Administration's course on immigration enforcement, the entire country will likely become a sanctuary jurisdiction. This dangerous, far-left approach to interior enforcement will only encourage more illegal immigration and make our communities and neighborhoods less safe.

NATIONAL SECURITY AND RULE OF LAW

Foreign nationals seeking to do us harm have exploited, and will continue to exploit, U.S. immigration laws in order to enter the country and carry out their plans. The September 11th terrorists are the starkest example of this fact. To prevent bad actors from entering our country, immigration law and policy must be created and implemented with a focus on national security. In addition, U.S. immigration policy must emphasize the rule of law, and immigration agencies must execute the law as passed by Congress. Where the Trump Administration succeeded on both these points, the Biden Administration's actions and rhetoric suggest a return to the failures of the Obama-Biden Administration.

1. Executive Orders 13769 and 13780, Suspending Travel of Certain Foreign Nationals

On January 27, 2017, President Trump signed Executive Order 13769, exercising his broad authority to suspend the travel of certain foreign nationals from specific countries traveling to the U.S. pursuant to section 212(f) of the Immigration and Nationality Act (INA).¹²⁴

- This authority provides the President wide-ranging latitude to impose restrictions on the entry of aliens or classes of aliens to the United States when the entry “would be detrimental to the interests of the United States.”¹²⁵
- Relying on this provision to implement a travel ban is not new. The authority was actually used by multiple Presidents—including Ronald Reagan, Bill Clinton, George W. Bush, and Barack Obama.¹²⁶ In fact, President Obama invoked the authority 19 times to suspend the entry of certain aliens into America.¹²⁷

President Trump's Executive Order 13769 temporarily halted immigration from certain countries of particular concern for terrorism to ensure that those countries were providing the U.S. government with the information necessary to ensure adequate vetting of their nationals seeking to enter the U.S.

¹²³ Jonathan Easley, *Biden Once Called for a Ban on Sanctuary Cities; Where Does He Stand Now?*, THE HILL, (Aug. 8, 2019) <https://thehill.com/homenews/campaign/456638-biden-once-called-for-a-ban-on-sanctuary-cities-where-does-he-stand-now>.

¹²⁴ Executive Order 13780, Executive Order Protecting the Nation From Foreign Terrorist Entry Into the United States, (Mar. 6, 2017), superseded by Executive Order 13780.

¹²⁵ 8 U.S.C. § 1182(f).

¹²⁶ Proclamation 8693 of July 24, 2011, 125 STAT. 2048; Congressional Research Serv., Kate M. Manuel, Executive Authority to Exclude Aliens: In Brief at 6-8, (Jan. 23, 2017).

¹²⁷ *Id.*

- Prolific and accurate vetting of foreign nationals seeking to enter the United States is essential to national security and the integrity of the U.S. immigration system.
- Despite intense misinformation about Executive Order 13769—known to the far left as a “travel ban”—it has resulted in the most thorough vetting process for foreign nationals that the U.S. has ever had.

President Trump required the Secretary of DHS and the Secretary of State, along with the Director of National Intelligence, to determine which countries failed to meet international standards of information-sharing or identity management, or were at a high risk of terrorism or public safety concern, and to report their findings.¹²⁸ President Trump then imposed visa restrictions on foreign nationals from Chad, Iran, Libya, North Korea, Syria, Venezuela, Yemen, and Somalia.¹²⁹

- Each of the countries from which travel was banned presented heightened risks to the security of the U.S. and elsewhere for various reasons, such as failing to cooperate with the U.S. on public-safety and terrorism-related information.
- Some of the countries have been on the State Department’s list of state sponsors of terrorism for years or are considered safe havens where terrorists operate freely. For instance, Iran has been designated a state sponsor of terrorism since 1984,¹³⁰ Syria since 1979, and North Korea since 2017.¹³¹ Somalia, Libya, Yemen, and Venezuela have all been identified by the State Department as safe havens for terrorist groups to operate.¹³²
- Safe havens are essentially locations that are “ungoverned, under-governed, or ill-governed physical areas where terrorists are able to organize, plan, raise funds, communicate, recruit, train, transit, and operate in relative security because of inadequate governance capacity, political will, or both.”¹³³
- Other countries like Libya and Somalia have failed to cooperate with the U.S. on sharing public-safety and terrorism-related information that is vitally important for the vetting and screening of foreign nationals seeking to travel to America.¹³⁴
- Collectively, the conditions in these countries increase the risk of mistakenly allowing the entry of a foreign national who may commit a terrorist act or attempt to undermine the security of the U.S.

¹²⁸ Executive Order 13780, Executive Order Protecting the Nation From Foreign Terrorist Entry Into the United States, (Mar. 6, 2017).

¹²⁹ Presidential Proclamation 9645, Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public Safety Threats, (Sept. 27, 2019) at Sec. 2.

¹³⁰ U.S. Dep’t. of State, State Sponsors of Terrorism, <https://www.state.gov/state-sponsors-of-terrorism/>.

¹³¹ *Id.*

¹³² U.S. Dep’t. of State, Chapter 5: Terrorist Safe Havens (Update to 7120 Report), <https://2009-2017.state.gov/j/ct/rls/crt/2015/257522.htm>.

¹³³ *Id.*

¹³⁴ *Id.*; see also Executive Order 13780, Executive Order Protecting the Nation From Foreign Terrorist Entry Into the United States, (Mar. 6, 2017).

- Based on the proclamations issued pursuant to Executive Order 13769 and subsequent Executive Order 13780, some of the countries initially designated for travel restrictions were removed from the list because they complied with U.S. requests. Other countries were added to the list.

Immediately upon taking office, President Biden signed a Presidential Proclamation rescinding the travel ban and its subsequent proclamations.¹³⁵ His actions make Americans less safe from certain foreign nationals seeking to gain entry into the U.S. without appropriate security checks in place. President Biden has also claimed that “there is no intelligence that suggests it [the executive order] makes our nation more secure.”¹³⁶ That claim is simply wrong.

- The U.S. national security is improved any time that foreign nations provide access to information about their nationals seeking to enter the U.S.
- DHS’s Assistant Secretary for Threat Prevention and Security Policy testified to the Committee in 2019 the President’s executive order forced some countries to improve their security systems. She said:
 - “[O]ne country reinstated a dormant program to help identify convicted criminals”;
 - “[T]hree countries have adopted more secure e-passports”;
 - “Two countries obtained access to Interpol databases for the first time”;
 - “[E]ight countries began reporting lost and stolen passports to Interpol for the first time, or improved the regularity of that reporting.”¹³⁷
- If foreign countries believe that there are no repercussions for failure to share vetting information with the U.S., the country will be at greater risk for terrorism and other activity detrimental to public safety.

2. Executive Office of Immigration Review Reforms

In June 2017, the Government Accountability Office (GAO) issued a report finding that the Executive Office of Immigration Reform’s (EOIR) “case backlog . . . more than doubled from fiscal years 2006 through 2015 primarily due to declining cases completed per year.”¹³⁸ The GAO also found that the median pending time for a case went from 198 days in FY 2006 to 404 days in FY 2015.¹³⁹ For any given case currently in the system, the wait time has already been

¹³⁵ Proclamation on Ending Discriminatory Bans on Entry to The United States, The White House (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/proclamation-ending-discriminatory-bans-on-entry-to-the-united-states/>.

¹³⁶ The Biden Plan, *supra* note 3.

¹³⁷ “Oversight Hearing on Trump Administration Travel Ban”: Hearing before the H. Comm. on the Judiciary, 116th Cong. (2019) (statement of Ms. Elizabeth Neumann).

¹³⁸ U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-17-438, IMMIGRATION COURTS: ACTIONS NEEDED TO REDUCE CASE BACKLOG AND ADDRESS LONG-STANDING MANAGEMENT AND OPERATIONAL CHALLENGES (2017).

¹³⁹ *Id.*

849 days on average.¹⁴⁰ Primarily driven by the southern border crisis, the EOIR backlog currently sits at over 1.2 million cases.¹⁴¹

In addition, the GAO found that judge-issued continuances also contributed to the delay in addressing immigration cases. The GAO found that from FY 2006 to FY 2015, “use of all types of continuances increased by 23 percent” and “immigration judge-related continuances increased by 54 percent. . . .”¹⁴²

The Trump Administration, following the GAO’s recommendations, instituted reforms designed to make the immigration courts efficient. The Trump Administration has taken reasonable and practical steps to restore efficient adjudication of immigration cases by reducing the abuses of continuances, establishing performance metrics for immigration, and by fostering a culture of completing cases.

- The former EOIR Director instituted a case completion goal of 700 cases per year per immigration judge in an effort to ensure that immigration courts were operating efficiently and appropriately.¹⁴³ Previous administrations, including the Obama-Biden Administration, had used similar goals.
- The Attorney General issued a precedential immigration decision directly addressing continuances.¹⁴⁴ The decision emphasized that continuances must only be granted “for good cause shown,” and reiterated that the good-cause standard is a substantive requirement limiting the discretion of immigration judges.¹⁴⁵ It also provided that when an alien requests a continuance to pursue immigration relief collateral to the proceedings, the immigration judge must consider the likelihood that collateral relief will be granted and whether it would materially affect the outcome of removal proceedings.¹⁴⁶
- The Trump Administration hired additional immigration judges, bringing the total to 520 nationwide.¹⁴⁷

The Trump Administration reforms are working. According to the former EOIR Director, “EOIR is transforming its institutional culture to emphasize the importance of completing cases

¹⁴⁰ Syracuse University, Transactional Records Access Clearinghouse (TRAC) Data Research, “Average Time Pending Cases Have Been Waiting In Immigration Courts as of November 2021,” https://trac.syr.edu/phptools/immigration/court_backlog/apprep_backlog_avgdays.php.

¹⁴¹ Syracuse University, Transactional Records Access Clearinghouse (TRAC) Data Research, “Ballooning Wait Times for Hearing Dates in Overworked Immigration Courts,” <http://trac.syr.edu/immigration/reports/405/>.

¹⁴² U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-17-438, IMMIGRATION COURTS: ACTIONS NEEDED TO REDUCE CASE BACKLOG AND ADDRESS LONG-STANDING MANAGEMENT AND OPERATIONAL CHALLENGES 68 (2017).

¹⁴³ Memorandum from James R McHenry III, Dir. Executive Office for Immigration Review, to The Office of the Chief Immigration Judge, et al., “Case Priorities and Immigration Court Performance Measures (Jan. 17, 2018).

¹⁴⁴ *Matter of L-A-B-R-*, 27 I&N Dec. 405 (A.G. 2018).

¹⁴⁵ *Id.*, see also 8 C.F.R. 1003.29.

