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PAST, PRESENT AND FUTURE: A HISTORIC AND PERSONAL REFLECTION ON AMERICAN IMMIGRATION

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

MARCH 30, 2007

Serial No. 110–15

Printed for the use of the Committee on the Judiciary

Available via the World Wide Web: http://judiciary.house.gov

U.S. GOVERNMENT PRINTING OFFICE

34–418 PDF WASHINGTON : 2007

For sale by the Superintendent of Documents, U.S. Government Printing Office
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PAST, PRESENT AND FUTURE: A HISTORIC AND PERSONAL REFLECTION ON AMERICAN IMMIGRATION

FRIDAY, MARCH 30, 2007

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP,
REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 11 a.m., in the Ellis Island Immigration Museum, Statute of Liberty and Ellis Island National Monuments, Ellis Island, New York, the Honorable Zoe Lofgren (Chairwoman of the Subcommittee) presiding.

Present: Representatives Lofgren, Gutierrez, Jackson Lee, Sánchez, and King.

Staff Present: Ur Mendoza Jaddou, Chief Counsel; Andrea Loving, Minority Counsel; Benjamin Staub, Professional Staff Member.

Ms. LOFGREN. The hearing of the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law will come to order.

Before we begin, I would like to extend our appreciation and gratitude to Ms. Cynthia Garrett, the Superintendent of Ellis Island, for allowing us to use this wonderful and especially meaningful place for our first hearing on comprehensive immigration reform. Ms. Garrett would like to say a few words before we commence with the hearing.

Ms. GARRETT. Thank you, Members of Congress and honored guests. Good morning and welcome to the Statute of Liberty National Monument and Ellis Island. On behalf of the National Park Service, thank you for bringing your Subcommittee's hearing to this historic venue. What better place to reflect on American immigration. Between 1892, when the Ellis Island Immigration Station opened its doors and 1954 when it was closed, over 12 million people started their new lives on this small island in New York Harbor. Twelve million people, that's a number to reflect on.

During its peak years of operation, over 70 percent of immigrants to this country were processed here. If you haven't already done so, look at the magnificent space around us. The Great Hall, as this room is called for somewhat obvious reasons, is where the immigrants were registered and processed. One of the remarkable things you will find at this national park is that the sense of history here is very real.

Imagine how an immigrant might have felt sitting on these benches, anxious to begin a whole new life, speaking very little English, waiting to be processed, quite possibly with all their worldly possessions in a sack at their feet. Imagine the sounds echoing through the Great Hall. Hundreds of voices in dozens of languages. And think about what brought people here, the conditions they were leaving, and their dreams for the future.

As the preeminent symbol of the story of immigration, Ellis Island plays a pivotal role in our culture. It brings a very human face to our history. The Immigration Station's main building was restored and reopened to the public as a museum in 1990. Since that time, we've had over 25 million visitors. The National Park Service uses the power of this very special place to engage people in dialogue about the story of immigration and the cultural richness of the United States, about the continuing debates on immigration policy, and on the contribution of immigrants to our society.

After the hearing, I invite you to explore this wonderful museum to feel the exhilaration, the fear, and the hope of the men, women, and children who landed here unsure of what turns life might take. Listen carefully, you can still hear their voices.

Thank you.

Ms. LOFGREN. Thank you very, very much. And I am honored to call to order the Subcommittee for our very first hearing on the role of immigration in American society. Since this is a congressional hearing, we would ask that people take a moment and turn off your cell phones or turn it on vibrate so that we don't have that interruption.

Through this hall and through those doors, our Government admitted millions of brave, energetic people to our great Nation. After leaving this island, those many optimistic millions joined our communities and participated in the great kaleidoscope of life in America. In this Great Hall, capable officers inspected those who passed through here. They controlled the flow and they made the process orderly. This room is a visible vestige of a controlled, orderly and fair immigration system; in this room today, sit many, many people, each of whom is a testament to those times.

As I look around this hall, and as I consider my own family's history, I see the magnificence of America. I see the picture of America, a place where there is a constant reinvigoration of the American character, a place where the values of hard work, optimism, bravery, resilience, and risk-taking, have forged an exceptional Nation. Immigrants have always been part of that process of reinvigoration.

I was fortunate to have known and loved one of those immigrants, my grandfather. Carl Robert Lofgren was a man of unbounded enthusiasm. Nearly 100 years ago, when he was 16 years old, he boarded a ship in Sweden. He spoke not a word of English and he didn't have any money, but what he did have was fearless optimism. Before he died, he told me that when he boarded the ship, he believed that when he got to America he would make so much money that he would be able to buy a large ranch and become the cowboy he wanted to be. But when his ship landed in Boston, he stepped off the boat, a legal immigrant. Armed only with his dreams, his work ethic, his optimism, and visions of Amer-

ica forged from reading Westerns written in Swedish, he made his way by train to Oakland, California. The starting was hard, the trip long and demanding. His entry, like that of millions of others, was simple, orderly, and legal. And as you might guess, my grandfather did not find the streets of Oakland paved with gold.

Undaunted, he rolled with the punches. He met his wife, my grandmother. He started a family. He worked hard. Out of curiosity, I went to *ellisisland.org* and typed in my last name. And just over a 30-year period, starting in 1892, there were 120 Lofgrens who did come through these gates, and that was just the Lofgrens whose first names began with A. That shouldn't be too much of a surprise, for most immigrants at that time, this small island in New York Harbor, in the shadow of Lady Liberty, was their first stop on a long and determined journey to the land of opportunity. And today, 40 percent of Americans can trace their roots to an ancestor who was among those who landed here.

Each of us here has our own family's immigration story. I've told you mine.

Today, we're in a grand debate about the role of immigration in American society, but most of us agree that the immigration that is symbolized by Ellis Island is a process that worked. There were challenges to be sure, but by and large, it was a process that worked. And that's what we need now, and that's why we're here. It's not because people around the world still yearn for the hope that has always defined America, it's because America needs them in a continual process of renewal.

We are a Nation of immigrants. It is these very people and those who came before them who gave life to our Nation's enduring promise. That's our history. That's our present. And it will be our future. But by no means is it a given. Not if we ignore what are legitimate and sincere concerns. From 1892 to 1954, more than 12 million immigrants entered the United States through Ellis Island. Today, we have close to the same number of illegal immigrants already in the country. If they come forward, work hard, accept responsibility, and the judgment of the Nation for breaking the law, will we provide them—not with a free ride—but with a fair and well thought out way to contribute to our country legally? Will we do the same for those who enter our country legally and decide they want to stay and keep contributing? Will we enforce the law and will we secure our borders, making sure that they are not negligently porous, but necessarily protected? Will we always remain mindful and sympathetic to the hardworking Americans who have a real fear of losing their jobs to those who are willing to work for less?

Will we hold accountable employers who remain willing to hire undocumented workers to the detriment of American workers and will we demand that those working here assimilate and contribute?

We can and we must reform our immigration system in a comprehensive way, to promote a safer, more secure, prosperous America. We can and must leave here dedicating ourselves to building a rational, reasonable, workable immigration system. A comprehensive system. A system that allows us to control our borders, to protect our citizens, and a system that allows America's economy to continue to expand while making certain that our workers get what

at the very least they deserve so very much, a fair shake. A process that works, that's our responsibility.

[The prepared statement of Ms. Lofgren follows:]

PREPARED STATEMENT OF THE HONORABLE ZOE LOFGREN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND CHAIRWOMAN, SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW

U.S. House of Representatives

Committee on the Judiciary

Washington, DC 20515–6216

One Hundred Tenth Congress

U.S. House of Representatives
Judiciary Subcommittee on Immigration, Citizenship, Refugees,
Border Security, and International Law
Hearing: "*Past, Present, and Future: A Historic and Personal Reflection on American Immigration*"
Ellis Island
March 30, 2007

Statement of Rep. Zoe Lofgren, Subcommittee Chair

I am honored to call to order the subcommittee for our first hearing on the role of immigration in American society.

Through this Hall, through those doors, our government admitted millions of brave, energetic people to our great nation. After leaving this Island, those many, optimistic millions joined our communities and participated in the great kaleidoscope of life in America.

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This room is a visible vestige of a controlled, orderly, and fair immigration system.

In this room today sit many, many people, each of whom is a testament to those times. As I look around this Hall, as I consider my own family's history, I see the magnificence of America. I see the picture of America.

A place where there is a constant reinvigoration of the American character. A place where the values of hard work, optimism, bravery, resilience and risk-taking have forged an exceptional nation. Immigrants have always been a part of that process of reinvigoration.

I was fortunate to have known and loved one of those immigrants. My grandfather, Carl Robert Lofgren, was a man of unbounded enthusiasm. Nearly one hundred years ago, when he was 16 years old, he boarded a ship in Sweden. He spoke not a word of English. He didn't have money.

What he did have was a fearless optimism.

Before he died, he told me that when he boarded that ship he believed that when he got to America he would make so much money that he would be able buy a large ranch…in Australia, of all places.

When his ship landed in Boston, he stepped off the boat a legal immigrant.

Armed only with his dreams, his work ethic, his optimism, and visions of America forged from reading Westerns written in Swedish, he made his way by train to Oakland, California. The starting was hard, the trip long and demanding. His entry — like that of millions of others — was simple, orderly and legal.

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In just over a thirty year period starting in 1892, there were 120 "Lofgrens" who did come through these gates. And that's just the "Lofgrens" whose first names started with the letter "A."

That shouldn't be too much of a surprise. For most immigrants at that time, this small island in New York Harbor — in the shadow of Lady Liberty — was their first stop on a long and determined journey to the land of opportunity.

Today, forty percent of Americans can trace their roots to an ancestor who was among those who landed here. Each of us here has our own family's immigration story. I have told you mine.

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There were challenges to be sure. But, by and large, it was a process that worked.

And that's what we need now. That's why we're here.

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But by no means is it a given. Not if we ignore what are legitimate and sincere concerns.

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Will we hold accountable the employers who remain willing to hire undocumented workers at the detriment of American workers?

And will we demand that those working here assimilate and contribute?

We can and must reform our immigration system in a comprehensive way – to promote a safer, more secure and prosperous America.

We can and must leave here dedicating ourselves to building a rational, reasonable and workable immigration system.

A comprehensive system.

A system that allows us to control our borders.

A system that protects our citizens.

And a system that allows America's economy to continue to expand while making certain that our workers get what at the very least they deserve so very much — a fair shake.

A process that works. That is our responsibility.

##

Ms. LOFGREN. I now would like to recognize our distinguished Ranking Member of this Subcommittee, and that is Mr. Steve King of Iowa, for his opening statement.

Mr. King.

Mr. KING. Thank you, Madam Chair. I can't thank you enough for holding this hearing here at Ellis Island. As I've mentioned at the conclusion of our tour, I can't imagine learning enough from the witnesses here today to eclipse what I've learned in this tour, but it will be a very complimentary educational process for this panel and hopefully for the people that are here.

This island is a place of significant historical value and not only for America, but for my family in particular. My grandmother, Frieda Katrina Johanna Harm entered the United States through here at Ellis Island March 26, 1894. She was 4 years old. She and her family emigrated from the port town of Kiel is part of Schleswig-Holstein in Germany on a ship named the New York. And interestingly and coincidentally, I today represent the United States Congress, the cities in Iowa, they're named Schleswig and Holstein. A grandson reflecting back here in Ellis Island about how meaningful it is to be here and have this sense of history for our Nation.

My ancestors made a new life in America just like the millions of other individuals who have done so throughout the years. However, the idea that Ellis Island and the Statue of Liberty stand for the premise that the United States should welcome every person in the world who wants to come here is historically inaccurate. In fact, the Statue of Liberty was given to our country by France in 1886, not as a symbol of our willingness to accept immigrants, but to celebrate the friendship that developed between the United States and the French during the Revolutionary War. I question some of the architecture that they brought to Washington, D.C., but they still were the friends of liberty.

And the famous Emma Lazarus' poem, "The New Colossus" often cited as proof that the Statue of Liberty is a beacon for open borders was not an original part of the statue. It was only added in the early 1900's.

No country can effectively allow unrestricted immigration. Even here at Ellis Island, approximately 250,000 prospective immigrations were turned away because they didn't meet the immigration standards at the time. We must have an immigration and naturalization policy designed to enhance the economic, the social, and the cultural well being of the United States of America. Every Nation must have that kind of a policy.

The United States already has the most generous immigration policy in the world. Over one million immigrants are legally admitted into the United States every year. And that's very close to the numbers that we saw as we went through this tour on an annual basis.

According to the Department of Homeland Security 2005 Yearbook of Immigration Statistics, between 1820 and the year 2000 nearly 66 million immigrants came to the United States, legally; 12 million of those came here through Ellis Island in its years of operation between 1892 and 1954. So roughly 66 million is the cumulative total of all legal immigration throughout this country's 200-

year history. And last year, the Senate passed legislation that would have added that many immigrants in just 20 years. Unfortunately, it seems that any comprehensive, and I put that in quotes, "comprehensive immigration reform bill," as we see in this Congress, will have the same unmanageable results. The realities of today's immigration policies are not the same as those at any other time in America's history.

For instance, in years past, once an immigrant came to the United States, he or she was expected to fully assimilate by learning English, foregoing past allegiances and accepting the principles of our Constitution. Legally, those principles remain today. Immigrants also have relatively little contact with their home countries because of the difficulty of traveling long distance and communication, and so they assimilated more quickly in those years.

Now immigrants come and go with relative ease. They communicate by phone and email with friends and relatives in their home countries. We're glad about that. But they are not expected as much to learn English. Instead, it's the immigrants who demand American citizens change their culture and language. While it's true that the United States has often had generally welcoming immigration policies, our country has rarely had no restrictions. As far back as 1798, Congress passed the Alien Enemies Act which allowed hostile aliens to be apprehended, restrained and secured and removed from the country during times of war, or threatened by a foreign nation. It would be a time like this actually.

And in 1802, the Naturalization Act established that an immigrant must be a U.S. resident for 5 years before they can become a citizen. Between the 1920's and the 1960's, we had relatively little immigration which gave time to assimilate earlier immigrants. And it was a calculated policy debated in the United States Congress. Unfortunately, in the last several decades, the Federal Government has not taken seriously its role to enforce its own immigration laws. As a result, it's estimated there are between 12 and 20 million illegal immigrants in the country today. And not all of those illegal immigrants contribute positively to American society. For instance, we are all aware as we sit at Ellis Island here today that right across the river is the site of the World Trade Center, perhaps the most significant symbol of the failings of America's immigration laws and policies where 19 foreign terrorists murdered over 3,000 innocent Americans.