¹⁴⁶ *Id.*

¹⁴⁷ Executive Office of Immigration Review, U.S. Dep’t. of Justice., Adjudication Statistics: Immigration Judge (IJ) Hiring, <https://www.justice.gov/eoir/page/file/1242156/download> (accessed Dec. 17, 2020).

and to reduce instances of defensive judging in which immigration judges make decisions based on a fear of sanction or reversal, rather than based on the law and the facts of the case.”¹⁴⁸

- EOIR completed more than 276,000 cases for FY 2019, the highest number of case completions in EOIR’s history, and an increase of 80,000 case completions from FY2018.¹⁴⁹
- During FY 2020, EOIR completed over 231,000 cases, even as some courts were closed due to the pandemic.¹⁵⁰ During that same period, EOIR recorded 504,848 new cases filed by DHS, much higher than the historical average of approximately 225,000 from FY2009 to FY2016,¹⁵¹ and the highest number in a single year in EOIR’s history.¹⁵² Apprehensions and inadmissibility determinations along the southern border skyrocketed in late 2018 through May of 2019.

President Biden has pledged to “roll back” the immigration judge performance metrics that have helped lead to record numbers of immigration cases being completed.¹⁵³ The Biden plan will reverse the Trump Administration’s successful reforms and return to a *status quo* that disincentivizes immigration judges to adjudicate cases. It will do nothing to solve the root causes of the backlog of immigration cases and is only likely to make matters worse.

3. *Public Charge Regulation*

In 2019, the Trump Administration issued a regulation aimed at ensuring that existing laws relating to public charge grounds of inadmissibility were adhered to and aliens who cannot support themselves financially and who are therefore likely to utilize taxpayer-funded federal benefits are inadmissible for entry into the U.S.¹⁵⁴ As USCIS noted at the time, “self-sufficiency has long been a basic principle of U.S. immigration law.”¹⁵⁵ For that reason, “the public charge ground of inadmissibility has been a part of the U.S. immigration law for more than 100 years.”¹⁵⁶ However, the Trump Administration recognized that an alien’s likelihood of receiving public benefits was not often employed automatically to consider the alien a public charge.¹⁵⁷

¹⁴⁸ “Overview of the Executive Office for Immigration Review”: Hearing before the H. Comm. on the Judiciary, 115th Cong. (2017) (Testimony of James McHenry).

¹⁴⁹ Executive Office for Immigration Review Adjudication Statistics: New Cases and Total Completions (Jan. 23, 2020); *see also* Press Release, U.S. Dep’t. of Justice, Office of Public Affairs, Executive Office for Immigration Review Announces Case Completion Numbers for Fiscal Year 2019.

¹⁵⁰ Executive Office for Immigration Review Adjudication Statistics: New Cases and Total Completions (Oct. 13, 2020).

¹⁵¹ *Id.*

¹⁵² “Unprecedented Migration at the U.S. Southern Border: The Year in Review”: Hearing before the S. Comm. on Homeland Sec., and Gov’t. Affairs, 116th Cong. (2019) (Testimony of James McHenry).

¹⁵³ Biden-Sanders Unity Recommendations, *supra* note 78, at 104.

¹⁵⁴ Public Charge Fact Sheet, U.S. Citizenship and Immigration Services, <https://www.uscis.gov/news/public-charge-fact-sheet>.

¹⁵⁵ Public Charge, U.S. Citizenship and Immigration Services, <https://www.uscis.gov/green-card/green-card-processes-and-procedures/public-charge>.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

- USCIS published a final rule on August 14, 2019, which, for the first time ever, provided regulatory direction regarding the determination of whether an immigrant is likely to become a public charge.
- The final rule applied to two types of applicants: (1) applicants for admission or adjustment of status to that of a lawful permanent resident, and (2) applicants for extension of nonimmigrant stay or change of nonimmigrant status.¹⁵⁸
- According to DHS, “[t]he final rule require[d] that most aliens seeking to extend their nonimmigrant stay or change their nonimmigrant status to show that, since obtaining the nonimmigrant status they seek to extend or change, they have not received public benefits (as defined by the rule) for more than 12 months, in total, within any 36-month period.”¹⁵⁹
- Congress has always maintained exemptions to the public charge ground of inadmissibility including refugees, asylees, certain nonimmigrant visa applicants, and self-petitioners under the Violence Against Women Act.¹⁶⁰
- Despite activist courts enjoining the new public charge rule early on,¹⁶¹ in September 2020, the Second Circuit issued a decision allowing DHS to implement the rule nationwide.¹⁶²

Although being a public charge has been a long-standing statutory ground of inadmissibility, no Administration had ever promulgated the final regulation necessary to fully implement the ground.¹⁶³ In fact, the only guidance on point was a Clinton Administration-era Immigration and Naturalization Service (INS) memo.¹⁶⁴ The Trump Administration’s regulation was a necessary product of good governance that provided direction to USCIS adjudicators.

President Biden has pledged to reverse the commonsense regulation.¹⁶⁵ He claims that “allowing immigration officials to make an individual’s ability to receive a visa or gain permanent residency contingent on their use of government services” is discriminatory and “undermines America’s character.”¹⁶⁶ If he unwinds the Trump Administration’s reform, however, the U.S. will likely bear the burden of additional illegal immigrants petitioning for taxpayer-funded federal benefits.

¹⁵⁸ *Id.*

¹⁵⁹ Press Release, U.S. Dep’t of Homeland Sec., DHS Implements Inadmissibility on Public Charge Grounds Final Rule. (Feb 24, 2020), <https://www.dhs.gov/news/2020/02/24/dhs-implements-inadmissibility-public-charge-grounds-final-rule>.

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² Public Charge Fact Sheet, U.S. Citizenship and Immigration Services, <https://www.uscis.gov/news/public-charge-fact-sheet>.

¹⁶³ 8 U.S.C. § 1182(a)(4).

¹⁶⁴ Memorandum for All Regional Directors From Michael A. Pearson, Executive Associate Comm., Office of Field Operations, Public Charge: INA Sections 212(a)(4) and 237(a)(5) (May 20, 1999).

¹⁶⁵ The Biden Plan, *supra* note 3.

¹⁶⁶ *Id.*

4. *Refugee Ceiling*

Each fiscal year, the Administration sets a ceiling for the number of refugees who may be resettled in the U.S. during that year. The Trump Administration took an honest and realistic approach to determining the refugee ceiling.

- In its determination of the number of refugees the U.S. should welcome each year, the Trump Administration considered the enormous number of asylum claims and grants.
- This approach to consider the “humanitarian immigration benefits programs” has resulted in lower numbers of refugee spots available for U.S. resettlement. It has also left resources normally used for refugees to be utilized to reduce the asylum case backlogs.

President Biden promised to set the refugee ceiling at 125,000 refugees initially and to raise it annually.¹⁶⁷ This arbitrary number is nothing more than virtue signaling to the radical left. At a time when Americans are suffering from a global pandemic and the American people are trying to jump start the economy, admitting high numbers of refugees is a poor decision that will only exacerbate economic challenges.

Reflecting his promise, on February 5, 2021, President Biden notified Congress of his intent to use the “emergency” authority provided by statute¹⁶⁸ to raise the refugee ceiling set for fiscal year 2021 by former President Trump from 15,000 to 62,500.¹⁶⁹

5. *Immigration Cases Certified by the Attorney General*

The Attorney General has the authority to establish immigration case precedent through a process known as certification, in which a case already acted upon by the Board of Immigration Appeals (BIA) is referred to the Attorney General for review and decision.¹⁷⁰ During the Trump Administration, Attorneys General used this certification authority to reverse extreme BIA decisions and set a unified policy on immigration.

The three types of cases that can be certified by the Attorney General are:

1. Cases that the Attorney General directs be referred to him;
2. Cases that the BIA refers to the Attorney General for consideration; and
3. Cases that DHS refers to the Attorney General for review.¹⁷¹

¹⁶⁷ The Biden Plan, *supra* note 3.

¹⁶⁸ 8 U.S.C. § 1157(b).

¹⁶⁹ U.S. Dep’t of State, Report to the Comms. on the Judiciary of the House of Representatives and the Senate, *Proposed Emergency Presidential Determination on Refugee Admissions for Fiscal Year 2021* (Feb. 5, 2021).

¹⁷⁰ 8 C.F.R. § 1003.1(h).

¹⁷¹ Andrew R. Arthur, *AG Certification Explained, A legal way for the AG to set immigration policy and guide IJ and BIA discretion*, Center for Immigration Studies (Nov. 5, 2019), <https://cis.org/Arthur/AG-Certification-Explained>.

During the Trump Administration, the Attorneys General certified cases in the interest of national security, cases regarding the uniform application of asylum law, cases about the removal effect of criminal convictions such as DUI on the removal of criminal aliens, cases to improve the efficiency of immigration court proceedings, and cases about criminal sentencing. The certifications have provided fairness in the law, adherence to the statute, and clarity to Immigration Judges. President Biden and his Attorney General will likely undo these decisions,¹⁷² and in doing so will return to the failed policies of the Obama-Biden Administration.

CONCLUSION

The Biden Administration has already begun pursuing radical and dangerous immigration policies that will make Americans less safe. President Biden has been open about his pledge to help ensure illegal immigrants stay in the United States regardless of legal status. The Biden Administration will pursue amnesty for illegal aliens who have disregarded U.S. law, even those who have previously been deported. President Biden will reinstitute “catch and release” policies that will allow dangerous criminal aliens to roam free in American neighborhoods. President Biden has already started to reverse the work that President Trump did to improve the U.S. border security and interior enforcement.

President Trump’s immigration policies made America safer and prioritized legal immigration over illegal immigration. President Biden’s return to setting immigration policy through executive action—apart from Congress and outside of constitutional norms—seems to be a second coming of the failed Obama-Biden approach to immigration. President Biden and his Administration would be wise not to succumb to the pressure of the radical left in reversing the Trump Administration’s successes.

Some of President Trump’s immigration successes will have long-term benefits for our safety and security. The border wall system will continue to aid CBP in controlling the flow of illegal aliens across the southern border. The flow of trafficked humans and drugs will be drastically reduced thanks to this effort. Similarly, the precedent set by “safe third country” agreements and MPP will likely continue to have lasting effects well into a Biden Administration. The officials in the Biden Administration would be wise to continue the policies that bring dramatic improvements to U.S. national security. In addition, although left-wing activists decry restricted travel from dangerous countries, the resulting information sharing from these countries has greatly improved and President Biden would be wise to build on this success.

President Trump ran for office in 2016 in part on a message of improving border security and reforming the failed immigration policies of the Obama-Biden Administration. In large part, President Trump has succeeded in this effort. He has done what he said he would do. The consequences for reversing the Trump Administration’s immigration policy successes will be severe.

¹⁷² See The Biden Plan, *supra* note 3 (explaining how the Biden Administration will “end” certain Trump Administration immigration policies, including some policies that were established through certified Attorney General decisions).