Criminal aliens are coming to the United States in record numbers. According to an April 2005 GAO study, nearly 28 percent of all State and Federal prisoners are criminal aliens. And further statistical analysis show that 4518 murders were committed by criminal aliens in America in 2004 alone. That means 25 people were killed by criminal aliens in the United States each day if you add the numbers that include the victims of negligent homicide which is about 13 a day. Some of the victims of criminal aliens include Adrienne Shelley, the actress who was murdered by 19-year-old Diego Belco here in New York last November; or Houston Police Officer, Rodney Johnson, who was murdered execution style by Juan Leonardo Quinterro, who snuck back into the United States after being deported to Mexico in 1999. These victims were Amer-

ican citizens who deserved to be protected by their government's policies, including its immigration policies.

So as we sit here today at Ellis Island we must keep in mind our obligation to put forth and maintain a responsible immigration policy that assures what is best for America. But I would like to just close with this, Madam Chair, and that is that I know of no one who is opposed to legal immigration. And there's a certain vitality that comes with immigration. We got the vitality from the donor countries across the world and you can see it here. They had the most to gain and the least to lose. They took the risk and they came here and the vitality of civilization after civilization contributed to American exceptionalism. And I'm looking forward to this dialogue that we have and I'm looking forward to continuing on the path of enhancing American exceptionalism.

Thank you, Madam Chair. I yield back.

Ms. LOFGREN. Thank you, Mr. King. And now I'd like to recognize the other Members for their opening 5-minute statements. Let me first recognize the gentleman from Illinois, Congressman Luis Gutierrez.

Mr. GUTIERREZ. First, I'd like to say thank you very much, Chairwoman Lofgren, for putting together this exceptional hearing—I can't think of a better way to begin what I know are going to be many hearings under your leadership.

And thank you, Ranking Member King.

And I would like to extend my thanks to all of those that are coming to testify before us here this morning. It is particularly significant that the hearing is being held at Ellis Island, in the shadow of the Statue of Liberty and the first beacon of freedom seen by countless immigrants seeking the American dream.

I hope that today's hearing will foster a greater understanding of the need for comprehensive immigration reform and propel a demand for a reform that respects the history of welcoming immigrants seeking the American dream and building a better future.

You know Dr. Martin Luther King said that "the arc of the moral universe is long, but it bends toward justice." for the millions of hardworking immigrants in this country who toiled deep in the shadows of our society, where mistreatment and abuse run far too rampant, we must continue to ensure that the arc bends their way. We must continue to ensure that they, too, can realize their hopes and aspirations, and that they, too, can have a real shot at the American dream. I'm talking about the humble mother who has dreams, who leaves her home and her children before dawn each morning to wait for a bus in the harsh chill of the Chicago winter so that she can take care of someone else's kids, but who knows this work will provide money for school supplies and doctors' visits and access to opportunities for her children she never thought possible for herself.

I'm talking about the modest dreams of the migrant worker who has bloodied and blistered hands and aching muscles, who spends 12 hours a day in pesticide-ridden fields so his son can 1 day realize his dream of going to college.

It is the same immigrant experience, the same pursuit of the American dream that has been the inspiration and motivation for immigrants generation after generation in our country. And it is

our responsibility. It is our solemn obligation to ensure that America stays true to its rich heritage of welcoming those who seek a better life, that we as a Nation stay true to the eloquent and powerful words etched in the base of the Statue of Liberty which read: "I lift my lamp beside the golden door."

In the coming months, we face the difficult and very real challenges in our effort to achieve comprehensive immigration reform, but in the end I am confident we will get there. We have no other choice. Because I am confident in the will and the spirit of the people who are passionate about this issue, I'm confident in the compassion of the American people, and I'm confident in our ability to do what is right and what is necessary to secure our border, safeguard our families and strengthen our economy.

Again, I wish to thank the panelists and I wish to thank the Chairwoman for convening this wonderful hearing here on Ellis Island.

[The prepared statement of Mr. Gutierrez follows:]

PREPARED STATEMENT OF THE HONORABLE LUIS V. GUTIERREZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS, AND MEMBER, SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW

Thank you Chairwoman Lofgren and Ranking Member King for holding this very important hearing on historic and personal reflections on the past, present and future of American immigration.

I would also like to extend my gratitude to the witnesses testifying before us today.

It is particularly significant that this hearing is being held at Ellis Island, in the shadow of the Statue of Liberty, the first beacon of freedom seen by countless immigrants seeking the American dream.

I hope that today's hearing will foster a greater demand for comprehensive immigration reform and propel a demand for a reform that respects this history of welcoming immigrants seeking the American dream and to build a better America.

Dr. Martin Luther King said that "The arc of the moral universe is long, but it bends toward justice."

For the millions of hardworking immigrants in this country who toil deep in the shadows of our society, where mistreatment and abuse run far too rampant, we must continue to ensure that the arc bends their way.

We must continue to ensure that they too can realize their hopes and aspirations—and that they too can have a real shot at the American Dream.

I am talking about the humble dreams of the young mother, who leaves her home—and her children—before dawn each morning to wait for a bus in the harsh chill of a Chicago winter, so she can go take care of someone else's kids, but who knows this work will provide money for school supplies and doctors' visits and the access to opportunities for her children she never thought possible.

I am talking about the modest dreams of the migrant worker, with bloodied, blistered hands and aching muscles, who spends 12 hour days in pesticide-ridden fields, so his son can one day realize his dream of going to college.

It is that same immigrant experience—that same pursuit of the American Dream—that has been the inspiration and motivation for immigrants—generation after generation—in our country.

And it is our responsibility. It is our solemn obligation to ensure that America stays true to its rich heritage of welcoming those who seek a better life.

That we—as a nation—stay true to the eloquent and powerful words etched in the base of the Statue of Liberty, which read, "I lift my lamp beside the golden door!"

In the coming months, we face difficult and very real challenges in our efforts to achieve real comprehensive immigration reform and to ensure that the golden door is not slammed shut on those who embody the entrepreneurial spirit, the drive, the integrity and the work ethic that has allowed our nation to flourish.

But in the end, I am confident we will get there.

Because I am confident in the will and the spirit of the people who are passionate about this issue.

I am confident in the compassion of the American people.

And I am confident in our ability to do what is right and what is necessary to secure our border, safeguard our families, and strengthen our economy.

I again extend my thanks to the panelists for appearing before us today, and I look forward to hearing your perspectives on the history and personal stories of American immigration. Thank you.

Ms. LOFGREN. Thank you, Mr. Gutierrez. I'd now like to recognize our colleague from Texas, the gentlelady, Congresswoman Jackson Lee.

Ms. JACKSON LEE. Good morning and thank you very much, Madam Chair, and I would like to add, as others have, my appreciation for the wisdom of holding this very vital hearing at Ellis Island. Let me thank the National Park Service for their hospitality and also their instruction this morning.

I'm reminded, having visited Ellis Island and the Statue of Liberty as a little girl, how moving it was to understand the pinnings and underpinnings, if you will, of what this country stood for. Even more moving was to recite in class, "We hold these truths to be self evident, that all men are created equal . . . with certain inalienable rights . . . life and liberty and the pursuit of happiness."

Interestingly enough, one might describe the writers of that language as immigrants. Coming to this Nation for economic opportunity, fleeing persecution. Isn't it interesting that today now in the 21st century, we have immigrants who are coming for the very same reason? And so I want to, in the backdrop of Ellis Island, make it very clear: as you look at the faces of the members of this panel, this Subcommittee on Immigration, how much we reflect the diversity of America.

We are very serious, by coming to this place, very serious in having this Congress complete its assignment on comprehensive immigration reform in 2007. I want to thank the members of this panel for each of their individual perspectives. I thank the Ranking Member for his leadership on these issues. But it is interesting to note that the history reflected in Ellis Island showed a public action by the Federal Government in 1892, to put forward an immigration station costing then $500,000.

I wonder why they did that, and I would almost imagine that they did so, so that in some way they would know who was coming into this country. That is what comprehensive immigration reform is all about, knowing who is coming and knowing who is here. I believe that's a wise move for this Nation. As a Member of the Homeland Security Committee, for all of those and particularly this great and wonderful State and city, that reflects the tragedy of 9/11. Even with that backdrop, as we express over and over again our shock and our sadness of that day, how important it is to be able to know who is in America. So comprehensive immigration reform is also a means of security and securing the homeland.

Ellis Island opened for business as an immigration station in 1892 and during the next 50 years, more than 12 million people came through the island on their way to a new life in the United States. Ellis Island also was used as a detention center for aliens who were inadmissable and could not be returned to their own countries. And during World War II, it was used as a detention center for enemy aliens. Immigrant processing at Ellis Island continued until the end of 1954.

I give you that brief history because it reflects on where we are today. No one is suggesting that we should have a system that does not have included in it border security, that we shouldn't have detention facilities, that we don't have a means of selecting out or isolating enemy aliens. But what we do say is that we can do it all, and the reason I know that is because in the 1960's and thereafter, this great Nation was able to send someone to the moon. We're proud of that because I represent the Johnson Space Center.

And then I think we know what is good about immigration because we know the names of Irving Berlin, the composer; Arthur Murray, the dancer; opera singer Enrico Caruso; comedian Bob Hope, and maybe my own constituent Yao Ming of the Houston Rockets.

So there are good things about this process of immigration. So even though Ellis Island has been called the island of tears, we know that there were hardworking people here who processed immigrants, who gave them an opportunity and gave them a chance.

Let me conclude by simply adding to the historical perspective, because I'm always reminded of my grandparents, who came by way of Jamaica to Panama to South Carolina and then to New York. Hard-working laborers who raised four sons and who loved this country. I'm reminded of the pictures as I walk through this place of Inez Geraldine, who came from Jamaica, British West Indies in 1923; of Muriel Marjorie, a little girl who came from Trinidad, Tobago, and the name of Rose Lyddie.

Finally, I would say to you that if you think that this is new, be reminded that each time we go up and down on our immigration policies, and I quickly say to you remember the National Origin Act of 1924. It limited immigration to the Western Hemisphere, put quotas on Asians and Eastern and South Europeans. The Immigration Act of 1965 restored that again, and then allowed people to reunite with their family. And then there was the 1980 Refugee Act after the fall of Saigon. And finally, the 1986 Immigration Bill, which many people think gave amnesty to 2.7 million. It did allow people to come who had been here for a period of years, not like the legislation we are talking about, which provides penalties and an order for which people might become documented.

I close, Madam Chairperson, by simply saying nothing has changed. People come fleeing persecution. People come for economic reasons, and therefore nothing should change here in the United States Congress. Change should be for the better, and that is comprehensive immigration reform. The same pathway that our ancestors came—we too, are America, and America is a Nation that can do it all. I yield back.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS, AND MEMBER, SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW

The subject of this hearing is, "Past, Present, and Future: A Historic and Personal Reflection on American Immigration." This is a very appropriate topic for the beginning of a year in which we will be engaging in major immigration reform, and there is no better venue for such a hearing than Ellis Island.

The island was purchased by the colonial governors of Nieuw Amsterdam (later New York) from Native Americans on July 12, 1630. It initially was called, "Little Oyster Island" because of its abundant supply of oysters. It was purchased by Sam-

uel Ellis around the time of the American Revolution; his heirs sold it to the State of New York in 1808 for $10,000.

Although Ellis Island's position in the harbor made it useful for military purposes, it was never needed for national defense. In 1890, it was selected by the House Committee on Immigration as the site for an immigration station for the Port of New York.

The immigration station was constructed of Georgia pine with slate roofs. The main building was two stories high, about 400 feet long and 150 feet wide. Four-story peaked towers marked the corners of the building. There were baggage rooms on the ground level, and there was a great inspection hall above them. Smaller buildings included a dormitory for detainees, a small hospital, a restaurant, kitchens, a baggage station, an electric plant, and a bathhouse. When the Immigration Station officially opened on January 1, 1892, its final cost had reached approximately $500,000.

Ellis Island opened for business as an immigration station in 1892. During the next 50 years, more than 12 million people came through the island on their way to a new life in the United States. Ellis Island also was used as a detention center for aliens who were inadmissible but could not be returned to their own countries; and during World War II, it was used as a detention center for enemy aliens. Immigrant processing at Ellis Island continued until the end of 1954.

On May 11, 1965, President Lyndon Johnson officially proclaimed Ellis Island as part of the Statue of Liberty National Monument. The Statue of Liberty-Ellis Island Foundation was established to raise $230 million for the restoration of these national monuments. More than 20 million Americans have made contributions to the Foundation.

Annie Moore was the first person to arrive at Ellis Island. She was followed by millions of hard working immigrants who established a life for themselves and their families in United States. The diversity and richness of their contributions to the United States is apparent even in a short list of immigrants who have achieved success in their chosen fields: Author Rudyard Kipling; Composer Irving Berlin; Dancer Arthur Murray; Opera Singer Enrico Caruso; Actor and Olympian Johnny Weissmuller; Comedian W.C. Fields; Comedian Bob Hope; Psychiatrist Carl Jung; Psychiatrist Sigmund Freud; Actor, Director, and Comedian Charles Chaplin; U.S. President Woodrow Wilson; Magician Harry Houdini; U.S. President Theodore Roosevelt; King of the Rhumba Javier Cugat; Master Cellist Pablo Casals; U.S. President Herbert Hoover; Pioneering Entertainer Walt Disney; Actor Bela Lugosi, Professor and Nobel Prize Winner Albert Einstein; Composer Cole Porter; Novelist F. Scott Fitzgerald; Song Writer and Composer George M. Cohan; U.S. President William Taft; Comedian and Actor Maurice Chevalier; Author Joseph Conrad; Composer George Gershwin; and Master Violinist Jascha Heifetz.

Ms. LOFGREN. Thank you. I would like now to recognize our final Committee Member, Representative Linda Sánchez, Congresswoman from Southern California.

Ms. SÁNCHEZ. Thank you, Madam Chairwoman, and all of you who are in attendance. Thank you for taking such an interest in this issue. As we learned earlier today on our tour, Ellis Island became the first Federal immigration station in 1890. And over the course of 62 years, between 1892 and 1954, over 12 million immigrants entered the United States through this very station. During this time, political instability, deteriorating economic conditions in Europe, and religious discrimination sparked one of the largest waves of immigrants in history.