The U.S. Immigration System: The Need for Bold Reforms
February 11, 2021
Rep. Andy Biggs Statement for the Record

I want to thank the Chair for holding this hearing today. I strongly believe we do need bold reforms to our immigration system. For too long the Department of Homeland Security and the Department of Justice have been woefully underfunded and Democrat Presidents have tied the hands of immigration officials to enforce the law.

Do you know how many aliens in the United States have final orders of removal? According to testimony from then Acting Director Matt Albence in March 2020 before House Appropriations there are over 1 million aliens with final orders of removal on ICE's non-detained docket.^[1] And DOJ's Executive Office of Immigration Review (EOIR) issued roughly 181,000 final orders of removal in FY 2109 and approximately 70,000 final orders of removal in the first quarter of FY 2020.^[2]

If this subcommittee wants to encourage "bold reforms" on immigration we should start with ensuring that aliens with final orders of removal are actually removed, if not the entire immigration system is a farse.

Similarly, we have a backlog of over 1 million aliens waiting to have their asylum claims heard either by an immigration judge or USCIS^[3], and we know that only a small percentage of these aliens will have their claim approved. That means that vast majority of aliens applying asylum are in the United States simply waiting to have their asylum claims denied. And once those claims are denied the numbers tell us that most of them will never be removed from the United States.

It has also been reported that USCIS is no longer telling aliens who apply for immigration benefits and are denied that if they do not leave the country they may receive a Notice to Appear (NTA) and be put in immigration court proceedings. Let me reiterate this, DHS is no longer telling aliens who are here with no legal status that they need to leave. Supposedly, this is to avoid "undue stress" on the aliens.^[4] This is ridiculous. If an alien has no legal status they should be told to leave.

Once we are faithfully enforcing our immigration laws, then we can talk about reforms to the legal immigration system. I look forward to the day when we

^[1] <https://www.ice.gov/sites/default/files/documents/Testimony/2020/20200311albence.pdf>

^[2] *Id.*

^[3] Dept. of State's Report to Congress on Proposed Refugee Admissions for Fiscal Year 2021.

^[4] [DHS deletes deportation warning over fears of 'undue stress' to illegal immigrants - Washington Times](#)

can have an immigration hearing and I won't have to ask questions about why our laws are not being enforced. Unfortunately, that day is not today.

During his first three weeks in office President Biden has signed several executive orders that have cost Americans jobs. He cancelled the Keystone XL pipeline, he banned oil and gas production on federal lands, and he rejoined the Paris Climate Accord. It is estimated that these actions will cost approximately 1.4 million Americans their jobs.^[5] The White House has promised the now unemployed Americans "green" jobs but has been unable to tell these workers when or where those jobs will appear.^[6]

And now, the majority members of his committee are talking about ways to change the immigration system to make it easier for foreign workers to come to the United States and take jobs. Its almost as if they don't care about American workers at all.

It has been 20 years since the first version of the DREAM Act was introduced in Congress. Let that sink in. For 20 years Members of Congress have been floating amnesty for aliens who are in this country illegally. Nobody should be surprised that the number of aliens who would qualify for today's DREAM Act is significantly higher than the number who would have benefited 20 years ago. Why is that? It is because the more amnesty is promised the more aliens come illegally hoping to benefit from the promised amnesty.

One of our witnesses today has advocated for amnesty for 11 million illegal aliens. Which begs the question, should our laws even be enforced? If we provide amnesty, who should be held accountable for breaking our laws? If we can't hold the children accountable should we hold accountable, should we simultaneously bar the parents who brought their children here from receiving amnesty?

As I said, I welcome the opportunity to be bold, but before we do anything else we need to enforce the laws already on the books.

^[5] <https://twitter.com/HouseGOP/status/1356295448974270464?s=20>

^[6] [Psaki spars with Fox News' Peter Doocy over Keystone pipeline job losses | Fox News](#)

Ms. LOFGREN. With that, we are about to adjourn this hearing. Once again, all Members have 5 legislative days to submit additional written questions for the Witnesses or additional materials for the record.

As we conclude this hearing, I want to thank all the Members and all the Witnesses for their participation and their willingness to work together in the future so that our policies serve our country well.

With that, this hearing is adjourned.

[Whereupon, at 4:46 p.m., the Subcommittee was adjourned.]

APPENDIX



Written Testimony of
THE MOST REVEREND MARIO EDUARDO DORSONVILLE-RODRÍGUEZ
Auxiliary Bishop of Washington and
Chairman of the U.S. Conference of Catholic Bishops' Committee on Migration

For a Hearing of the
HOUSE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON IMMIGRATION AND CITIZENSHIP

“The U.S. Immigration System: The Need for Bold Reforms”
Thursday, February 11, 2021, at 2:15 p.m.
2141 Rayburn House Office Building
Washington, D.C.

My name is Bishop Mario Eduardo Dorsonville-Rodríguez. I am an auxiliary bishop of the Archdiocese of Washington and also currently serve as chairman of the U.S. Conference of Catholic Bishops' Committee on Migration (USCCB/COM). On behalf of USCCB/COM, I would like to thank the House Judiciary Subcommittee on Immigration and Citizenship, especially the Chair, Representative Zoe Lofgren (D-CA), and the Ranking Member, Representative Ken Buck (R-CO), for holding this important hearing and for inviting me to submit testimony before the Subcommittee.

For hundreds of years, Catholics have lived as both foreign-born and native inhabitants of this land. Today, the Catholic Church, through its many ministries, apostolates, and affiliates, serves immigrants and refugees of every color, creed, and nationality, affirming that we are all “fellow travelers sharing the same flesh.”¹ Throughout history, immigrants and refugees have played a pivotal role in the life and wellbeing of our nation, bringing with them the hope of a better life and the determination needed to achieve it. This resolve has only been further demonstrated by the shared challenge of the COVID-19 pandemic, which has resulted in undeniable challenges to families and workers, including immigrant and refugee workers doing essential and frontline work, while underscoring the social inequalities and vulnerabilities present in our society. Recognizing this reality, the Catholic bishops of the United States have long supported immigration reform legislation focused on family reunification that would create a pathway to citizenship for the undocumented already calling this country home, living here in some cases for many decades. The bishops also urge a simpler and more reasonable system of immigration for future generations that addresses the protection needs of those fleeing persecution, while preserving family unity as a foundational principle of the immigration system. Guided by our faith, we remain committed to this goal and will continue to work to provide care, accompaniment, and integration for immigrants and refugees.

I. Catholic Social Teaching and the Church's Work in the United States Addressing and Accompanying Immigrants and Refugees

The Church's story in the United States is one of migration and integration. As a foundational matter, the Church's solidarity and service related to migrants and refugees stems from the belief that every human person is created in the image and likeness of God. In the Old Testament, God calls upon his people to care for the foreigner because of their own experience as foreigners: “So, you, too, must befriend the alien, for you were once aliens yourselves in the land of Egypt.”² In the New Testament, the image of the migrant is seen in the life and teachings of Jesus Christ. In his own life and work, Christ identified himself with newcomers and other marginalized persons in a special way: “I was a stranger and you welcomed me.”³ Christ himself was on the road preaching without a home of his own, and, as a child, he—with his parents—was also a refugee fleeing to Egypt to escape persecution and death.⁴ We see Christ's life and we are open to his teachings and values, which introduce much good into the lives of those we serve.

¹ Pope Francis, *Fratelli Tutti*, no. 8 (Oct. 3, 2020), <https://bit.ly/3oZGwet>.

² Deut. 10:19.

³ Mt. 25:35.

⁴ Mt. 2:13–23.

One of the sad realities of our contemporary situation is that of forced migration, and particularly that of those who are compelled to leave their homeland because of political, religious, or other forms of persecution. For this reason, the Catholic Church recognizes the plight of refugees and asylum seekers and urges a thorough examination of the root causes of migration from every perspective, including through policy advancement. In his encyclical letter *Sollicitudo Rei Socialis*, Saint Pope John Paul II refers to the world's refugee crisis as “the festering of a wound.”⁵ In his 1990 Lenten message, he listed the rights of refugees, including the right to be reunited with their families and the right to a dignified occupation and just wage.⁶ Two years later, the Vatican's Pontifical Council for the Pastoral Care of Migrants and Itinerant People reaffirmed that the right to asylum must never be denied when people's lives are truly threatened in their homeland.⁷

The dire circumstances confronting refugees and asylees has been of particular concern for Pope Francis from the beginning of his pontificate. Making a bold statement by taking his first trip as pope outside of Rome to Lampedusa, Italy, the Holy Father decried the “globalization of indifference” and the “throwaway culture” that disregards those fleeing persecution in order to seek a better life.⁸

To this end, our work assisting and advocating on behalf of immigrants and refugees stems from that belief that every person is created in God's image and must be valued, protected, and respected for the inherent dignity they possess. We follow the teaching of the Gospel and advocate to address the root causes of poor living conditions, while also protecting those forced to migrate and ensure the humane treatment of those living in the United States. In our joint pastoral letter, *Strangers No Longer: Together on the Journey of Hope*, the U.S. and Mexican Catholic bishops called for nations to work toward a “globalization of solidarity.”⁹

The work of the U.S. bishops' Committee on Migration is carried out by the USCCB's Department of Migration and Refugee Services (USCCB/MRS). USCCB/MRS works to advance the migration-related priorities of our Committee, including advocacy and policy advancement around humane and comprehensive immigration reform, just and proportionate immigration enforcement, and improved access to justice and due process for immigrants and refugees fleeing persecution. Among its many activities, USCCB/MRS is also a long-standing government partner, providing support for and assistance to refugees, foreign nationals and U.S.-citizen human trafficking survivors, asylum-seeking families, and unaccompanied immigrant children.

II. Current State of Immigration System and the Need for Systemic Reform

The current state of immigration in the United States makes it unduly burdensome, expensive, ineffective, and often a contributor to human suffering. The U.S. immigration system is undoubtedly broken.

⁵ Pope John Paul II, *Sollicitudo Rei Socialis*, no. 24 (Dec. 30, 1987), <https://bit.ly/2YUJaDk>.

⁶ Pope John Paul II, *Message for Lent*, no. 3 (1990), <https://bit.ly/3pX4Df0>.

⁷ Pontifical Council *Cor Unum* & Pontifical Council for the Pastoral Care of Migrants and Itinerant People, *Refugees: A Challenge to Solidarity*, nos. 13–14 (1992), <https://bit.ly/3cRh1JJ>.

⁸ Homily of Pope Francis at Lampedusa (July 8, 2013), <https://bit.ly/3a06wC3>.

⁹ *Strangers No Longer: Together on the Journey of Hope*, no. 57 (2003), <https://bit.ly/3tErRc1>.