These immigrants came from places like Ireland, Germany, and Eastern Europe. According to historians, only 2 percent of those who arrived at Ellis Island were turned away. Immigrants were excluded for two main reasons. Either they had a dangerous, contagious disease or an immigration inspector concluded that they were likely to become a public charge.

The criterion for being likely to become a public charge was a person who had less than ten dollars, about $216 in today's money. Imagine that—the only requirements being $216 and having rea-

sonably good health. That's certainly a very different standard from the standard that we use today.

The immigrants that were admitted found work where they could. The unskilled male workers ended up in steel mills and coal mines, while the unskilled female workers cleaned houses. Things have not changed much in 100 years, except that now instead of mills and mines, they go to work in fields, restaurants, meat packing houses, and the homes of the affluent.

These early immigrants frequently faced discrimination. Businesses in New York would post signs reading "No Irish Need Apply". Today, immigrants looking for work face everything from recruitment by firms seeking to exploit cheap labor to discrimination, substandard working conditions, and joblessness based purely on their race or ethnicity.

But despite these challenges, is it any wonder why this country is a magnet for individuals seeking a better life? We are the wealthiest Nation in the history of the world, largely due to the hard work of immigrants. President John F. Kennedy said "everywhere immigrants have enriched and strengthened the fabric of American life." He was absolutely correct. Immigrants have helped build everything from the steel industry to Hollywood.

Just as in the early 1900's, when immigrants came to the U.S. and contributed to the foundation and fabric of this proud country, we stand here today in the early years of a new millennium to bear witness and support the desire of a new generation of immigrants to contribute to that storied foundation and fabric that is America.

Today, immigrants come from every continent except Antarctica. But the commitment, the desire, the hopes, and the dreams are the same today as they were when millions came through these gates a hundred years ago. As some of you may know, I am the youngest daughter of immigrants who came to this country with very little money and not knowing the language, much like many of the immigrants that passed through these gates a century ago.

With hard work, the love and support of family and friends, and a little good luck, my parents managed to send every one of my six brothers and sisters and I to college. And like the children of immigrants from a century ago, my brothers and sisters and I have succeeded as engineers, entrepreneurs, and public servants.

Although Maria and Ignacio Sánchez were the first immigrants, make that the first couple really, ever to have two daughters serve in the United States Congress, throughout American history there have been people who have immigrated to this country and made substantial impacts. Just to name a few, Madeleine Albright, Michael J. Fox, Harry Belafonte, Albert Einstein, and one of my personal favorites, Fernando Valenzuela of the Los Angeles Dodgers.

All of these people are a testament to what immigrants contribute to our country. While our system has not always been perfect, there was a time when it was fair, orderly, and humane. Unfortunately, our current immigration system is none of those. I don't think anybody would disagree that it is broken.

It is time for us to get back to where we embraced the fact that we are all descendants of immigrants. Everyone here is either an immigrant themselves or knows someone who shares this common

legacy. And we should continue to foster that legacy with sensitivity and rationality far into the future.

If you look closely enough into the eyes of an immigrant today, whether from China or Mexico or Kenya, you will see the same hopes and spirit that burned so brightly in the eyes of your immigrant ancestors, whether they came from Ireland, Germany, England, or somewhere else.

I want to thank the Chairwoman for choosing this historic site to hold this hearing, and for taking a lead on what is one of the most important issues of the 21st century, and I yield back the remainder of my time.

[The prepared statement of Ms. Sánchez follows:]

PREPARED STATEMENT OF THE HONORABLE LINDA T. SÁNCHEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND MEMBER, SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW

Thank you, Madam Chairwoman and Ranking Member King.

As we learned earlier today, Ellis Island became the first Federal immigration station in 1890. Over the course of 62 years, between 1892 and 1954, over twelve million immigrants entered the United States through this very station.

During this time, political instability, deteriorating economic conditions in Europe and religious discrimination sparked one of the largest waves of immigrants in history. These immigrants came from places like Ireland, Germany, and Eastern Europe.

According to historians, only two percent of those who arrived at Ellis Island were turned away. Immigrants were excluded for two main reasons: either they had a dangerous contagious disease or if an immigration inspector concluded that they were likely to become a public charge. The criterion for "being likely to become a public charge" was a person who had less than $10—about $216 today.

Imagine that: the only requirements being $216 and had having reasonably good health. That's certainly a different standard than today.

The immigrants that were admitted found work where they could. The unskilled male workers ended up in steel mills and coal mines while the unskilled female workers cleaned houses. Things have not changed much in 100 years, except that now instead of mills and mines, they go to work in fields, restaurants, meat packing houses and the homes of the affluent.

These early immigrants frequently faced discrimination. Businesses in New York would post signs reading "No Irish Need Apply." Today, immigrants looking for work face everything from recruitment by firms seeking to exploit cheap labor to discrimination, substandard working conditions and joblessness based purely on their race.

But despite these challenges, is it any wonder why this country is a magnet for individuals seeking a better life? We are the wealthiest nation in the history of the world—largely due to the hard work of immigrants. President John F. Kennedy said "Everywhere immigrants have enriched and strengthened the fabric of American life." He was absolutely correct. Immigrants have helped build everything from the steel industry to Hollywood.

Just as in the early 1900's when immigrants came to the U.S. and contributed to the foundation and fabric that is this proud country, we stand here today in the early years of a new millennium to bear witness, and support the desire of a new generation of immigrants to contribute to that storied foundation and fabric that is America.

Today immigrants come from every continent (except Antarctica), but the commitment, the desire, the hopes, and the dreams are the same as they were when millions came through these gates 100 years ago.

As some of you may know, I'm the youngest daughter of immigrants who came to this country with very little money and not knowing the language—much like many of the immigrants that passed through these gates a century ago.

With hard work, the love and support of family and friends, and some good luck, my parents managed to send every one of my six brothers and sisters to college.

And like the children of immigrants from a century ago, my brothers and sisters and I have succeeded as engineers, entrepreneurs, and public servants.

Although, Maria and Ignacio Sμnchez were the first immigrants, make that the first couple, ever to have two daughters elected to Congress.

Throughout American history, there have been people who have immigrated to this country and made substantial impacts. Just to name a few: Madeleine Albright, Michael J. Fox, Harry Belafonte, Albert Einstein and one of my personal favorites, Fernando Valenzuela of the Los Angeles Dodgers.

All of these people are a testament to what immigrants can contribute to our country.

While our system has not always been perfect, there was a time when it was fair, orderly, and humane. Unfortunately, our current immigration system is none of those. It is broken.

It's time for us to get back to where we embrace the fact that we are all descendents of immigrants.

Everyone here is either an immigrant themselves or knows someone who shares this common legacy. And we should continue to foster that legacy, with sensitivity and rationality, far into the future.

If you look closely enough into the eyes of an immigrant today—whether from China, or Mexico, or Kenya, you will see the same hopes and spirit that burned so brightly in the eyes of your immigrant ancestors whether they came from Ireland, Germany, England, or elsewhere.

I thank the Chairwoman for choosing this historic site to hold this hearing and for taking the lead on what is one of the most important issues of the 21st Century.

I yield back the remainder of my time.

Ms. LOFGREN. Thank you very much, and thanks to all the Members for being pretty close to 5 minutes, we all did very well. Without objection, all Members' opening statements will be placed into the record, and also without objection, the Chair will be authorized to declare a recess of the hearing at any time.

Ms. LOFGREN. We have two distinguished panels of witnesses here today to help us consider the important issues before us. Our first panel this morning includes David V. Aguilar, who is the Chief of the Office of Border Patrol in the Department of Homeland Security. Mr. Aguilar has served for 26 years in the Border Patrol, and is the Nation's highest ranking Border Patrol officer.

We are also pleased that Igor V. Timofeyev, who is the Director of Immigration Policy and a Special Advisor for Refugee and Asylum Affairs in the Policy Directorate of the U.S. Department of Homeland Security, will join us. Mr. Timofeyev, himself a refugee from Russia, previously served as Associate Legal Counsel for the President of the International Criminal Tribunal for the former Yugoslavia and as Clerk at the U.S. Supreme Court. Quite an impressive resume.

Each of your written statements will be made part of the record in its entirety, and so I would ask that you summarize your testimony in 5 minutes or less. To help you stay within the time, there is a timing light at your table. When 1 minute remains, the light will switch from green to yellow, to red, and then start to blink incessantly when your time is up. As you've noticed, I don't have a heavy gavel, but we do hope that you try and stay within the time.

And so, Mr. Aguilar, we are so delighted that you are able to join us here this morning. Would you please begin?

TESTIMONY OF DAVID V. AGUILAR, CHIEF, OFFICE OF BORDER PATROL, DEPARTMENT OF HOMELAND SECURITY

Mr. AGUILAR. Chairwoman Lofgren, Ranking Member King and Members of the Committee, it is an extreme honor for me to be here before you today at this historic American landmark to testify about the United States Border Patrol. The men and women, that day in and day out, protect this great country and the challenges

that we face as we ride the rivers, the mountains, and the deserts of this great country.

It is especially humbling to do so on this ground that has served this country and so many families as a gateway to a new life and the dream of living as Americans. The men and women of the United States Border Patrol have the duty and responsibility of protecting our Nation's borders. Today we speak about comprehensive immigration reform. Today, I will restrict my comments to border security and border enforcement, a critically important part of comprehensive immigration reform.

Our priority mission is homeland security. Nothing less than protecting our country from those who would enter illegally between the ports of entry in order to bring us harm. And we continue, of course, vigorously to enforce our traditional missions of preventing the illegal entry of people, smuggling of people, narcotics, and other contraband into our country.

Madam Chairwoman, Members of the Committee, this country has a responsibility to its history, its origins, it heritage, and its people. The men and women of the United States Border Patrol are very thankful to you, and all the Members of Congress and your colleagues who have worked diligently to provide DHS, Customs and Border Protection of the United States Border Patrol, with the absolutely essential resources to gain control of our borders.

There is much that has been done and is being done by many throughout our country today to protect our rich heritage, heritage of being an accepting people, a welcoming society, and a country of laws. Today, our Nation faces tremendous immigration debates. These debates should be vigorous. These debates should be spirited. Americans recognize the value and the benefits that legal immigration has brought to this country.

But Americans also recognize the detriment that chaotic levels of illegal immigration and an unmanaged, uncontrolled border, brings to our country. In today's world, we must secure our borders and we must manage immigration as a we facilitate legal travel and trade. Last year, the United States Border Patrol apprehended over 1.1 million people coming across our borders illegally. We apprehended over 1.3 million pounds of narcotics coming across our borders illegally. Over 108,000, other than Mexicans coming across our borders, and over 152,000 illegal aliens with criminal histories attempting to re-enter the United States after having been deported.

Approximately 98 percent of this activity occurred on our Nation's southern border with Mexico. The Border Patrol carries forth its responsibilities of patrolling and protecting America's 6,000 miles of border between the ports of entry by following an all threats strategy. Our resources are deployed on a risk management basis that takes into account vulnerabilities, risks, and threats. We employ an enforcement model along our borders that balances what we refer to as a right mix of resources. The resource mix is comprised of personnel, technology, and infrastructure, along with the means to rapidly respond to any incursion that occurs and that we detect.

In November of 2005, the Secretary announced the secure border initiative, of which increased border enforcement is an absolutely critical part of a comprehensive immigration reform. Today, the

Border Patrol has over 12,700 Border Patrol Agents along our Nation's borders with Mexico and Canada, a 30 percent increase since 2001.

We have ended what has previously been known as catch and release, of other than Mexican aliens that crossed our borders in the past. We have implemented expedited removal of other than Mexicans, which streamlines but ensures safeguards of immigrant rights while we remove these people that have no relief to immigration laws. We have implemented Operation Jump Start. Operation Jump Start is the support of up to 6,000 National Guard personnel along our Nation's southern border with Mexico that help build border infrastructure, perform administrative functions, help manage our fleet, and especially act as our eyes and ears on the border with Mexico.

Today, we are building fences, roads, installing border barriers, and lighting at locations that will increase our enforcement capabilities and efficiencies. I am very pleased to report the accomplishments of these on-going initiatives and others that are happening. Today, we have a very significant and sustained reduction of flow across our Nation's border with Mexico, approximately a 30 percent reduction of that flow.

Other than Mexican, apprehensions are down by about 51 percent. Narcotics apprehensions are actually up by 27 percent. This is a good thing. A reduced flow of illegal alien activity across our southern border with Mexico gives us the ability to concentrate on threats that exist besides illegal immigration.

While it is correct that many of our resources are being applied and directed toward the southern border, this does not in any way reflect us ignoring our northern border. It is vast. It is remote in very many areas. And it is an area that does not have any worthy activity levels of the southern border. It is an area where we enjoy exceptional relationships with our Canadian law enforcement partners in an area that lends itself to partnerships with the communities, farmers, and ranchers on both sides of the borders.

We are working very hard with our Canadian and Mexican counterparts to ensure that we do everything we can to protect our borders.

Madam Chairwoman, I just want to say the following because I think it is absolutely important. There are many today that have asked whether the resourcing and enhancements of the United States Border Patrol are, in fact, important to homeland security. The answer is definitely yes.

Some people would believe that Border Patrol enforcement capabilities are being increased solely for the purposes of stopping illegal immigration between the ports of entry. The fact of the matter is that an unmanaged, uncontrolled border is an unsafe border. Not an unsafe border just for our border communities, but an unsafe border for our country.

The high activity levels that our southern border is experiencing creates opportunities for those that would come into this country to bring us harm. An unmanaged border is easily exploited by criminal organizations that seek to bring drugs to our schools, our streets and our neighborhoods.

We have a responsibility, a responsibility to our forefathers, to our children, to our children's children to secure our borders. In order to remain an accepting society, a welcoming people, and a society of laws, we must secure our borders.

And in closing, while immigration inspectors worked these hallways and offices back in the early days of our country, our Border Patrol forefathers, who were known as the Mounted Guard, patrolled the borders of our country on horseback on the northern and southern borders of Mexico and Canada. Their collective responsibilities were important to this country. They defended our country by defending our borders. They kept out disease, animals, criminals and others our society did not deem welcome. Our responsibilities today as their successors, are much greater.

The threats to our Nation are deadlier and the results of failure would be catastrophic. Our mission has not changed. Our resolve has actually strengthened.

I close, Madam Chairwoman, Members of the Committee, Ranking Member King, by saying that it is very proper for this hearing to be held here in the very ground where so many millions of individuals legally took their first steps of American ground toward their dream. Ellis Island represents America's front door, America's golden door. We must keep it that way.

Our mission, our responsibility is to protect and ensure that America remains a welcoming country. To do so, we must secure our borders.

Madam Chairwoman, I stand ready to answer any questions that you might have.

Thank you.

[The prepared statement of Mr. Aguilar follows:]

PREPARED STATEMENT OF DAVID V. AGUILAR

CHAIRWOMAN LOFGREN, RANKING MEMBER KING, AND DISTINGUISHED SUBCOMMITTEE MEMBERS, it is my honor to appear before you at this historical American landmark today to discuss American Immigration its history and its promise. My name is David Aguilar, and I am the Chief of the U.S. Border Patrol a component of the Department of Homeland Security's (DHS) U.S. Customs and Border Protection (CBP). It is my privilege to testify about the United States Border Patrol, the job that our men and women perform day in and day out in protecting this great country and our people, the challenges that we face and the achievements that have been made along our country's borders. It is especially humbling to do so on this ground that has served this country and so many American families as a gateway to a new life and the dream of living as Americans. Immigration has been one of the wellsprings of our great democracy's vitality and together with our written Constitution and the institutions and documents that support it, constitute the framework of our nation's greatness.

The role of federal immigration at the Ellis Island Station started on January 1, 1892 during the administration of President Benjamin Harrison. Congress created this station in reaction to a great wave of new immigration, itself made possible by late 19th century changes in transportation technology. The mass of new immigration brought with it threats of epidemic disease, organized crime, and radical ideology. The Nation's response was to create a legal procedure through which lawful immigrants could be screened, and to introduce stations like this one as gateways for that lawful procession. From 1892 to 1924, Ellis Island was the Nation's first line of defense, and the two agencies charged with processing immigrants at Ellis Island were the United States Public Health Service and the Bureau of Immigration (later to become known as the Immigration and Naturalization Service—INS).

Since then we've seen great changes in the sources of immigration and means of transportation, but little change in the nature of the threats. Ellis Island worked to prevent the spread of Trachoma, while we work to prevent the spread of SARS or avian flu. And while Ellis Island deported individuals attempting to undermine

our great democracy, we now seek to detect and prevent any terrorist threat to our national security. *Unlike* Ellis Island, however, which processed 70 percent of arriving immigrants—all of whom arrived on steamships—we cannot concentrate all our efforts in one place. Today there are hundreds of Ports of Entry—air, sea and land.

To better equip the Nation to focus on its now more diverse immigration mission, on March 1, 2003, the Immigration and Naturalization Service was divided into 3 separate agencies within the Department of Homeland Security: Citizenship and Immigration Services, Customs and Border Protection, and Immigration and Customs Enforcement.

I would like to give you a brief review of our agency and mission. CBP, as the guardian of the Nation's borders, safeguards the homeland—foremost, by protecting the American public against terrorists and the instruments of terror, while at the same time enforcing the laws of the United States and fostering the Nation's economic security through lawful travel and trade. Since 1924, the Border Patrol has grown from a handful of mounted agents patrolling desolate areas along U.S. borders between the Ports of Entry, to today's highly-trained, dynamic work force of almost 13,000 men and women supported by sophisticated technology, vehicles, aircraft, and other equipment. Contributing to accomplishing our priority mission is the Border Patrol's time-honored duty of interdicting illegal aliens and narcotics and those who attempt to smuggle them across our borders. We cannot protect against the entry of terrorists and the instruments of terror without also reducing the clutter that is caused by illegal migration across our borders.

To most effectively secure our border, we must reform our immigration system to relieve this pressure. We need comprehensive immigration reform that supports border security, establishes a robust interior enforcement program, and develops a temporary worker program. The Administration is dedicated to comprehensive reform of America's immigration laws by supporting border security, while maintaining the Nation's tradition of welcoming immigrants who enter the country legally. For immigration reform to succeed, it must be based on five pillars: 1) strengthening security at the borders; 2) substantially increasing enforcement in the interior to remove those who are here illegally, and to prevent employers from deliberately or inadvertently hiring illegal immigrants; 3) implementing a Temporary Worker Program to provide a legal channel for employers to hire foreign workers to do jobs Americans are unwilling to do; 4) addressing the millions of illegal immigrants already in the country; and 5) helping new immigrants assimilate into American society. The Administration's plan will deter and apprehend migrants attempting to enter the country illegally and decrease crime rates along the border. The plan also will serve the needs of the economy by allowing employers to hire legal foreign workers on a temporary basis when no American is willing to take the job, bring illegal immigrants out of the shadows without providing amnesty, and restore public confidence in the Federal Government's ability to enforce immigration laws. As immigration reform legislation is considered, it is crucial to heed the lessons of past reform efforts and avoid repeating their mistakes. All policies for comprehensive reform must be workable. In 1986 an opportunity was missed by not crafting a law that was workable. We should not repeat that mistake.

The only way good legislation will be passed is by working together to craft a solution that all Americans can support and is worthy of our great tradition as a nation of laws and a nation of immigrants. At its base, comprehensive immigration reform should strive to end illegal immigration, control our borders, and have a system that is at once workable and enforceable while meeting the actual economic needs of our country through humane and just legal immigration.

The Border Patrol's national strategy is an "all threats" strategy with anti-terrorism as our main priority. Comprehensive immigration reform will serve to sharpen the focus of this priority. Our strategy is a risk-management approach to deploy our resources. The strategy recognizes that border awareness and cooperation with our law enforcement partners are critical. Partnerships with the Department of the Interior; Immigration and Customs Enforcement; Drug Enforcement Administration; Federal Bureau of Investigation; State, local, and tribal law enforcement agencies; and State Homeland Security offices play a vital role in sharing and disseminating information and tactical intelligence that assists our ability to rapidly respond to an identified threat or intrusion, which is essential to mission success.

Recognizing that we cannot control our borders by merely enforcing the law at the "line," our strategy incorporates a "defense in depth" component, to include transportation checks away from the physical border. Traffic checkpoints are critical to our enforcement efforts, for they deny major routes of egress from the borders to smugglers intent on delivering people, drugs, and other contraband into the interior of the United States. Permanent traffic checkpoints allow the Border Patrol to es-

tablish an important second layer of defense and help deter illegal entries through improved enforcement.

The Border Patrol has a clear strategic goal: to establish and maintain effective control of the border of the United States. Effective control is defined in the Border Patrol's strategy as the ability to detect, respond, and interdict border penetrations. In order to establish effective control in a given geographical area, we must be able to consistently:

- Detect an illegal entry;
- Identify/Classify the entry and determine the level of threat involved;
- Respond to the entry; and
- Bring the event to a satisfactory law enforcement resolution.

Gaining, maintaining, and expanding a strong enforcement posture with sufficient flexibility to address potential exigent enforcement challenges is critical in bringing effective control to the borders. Guidance at the national level for planning and implementation ensures resources are initially targeted to gain and maintain effective control in the most vulnerable, highest-risk border areas, and then to expand this level of border control to all Border Patrol Sectors.

Crucial to effectively accomplishing our mission is SBI*net*. Through SBI*net,* the technological component of the Secure Border Initiative (SBI), CBP will continue to assess, develop, and deploy the appropriate mix of technology, personnel, and infrastructure to gain, maintain, and expand coverage of the border in an effort to use our resources in the most efficient fashion. SBI*net*'s expansion of a 21st century system of cameras, biometrics, sensors, air assets, improved communications systems, and innovative technology will provide the force multiplier that the Border Patrol needs to perform its mission in the safest and most effective manner.

The proper mix of personnel, technology, and infrastructure will vary with differing border environments and enforcement challenges. The Border Patrol operates in three basic geographical environments: urban, rural, and remote. Each of these environments requires a different mix of resources.

In an urban environment, enforcement personnel generally have only minutes, or sometimes seconds, to identify an illegal entry and to bring the situation to resolution. This dynamic is a result of the fact that significant infrastructure exists to facilitate an illegal entrant's approach to the border and entry and to permit the violator to escape within moments of effecting the entry by blending in with the legitimate traffic in the community. Typically, smugglers and potential illegal entrants prefer urban areas due to the available infrastructure.

In urban areas, the deployment mix will lean heavily on SBI*net*-provided tactical infrastructure, such as lights and fences, supported by sufficient personnel to quickly respond to intrusions. The deployment tends to be of high visibility in that a potential intruder actually sees the barriers, lights, detection capability, and patrols occurring on or near the immediate border. The goal of deployment in an urban area is to deter and/or divert potential illegal traffic into areas where the routes of egress are not immediately accessible and enforcement personnel have a greater tactical advantage.

In a rural environment, response time to an incursion can be greater, as the time from the point of entry to assimilation into the local infrastructure may be minutes or hours, exposing the violator for a longer period of time and allowing for a more calculated enforcement response. Deployment in a rural area will be less dependent upon such things as pedestrian fences and stadium lighting and more dependent upon SBI*net* solution sets involving detection technology, rapid access, and barriers designed to limit the speed and carrying capability of the violators.

In remote terrain it may take a violator hours or even days to transit from the point of entry to a location where the entry may be considered successful. This allows for a significantly more deliberate response capability geared toward fully exploiting the terrain and environmental advantages. Deployments in remote areas will lean very heavily on detection technology and will include infrastructure geared toward gaining access to permit enforcement personnel to confront and resolve the event at a time and location that are most tactically and strategically advantageous. Other infrastructure/facilities that may be employed in a remote area include remote operating bases to provide for full enforcement coverage in areas that are difficult to access on a shift-to-shift basis.

While it is key that the right combination of personnel, infrastructure, and technology be deployed, it must be coupled with improved rapid response capability and organizational mobility. Each of these components is inter-dependent and is critical to the success of the CBP strategy. Operation Jump Start has provided a valuable beginning to more rapidly achieving the goal of border security. 6,000 National

Guard members have been deployed to the Southwest border to support of the President's initiative to secure the border.

We are fully engaged with the DHS Science and Technology (S&T) Directorate in our efforts to identify, develop and acquire technology to help us gain enhanced awareness and control of our borders. Our participation in S&T's Integrated Process Team on Border Security, for example, will help us use S&T resources to develop technology that will better secure our borders. Systems with the technological ability to predict, detect, and identify illegal entries and other criminal activity, but lacking the capacity for a rapid response or reaction, cannot complete the enforcement mission. Conversely, enforcement personnel with inadequate intelligence or poor technological support to provide situational awareness, access, and adequate transportation or equipment necessary to conduct enforcement activity are much less likely to be effective in today's dynamic border environment.

There is no stretch of border in the United States that can be considered completely inaccessible or lacking in the potential to provide an entry point for a terrorist or terrorist weapon. Therefore, securing every mile of diverse terrain is an important and complex task that cannot be resolved by a single solution, such as installing fence alone. To secure each unique mile of the border requires a balance of technology, infrastructure and personnel that maximizes the government's return on investment and is tailored to each specific environment. Some of the components included by the Border Patrol and SBI*net* in evaluating tactical infrastructure needs are border access (the existence of all-weather roads), border barriers (vehicle and pedestrian), and the lack of non-intrusive inspections equipment at checkpoint facilities.

The hiring and training of agents present both a challenge and an opportunity for the Border Patrol. CBP expects all training directed at achieving the President's target of 18,300 Border Patrol agents on board by December 31, 2008, to be conducted at the Border Patrol Academy in Artesia, New Mexico. CBP and the Federal Law Enforcement Training Center (FLETC) have agreed upon a plan to train a minimum of 3,600 new trainees in fiscal year 2007, 4,350 trainees in fiscal year 2008, and 850 trainees in the first quarter of fiscal year 2009. The Academy has increased the number of permanent instructors, detailed instructors, and rehired annuitants to meet the increased training load. Advanced Instructor Training to ensure that instructors have appropriate technical and teaching skills is being conducted at the FLETC facility in Charleston, South Carolina.

In the task of achieving border security, we partner with other DHS components and other Federal, State, and local law enforcement agencies and the Government of Mexico, bringing together resources and fused intelligence into a geographical area that has been heavily impacted by illicit smuggling activity. Our efforts include building on partnerships with the Government of Mexico to create a safer and more secure border through the Border Safety Initiative, Expedited Removal, and Interior Repatriation programs. In doing so, we continue to have a significant positive effect on fighting terrorism, illegal migration, and crime in that border area.

On the Northern border, the vastness and remoteness of the area and the unique socio-economic ties between the U.S. and Canada are significant factors in implementing the Border Patrol's national strategy. Severe weather conditions on the Northern border during winter intensify the need to expand "force-multiplying" technology to meet our enforcement needs. The number of actual illegal border penetrations along the U.S.-Canada border is small in comparison to the daily arrests along the U.S.-Mexico border. The threat along the Northern border results from the fact that over ninety percent of Canada's population of 30 million lives within one hundred miles of the U.S.-Canada border. It is most likely that potential threats to U.S. security posed by individuals or organizations present in Canada would also be located near the border. While manpower on the U.S.-Canada border has significantly increased since 9/11, the Border Patrol's ability to detect, respond to, and interdict illegal cross-border penetrations there remains limited. Continued testing, acquisition, and deployment of sensing and monitoring platforms will be key to the Border Patrol's ability to effectively address the Northern border threat situation.

Nationally, the Border Patrol is tasked with a very complex, sensitive, and difficult job, which historically has presented immense challenges. We face those challenges every day with vigilance, dedication to service, and integrity as we work to strengthen national security and protect America and its citizens. I would like to thank both Chairwoman Lofgren, and the members of the Subcommittee, for the opportunity to present this testimony today at this historic location and for your support of CBP and DHS. I would be pleased to respond to any questions that you may have at this time.

Ms. LOFGREN. Thank you very much, Chief. And now we will ask Mr. Timofeyev to make his 5-minute statement.

TESTIMONY OF IGOR V. TIMOFEYEV, DIRECTOR OF IMMIGRATION POLICY AND SPECIAL ADVISOR FOR REFUGEE AND ASYLUM AFFAIRS, POLICY DIRECTORATE, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. TIMOFEYEV. Madam Chairman, Representative King, Members of the Subcommittee, thank you inviting me to testify before you today about the role of immigration in the development of American society. I am especially honored that my first appearance before your Committee, indeed before any congressional Committee, is taking place at this symbolic location, the Ellis Island Immigration Museum.