The current system stands out as especially restrictive, with the legal immigration rate (i.e., the number of new legal immigrants as a share of total population) being far below the highs of the early twentieth century.¹⁰ Meanwhile, funding for immigration enforcement has sharply increased over the last two decades, with little consensus as to the results. Since the creation of the Department of Homeland Security (DHS) in 2002, the federal government has spent an estimated \$333 billion on the agencies that carry out immigration enforcement,¹¹ and it is still highly debated among lawmakers and the public alike as to whether we have “secure” borders.¹² One oft-cited metric demonstrating the ineffectiveness of the U.S. immigration system is the immigration court backlog—the period of time for which people must wait to see an immigration judge—which is at an all-time high.¹³ Lastly, and most importantly, the current immigration system has contributed to an increasing number of avoidable deaths,¹⁴ family separation,¹⁵ exploitation,¹⁶ and other instances of human suffering and hardship. For these reasons, my brother bishops and I have zealously advocated for immigration reform and will continue to do so. We acknowledge that human lives are in the balance and that the moment for action is now.

III. Elements of Reform Most Needed to Substantially Improve the U.S. Immigration System

While there are numerous changes that need to be made to our immigration system, today I focus on six key elements that are necessary to consider in meaningful immigration reform efforts: (1) providing legalization; (2) prioritizing families and essential workers in all elements of migration policy; (3) meaningfully addressing root causes of migration; (4) protecting the vulnerable; (5) recalibrating immigration enforcement at the U.S.-Mexico border and in the interior of the United States; and (6) preserving the religious worker visa program. I discuss each element in more detail below.

A. Providing Legalization

Guided by the core teaching that all human beings are imbued with inherent human dignity, the Catholic Church teaches that all persons are “brothers and sisters” and that immigration status does not change this fact. As part of that belief, the Catholic bishops have steadfastly advocated for the legalization of undocumented persons living in the United States. As the U.S. bishops stated in

¹⁰ See David J. Bier, *Reforming the Immigration System: A Brief Outline* (Nov. 11, 2020), <https://bit.ly/3oYyp1G>.

¹¹ AMERICAN IMMIGRATION INSTITUTE, THE COST OF IMMIGRATION ENFORCEMENT AND BORDER SECURITY I (Jan. 2021), <https://bit.ly/3aMaRIg>.

¹² See, e.g., TOM K. WONG, U.S. IMMIGRATION POLICY CENTER, PUBLIC OPINION ABOUT THE BORDER, AT THE BORDER 2 (Nov. 6, 2019), <https://bit.ly/3p4nTGc>.

¹³ TRAC Immigration, *Backlog of Pending Cases in Immigration Courts as of December 2021*, <https://bit.ly/2N8CzH1> (accessed Feb. 9, 2021).

¹⁴ See, e.g., 2019: *A Deadly Year for Migrants Crossing the Americas*, U.N. NEWS (Jan. 28, 2020), <https://bit.ly/3p0j3Kd> (“The region surrounding the United States–Mexico border is one of the deadliest for migrants, with the number [of deaths] growing each year.”).

¹⁵ See generally ASHLEY FEASLEY, ET AL., SERVING SEPARATED AND REUNITED FAMILIES: LESSONS LEARNED AND THE WAY FORWARD TO PROMOTE FAMILY UNITY (Oct. 2018), <https://bit.ly/2YYXwXN>.

¹⁶ See, e.g., Ed Vulliamy, *Kidnappers Prey with ‘Total Impunity’ on Migrants Waiting for Hearings in Mexico*, GUARDIAN (Feb. 18, 2020), <https://bit.ly/3rCm9pd> (“Doctors Without Borders . . . found that in one month 75% of migrants waiting in Nuevo Laredo under [the Migrant Protection Protocols] had been abducted by the mafia, and 45% to have suffered violence or violation.”).

1986, when Congress passed the Immigration Reform and Control Act (IRCA), “It is against the common good and unacceptable to have a double society, one visible with rights and one invisible without rights—a voiceless underground of undocumented persons.”¹⁷ Similarly, today, the bishops continue to advocate for legislation that would provide a legal path to citizenship for the undocumented living in the United States.

There are also particular groups of non-citizens that need special consideration in any legalization reform. These include Dreamers, young people who came here with their parents at an early age, and those with Temporary Protected Status (TPS) and Deferred Enforced Departure (DED).

1. Dreamers

Knowing the many contributions of Dreamers to our nation, it was with extreme concern that we witnessed the previous administration’s attempt to terminate the Deferred Action for Childhood Arrivals (DACA) program in 2017.¹⁸ And while President Biden reversed this course on his first day in office, we know that DACA youth continue to face great uncertainty. Furthermore, we know that many of the country’s over 1.8 million Dreamers do not currently have formal DACA protection. For these young people, Congressional action is the only solution.

We see and hear about this uncertainty every day in our dioceses and in our parishes. I have been personally impacted by the stories I have heard from DACA youth in the Archdiocese of Washington. I have witnessed their tears and listened to their secret concerns not only for their own futures but for that of their families as well. Many ask: What will happen to me? What will happen to my family?

Dreamers are exemplary youths. They are young, educated, taxpaying individuals who are valuable members of American families, our workforce, and our communities. They are contributors to our economy, academic standouts in our universities, and leaders in our parishes. Like their name implies, Dreamers are shining examples of those pursuing the American Dream. Providing Dreamers with a path to citizenship will advance the common good and allow these young people to reach their God-given potential, while also helping their families who depend on them. They have not only the support of the Church but most of the American public as well.¹⁹ Finding a solution for these admirable young people is both the moral and common-sense path. On behalf of the USCCB’s Committee on Migration, I urge Congress to give special attention to Dreamers in any immigration reform legislation and ensure that they have permanent legal protection that includes an expedited path to citizenship.

¹⁷ Don Kerwin, *Immigration Reform and the Catholic Church*, MIGRATION POL’Y INST. (May 1, 2006), <https://bit.ly/3cYKdyu>.

¹⁸ Statement of Cardinal DiNardo, et al., *USCCB President, Vice President and Committee Chairmen Denounce Administration’s Decision to End DACA and Strongly Urge Congress to Find Legislative Solution* (Sept. 5, 2017), <https://bit.ly/3a6ngb3>.

¹⁹ See Jens Manuel Krogstad, *Americans Broadly Support Legal Status for Immigrants Brought to the U.S. Illegally as Children*, PEW RES. CTR. (June 17, 2020), <https://pewrsr.ch/3p9Z4sk> (“74% of Americans favor a law that would provide permanent legal status to immigrants who came to the U.S. illegally as children”).

2. TPS and DED Holders

Over the past few years, we have also expressed deep concern over the prior administration’s attempt to terminate TPS designations for many countries still grappling with the very same conditions that first warranted those designations, including El Salvador, Haiti, Honduras, and Nicaragua. These termination attempts left hundreds of thousands of individuals and their families in a state of uncertainty and fear. While the terminations were subject to multiple lawsuits, an estimated 320,000 TPS holders—some of whom have lived in the U.S. for over 20 years—faced potential loss of status and family separation. TPS holders need a permanent legal solution which includes a path to citizenship that only Congress and the President, working together, can provide.

Like Dreamers, TPS and DED holders are part of our country and our communities. Many own homes and businesses and contribute to our economy. They are also a part of our Church and they worship in our local parishes. Many TPS recipients have families in the U.S., including over 273,000 U.S.-citizen children.²⁰ It is, again, the issue of family unity that is most pressing to the Catholic Church.

3. Agricultural Workers

We have long expressed concerns about the plight of seasonal agricultural workers, many of whom are working without legal status.

We urge Congress to continue the work started during the 116th Congress, which resulted in bipartisan House passage of H.R. 5038, the “Farm Workforce Modernization Act”. Introduced by Chair Lofgren with several Republican and Democratic cosponsors, that measure would have created an earned legal status program for agricultural workers and made reforms to the existing H-2A program.

Recognizing that the dignity of work of farmworkers and their families is a central concern of the Catholic Church, Pope John Paul II spoke of the importance of agricultural workers and the need to protect those working in the fields.²¹ Farmworkers produce the food that we eat and contribute to the care of our community. Regarding immigrant farmworkers, the bishops in the U.S. have long advocated for reforms of the existing system, including a “legalization program [that] would help stabilize the workforce, protect migrant workers and their families from discrimination and exploitation, and ensure that these workers are able to continue to make contributions to society.”²²

B. Prioritizing Families and Workers in All Areas of Migration Policy

While we continue to advocate—as we have for many years—for legalization and a path to citizenship for undocumented persons living in the United States, it is impossible to continue examining the world through a pre-COVID-19 lens. Regarding COVID-19, Pope Francis noted:

²⁰ Robert Warren & Donald Kerwin, *A Statistical and Demographic Profile of the U.S. Temporary Protected Status Populations from El Salvador, Honduras, and Haiti*, 5 J. ON MIGRATION AND HUM. SEC. 577 (2017).

²¹ Pope John Paul II, *Laborem Exercens*, no. 23 (1981), <https://bit.ly/3jAgfCp>.

²² U.S. Conference of Catholic Bishops, *For I Was Hungry & You Gave Me Food: A Catholic Agenda for Action - Pursuing a More Just Agricultural System - Part 2*, <https://bit.ly/3qap0FB> (accessed Feb. 9, 2021).

“The pandemic [has] shed light on the risks and consequences inherent in a way of life dominated by selfishness and a culture of waste. And it [has] set before us a choice: either to continue on the road we have followed until now or set out on a new path.”²³ It is undeniable that all families have been challenged and upended by COVID-19 and the work of many, predominantly those doing essential and frontline work, has underscored the social inequalities and vulnerabilities present in our society. It is with this perspective that we urge lawmakers to reevaluate our immigration system, placing an emphasis on preserving and protecting families, especially immigrant and refugee families, and recognizing the contributions of essential workers—all workers, but specifically immigrant and refugee workers. We urge U.S. policymakers to look at prioritizing workers and families and doing so in all areas of migration policy, including legalization, enforcement, access to due process, and integration efforts.

In our country’s response to COVID-19, the contributions of essential workers have become more important than ever. While many essential workers are U.S. citizens, many are also non-citizen immigrants and refugees, including undocumented individuals living in the United States. For example, when speaking about the essential workforce across all industries in the United States:

- Sixty-nine percent (19.8 million) of all immigrants in the U.S. labor force and 74% of undocumented workers are essential workers, compared to 65% of the native-born labor force;²⁴
- Seventy percent of all refugees, and 78% of black refugees in particular, are essential workers;²⁵
- In all but eight U.S. states, the foreign-born share of the essential workforce equals or exceeds that of all foreign-born workers, indicating that immigrant essential workers are disproportionately represented in the labor force;²⁶ and
- The percentage of undocumented essential workers exceeds that of native-born essential workers by nine percentage points in the fifteen states with the largest labor force.²⁷

More specifically, when essential industries and service areas—farming, meatpacking, other elements of the food supply chain, health care and home health assistance—are broken down and analyzed, it is very clear that immigrant and refugee contributions are prevalent in each of these industries. For example:

- Immigrants comprise 16% of U.S. health care sector workers, 26% of home health care workers and aides for the elderly, 22% of workers in scientific research and laboratories, 24% of workers in medical equipment manufacturing, and 25% in pharmaceuticals manufacturing;²⁸
- Immigrants comprise 31% of U.S. agricultural employees;²⁹ and

²³ Chico Harlan, *Pope Francis Says the World is ‘Seriously Ill’ from the Consequences of the Pandemic*, WASH. POST (Feb. 8, 2021), <https://wapo.st/36TM2ZE>.