As an immigrant myself, and as someone whose ancestors have passed through the halls of this building, I have an immediate appreciation of the seminal role that the Ellis Island played in immigration history of the United States. The challenge that the Ellis Island Station was built to meet is the same challenge we confront today, to find a way to encourage and promote legal immigration into the United States that benefits our country and ensures security, while also guarding against illegal migration by achieving effective control of the border and improving the enforcement of immigration laws in the interior.

To meet this challenge, the Department of Homeland Security is committed to realizing the President's vision of immigration reform. Today, I would like to share with you some of my views on the history of immigration, on important initiatives the Department of Homeland Security is undertaking, and on some of the principles we should keep in mind as we work to reform our immigration system.

Throughout our country's history, a hallmark of American immigration has been an emphasis on integration and inclusiveness. Today, our country is receiving numbers of new immigrants and faces new challenges in upholding this ideal.

With the creation of the Department of Homeland Security, the Federal Government is reinvigorating its efforts to be directly involved in integration initiatives, and alongside community-based organizations, faith-based groups, and educational establishments.

Notably, President Bush recently created the Task Force on New Americans, an inter-agency group designed to enhance efforts to proactively integrate new immigrants and encourage assimilation.

The primary efforts of a task force are directed at promoting instruction in English language and U.S. civics and history as ways to equip immigrants with the means they need to succeed.

I also would like to discuss a specific facet of immigration, namely the refuge that the United States has provided from its inception to individuals fleeing persecution. Since its founding, refugees have come to, and have been welcomed, in the United States in ever-increasing numbers.

Today, U.S. Citizenship and Immigration Services, a component of our Department, houses both a newly-minted Refugee Corps and a well- established Asylum Corps. These are corps of professional officers who receive special training in international human rights

law, conditions in countries or origin, and other relevant national and international refugee law. Officers from these corps adjudicate tens of thousands of asylum and refugee applications every year, thereby enabling refugees and asylum seekers from all corners of the world to receive the protection of the U.S. Government and resettle in communities across the United States to begin their lives anew.

To meet today's challenges in the area of immigration, we need Congress to enact immigration reform legislation that would be both effective and workable. Two areas that will be of crucial importance to immigration reform legislation are worksite enforcement and programs for temporary guest workers and for undocumented workers already in the United States.

Improvements in worksite enforcement are central to effective immigration reform. By closing the existing loopholes that allow illegal aliens to find jobs, we will remove the main economic incentives that draws illegal immigration to our country. In this respect, we should make it mandatory for employers to use electronic employment verification system. This is a system that would enable employers to confirm quickly and accurately that the new employees are United States citizens or worker-authorized non-citizens.

Two equally important components of immigration reform are the creation of a lawful, orderly mechanism to enable foreign workers to enter the United States on a temporary basis to fill jobs for which U.S. workers cannot be found and the development of a plan to bring millions of illegal immigrants working in the shadows of our economy under the rule of American law. The temporary worker program should have a built-in flexibility to periodically adjust the number of guest worker visas issued based on the United States' economic needs at a particular time. This program would be a part of the overall effort to ensure that our immigration system is well geared to serve the economic needs of our society.

We should also allow undocumented workers who are already in the United States to come out of the shadows, pay their debt to society, and obtain legal status. Once these individuals have achieved full reconciliation with the law, they should not be precluded from beginning the process of legally integrating themselves into the American polity.

We are working today on a difficult, but vitally important task, of creating a workable, common-sense immigration policy for America. This policy should enhance our security, strengthen our economy, and honor both the rule of law and our heritage as a Nation of immigrants. I thank you for the opportunity to share some of my thoughts on this subject, I look forward to working with you on this task, and I would be pleased to answer any questions you may have.

[The prepared statement of Mr. Timofeyev follows:]

PREPARED STATEMENT OF IGOR V. TIMOFEYEV

STATEMENT BY

IGOR V. TIMOFEYEV

DIRECTOR OF IMMIGRATION POLICY
AND
SPECIAL ADVISOR FOR REFUGEE AND ASYLUM AFFAIRS
DEPARTMENT OF HOMELAND SECURITY

BEFORE THE

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW

HEARING ON

PAST, PRESENT, AND FUTURE: A HISTORIC AND PERSONAL REFLECTION ON AMERICAN IMMIGRATION

FRIDAY, MARCH 30, 2007

ELLIS ISLAND, NEW YORK AND NEW JERSEY

Madam Chairman, Representative King, Members of the Subcommittee:

Thank you for inviting me to testify before you today about the role of immigration in the development of American society. I am especially honored that my first appearance before your subcommittee – indeed, my first appearance before any congressional committee – is taking place at this symbolic location, the Ellis Island Immigration Museum.

As an immigrant myself, I have an immediate appreciation of the seminal role that the Ellis Island Immigration Station played in the immigration history of the United States. The Ellis Island Station is, first and foremost, a tribute to the industry, perseverance and hope of many immigrants who have left their home countries, and often their families, in order to build a new, better life for themselves in the New World. For most of the immigrants who arrived in the United States at the beginning of the twentieth century, the Ellis Island Station was the first American building to receive them. Some of my ancestors, such as my great-grandfather and some of his children, have passed through the walls of this building when, as Jewish immigrants from Russia, they decided to make the United States their new home.

The Ellis Island Center is also a symbol of the important role that the federal government plays in immigration. Prior to the end of the nineteenth century, individual states, rather than the federal government, regulated immigration into the United States. As a reaction to what would later be termed the "Great Wave" of immigration, on January 1, 1892, the federal government assumed the task of inspecting and processing all immigrants seeking admission to the United States. The Ellis Island Station was the most prominent embodiment of this newly federalized control over immigration policy and operations.

Lastly, Ellis Island is also a reflection of the increasingly multinational character of immigration. While we properly think of immigrants who passed through Ellis Island as individuals who made a deeply personal, and often painful choice, to leave behind the world they have known, Ellis Island is also a symbol of international cooperation between developed nations to manage migration. As Chief Aguilar described, the Ellis Island Station served as one of our Nation's gateways for orderly, legal migration. The challenge that the Ellis Island Station was built to meet is the same challenge that we confront today – to find a way to encourage and promote legal immigration into the United States that benefits our country in a way that ensures security, while also guarding the United States against illegal migration by achieving effective control of the border and improving the enforcement of our immigration laws in the interior.

To meet this challenge, the Department of Homeland Security (DHS) is committed to realizing the President's vision of immigration reform based on five essential principles: (1) gaining effective control over the border; (2) building a robust interior enforcement program; (3) establishing a Temporary Worker Program (TWP); (4) bringing illegal immigrants who are now in the United States out of the shadows; and (5) promoting assimilation of new immigrants into American society. Today, I would like to share with you some of my views on the history of immigration, on important initiatives the Department of Homeland Security is considering in this area, and on some of the principles we should keep in mind as we work to reform our immigration system.

History of Immigration and Integration

A hallmark of American immigration has been an emphasis on integration and inclusiveness. As early as 1790, President Washington recognized tolerance of newcomers as a distinctive trait of the United States. "The liberal sentiment towards each other," he noted, "which marks every political and religious denomination of men in this country stands unrivaled in the history of nations." An intrinsic part of this inclusiveness was the open invitation to any deserving immigrant to become a part of the American body politic through the act of naturalization. The words of Thomas Jefferson exemplify well this principle: "A foreigner of any nation, not in open war with us, becomes naturalized by removing to the state to reside, and taking an oath of fidelity; and thereupon acquires every right of a native citizen."

The reality of accepting immigrants, however, has proven at times challenging. Indeed, moments in our history have reflected societal frustrations in upholding the ideal of America as a land welcoming to newcomers. At various points in recent history, from the 1800s to today, such frustrations have manifested themselves in such acts as the Chinese Exclusion Act, the Know-Nothing Party, nativist violence in New York, and anti-immigrant violence in California.

Counterbalancing against such tendencies, however, have been efforts aimed at recognizing immigrants as key contributors to America's economy and culture and actively working to integrate them into the fabric of American society. One positive reaction to the "Great Wave" of immigrants flooding America's borders at the turn of the last century was the "Americanization" movement, which found both the government and the private sector working to address the challenges posed by the increased immigration and to help those newcomers become full-fledged Americans.

Since 2000, the United States has welcomed more than four million new citizens and seven million legal permanent residents – a number reminiscent of the number of immigrants that arrived in America during the "Great Wave" at the turn of the previous century. Today, immigrants come from a greater variety of countries and regions than ever before. Moreover, they settle in new places, in addition to traditional immigrant destinations. For example, the "New Gateways" of North Carolina, Georgia, and Nevada have each experienced greater than 200% growth in their respective immigrant populations over the last decade. These communities are learning how to meet the challenge of developing experience and resources necessary to manage this growth.

With the creation of the Department of Homeland Security, the federal government is reinvigorating its efforts to be directly involved in integration initiatives, alongside community-based organizations, faith-based groups, and educational establishments. Notably, President Bush recently created the Task Force on New Americans, an inter-agency group designed to enhance and expand nationwide efforts to proactively integrate new immigrants and encourage assimilation. The Task Force is coordinating the efforts of the executive branch agencies in helping immigrants to settle and to integrate into the United States, working together with many private- and non-profit partners that assist newcomers. The primary efforts of the Task Force are directed at promoting instruction in English language and common U.S. civic values and history as ways to equip immigrants with the means they need to succeed in their communities.

Current initiatives of the Task Force include:

- Providing adult educators, host communities, volunteers, and newcomers with resources needed to help immigrants settle in the United States, learn English, and realize American values. These resources include creation of a one-stop government website listing all federal resources for immigrants and a program to encourage and train Americans to volunteer to teach English and civics to new immigrants.

- Identify ways to expand English and civics instruction for legal immigrants, including through faith-based, community, volunteer, and other groups. This will include a comprehensive online training tool for adult English as a Second Language instructors who want to include civics and naturalization preparation within their curricula, in additional to other technical resources.

- Prepare recommendations to the President regarding actions to enhance the integration of legal immigrants into American society. To conduct research for this report and examine best practices in integration, the Task Force is holding a series of roundtables with representatives from academia, business, community and faith-based organizations, adult education, public libraries, state and local government, philanthropy, and traditional civic organizations.

I also would like to discuss a specific facet of immigration, namely the refuge that the United States has provided from its inception to individuals fleeing persecution. Indeed, one of the origins of our nation is the search of the Pilgrims and Puritans for religious safe haven in the early-to mid-1600s. This legacy endured both before and after the United States' independence. Throughout their history, the American colonies received many refugees, especially those seeking religious freedom. Moreover, some colonies, like Pennsylvania, were expressly established for that end.

Since independence, refugees continued to come to, and find welcome in, the United States in ever-increasing numbers. In 1967, the United States became a party to the United Nations Convention Relating to the Status of Refugees. The Convention gave official weight to the concept of asylum and provided a definition of refugee based on a fear of persecution. It also set forth certain responsibilities and expectations for participating states with respect to the treatment and processing of refugees and asylum-seekers.

Today, U.S. Citizenship and Immigration Services, a component of DHS, houses both a newly minted Refugee Corps and a well established Asylum Corps, corps of professional officers who receive special training in international human rights law, conditions in countries of origin, and other relevant national and international refugee law. In coordination with international and other executive branch partners, officers from these corps adjudicate tens of thousands of asylum and refugee applications every year, enabling refugees and asylum seekers from all corners of the world to receive the protection of the U.S. government and resettle in communities located across the United Stated to begin their lives anew.

Challenge of a Successful Immigration Reform

To meet today's challenges in the area of immigration, we need Congress to enact immigration reform legislation that would be both effective and workable. I would like to focus on two areas that will be of crucial importance to immigration reform legislation: worksite enforcement and programs for temporary guest workers and undocumented workers already in the United States.

Improvements in worksite enforcement are central to effective immigration reform. By closing the existing loopholes that allow illegal aliens to find jobs, we will remove the main economic incentive that draws illegal immigration to the United States.

First, we should make it mandatory for employers to use the Electronic Employment Verification System. This is a system that would enable employers to confirm, quickly and accurately, that their new employees are United States citizens or work-authorized aliens.

Second, we should ensure that DHS is granted greater access to Social Security data.

Finally, and most crucially, we should provide DHS with flexible authority to establish new requirements in response to new forms of worksite fraud, such as identity theft. We should not repeat the mistake of the past, when we deprived our immigration authorities of the ability to adjust these requirements in order to meet changing fraud patterns.

Two equally important components of immigration reform are the creation of a lawful, orderly mechanism to enable foreign workers to enter the United States on a temporary basis to fill jobs for which U.S. workers cannot be found and the development of a plan to bring millions of illegal aliens working in the shadows of our economy under the rule of American law. The TWP program should have a built-in flexibility to periodically adjust the number of guest worker visas issued based on the United States' economic needs at a particular time. This program would be a part of the overall effort to ensure that our immigration system is well geared to serve the economic needs of the American society.

Undocumented workers who are already in the United States will be given a clear choice: They can continue to work illegally and risk being detected, apprehended and sent back to their home country, or they can come out of the shadows, pay their debt to society, and obtain legal status. At the same time, however, there should be no special privileges for individuals who broke our law. Once they acknowledge their transgression, they would have to get in the back of the line behind those who have played by the rules and sought to come to the United States through legal means. No special path to citizenship should be created for individuals who broke our laws; that would be a disservice to immigrants who have come here legally. But once these individuals have achieved full reconciliation with the law, they should not be precluded from beginning the process of legally integrating themselves into the American society through generally applicable programs.

There are a few key principles that should guide us as we work on crafting these two programs:

First, we need to have transparent and consistent application standards that will protect applicants to these programs, guide adjudicators, and prevent fraud. If we make the application and adjudication processes confusing and complicated, we will magnify the possibility of fraud and abuse. Nor can we condone, as was done under the Immigration Reform and Control Act of 1986, a system that gives a blank check of "confidentiality" for information learned in the course of adjudicating applications for the program. We must ensure that artificial walls do not separate our counterterrorism and law enforcement investigators from information that could protect Americans.

Second, we should design judicial review of application decisions carefully. While we must ensure that applicants are treated fairly and objectively, we must also guard against the application process descending into never-ending litigation. Excessive litigation will break any immigration system, and these programs would be no exception.

Third, as with worksite enforcement, DHS must be given flexibility necessary to implement and manage a TWP and a program for currently undocumented workers. The challenge of implementing these two programs will be considerable, and to perform this task well DHS would need sufficient time and resources to develop regulations, develop and implement contract requirements, hire and train additional workers, and plan for the substantially enhanced workload.