²⁴ Donald Kerwin & Robert Warren, *U.S. Foreign-Born Workers in the Global Pandemic: Essential and Marginalized*, J. ON MIGRATION & HUM. SEC. 3–8 (Sep. 11, 2020), <https://bit.ly/2N8a648>.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

- Naturalized citizens make up 67% of immigrants working in health care, including 74% of immigrants working in hospitals and 74% of those working in doctors' and dentists' offices.³⁰ Many of these immigrants work on the front lines with COVID-19 patients.³¹

Similar to the disparate impacts on essential immigrant and refugee workers, COVID-19 is severely affecting the wellbeing of many immigrant families.³² Immigrant families with low incomes face interconnecting factors that make them particularly vulnerable, such as language barriers to accessing information, a higher risk of exposure to the virus at work, precarious financial circumstances stemming from job losses or reductions in income, and a higher risk of exposure to the virus among those living in overcrowded or multigenerational housing.³³ Cash, food, employment, housing, and health care are the most pressing needs during the COVID-19 crisis for immigrants in households with low incomes. One recent Urban Institute study found that 40% of charitable organizations surveyed working with immigrant communities reported cash assistance as the first or second most pressing need for immigrant families during the pandemic. The next most pressing needs included food (38%), employment (37%), housing (31%), and health care (26%), reflecting the reality of unmet fundamental human needs.³⁴ The Catholic Church in the U.S. has over 5,000 parishes with immigrant ministries and over half have been dealing with related requests for food, access to health care and housing, and educational needs.

This dire need for funding—witnessed across the country by local Catholic Charities agencies on the ground—led us to advocate to ensure that certain mixed status families with a U.S.-citizen parent were eligible to receive COVID-19 stimulus payments their families so desperately needed. While we were appreciative of the leadership of certain senators in December to help ensure these families received aid, we note that many U.S.-citizen children have consistently been left out of those payments, solely because of the immigration status of their parents. This unfortunate reality is made worse by the fact that immigrants pay hundreds of billions of dollars in local, state, and federal taxes each year.³⁵

We urge lawmakers to ensure that all U.S.-citizen children receive COVID-19 stimulus payments and also urge lawmakers of both parties to more holistically consider families and workers in all future immigration reform efforts.

³⁰ *Id.*

³¹ DONALD KERWIN, ET AL., U.S. FOREIGN-BORN ESSENTIAL WORKERS BY STATUS AND STATE, AND THE GLOBAL PANDEMIC 2 (May 2020), <https://bit.ly/2N6fy7E>.

³² See generally HAMUTAL BERNSTEIN, ET AL., IMMIGRANT SERVICE ORGANIZATIONS' PERSPECTIVE ON THE COVID-19 CRISIS (Aug. 2020), <https://urban.is/3rFBfu7>; see also GIOVANNI PERI & JUSTIN C. WILTSHIRE, THE ROLE OF IMMIGRANTS AS ESSENTIAL WORKERS DURING THE COVID-19 PANDEMIC, <https://bit.ly/373RgII> (accessed Feb. 9, 2021).

³³ HAMUTAL BERNSTEIN, ET AL., *supra* note 32, at 3; Muzaffar Chishti & Jessica Bolter, *Vulnerable to COVID-19 and in Frontline Jobs, Immigrants Are Mostly Shut Out of U.S. Relief*, POLICY BEAT (Migration Policy Institute blog) (April 24, 2020), <https://bit.ly/2OkZBeh>; Sophia Tareen, *Coronavirus Complicates Safety for Families Living Together*, AP NEWS (May 12, 2020), <https://bit.ly/3aWmSLc>.

³⁴ *Id.*

³⁵ See, e.g., New American Economy, *Taxes & Spending Power* (accessed Feb. 9, 2021), <https://bit.ly/2MSxMtA>.

C. Meaningfully Addressing Root Causes of Migration

The Catholic Church affirms that people should have the opportunity to thrive in their home countries. If, however, conditions are life-threatening and the safety and wellbeing of families are put at risk, people have the right to migrate. Currently, this is the case in many countries in Central America, namely El Salvador, Guatemala, and Honduras. Congress should work with the Administration to develop a just and humane regional framework and policy to address the root causes of migration, prioritizing integral human development. Integral human development places the dignity of the human person and the integrity of creation at the center of its decision making, aiming to save lives and alleviate suffering, accelerate the end of poverty, inequality, hunger, and disease, and cultivate just and peaceful societies rooted in basic human rights. Addressing the root causes of migration will build more opportunities for people to live and thrive in their home communities. The Church, through its local communities and international aid organizations, has witnessed firsthand the success of American programs in Central America—reducing poverty and malnutrition, increasing youth employment and literacy, promoting policy changes at a national level, fostering inclusive partnerships with civil society and the private sector in order to improve the lives of poor and vulnerable persons, and supporting innovative agriculture techniques to meet new environmental challenges. But more can, and must, be done.

D. Protecting the Vulnerable

Recent changes to policy and practice have decimated the U.S. asylum system and have crippled the U.S. Refugee Admissions Program, an international model of public-private partnership. Asylum is a crucial tool for ensuring that people fleeing violence and persecution can find safety in the United States, consistent with our values, as well as domestic and international law. The United States can uphold access to asylum in a manner that offers a genuine humanitarian response with due process guarantees, while still respecting American sovereignty, protecting national security, and promoting public safety. Similarly, the United States can return to global leadership in resettling refugees and providing protection to the most vulnerable. We urge robust engagement and the full attention of the federal government to ensure that refugees are able to be resettled at a level reflecting the global need.

E. Recalibrating Immigration Enforcement at the Border and in the Interior

Immigration enforcement, both along the borders and within the interior, has also become more indiscriminate, resulting in expanded detention and the deportation of persons who have significant ties to their communities and pose no threat to them. The average daily population of detained immigrants has steadily increased from about 20,000 in 2000 to over 50,000 in 2020 (prior to the onset of COVID-19).³⁶ Additionally, from 2016 to 2017, there was an increase of 171% in non-criminal immigrants arrested by Immigration and Customs Enforcement (ICE), whereas the number of those with criminal convictions who were taken into custody increased by only 17%.³⁷ Similarly, over 260,000 immigrants were deported from the U.S. in Fiscal Year 2019; less than

³⁶ Katharina Buchholz, *Number of Immigrant Detainees Rises Quickly*, STATISTA (Jan. 3, 2020), <https://bit.ly/3tQehmf>.

³⁷ Tal Kopan, *Arrests of Immigrants, Especially Non-Criminals, Way Up in Trump's First Year*, CNN (Feb. 23, 2018), <https://cnn.it/3a2rzE2>.

half (44%) had any criminal convictions.³⁸ Intertwined with these issues is the recurring theme of family unity and the all-too-common, needless separation of family members, the result of indiscriminate enforcement actions. Enforcement policies must be changed to reflect a more transparent, humane, and proportionate response to unlawful immigration.

F. Preserving the Religious Worker Visa Program

We strongly support legislative action to protect and enhance the religious worker visa program, which allows U.S. religious denominations to fill critical religious worker positions—for which there are no qualified candidates in the U.S.—with qualified religious workers from abroad.

The program provides for two types of visas:

- The Special Immigrant Visa, which allows qualified religious workers to immigrate to the U.S. permanently and later become citizens if they so choose and meet the qualifications; and
- The Nonimmigrant Visa, also known as the R-1 Visa, which allows qualified religious workers to enter temporarily and perform services in the U.S. for a prescribed period.

The denominations and communities they serve will suffer if the religious worker program is not extended. Included among the important tasks performed by religious workers are:

- Providing human services to those most in need, including shelter and nutrition;
- Caring for and ministering to the sick, aged, and dying in hospitals and nursing facilities;
- Working with adolescents and young adults;
- Assisting religious leaders as they lead their congregations and communities in worship;
- Counseling those who have suffered severe trauma and/or hardship;
- Supporting families, particularly when they are in crisis;
- Offering religious instruction, especially to new members of the religious denomination; and
- Helping refugees and immigrants in the United States adjust to a new way of life.

Religious worker visas (both the Special Immigrant Visa and the Nonimmigrant Visa) may be granted to both ministers and non-minister religious workers.

Ministers covered by the program are those who are authorized by a recognized religious denomination to conduct religious worship and perform other duties usually performed by members of the clergy, such as administering the sacraments or their equivalent. The provision of the Immigration and Nationality Act that provides for the admission of ministers to the United States is a permanent part of U.S. immigration law.

Non-minister religious workers are those who are called to a vocation or who are in a traditional religious occupation with a bona fide nonprofit, religious organization in the United States. Examples of those who are called to a vocation include nuns, monks, and religious brothers and sisters. Other examples of those in non-minister religious occupations include missionaries,

³⁸ TRAC Immigration, *Latest Data: Immigration and Customs Enforcement Removals*, <https://bit.ly/2Nce4sE> (accessed Feb. 9, 2021).

counselors, translators, religious instructors, cantors, and other pastoral care providers. Some non-minister religious workers are pursuing studies in a seminary or are otherwise in formation. The provision of law that provides for the admission of non-minister special immigrant religious workers is not a permanent part of U.S. immigration law. Instead, it sunsets from time to time. In recent years, the program has expired at the end of each fiscal year and has had to be renewed in year-end omnibus appropriations bills.

We note that the non-minister provision of law was established on a bipartisan basis by former House Judiciary Committee Chairman Lamar Smith (R-TX) and the late Senator Edward M. Kennedy (D-MA). Legislation to make this a permanent part of law has been introduced on a bipartisan basis in numerous Congresses since the program was established in 1990, with legislation to do having been introduced in the House by Immigration subcommittee Chair Lofgren and former Senators Orrin Hatch (R-UT) and Spencer Abraham (R-MI). We urge the 117th Congress to permanently extend this program, which does so much to help communities around the country.

While it is a permanent part of law, we also urge Congress to make small but important changes to the R-1 Visa to make it more useful to the religious denominations that make use of it and the communities that the resulting essential workers serve. Among the changes we support are several that would bring them in line with other employment-based temporary visas. We will be in touch with the Committee in the coming weeks to discuss those proposed changes.

IV. Recommendations

As Congress contemplates immigration reform, we respectfully offer the following recommendations:

Provide Legalization

- Immediately pursue a broad legalization program for undocumented persons already in the country, with a realizable pathway to citizenship.
- Implement expedited pathways for Dreamers, TPS and DED holders, and farmworkers.
- Ensure people have access to legal status regardless of income level by making any fees for enrollment into status income-specific.
- Expand existing resources to promote naturalization and help pay for the fees associated through use of fee waivers and also create public-private match grant community programs to help fund and defray the cost of naturalization fees.
- Engage legal service providers in robust implementation efforts, as well as public education campaign efforts around how to apply for legalization and the dangers of *notario* fraud.

Prioritize Families and Workers in All Areas of Migration Policy

- Establish legal pathways and waivers that enable families to maintain unity or restore it for those families already torn apart.
- Prioritize status for family members of workers who have died of COVID-19 due to their continual employment and lack of protection during the pandemic.
- Remove the three- and ten-year bars to lawful immigration.

- Explore a return-after-deportation program, to return people to the U.S. who have already been unnecessarily deported and reunite them with their families.
- Utilize legislation to modify the family-based immigration system to clear the current backlogs and ensure timely family reunification.
- In all enforcement efforts, ensure the existence of families and longstanding community members as preeminent mitigating factors in decisions regarding removal and deportation at the border and in the interior.
- Develop DHS guidelines to ensure that families and longstanding community members are not targeted for removal.
- Honor the dignity of the work of essential workers and make sure that they are paid a livable wage, as well as be eligible for other benefits to help protect their health.
- Cease all immigration enforcement efforts centered around essential work industries.
- Implement a robust worker protection plan for all guestworkers to ensure safe working conditions.
- Enact legislation that prevents foreign labor recruitment fraud perpetuated against guestworkers and ensures a mechanism for redress for workers who have been exploited in ways ranging from wage theft to forced labor and labor trafficking.
- Provide a wage that adequately reflects the dangerous and vital nature of work being performed for all essential workers.

Meaningfully Address Root Causes of Migration

- Support consultation with local, national, and international stakeholders, including faith-based organizations, in developing a regional framework and policy to address the root causes of migration.
- Increase international poverty-reducing humanitarian and development assistance to Central America to address the root causes of migration, including appropriations to and allocations from: Development Assistance, poverty-reducing Economic Support Funds, International Disaster Assistance, Migration and Refugee Assistance, and the Green Climate Fund.
- Strengthen local leadership and partnerships by supporting targeted, effective humanitarian and development models and harnessing innovative financing.
- Ensure funding and operation of efforts to combat corruption and impunity.
- Ensure that funding is specifically designated to poor and marginalized communities.

Protect the Vulnerable

- After an 82% reduction in the average annual goal under the prior administration, admit at least 95,000 refugees per year with the goal of 125,000 refugees.
- Improve due process and legal information for those seeking protection through expanded access to *pro bono* legal programs, including those that provide direct representation for asylum seekers, as well as continued support for the Legal Orientation Program (LOR) and the Immigration Court Helpdesk (ICH).
- Ensure trauma-informed care is available to vulnerable populations, such as unaccompanied children and those escaping domestic violence.
- Pursue policy interventions and funded outreach programs within border communities to assist and protect those most often subjected to exploitation and violence.

- Develop temporary and permanent humanitarian legal status for individuals forced to migrate due to climate change.

Recalibrate Immigration Enforcement at the Border and in the Interior

- Reduce the use of immigrant detention and reserve it for those individuals who pose national security or public safety risks.
- In place of detention, use not-for-profit, community-based alternatives to detention.
- Work to expand community-based alternatives to detention to eventually become the primary means of processing migrants as they navigate the legal immigration process and await adjudication of their cases.
- End family detention.
- Ensure that sensitive locations, such as hospitals, schools, places of worship, and courthouses, can never be encroached upon for enforcement actions.

Preserve the Religious Worker Visa Program

- Permanently extend the Special Immigrant Religious Worker Visa.
- Make reforms to the R-1 Visa for temporary nonimmigrant religious workers to make it more beneficial to the communities recipients serve and bring it in line with other employment-based nonimmigrant visas.

V. Conclusion

We appreciate the Subcommittee's interest in immigration reform, and we encourage all members of Congress to work toward humane and just solutions for these vital members of our communities. As always, the Catholic Church stands ready to work with you in achieving these goals and will continue to stand in solidarity with our immigrant brothers and sisters.



February 11, 2021

The Honorable Zoe Lofgren
 Chair, Subcommittee on Immigration and Citizenship
 House Committee on the Judiciary
 2138 Rayburn House Office Building
 Washington, D.C. 20515

Dear Chairwoman Lofgren,

On behalf of the more than 13,000 dairy farm-owners of Dairy Farmers of America (DFA), thank you for your leadership in addressing immigration reform and for holding today's hearing entitled *The U.S. Immigration System: The Need For Bold Reforms*. While we understand today's hearing is not focused on the needs of agriculture, we urge you to continue efforts to improve the agriculture sector's opportunities to secure a stable workforce through a viable agricultural visa program.

DFA, a farmer-owned dairy cooperative, is the nation's largest and most diverse manufacturer of dairy products. With more than 425 facilities around the country, which includes processing plants, laboratories, administrative offices, warehouses and transportation depots, all which support the success of our family farmer-owners across the United States, we take seriously our responsibility to provide safe, high-quality and nutritious milk and other dairy products to consumers. As evidenced during this unprecedented time, nutritious dairy is a staple in American's diets and has been relied upon as part of the U.S. Department of Agriculture's feeding and nutrition programs. Additionally, milk is one of the top products requested by food banks, which have been overwhelmed with increased demand as a result of the pandemic.

Despite the importance of dairy in the diet of American's and the acknowledgement that the farming community is essential to the critical infrastructure of the nation, our farmer-owners remain challenged daily by the lack of an available workforce.

Under your leadership last year, the Farm Workforce Modernization Act passed the House of Representatives with strong bipartisan support. This bill was a critical first step in providing agriculture some relief by developing a workable visa program to address those with year-round labor needs. We urge the reintroduction of this measure so that family farms around the country can have surety and access to the labor force they need.

Dairy farmers and their employees are proud to produce nature's most perfect food. It is critical that Congress address this issue this year.

Thank you again for your leadership. We look forward to working with you on this issue and others that impact the success of our nation's dairy farmers.

Sincerely,

Jacqueline Klippenstein
 Senior Vice President, Government, Industry and Community Affairs

1405 N. 98th St. • Kansas City, KS 66111
 P +1 816-801-6455

DFAMILK.com f t @ in



AFL-CIO

STATEMENT FOR THE RECORD

House Judiciary Subcommittee on Immigration and Citizenship
HEARING: The U.S. IMMIGRATION SYSTEM: THE NEED FOR BOLD REFORMS
Thursday, February 11, 2021

The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) is a federation of 56 unions that represents 12.5 million working men and women, including those who have been laboring on the front lines throughout the pandemic. We strive to ensure that every person who works in this country receives decent pay and benefits, safe working conditions, fair treatment, and full due process. Our members work in every state in the union and every sector of the economy, and come from every region of the world. We represent working people with every type of immigration status, including undocumented workers, guestworkers, asylum seekers, refugees, legal permanent residents and citizens. It is their needs and realities that inform our statement for this hearing.

The COVID-19 pandemic has shone a light on structural failings that the labor movement has long fought to address. Too many people are forced to work outside of the formal economy, denied the right to join a union, and misclassified, with no access to health care coverage and the social safety net. The pandemic also has revealed the systemic undervaluing of work now understood to be essential for our survival. Much of this frontline work is performed by people of color who confront issues of structural racism, and many of whom also face threats from our inhumane immigration system. Now is the time to address these core failures.

We have a long way to go to achieve fairness in our immigration, economic, and justice systems, and the current crises have created both an opportunity and a mandate to make important strides forward. As a core part of our Workers First Agenda, America's unions renew our call to make the global economy work for working people and build a more just immigration system. The AFL-CIO urges Congress to enact a broad path to citizenship for all of the millions of people whose labor helps our country to prosper and to reject efforts to exclude, criminalize and disempower our nation's workers. We have put forward concrete proposals to keep all workers safe amidst the pandemic and reform systems that, for too long, have allowed a subclass of exploitable workers.

Now is the time to rebuild the safety net and ladders of opportunity for everyone who lives and works here, and that cannot be done without reforming our immigration system. In order to spur a just recovery, Congress must act swiftly to enact a pathway to citizenship, including the Dream and Promise Act, and long-overdue reforms to our work visa programs. Advancing an inclusive, practical and swift adjustment of status program will help raise labor standards for all workers

American Federation of Labor and Congress of Industrial Organizations

815 16th St., N.W. • Washington, D.C. 20006 • 202-637-5000 • www.aflcio.org

RICHARD L. TRUMKA
PRESIDENT

ELIZABETH H. SHULER
SECRETARY-TREASURER

TEFERE GEBRE
EXECUTIVE VICE PRESIDENT

and spur economic recovery. It will also help correct the unjust treatment of frontline workers and close racial wage gaps. The pathway created must be broad, affordable and accessible, and reject decades of criminalization of our immigrant workforce.

House passage of the Dream and Promise Act was a milestone for our country that showed that we can expand rights and protections for millions of people without tradeoffs that escalate fear or treat workers as disposable commodities. Recipients of TPS (Temporary Protected Status,) DACA (Deferred Action for Childhood Arrivals) and DED (Deferred Enforced Departure) help to build, feed, serve, educate, and care for our nation, and putting them on a well-earned path to citizenship will benefit our entire workforce. We urge you to expedite passage of the Dream and Promise Act in the coming weeks to reinforce that important victory and catalyze broader gains.

We also look forward to the introduction of the American Citizenship Act of 2021, which offers an important new framework for more sweeping immigration reforms that rightly have citizenship at their center. The bill promises to keep families together, enhance workplace rights, provide safe harbor to refugees and asylum seekers, and keep our doors open to working people from all over the world.

While we push to enact such crucial reforms, America's unions remind lawmakers that significant work is also needed to make our labor laws and our labor migration pathways more just. This is why we are calling for immediate passage of the Protecting the Right to Organize (PRO) Act, and renewing our call to reform, rather than expand, our exploitative work visa programs in order to ensure full rights and protections for everyone.

Both our labor laws and our immigration system should continue to serve the real needs of people, rather than the purported needs of employers. Our overall green card allocation should continue to emphasize family and humanitarian pathways and our approach to employment-based entry should be data-driven and rights-based. The availability of work visas should be tied to actual shortages in the U.S. labor market, as determined by independent experts, not industry lobbyists. Were such a system in place, we would see a natural correction of the number of work visas issued in times of severe labor market disruption such as we are now experiencing.