We are working today on a difficult, but vitally important task, of creating a workable, common-sense immigration policy for America. This policy should enhance our security, strengthen our economy, and honor both the rule of law and our heritage as a nation of immigrants. I thank you for the opportunity to share some of my thoughts on this subject, I look forward to working with you on this task, and I would be pleased to answer any questions you may have.

Ms. LOFGREN. Thank you very much, Mr. Timofeyev. We now have an opportunity to provide questions to these witnesses, each of us, for a maximum of 5 minutes, and I will begin.

I would first note to both of the witnesses that their full written testimony will be part of the record. I would like to ask you, Chief Aguilar, in your written testimony, you stated and I quote, "to most effectively secure our border, we must reform our immigration system to relieve the pressure" caused by illegal immigration.

From your perspective, how would comprehensive immigration reform assist you and your officers in the important job of securing our borders?

Mr. AGUILAR. A well-designed and comprehensive immigration reform program that works will mitigate the flow across our borders, both north and south, will allow our enforcement officers to concentrate on the threats coming at this country from the perspective of people wishing to do us harm.

Today, unfortunately, the high levels of illegal immigration across our southern border are quite chaotic. They create opportunities for terrorists or people associated with terrorism to mix in with that elevated flow, so it would mitigate the flow. It would be a tremendous force multiplier for the men and women of the Border Patrol to continue protecting this country.

Ms. LOFGREN. So recently we had testimony from a U.S. Attorney who mentioned, and I really never thought about it, but that there have been prosecutions of smugglers instead of what you describe as the nannies coming across the border. If I'm hearing you correctly, it would be a lot better to get the nannies and the husbands and wives of people who are here in a different situation so that you could concentrate on people who are set upon doing bad things. Would that be a correct summary of what you just said?

Mr. AGUILAR. Yes, ma'am. The flow that we deal with today is very diverse. Fortunately, a lot of that flow is a very docile flow, but mixed in with high number of people are also criminals, the narcotics smugglers and everybody else that we should be focusing on, so by reducing that flow of diversity that is looking to come into this country for other than criminal activities, would be a tremendous force multiplier for us.

Ms. LOFGREN. Now in your written testimony, you noted that the Border Patrol's national strategy, and you just mentioned in your oral testimony as well, was an all threats strategy.

Mr. AGUILAR. Yes, ma'am.

Ms. LOFGREN. And obviously, not only do I serve on the Judiciary Committee, I serve on the Homeland Security Committee, and terrorism is an important element of what we are paying attention to and what we need to pay attention to. You mentioned in the testimony that comprehensive immigration reform would serve to sharpen the focus of the terrorism mandate that you have. Could you elaborate on that? Is it really the same issue as the other criminal activity where you get the kind of good people who haven't fallen into our immigration system, but they're not terrorists, they're not crooks, sort of out of the way. Is that the theory?

Mr. AGUILAR. Yes, ma'am. As you stated, getting the people that are not wishing to bring harm to this country off through a regulated system into this country, it will allow us to focus our efforts

not only through the illegal incursions that will occur, but through the focused efforts between Canada and Mexico and intelligence, and work very closely with them, with us on, that will allow us to focus and to pinpoint where the threats, vulnerabilities and risks which are specific to terrorism and anything having to do with the terrorist nexus.

Ms. LOFGREN. Now I want to follow up. You touched on it briefly on the—I hate the phrase, catch and release, because it reminds me of going fishing with my dad, and it's not that. But where people are detained and then previously were given a ticket to show up and then they didn't. It's sort of a very high failure to appear rate.

Has that ended? Is your testimony that that's no longer happening?

Mr. AGUILAR. The practice that we had, unfortunately, of catch and release, related to the apprehension of people from other countries other than Mexico, coming into this country, being apprehended and due to a lack of housing capabilities, bed space and things of this nature, we used to serve them with a document, release them on their own recognizance and then they would not show up for their deportation removal hearing. That practice has, in fact, ended.

Today, as we speak, upwards of 95 percent of all of those other than Mexicans are, in fact, being housed and removed from this country effectively. The important piece of this is that in the past, when we were releasing them, that in itself was creating further draw into this country by actually housing them, jailing them, removing them, that has now caused deterrence which has caused a 50 percent drop.

Ms. LOFGREN. My time has expired. So I will now turn to the Ranking Member, Mr. King.

Mr. KING. Thank you, Madam Chair. And I thank both you gentlemen for your testimony today and in particular, Chief Aguilar, I know what kind of a job you had ahead of you. We've been to the border together and——

Mr. AGUILAR. Yes, sir.

Mr. KING. And it has helped my expanding perspective of how big that problem is.

I turn my first question to Mr. Timofeyev, and I see here, I didn't anticipate your testimony today, so I haven't had an opportunity to read through it, just the verbal, but you're here representing the Department of Homeland Security, is that correct?

Mr. TIMOFEYEV. That is correct.

Mr. KING. And then as you speak, this would be the Administration's policy here today?

Mr. TIMOFEYEV. I certainly do not intend to contradict the Administration's policy.

Mr. KING. I hope that when you speak, we can count on that as being the voice of the Administration's policy. Would that be correct?

Mr. TIMOFEYEV. I will do my best to do that.

Mr. KING. Thank you very much. And so as—in your testimony your talked about the—I'll use the term, the regularization of illegals, let them pay a fine and then get them into a system. Now

the Administration has taken the position that they're opposed to amnesty, so I'd ask you to define amnesty, if you could, for this panel, please?

Mr. TIMOFEYEV. Well, I think it is absolutely true. The Administration and the President have been very clear that they do oppose an amnesty for people who are undocumented workers, or people who are here illegally.

So I would say that I'm not sure if I want to define amnesty and give a dictionary definition. I think the importance is that, as we work toward crafting the necessary elements of immigration reform, we ensure that what we do does not actually represent amnesty.

Mr. KING. And if I might, there's been discussion out of the White House about paying a fine of $1500 or $2000, learning English as if that were a penalty, and I take that out of the equation because I think that's something that's an asset, not a penalty. But if $2000, would you presume or would you take the position that that would substitute for the penalty for unlawful entry into the United States and then that would not be an amnesty, paying a fine would substitute for the penalty?

Mr. TIMOFEYEV. Representative King, I think there are lots of discussions going on. I know that certainly, Secretary Chertoff has been meeting with lots of Members, both in the House, in the Senate, on both sides of the aisle, I know with many Members of this Subcommittee, so I don't want to discuss particular——

Mr. KING. Excuse me, I can cut to the chase on that point and that is if it's $2,000 or $1,500 or $100 or $10 or $1, it really is a price for having a penalty absolved and so I wanted to make sure that we had that part in the record and I appreciate your testimony. And time going along here, with Chief Aguilar, I wanted to explore a little bit with you, too. I honestly have difficulty understanding how we can regularize people in 12 million or 20 million or whatever that number is and presume that that's going to take the load off of you. And you had significant dialogue with the Chair here, but say if it's 12 million people and that's the number, how do you do background checks on people that don't really have a legal existence in their home country and aren't you then giving them the card that would allow them to come in and out of the United States at will? And won't they have less scrutiny, rather than more scrutiny on them if they happen to be carrying contraband?

Mr. AGUILAR. By funneling legal people through the ports of entry, it gives us the opportunity as a country to do what we did with this very location here, to actually follow them through an inspection point and make sure that they are admissible and for purposes of contraband, also review what they're bringing into this country. That's the first thing. So bringing them through the legal ports of entry.

Representative King, I have been asked many, many times this similar question. I don't know what the answer is as to how we take care of those 12 million people, but the answer that I have had on a constant basis is the following, that I believe as an American, forget that I'm the Chief of the Border Patrol, is that we need

to do what is right for the 300 million Americans today and the millions to come.

We cannot allow the 12, the 14, the 18 million that are out there today to impact on the future of this country. I don't know what the design is. But I do know that we need something in place to be able to inspect, to regulate, to modify, the situation that we have right now across our borders.

Mr. KING. And I thank you, Chief. And I think this does illustrate how difficult it is when we've got so many hypotheticals in this comprehensive immigration proposal that it's impossible to divine what alternatives we might have to take down the road or year or two or five. And you'll know that that's why I think that enforcement first is the thing we have to do in order to get some clarity on the rest.

Mr. AGUILAR. Absolutely.

Mr. KING. And I point out that we're spending now $8 billion on the southern border. That's $4 million a mile and we're getting $65 billion worth of illegal drugs coming across that border.

Mr. AGUILAR. Yes, sir.

Mr. KING. On an annual basis. And so your job is very, very difficult. And I appreciate the work that you do and I yield back to the Gentlelady.

Mr. AGUILAR. Thank you.

Ms. LOFGREN. Thank you very much. Next I'd like to invite Congressman Gutierrez to ask his 5 minutes of questions.

Mr. GUTIERREZ. Thank you very much. First, I'd just like to state that it never ceases to amaze me that people will first of all complain or make allegations that the new immigrants that come to this country because they can communicate so readily with their countries of origin, don't want to learn English; and then when there are others who say we're going to make it a requirement that they learn English, they somehow cast that aside as something that you should do. Either we should or we shouldn't. And I think everybody on both sides of the aisle should say that people should learn English. I mean it should a basic, fundamental requirement. But I would just like to ask either of the two, is it a requirement to become a permanent resident of the United States today in our laws to pass an English and a civics test?

Mr. TIMOFEYEV. It is a requirement, indeed, not to become a legal or permanent resident, but to naturalize. There, it is a requirement.

Mr. GUTIERREZ. So it is part of the legalization process of the undocumented, we change the rules and advance learning English and taking a civics class is that indeed not a change in the law in order to require these people to do something different because of their status of undocumented in this country? The only ones that have to pass one is to become a citizen, am I correct?

Mr. TIMOFEYEV. That is sp currently.

Mr. GUTIERREZ. That is currently the law.

Mr. TIMOFEYEV. That is currently the law.

Mr. GUTIERREZ. So when people propose that people we have changed the law, we have advanced that issue and I think that's a very, very important aspect of what we do in comprehensive im-

migration reform and we should all just say good, we agree. That is something substantially that we agree on.

I would like to say that I think that most people will learn English. My parents only spoke Spanish. I'm sure, I know that Congresswoman Sánchez' parents only spoke Spanish. I think Congresswoman Sánchez is incredibly articulate and passionate with her command of the English language. Many times I put on the TV set and I watch highly elected officials of the United States of America, of cities and States, that were born here and I find a richer command of the King's English from those that come from immigrant backgrounds than from those that have spent many decades here in this country.

I would like to go to Mr. Aguilar.

Mr. AGUILAR. Yes, sir.

Mr. GUTIERREZ. You—I went back and read your testimony because I think what you do is so important and I wanted to thank you and all the men and women in the Border Patrol.

Mr. AGUILAR. Thank you. Appreciate it.

Mr. GUTIERREZ. You said you caught how many people last year trying to enter illegally?

Mr. AGUILAR. Last year, between the ports of entry was just over 1.1 million.

Mr. GUTIERREZ. And how many people that you inspected had criminal records of that 1.1 million?

Mr. AGUILAR. About 152,000.

Mr. GUTIERREZ. About 152,000.

Mr. AGUILAR. Yes, sir.

Mr. GUTIERREZ. So a little over, close to 10 percent, maybe right around 9 to 10 percent.

Mr. AGUILAR. Yes, sir.

Mr. GUTIERREZ. And the other 90 percent crossed that border with the intention of what, Mr. Aguilar?

Mr. AGUILAR. The vast majority of that clutter, that chaos that we have on the southwest border currently are people looking to come into this country for the purpose of seeking employment.

Mr. GUTIERREZ. Do you know how many visas are issued annually for people to come to this country in the low-skill category?

Mr. AGUILAR. In the low-skill category, I'm going to have to look to my partner here. He's the expert in those areas.

Mr. TIMOFEYEV. I believe that it's around 5,000.

Mr. GUTIERREZ. It's around 5,000. So we have 900,000 people ready to come to this country, crossing the border illegally into the United States to come to look for some form of work and I think I know what kind of form of work because every time I sit down at a wonderful gala and I've got my suit on and my tie and I look around the room and I see people of my social, economic class, and then I see people who have the same last name that I do and speak the same language that my parents brought here, serving the plates. I think I know what kind of work they come to do. So comprehensive immigration reform has to include a mechanism, Mr. Aguilar, as a border enforcement agent, do you believe that would allow people to come to this country legally seeking those new job opportunities?

Mr. AGUILAR. I agree with that statement. Yes, sir. To regulate the flow that is currently occurring into this country, moving it from between the ports of entry to the ports of entry the people, the 90 some percent seeking economic betterment, if you will, the problem with that elevated flow is those preying on them that create the criminal organizations, the smugglers, the dopers that create chaos.

Mr. GUTIERREZ. And we want to help you keep them out. I would like to ask the Chairwoman because I was following up on your line of questioning, maybe we could have established what the Department of Labor, our Department of Labor, indicates the creation of low-skill, low-wage jobs are every year in our economy and compare that to the 5,000 visas, what we create and how many visas we actually have.

Ms. LOFGREN. Mr. Gutierrez, this is the first of many hearings, and I'm sure that is one of the issues that we will get into at subsequent hearings. I would now like to invite the gentlelady from Texas to ask her 5 minutes of questions.

Ms. JACKSON LEE. Thank you, Madam Chair, very much and I started out my remarks this morning emphasizing the fact that we have the mandate, the absolute no choice to engage in this Congress, comprehensive immigration reform. And I also noted that as I traveled through this wonderful historic building with a great sense of emotion that the stories on the walls indicated whether the Irish came in the 1800's, the late 1800's, the mid-1800's or others in the early 1900's and others who came continually in the 20th century, there was an economic basis for many of those who came and maybe some fleeing political persecution.

So Mr. Timofeyev, I would simply encourage you not to step away from what I read in your testimony. It is a valid statement, either immigrants who are here undocumented, can stay beneath the shadows, or as you specifically say they can come out of the shadows, pay their debt to society, and obtain some form of legal status which is what is now the charge and the challenge of the United States Congress.

My question to you, one of the failing processes of our now years past, not being able to get this right, is an active viable executive, whether it is the Department of Homeland Security which I sit on the Subcommittee or the full Committee, or the President of the United States. And so the message is the President has to be engaged and my understanding is you read this last part, am I to take from this sentence that you've at least been allowed by the Administration to say come out of the shadows, pay their debt to society, and obtain legal status. Is that accurate?

Mr. TIMOFEYEV. That is quite accurate.

Ms. JACKSON LEE. That means now we have a partner in what we have been calling and I'm not akin to names, I'll take any name you call it, but we've been calling comprehensive immigration reform. We have a partner, is that my understanding?

Mr. TIMOFEYEV. I think both the President, and certainly the Department of Homeland Security, have been always very explicit that this is one of the parts of the President's vision of immigration reform.

Ms. JACKSON LEE. And if you would for me, and certainly I know that you would say I can speak for myself and I can, I'll get the phone number and call up in just a moment, but would you for me carry back the message to the President of the United States that his activism on changing the policies constructively to reflect the diversity of America is imperative now? I'd appreciate if that message could be carried back.

Mr. TIMOFEYEV. Sure. And I would just say that the President has certainly been very active on this issue and so has Secretary Chertoff. I will be happy to carry back that message.

Ms. JACKSON LEE. We thank you so very much. Chief, might I probe you as my colleagues have probed, because one of the interesting points that you have made is the massiveness of the work that you have on that border. Sometimes we are jaded by your single focus.

Let me just ask a logistical question. Over the sessions I've carried legislation dealing with equipment and I'm going to ask this question because I know that if you got equipment last year, some other equipment have aged out.

Mr. AGUILAR. Yes, ma'am.

Ms. JACKSON LEE. In the course of you securing the borders, can you use more power boats, laptops, night goggles, technology that can help you be more effective in the securing of the border in the 21st century?

Mr. AGUILAR. Absolutely. Yes, ma'am. And I'm happy to report that we are getting a lot of that equipment, literally as we speak. The hiring of the agents that is occurring now, 2500 this year, 3000 next year, and 500 by the year after that, commonly referred to as a modular cost that equips all of our agents with that. The SBInet contract that was let in September also, $1.2 billion, in order to get us the technology to do our jobs, absolutely.

Ms. JACKSON LEE. Let me, because my time is short, just say that I assume that as new personnel are coming in, more equipment and more sophisticated equipment might be needed.

Mr. AGUILAR. Yes, ma'am.

Ms. JACKSON LEE. So we should be vigilant on those issues?

Mr. AGUILAR. Absolutely.

Ms. JACKSON LEE. Let me point you again to the question of what you do on the border. My understanding, I serve on the Subcommittee on Crime on Judiciary, as well, worked on these issues of drug interdiction and drug smuggling. My understanding is that you have really been challenged with respect to drug cartels and drug violence on the border. And I think it is very important to distinguish and highlight that work versus what I believe you answered my colleague, Congressman Gutierrez, to say that you have a docile economic seeking group of individuals that are coming, different from the violence of drug individuals or drug cartels and others. May I yield to you for the answer on that?

Mr. AGUILAR. Yes, ma'am. And I'm very glad that you asked that question because just as an example.

Ms. JACKSON LEE. And you should not mix apples and oranges.

Mr. AGUILAR. Absolutely.

Ms. JACKSON LEE. Illegal immigrants or undocumented individuals either whether here—well, let me just say that by and large

coming across, your numbers suggest by and large economic, even though we know there's some mixture in there.

Mr. AGUILAR. Yes, ma'am.

Ms. JACKSON LEE. But go ahead, let me yield to you.

Mr. AGUILAR. Yes. Absolutely. That's a very important part of what I need to communicate—what the men and women of the Border Patrol are doing.

As an example, on the 23rd of March, I received the invitation to come here and testify. Since that day, we have had 17 assaults against our Border Patrol officers. We have apprehended 52,000 pounds of narcotics; 1100 pounds of cocaine.

Ms. JACKSON LEE. Those are assaults by drug actors, if you will.

Mr. AGUILAR. And smugglers, yes, ma'am. A total of over 400 assaults against our officers this past year. So it is a very dangerous job. It is a very critical job to this country and the portion of illegal immigration is the portion that creates that clutter that has to be mitigated.

Ms. JACKSON LEE. Madam Chair, I will just simply say that I wanted that clearly on the record because whenever there is violence at the border, whether northern or southern border, we seem to have one pool of population that we seem to blame. There are other challenges at the border. I look forward to working with the Chief on these challenges, and my understanding of his testimony is it would help him if we had comprehensive immigration reform to separate out those populations for him to be able to do his job.

Madam Chair, I yield back.

Ms. LOFGREN. Thank you. And our final Member is Congresswoman Sánchez for her 5 minutes of questions.

Ms. SÁNCHEZ. Thank you, Madam Chair. My first question is for Mr. Aguilar.

Mr. AGUILAR. Yes, ma'am.

Ms. SÁNCHEZ. When discussing the situation at the border, you observed that securing every mile of diverse terrain is an important and complex task that cannot be resolved by a single solution such as installing a fence alone.

Mr. AGUILAR. Yes, ma'am.

Ms. SÁNCHEZ. Now lately in Congress, the fence idea has gained a lot of traction and for many people it's become the solution in their mind. If we just build a fence that's big enough and long enough and thick enough, that's going to be the solution to our immigration problem.

I want you to discuss for us some of the potential downfalls of building a fence along the border and also perhaps elaborate on some other solutions that might make our border less porous, that might work a little bit better than a fence.

Mr. AGUILAR. Okay. It would usually take me about an hour and a half to 2 hours to cover this——

Ms. SÁNCHEZ. If you could do it in a few minutes——

Mr. AGUILAR. I'll condense this very quickly. A fence will be utilized where it makes sense and where it makes sense is going to be very specific to the terrain that we're going to be addressing. We have three environments in which operate in the United States Border Patrol; an urban environment, downtown San Diego, a fence makes sense. In a rural or remote environment, it might and

it might not. The challenges that a fence brings with it is the ability to defend that fence. I have often used the analogy of what happens when a tree falls in the forest, does anybody hear it? What happens when somebody crosses a fence in a wide open space, or rural or remote area that we can't defend? So what we need is a combination of infrastructure, technology and personnel that will give us the following capabilities. One, is to detect an illegal incursion. Two, is to deter it, if at all possible. Three, is to respond. And four, is to bring resolution, a proper law enforcement resolution to that incursion. We do that by technology, personnel and some infrastructure.

Ms. SÁNCHEZ. I appreciate your answer. Mr. Timofeyev, one of the reasons that so many people in the past were able to immigrate to this country legally, and in particular I'm referring to what we learned about Ellis Island today, is because of the efficiency of the system in which they process people. And in fact, we learned that passengers in first class weren't even really inspected when they got here. They were just allowed to enter the country and they didn't need to be processed.

About 80 percent of the case work that I get in my District office is some kind of immigration-related case work, and we found that sometimes people wait 10, 15, 20 years or more to reunite with their families. So I'm interested in knowing in your opinion how we could rectify that wait time and make it a little more efficient so that our system is a little more humane.

Mr. TIMOFEYEV. I certainly think we should do everything we can to have an efficient processing and inspecting system and these are somewhat different issues, in fact.

And I actually think we've always been careful to inspect everyone. I think actually the first class passengers, if I remember my history lessons correctly, were usually inspected right on the boat, so they were treated a little bit preferentially than people like my great grandfather, who came in the third class, who had to be processed here on the island.

I think that CIS, Citizenship and Immigration Services, has certainly done a lot to make sure that the backlog of applications they had in recent years is being cleared, that they processed all the applications where individuals were entitled to get the visa benefit at that time.

I think with respect to the family, a lot of family-based applications for green cards for people to come here, I think the question often is the question of how many visa slots are allotted to those people. So it is not just a processing question, though that is a part of it, but it's also a question of how our system is structured. Our system today is structured, I think, so that about 60 percent of people who come to become legal residents do so on the basis of connections. So it's a sizeable portion.

Ms. SÁNCHEZ. And just very quickly, last question that I have time for, I'm particularly interested in some of the comments that you had about the temporary worker program. We've had them in the past, the Bracero Program and that program lacked meaningful enforcement of wage and labor condition protections and that led to unsafe and unsanitary working conditions and allegations of extremely poor wages.

After looking at the history of that system, I'm interested in knowing what you believe would be the necessary components of a guest worker program to help ensure that workers both foreign and American workers are protected?

Mr. TIMOFEYEV. I'm not sure I have an exactly answer for you today. I think—I certainly agree that we should—the questions of wage differential, worker conditions and protections for American workers, those are important questions. And we should make sure that, however the program is structured, that we guard against potential exploitation.

I mean this is a very large question on which really our Department, the Department of Labor and I think this Committee, other Members of Congress have to engage in a lot of discussions to see what can we learn from history, what are the appropriate moving parts of the immigration reform in that particular structure.

Ms. SÁNCHEZ. Thank you.

Ms. LOFGREN. Thank you very much. And we thank the two of you very much for your being here with us this morning, not only for the testimony, but the opportunity to take a look at this magnificent place and to start our discussions with that weight of American history behind us. So thank you both very much.

Mr. AGUILAR. Thank you, Madam Chairwoman.

Mr. TIMOFEYEV. Thank you very much.

Ms. LOFGREN. We will now hear from our panel of distinguished speakers. First we will hear from Daniel J. Tichenor, Associate Professor in the Department of Political Science at Rutgers University. Aside from his position at Rutgers, Professor Tichenor is an External Faculty Research Fellow at the Center for Comparative Immigration Studies at the University of California, San Diego. He has also served as a visiting research scholar the Center for the Study of Democratic Politics at Princeton University's Woodrow Wilson School of International and Public Affairs.

Our next witness is Dowell Myers, a Professor of Urban Planning and Demography, at the University of Southern California, where he serves as Director of the Population Dynamics Research Group. Professor Myers is an advisor to the U.S. Census Bureau and has authored the most widely referenced work on census analysis. He recently published a book with the Russell Sage Foundation titled Immigrants and Boomers—I'm one—Forging a New Social Contract for the Future of America.

Next we have Dan Siciliano, Executive Director of the Program in Law, Economics, and Business, at Stanford Law School; a former Truman Scholar, Professor Siciliano has taught and researched at Stanford's Hoover Institute and conducted macro economic policy analysis at the U.S. Congressional Budget Office in Washington, D.C. He is also a research fellow with the Immigration Policy Center.

Our fourth witness is Mr. Jack Martin, Director of Special Projects at the Federation for American Immigration Reform, as Washington-based national immigration reform organization. Mr. Martin formerly served as a Foreign Service Officer in the U.S. Department of State and on U.S. delegations to the U.N. General Assembly.

Mr. Bruce DeCell is a member of the 9/11 Victims for a Secure America. His son-in-law was killed while in a meeting on the 92nd flood of the World Trade Center on 9/11. He is reading the testimony of our witness, Michael Cutler, who fell ill this morning. Mr. Cutler is a former INS Agent and current Fellow for the Center of Immigration Studies. So Mr. DeCell will be reading his abbreviated testimony and we do appreciate your filling in.

So, as before, the written statements, the entire written statements, will become part of the record and I will note that there's already been demand from some of our colleagues in Congress for the witness statements.

So if we could start with you, Dr. Tichenor.

TESTIMONY OF DANIEL J. TICHENOR, Ph.D., ASSOCIATE PROFESSOR IN THE DEPARTMENT OF POLITICAL SCIENCE, RUTGERS UNIVERSITY

Mr. TICHENOR. Madam Chairwoman, Members of the Subcommittee, thank you for inviting me to appear before you today. My name is Dan Tichenor and I am a Research Professor at the Eagleton Institute of Politics and an Associate Professor of Political Science at Rutgers University.

I have researched and written extensively on our Nation's immigrant past and the development of our immigration policies over time. I am delighted to provide some historical perspective on contemporary immigration reform. As one of our most beloved historians, David McCulloch, aptly observed, "a Nation that forgets its past can function no better than an individual with amnesia."

Let me begin by highlighting that the American people and their leaders have been debating about immigrant admissions and rights since the earliest days of our Republic. It is a debate that defies the standard partisan divides of our politics, reflecting four ideological traditions that are captured in my written statement.

In today's often contentious political environment, I think it is useful to appreciate that each of these durable ideological perspectives on immigration is driven by a concern for the national interest. Alexander Hamilton soberly pointed to the value of immigrant labor for national growth and prosperity. Henry Cabot Lodge emphasized the importance of national security and sovereignty. Frederick Douglass urged us to achieve greater economic and social justice for our least- advantaged citizens when we think about immigration. And Jane Addams and John F. Kennedy reminded us of the universality of our republican experiment, noting that our democracy not only survived but grew stronger and more vibrant with new immigrants.

At a time when opposing viewpoints are too easily denounced and vilified, I think we would benefit from recognizing the well meaning and patriotic reasons for many of our disagreements over immigration. I also want to underscore that our past reveals that each wave of "new" immigrants has been scorned by critics as incapable of successfully joining our ranks only later to be distinguished among our most loyal and accomplished citizens. We see an historic pattern of xenophobic reactions to groups such as Irish Catholics, who were associated with Papal conspiracies; the Chinese, whose religious and racial dissimilarity inspired brutal exclu-

sion; and Southern and Eastern Europeans, who were deemed too radical, criminal and intellectually inferior to admit.

We have tended for some time to celebrate our immigrant heritage while dreading the immigrant present. As early as 1751, Benjamin Franklin fumed that Germans were "swarming" into Pennsylvania neighborhoods without regard for our laws, customs, and shared values. These newcomers were so culturally and linguistically different from his English brethren that he was convinced that Germans would never assimilate like previous settlers—noting that they would "Germanize us instead of our Anglifying them."

As the descent of German immigrants, I'm happy to report that while my family probably eats more sausages and potatoes than the Surgeon General recommends, we are otherwise well assimilated. Our Nation's nativist past should remind us that anxieties about the latest newcomers have often proven to be overwrought and unfounded.

Finally, the origins and development of our illegal immigration dilemma highlight a series of compromises over time that fed the Nation's appetite for cheap labor, while creating a vulnerable shadow population and undermining the rule of law. Deals were struck among policymakers in the 1920's, for instance, whereby national origins quotas all but closed overseas, immigration from Europe and Asia while legal and unauthorized Mexican labor was encouraged to flow easily across our southern border.

At the same time, as Ellis Island and other stations gave way to draconian consular inspection overseas with tragic consequences for Jewish refugees in World War II, Mexican labor flows overwhelmed an underfunded and undermanned Border Patrol. Later mass deportation campaigns proved to be capricious and ineffective. As the late President Ford's Domestic Counsel Committee concluded 30 years ago, "mass deportation is both inhumane and impractical," requiring police state tactics "abhorrent to the American conscience."