To end the abuses that plague our work visa programs, we need to correct the power imbalance that gives employers all the control and leaves workers susceptible to exploitation. We can and must advance a new framework for labor migration. The Seasonal Worker Solidarity Act introduced by Representative Castro outlines a bold new approach that ends captive employment, respects family unity, lifts labor standards and affords migrant workers a path to citizenship. This bill rejects entrenched patterns of discrimination by reining in corporate power and promoting opportunity and equal rights for all workers in affected industries. Unions will push to enact such reforms across all work visa categories, as well as to regulate foreign labor recruiters and hold employers responsible for the rampant abuses workers experience in the recruitment process.

American Federation of Labor and Congress of Industrial Organizations

815 16th St., N.W. • Washington, D.C. 20006 • 202-637-5000 • www.aflcio.org

RICHARD L. TRUMKA
PRESIDENT

ELIZABETH H. SHULER
SECRETARY-TREASURER

TEFERE GEBRE
EXECUTIVE VICE PRESIDENT

Given the long history of challenges in passing meaningful immigration bills through Congress, we urge Members to utilize any and all strategies possible to get overdue reforms across the finish line. We also urge you to join our calls for the Biden Administration to take immediate and assertive steps to ease the suffering in our workplaces and communities while legislation moves forward.

America's unions oppose enforcement-only policies that criminalize our immigrant communities, encourage racial or ethnic profiling, and erode due process protections. Instead, we call for rational and humane border policies, clear separation of immigration enforcement from local law enforcement, and concrete measures to prevent retaliation against workers based on their immigration status.

The right way to use immigration policy to boost wages is by expanding rights and ensuring that all working people—regardless of immigration status—have access to the full protection of labor and employment laws. Immigration enforcement must complement, rather than conflict with, a strong, well-resourced and effective system of labor standards enforcement. Our policies must remove barriers to freedom of association and prevent the threat of deportation from being used as a weapon to keep working people from asserting their rights on the job or demanding safe and just treatment. As corporations continue to push for immunity from obligations to protect their workforce and customers, the corrective power of collective worker action to check corporate greed takes on elevated societal significance. Creating a process to extend deferred action protections to brave workers who take a stand to demand workplace safety, fairness and justice will help protect us all.

The pandemic makes clear just how interconnected we are as it threatens everyone in our country and around the globe. Working people are all in this together, and we need our government's response to reflect that reality. We renew our call for an inclusive response to this health, economic and racial justice crisis that puts workers first. Enacting a broad and inclusive pathway to citizenship is necessary to remediate long standing injustice and exploitation, and will also reap broad benefits for our economy and our democracy. We cannot have a just recovery while we maintain a workforce with tiered rights, so we urge Congress to take swift and decisive action to extend permanent protections to all working families.

A more just immigration system is possible, and our policy framework will help create better jobs, build a stronger economic future, and support the basic rights and dignity of all working people. We look forward to working with you to advance this bold reform agenda.

American Federation of Labor and Congress of Industrial Organizations

815 16th St., N.W. • Washington, D.C. 20006 • 202-637-5000 • www.aflcio.org

RICHARD L. TRUMKA
PRESIDENT

ELIZABETH H. SHULER
SECRETARY-TREASURER

TEFERE GEBRE
EXECUTIVE VICE PRESIDENT



Robyn Boerstling

*Vice President
Infrastructure, Innovation and Human Resources Policy*

February 11, 2021

The Honorable Zoe Lofgren
Chair
Subcommittee on Immigration and Citizenship
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

The Honorable Tim McClintock
Ranking Member
Subcommittee on Immigration and Citizenship
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chair Lofgren and Ranking Member Buck:

The National Association of Manufacturers appreciates this subcommittee's focus on the critical need for Congress to advance immigration reform with today's hearing on "The U.S. Immigration System: The Need for Bold Reforms." The urgency of fixing our broken immigration system has been made painfully clear in recent years. This hearing is an important step to advance much-needed, long-term solutions for replacing our current system with one that improves national security, boosts our economy and reflects America's values.

As the voice of the manufacturing community, the NAM is the leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States. For decades, we have worked with policymakers from across the ideological spectrum to craft policies that encourage the growth of manufacturing in the United States. Now more than ever, America needs leaders in Washington who are focused on increasing American jobs, wages and investment.

Manufacturers believe that now is the time for Congress to act to overhaul our broken immigration system. Congress should pursue solutions that bolster our national security, demonstrate compassion and establish an immigration system that reflects today's workforce economic realities. The NAM has proposed "[A Way Forward](#)," a post-partisan and practical roadmap to address the challenges created by our current system and to fix those issues once and for all.

The NAM's "A Way Forward" proposal identifies seven core areas of action for Congress and the administration to take:

- Build walls, fences and barriers and employ other measures to strengthen border security;
- Prioritize America's workforce needs through reforms to the legal immigration system;
- Reform nonimmigrant visas and temporary worker programs to reflect employer needs, including a fund to support STEM programs so that we can reduce the need for these types of visas in the future;
- Provide a permanent and compassionate solution for populations facing uncertainty, including the Dreamers, who were brought here as children and know no other home;

Leading Innovation. Creating Opportunity. Pursuing Progress.

733 10th Street, NW • Suite 700 • Washington, DC 20001 • P 202.637.3178 • F 202.637.3182 • www.nam.org

- Reform asylum and refugee programs for a more orderly and humane system, including asylum standards consistent with our values;
- Fix the problem of the unauthorized population with a firm reset, requiring an orderly process of review, including financial penalties for those who seek to become legal and deportation for those who choose to stay in the shadows;
- Strengthen the rule of law so that it is respected and followed by all, with a focus on gang violence and also on requiring localities to cooperate to advance the enforcement of immigration priorities;

A complete copy of the plan is included as an attachment. Manufacturers believe the path we have laid out can bring the country together, and we look forward to working with you and appreciate your consideration of this important issue.

Sincerely,



cc: The Honorable Jerry Nadler; The Honorable Jim Jordan



PO BOX 41990
 ARLINGTON, VA 22204 USA
 P: +1 703 842 3400 | F: +1 703 436 9630
 worldwideerc.org
 AMERICAS | EMEA | APAC

February 11, 2021

The Honorable Zoe Lofgren
 Chairwoman
 Immigration and Citizenship Subcommittee
 House Judiciary Committee
 2138 Rayburn House Office Building
 Washington, DC 20515

The Honorable Tom McClintock
 Ranking Member
 Immigration and Citizenship Subcommittee
 House Judiciary Committee
 2138 Rayburn House Office Building
 Washington, DC 20515

Dear Chairwoman Lofgren and Ranking Member McClintock:

I respectfully submit on behalf of the over 5400 workforce mobility and relocation professionals Worldwide ERC® represents these comments in support of your and the subcommittee's efforts to boldly reform the U.S. immigration system. Immigration reform plays a key role in broader economic recovery efforts and will help employers and workers thrive during and after a post-pandemic recovery. We appreciate your attention to this urgent issue.

Worldwide ERC® represents the people and businesses that facilitate the relocation and movement of talent. We are where work is going. Approximately 80 percent of our members are small- to medium-size businesses. It has been our members' jobs to ensure that all laws are complied with while safely moving and relocating essential workers and their families during this pandemic.

Immigration policies have always played a critical role in workforce mobility. To fill critical skills gaps and build the strongest U.S. workforce that will drive the most economic growth and job creation, employers may need to relocate or transfer foreign-born workers who complement their American workforce. Research overwhelmingly shows that foreign-born talent makes significant contributions to U.S. economic growth and job creation. Nearly 8 in 10 Americans said immigrants are good for the country – the highest level of support since asking the question more than 50 years ago.¹ U.S. immigration policy must support economic growth and individual prosperity as we recover from the pandemic.

The United States needs an immigration system that recognizes the value of immigrants and nonimmigrants and is built for the modern world. Immigration policies should balance the needs of national security and U.S. economic growth; treat people fairly; support productivity; protect workers; encourage innovation; and be predictable and reliable to prevent abuse of the system. Broader reforms to create an immigration system that will help America and Americans during and beyond the pandemic must, at minimum, include:

- **A Modern Immigrant and Non-immigrant Employment-Based System.** Employers and workers need a predictable and reliable system that provides the green cards and L, H-1B and other nonimmigrant visas needed to recruit, deploy, transfer and retain top world talent.
- **An Increase in Certainty that Saves Resources with Trusted Employer.** A Trusted Employer program would help eliminate any abuses by recognizing employers who are known to the government, saving precious resources. This program would also help increase business certainty in workforce planning and mobility.

¹ "Americans Want More, Not Less, Immigration for First Time," *Gallup*, July 2020; "The Average American Weighs in on Immigration," *Gallup*, February 2021.

We look forward to being a resource to you, the subcommittee and Congress as you work to draft and pass immigration reform this Congress.

Should you have any questions regarding our requests, please do not hesitate to have your staff reach out to Rebecca Peters, Worldwide ERC® Vice President of Member Engagement and Public Policy. Rebecca can be reached by email at rpeters@worldwideerc.org or phone at 703-842-3400.

Sincerely,



Lynn Shotwell, GMS, SHRM-SCP
President and CEO
Worldwide ERC®

Worldwide ERC® is the professional association for employee mobility professionals. Since 1964, Worldwide ERC® has been committed to connecting and educating workforce mobility professionals across the globe. A global not-for-profit organization, we are headquartered in Washington, D.C., with offices in London and Shanghai, and are the source of global mobility knowledge and innovation in talent management from Europe, the Middle East and Africa, to Asia and across the Americas.

WORLDWIDE ERC®
4401 WILSON BOULEVARD, SUITE 510
ARLINGTON, VA 22203 USA
P: +1 703 842 3400 • F: +1 703 527 1552
worldwideerc.org

2

AMERICAS | EMEA | APAC

TechNet Statement for the Record

Dear Stacey:

I am writing to applaud tomorrow's Subcommittee on Immigration and Citizenship hearing, *The U.S. Immigration System: The Need for Bold Reforms*. TechNet strongly supports the passage of comprehensive immigration reform this year.

Throughout America's history, immigrants have been a source of strength for our country and helped drive the economic growth that has made us the most prosperous and innovative country on the planet. TechNet believes that immigrant innovators, entrepreneurs, and workers are a valued part of our economy and workforce who make important contributions to our nation and communities every day. For example, [immigrant entrepreneurs have started more than half \(44 of 87\) of America's startup companies valued at \\$1 billion or more](#).

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. Our diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over three million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance.

TechNet is proud to continue our longstanding advocacy of comprehensive immigration reform and sincerely appreciates the Subcommittee on Immigration and Citizenship for taking a bold first step in holding this hearing and making this a top priority so early in the 117th Congress. TechNet stands ready to partner with the Biden Administration and members of Congress to restore dignity and decency to our nation's immigration system and to attract the best talent in the world to help us rebuild America's economy. You can view our federal policy principles on immigration [here](#).