We finally enacted employer sanctions one decade later, but they never stood a chance of working. America's checkered illegal immigration history underscores why our generation must make tough choices to fix the system, recognizing the practical and ethical reasons for giving work place enforcement real teeth and for giving undocumented immigrants an opportunity to earn legal status. I look forward to answering your questions. Thank you.

[The prepared statement of Mr. Tichenor follows:]

PREPARED STATEMENT OF DANIEL J. TICHENOR

Testimony of Daniel J. Tichenor
Research Professor, Eagleton Institute of Politics and Department of Political Science
Rutgers University, New Brunswick

Before the U.S. House of Representatives Committee on the Judiciary
Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law
March 30, 2007

Madame Chairwoman, members of the subcommittee, thank you for inviting me to provide historical perspective on contemporary immigration reform. America's rich immigration history illuminates not only our national heritage but also the origins and development of contemporary policy challenges. As Shakespeare so memorably put it, "what's past is prologue." It is especially stirring to testify on our immigration history at Ellis Island, a setting that poignantly captures the sacrifices, controversies, and hopes associated with each generation of newcomers over time.

This afternoon, I would like to describe briefly the competing traditions that long have informed our immigration debate, as well as the uneasy, often hostile, reception that has greeted each wave of immigrants who helped build this nation. I will then turn to the history of illegal immigration since the early twentieth-century, one replete with official compromises that supplied cheap labor while creating an exploited subclass and sacrificing the rule of law.

America's Immigration Debate: Four Ideological Traditions

Poll after poll demonstrates that Americans are deeply frustrated by the polarization that characterizes much of our political life these days. Our conflicts over immigration reform defy the familiar partisan and liberal-conservative divides of U.S. politics, but are no less contentious than other emotional issues on the public agenda. Amidst this conflict, we would do well to take a step back and recall that the founders of our republic also disagreed about how to govern immigrant admissions and rights for different patriotic reasons. Indeed, we can identify four distinctive ideological traditions that have emerged in America's enduring debate over immigrant and immigration policies, as highlighted by Table 1 (top of page 2). Let us briefly consider these traditions in turn, focusing on the arguments raised by proponents of each view for why their approach best serves our national interests and ideals.

One tradition is captured well by Thomas Paine, who urged the new nation to adopt the cosmopolitan individualism of Pennsylvania, where the equal membership of English, Dutch, Germans, and Swedes showed that "we surmount the force of local prejudices as we enlarge our acquaintance with the world." James Madison endorsed these sentiments when he scored restrictions that would "give a tincture of illiberality to the Constitution," reminding delegates that states which embraced immigrants were the most advanced in wealth, territory, and the arts. Those who support broad immigrant rights and admissions celebrate the universality of our republican experiment, and believe that large-scale immigration is beneficial and that the country's assimilative capacities are vast.

Table 1. Immigration and Four Ideological Traditions

Immigrant admissions and Rights (A Two-Dimensional Model)

	Favors Robust Immigration (Expansive Admissions)	*Favors Restricted Immigration* (Reduced Admissions)
Favors Broader Immigrant Rights (Expansive Civil, Political and Social Rights)	**Thomas Paine, *Common Sense*** James Wilson Ralph Waldo Emerson Jane Addams John F. Kennedy German American Alliance American Jewish Committee National Immigration Forum	**Thomas Jefferson, *Notes on the State of Virginia*** Frederick Douglass Samuel Gompers John Rawls Barbara Jordan Knights of Labor AFL (1900-1956) 1970s Env.& Pop. Control Grps
Favors Narrower Immigrant Rights (Restricted Civil, Political and Social Rights)	**Alexander Hamilton, *Report on Manufactures*** Andrew Carnegie William Howard Taft Ronald Reagan National Assn of Manufacturers Steamship companies American Farm Bureau Fedn	**Agrippa (Antifederalist), *Letters in the Mass. Gazette*** Governeur Morris Henry Cabot Lodge Patrick McCarren Anti-Masons Immigration Restriction League Patriotic Societies (1900-1965)

In contrast to Paine and Madison, a second tradition was best expressed by founders who worried profoundly about the potential dangers posed by new immigrants to the United States. The Antifederalist writer Agrippa warned during the ratification debates that new settlers might not share our political values, that their interests and attachments could be divided between two countries, and that their different languages and cultures may not blend harmoniously into American life. Worse still, restrictionists like Henry Cabot Lodge contended, our open gates make us vulnerable to outsiders who intend to do us harm. This tradition also favors extending membership rights to immigrants very slowly and guardedly, contingent upon demonstrated loyalty. While nearly all participants in our immigration debate have sought to exclude dangerous outsiders, those who advocate restricted immigrant admissions and rights have been particularly defensive of national unity, sovereignty, and security.

A third tradition, exemplified by Alexander Hamilton and free market and pro-business champions to follow, asserts that expansive immigrant admissions were critical to meet labor needs and to promote national prosperity. In his *Report on Manufactures*, Hamilton praised robust immigration as "an important resource, not only for extending the population, and with the useful and productive labor of the country, but likewise for the

prosecution of manufactures." Andrew Carnegie later celebrated mass immigration as "a golden stream which flows into the country each year." At the same time, these defenders of robust immigration numbers tend to idealize newcomers who are entrepreneurial and economically self-sufficient, and thereby support denial of social welfare and other public benefits to non-citizens. "Immigration yes, welfare no!" was the slogan of this camp during the mid-1990s. Free market champions who favor broad immigrant admissions but more limited immigrant rights underscore the reality of our economy's enormous appetite for immigrant labor while emphasizing the social and economic responsibilities of individual newcomers.

A final tradition was elucidated by Thomas Jefferson in his *Notes on the State of Virginia*, which endorsed broad rights for immigrants already residing in the U.S. but suggested that the quality and durability of republican government required restraints on future admissions. He gave early expression to an ideological tradition principally concerned with protecting the common interests of those already here before extending opportunities to new arrivals. More than a century ago, Frederick Douglass championed immigration limits, lamenting that "every hour sees the black man elbowed out of employment by some newly arrived immigrant." But he also vigorously denounced the persecution of Chinese on the West Coast, insisting that anyone settled within our borders deserved equal membership. A later generation of labor leaders like Terence Powderly of the Knights of Labor and Samuel Gompers of the AFL called for immigration restrictions because they believed immigrants undercut the wages, working conditions, and job security of U.S. workers. A decade ago, Barbara Jordan, Chair of the U.S. Commission on Immigration Reform, urged Congress to reduce legal immigration but also "to retain for legal immigrants eligibility for our safety net programs" lest "individuals whom we have invited to enter become vulnerable." For those who favor reduced immigrant admissions but extensive rights, the American "social contract" calls on us to advance social, economic, and political justice among citizens before welcoming new arrivals.

In today's combative political environment, it is useful to recognize the well-meaning and patriotic reasons for many of our disagreements over immigration. This is not to say that leaders and activists from these respective camps over the course of our history have all been saints – indeed, each tradition has featured its share of rogues and special interests. But at a time when opposing viewpoints are too easily denounced and vilified, we might benefit from acknowledging how each of the ideological traditions informing our immigration debate since the founding is driven by a distinctive portrait of the national interest.

Fearing the Latest Newcomers: Immigrants and American Nativism

One of the most prominent patterns of our history is a tendency to celebrate the nation's sojourner past while dreading its immigrant present and future. Over the course of our history, these anxieties about "new" immigration repeatedly crystallized into anti-immigrant or nativist movements. They have been fueled by the economic stresses of working-class Americans, ethnic and racial animosities, and national security jitters.

Anti-Catholic Nativism

The first eruption came in reaction to unprecedented rates of Catholic immigration, especially from Ireland, from the 1830s through the 1850s. Anglo-American angst over the Irish Catholic influx, which soared during the Irish potato famine of the 1840s, was exacerbated by competition for jobs and housing in Northeastern cities. Anti-Catholic publications flourished, offering lurid accounts of sinister Roman Catholic crimes and plots that fed Protestant antipathy.

These dark tales spurred mob violence, from the 1834 burning of the Ursuline convent near Boston to the 1844 Bible Riots in Philadelphia, which led to twenty deaths and the destruction of more than 100 Catholic churches, schools and homes. As the ranks of anti-Catholic associations swelled in Seaboard cities, nativist leader Samuel Morse, newspaper editor and future inventor of the telegraph, organized an anti-immigrant party and ran strongly for New York City mayor in 1836. Morse also fed anti-Catholic venom through incendiary writings such as *Foreign Conspiracy* (1835), warning readers that "the evil of immigration brings to these shores illiterate Roman Catholics...the obedient instruments of their more knowing priestly leaders."

Because of the nation's insatiable appetite for immigrant labor--and the clout of Irish voters--nativists made little political headway until the 1850s. In 1849 secret nativist societies formed the Order of the Star Spangled Banner to furtively organize electoral support for an anti-Catholic and anti-immigrant agenda in cities around the country. The movement's rank and file included Anglo-American workers, artisans and small entrepreneurs. Their secrecy led Horace Greeley to mock their members in the *New York Tribune* as "know-nothings"--a label that stuck.

The Know-Nothing movement formed the American Party in the 1850s, devoted to strict limits on immigrant admissions, twenty-one-year waiting periods for citizenship and restrictions on voting rights and officeholding. The party benefited enormously from a political vacuum created by the gradual demise of the Whig Party and balkanization of the Democrats over slavery. In the 1854 and 1855 elections the American Party elected seven Know-Nothing governors, gained control of eight state legislatures and established a strong presence in Congress. In 1856 the Know-Nothings tapped former President Millard Fillmore for the top of their ticket, and he won 22 percent of the popular vote.

The movement's meteoric rise transcended the ballot box. Know-Nothing candy, tea and other merchandise was successfully marketed. Buses, stagecoaches and clipper ships bore the popular name. But the decline of the American Party was as swift and dramatic as its ascent. Ironically, the same slavery controversy that helped elevate anti-Catholic xenophobia in antebellum America was the driving force behind its rapid demise. The new Republican Party siphoned away nativist voters more devoted to excluding slavery from the territories than to the Know-Nothings' "war to the hilt, on political Romanism." By 1860 the movement had collapsed. To the chagrin of nativists, immigration from Northern and Western Europe flourished in subsequent decades, fueled by federal recruitment efforts, the Homestead Act of 1862 and spreading industrialization.

The Chinese Exclusion Movement

Chinese immigration of the late nineteenth century was minuscule compared with European inflows--just 4 percent of all immigration at its zenith--but it inspired one of the most brutal and successful nativist movements in US history. From the 1850s through the 1870s, Chinese workers were recruited to California as cheap contract labor for mining, railroad construction, manufacturing and farming. They inspired hostility among white workers for allegedly lowering wages and exacerbating working conditions; meanwhile, newspapers and magazines portrayed the Chinese as a race of godless opium addicts, prostitutes and gamblers. California politicians also learned that anti-Chinese speeches and policies translated into votes. The state's first Republican governor, Leland Stanford, promised "to protect free white labor" from the "degraded" Chinese while at the same time his own farming and railroad enterprises employed them.

Economic distress inflamed the Sinophobic movement in the 1870s, when unproductive mines, the completion of the transcontinental railroad and a flood of new settlers to the Pacific Coast led to rampant unemployment. San Francisco union leaders initiated a grassroots network of Chinese Exclusion Leagues that spread across California and the Far West. From 1871 onward, California politicians raced to claim credit for a flood of reforms that included state-level barriers to Chinese entry, segregation laws and special taxes on Chinese businesses. One of the anti-Chinese movement's most effective firebrands was Denis Kearney, an Irish immigrant who blamed Chinese workers for his personal failure at mining. His demagogic campaign, which began with race-baiting speeches in the San Francisco sandlots of the late 1870s, drew white laborers into a new Workingmen's Party dedicated to the proposition that "the Chinese must go!" Kearney spurred an 1879 state referendum that endorsed Chinese exclusion by a remarkable margin: 150,000 to 900.

Fierce party competition in presidential elections of the Gilded Age transformed the anti-Chinese movement into a national political juggernaut. As the *New York Times* queried in 1880, "Which great political party is foolish enough to risk losing the votes of the Pacific States by undertaking to do justice to the Chinese?" Neither, as it turned out. Large bipartisan majorities in Congress suspended Chinese admissions for ten years with passage of the infamous Chinese Exclusion Act of 1882. Brutal anti-Chinese riots soon followed, as Sinophobes sought to purge Chinese communities altogether across the Far West. In the 1885 Rock Springs, Wyoming, massacre, twenty-eight Chinese were murdered and every Chinese-owned building, except one, was destroyed. Chinese residents of Tacoma and Seattle suffered looting, arson and violent riots until few remained. The Sinophobic fervor did not subside until the early 1900s; by then, a reduced Chinese population was concentrated in a few self-sufficient Chinatowns.

The Assault on Southern and Eastern European Immigration

As Westerners put their chilling final touches on Chinese exclusion, a new anti-Catholic movement emerged in the nation's heartland in the late 1880s: the American Protective Association. The APA drew its lifeblood from Midwestern and Rocky Mountain

communities where Catholics were gaining political and social clout. During the depression of 1893, the ranks of APA faithful surged to more than a half-million. APA rabble-rousers like William "Whiskey Bill" Traynor, a former saloon owner and nativist newspaper publisher, whipped up resentment with speeches blaming Irish Catholic immigrants for the economic crisis.

Although the APA had modest success in electing anti-Catholic Republicans, national party leaders eventually privileged immigrant labor and votes over their nativist agenda. By 1896 William McKinley's presidential campaign actively courted immigrant and Roman Catholic voters while purging the APA from Republican ranks.

As the APA crusade dissipated, a new anti-immigrant movement, led by the upper-class Immigration Restriction League (IRL), the American Federation of Labor and various patriotic societies, distanced itself from anti-Catholic nativism. Embracing the scientific racism of social Darwinism and the eugenics movement, these reformers argued that the real problem was Southern and Eastern Europeans arriving in record numbers from countries like Italy, Greece, Russia, Hungary and Poland--and hereditarily inferior to previous European immigrants. The IRL enjoyed a prominent champion in Massachusetts Senator Henry Cabot Lodge, who proclaimed that new European immigration posed "nothing less than the possibility of a great and perilous change in the very fabric of our race." Progressive Era nativists spurned party politics in favor of mass publicity campaigns, research and full-time Washington lobbying. Their efforts paid dividends when the 1911 Dillingham Commission, led by IRL allies including Lodge, produced forty-two volumes of findings that purportedly vindicated nativist claims about Southern and