Federal inaction on immigration reform has harmed the American economy by stifling innovation and stunting job growth. In January, TechNet joined with 180 business, civic, law enforcement, faith, and education leaders in calling on the Biden Administration and Congress to pass immigration reform in an advertisement that appeared in the Washington, D.C. edition of *The New York Times*. The statement can be viewed [here](#).

We look forward to working with you on this and other critical issues facing our nation. Please don't hesitate to reach out if we can be a resource or if you have any questions.

Sincerely,

Peter

Peter Chandler
Vice President, Federal Policy and Government Relations
TechNet | The Voice of the Innovation Economy



**Statement for the Record of
Community Change Action and the Fair Immigration Reform Movement (FIRM) Action
Submitted to House Committee on the Judiciary, Subcommittee on Immigration and
Citizenship
For the Hearing: "The US Immigration System: The Need for Bold Reforms"
on Thursday, February 11, 2021, 2:15 p.m.**

Community Change Action and the Fair Immigration Reform Movement (FIRM) Action write in unqualified support for bold reforms to the United States immigration system as it currently stands. We are eager to work with Congress towards a fair and equitable roadmap to citizenship for all, using our vision, the Roadmap to Freedom, as a guide.

Community Change Action is a national organization whose mission is to build the power and capacity of low-income people, especially low-income people of color, to change their communities and public policies for the better. FIRM Action, a project of Community Change Action, with our sister organization, FIRM, is a network of 27 sister c4 organizations and 37 c3 organizations and four organizing networks across 30 states.

The Roadmap to Unity and Freedom is our progressive vision for immigration in America that took the FIRM Network years to create, and serves as a basis for the Roadmap to Freedom Resolution ([H. Res. 64](#)) introduced this Congress by Representatives Pramila Jayapal, Judy Chu, Yvette Clarke, Chuy Garcia, and Alexandria Ocasio-Cortez. The Roadmap is rooted in the voices of dozens of member organizations who represent hundreds of thousands of immigrant families across the country, and as a visionary policy platform it embodies affirmative values and principles by which we would measure any immigration proposal in the 117th Congress.

The Roadmap to Freedom is our North Star:

- Promoting full citizenship that is equitable and accessible and centering family unity so that barriers to reunifying families are eliminated, family-based immigration is strengthened, and deported individuals can return home to their families and communities in the U.S.;
- Articulating the key ways in which the immigration system must be reformed, especially the entanglement of the criminal and deportation systems, guaranteed access to legal defense, and ending detention in its many forms; and
- Ensuring immigrants having access to health care, housing, workforce development training--as we have all known but the pandemic has laid bare--immigrants lead full, integrated lives and that should be reflected in all policy, not just immigration.

As we approach nearly one year of enduring these health and economic crises, immigrants, Latinx, Black, Native and AAPI people have been disproportionately impacted by the pandemic while working the essential jobs to keep our country running. Almost 3 out of every 4 undocumented immigrants are performing essential work from caring for elderly Americans and children to putting food on our tables. Because of their status, these essential

workers have been left out of COVID response efforts, and many lacking access to critical health care. For a robust economic and public health recovery, we must embrace these workers and their families. As this committee considers bold reforms to the immigration system, Congress must center those directly impacted in all of the solutions it champions, from economic relief and recovery, to legalization, to government funding.

In our campaigns, both “Freedom Together: Citizenship, Relief, and Recovery” and “We Are Home,” we believe that “We the People” should apply to all people. Specifically, we seek to create a roadmap to citizenship, to overhaul interior enforcement that has broken families apart, and to generate broad affirmative relief for immigrants. We are not alone in this demand for action--according to a recent [PRRI poll](#), 80% of Americans back permanent legal status for undocumented immigrants, including a 64% majority that support citizenship.

After the devastation that the previous administration wrought on immigrant families and the very fairness of our immigration system, there is much work to be done. Our nation has wept as we witnessed countless families separated from their loved ones during migration processes while given few options for reuniting. The aggressive reliance on detention in the U.S. has caused detrimental harm to the integrity of our immigration system; it is essential to reevaluate as well as drastically mitigate the role of immigration detention in the U.S. Not to mention our asylum and refugee systems have been virtually extinguished by the previous Administration. And for immigrants who have been granted temporary protection from deportation through initiatives like Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status (TPS), Trump took steps to eliminate DACA and ended TPS for the vast majority of its beneficiaries, demonstrating the precarious nature of these programs.

We applaud President Biden's prioritization of immigration policy during his first month in office, such as his Day 1 proposal to overhaul immigration policies including granting a pathway to citizenship for the approximately 11 million undocumented immigrants who call this country home. They are our neighbors, friends, coworkers; they pray next to us and shop in the same stores. Additionally, we support the President's decisions to reverse the Muslim ban, preserve DACA, halt construction of the border wall, and put a moratorium on deportations. We look forward to the Administration eliminating the backlogs in immigration processing that separate families and hurt our economy. However, there is still a long way to go, and there is much that can only be done through Congressional action. It is our hope that this Committee will focus on updating and improving the immigration code in the myriad of ways that call out for attention, including:

- Increasing the caps on immigration that the US has imposed and promoting and preserving diversity by increasing diversity visas.
- Reclassifying lawful permanent residents as immediate relatives and protecting the families of H-4 visa holders from losing work authorization.
- Extending equality for same-sex partners in immigration law and providing relief for orphans, widows, and stepchildren.
- Eliminating the 3-year, 10-year, and permanent bars on re-entry to the country and providing family unity waivers of inadmissibility and deportability ground.

Furthermore, we are calling on the House to lay the tracks for broad legalization by immediately passing an improved American Dream and Promise Act and the Farm Worker Modernization Act – both of which passed the House in the last Congress – before April 1st of this year to ensure swift consideration and passage by the Senate. We also ask Congress to include a pathway to citizenship for the five million essential workers who have risked their lives to provide essential services through the pandemic, as well as their families, in the upcoming economic recovery, jobs and infrastructure package.

We have ambitious visions for our future. We must both stand for the most inclusive vision of America and build bridges for immediate action. We reject vociferously the notion that there is some cap on the amount of progress we can make. Every day of inaction, there are beloved and integral people to our communities who cannot see their children get married, who cannot say goodbye to aging or ill parents, and who cannot even hug their life partner. This family separation has now gone on for decades due to the outdated approach to handling immigration. Now is the time for the Roadmap to Freedom and to boldly transform the immigration system.

Thank you for the opportunity to submit this statement for the record.

**QUESTIONS AND RESPONSES FOR THE
RECORD**

The U.S. Immigration System: The Need for Bold Reforms Questions for the Record

From Chairman NadlerMarielena Hincapié, Executive Director, National Immigration Law Center

1. Ms. Hincapié, last congress, the House of Representatives passed the NO BAN Act, which would have repealed the executive orders that became known as the Muslim Ban and amended the section of the Immigration and Nationality Act that former President Trump relied on to institute the ban. On his first day in office, President Biden repealed those executive orders. Do you believe that it is still important for Congress to pass the NO BAN Act and, if so, why?
2. Ms. Hincapié, the hasty implementation of President Trump's Muslim Ban resulted in chaos at airports across the country. Hundreds of individuals were detained by Customs and Border Protection, unable to communicate with the outside world including family members or attorneys who might have otherwise been able to assist in resolving any issues with their ability to enter the United States. In January 2020, reports emerged that CBP detained more than 60 Iranian American citizens and green card holders at a border crossing in Blaine, Washington after a U.S. drone strike killed Iranian General Soleimani. Those reports indicated that these individuals were also prevented from contacting anyone to receive outside assistance. Last congress, the House passed the Access to Counsel Act, which would ensure that individuals held in CBP custody for prolonged periods of time have the ability to communicate with an attorney or other interested party. Can you elaborate on why this piece of legislation is so important?

The U.S. Immigration System: The Need for Bold Reforms Questions for the Record

From Chairman Nadler

Marielena Hincapié, Executive Director, National Immigration Law Center

1. Ms. Hincapié, last congress, the House of Representatives passed the NO BAN Act, which would have repealed the executive orders that became known as the Muslim Ban and amended the section of the Immigration and Nationality Act that former President Trump relied on to institute the ban. On his first day in office, President Biden repealed those executive orders. Do you believe that it is still important for Congress to pass the NO BAN Act and, if so, why?

While we remain grateful that President Biden fulfilled his campaign promise to repeal the Muslim and African Bans on day one of his administration, it is still crucial for Congress to act to ensure no future discriminatory bans are issued under a future administration. Specifically, the NO BAN Act would:

- a) ***Change immigration law to prohibit discrimination based on religion.*** By broadening the Immigration and Nationality Act's (INA's) nondiscrimination clause to specifically prohibit religion-based discrimination against any immigrant or nonimmigrant visa applicant, the bill would help ensure that future presidents would not be allowed to issue orders based so clearly on anti-Muslim or anti-African bias or any other religion-based animus and that every visa applicant would receive individual consideration.
- b) ***Limit executive authority to prevent any president from issuing future bans like the Muslim ban.*** The bill would change the dangerously overbroad INA standard for allowing a president to ban people from entering the U.S. and impose stricter requirements before any future ban could be issued, as well as reporting requirements to Congress to create an oversight mechanism once any future ban is in place. Instead of relying on the current vague standard, any future ban would have to be, among other things, temporary, based on credible facts, and connected to specific acts that have already taken place. It would also have to meet a compelling government interest and use the least restrictive means possible to do so. The NO BAN Act would also ensure that, if a ban is imposed, Congress can hold the executive branch accountable by receiving regular briefings on the status, harm, and other impacts of a ban.

2. Ms. Hincapié, the hasty implementation of President Trump's Muslim Ban resulted in chaos at airports across the country. Hundreds of individuals were detained by Customs and Border Protection, unable to communicate with the outside world including family members or attorneys who might have otherwise been able to assist in resolving any issues with their ability to enter the United States. In January 2020, reports emerged that CBP detained more than 60 Iranian American citizens and green card holders at a border crossing in Blaine, Washington after a U.S. drone strike killed Iranian General Soleimani. Those reports indicated that these individuals were also prevented from contacting anyone to receive outside assistance. Last congress, the House passed the Access to Counsel Act, which would ensure that individuals held in CBP custody for prolonged periods of time have the ability to communicate with an attorney or other interested party. Can you elaborate on why this piece of legislation is so important?

The Access to Counsel Act would ensure that people arriving at our borders are treated with dignity and respect and that those with lawful status are able to call an attorney, relative, or other interested party to seek assistance when they are subject to prolonged detention of over an hour at any port of entry – both at our southern and northern borders and in airports. It would also allow for counsel or an interested party to have the ability to advocate on behalf of a detained individual by providing information or documents they might need and consult with them. The bill would also invalidate any effort by Customs and Border Protection to persuade someone to relinquish their legal status if that person has been denied access to counsel or voluntarily waives, in writing, the opportunity to seek advice from counsel. This bill would take important steps to ensuring greater protections for those arriving at our ports of entry.

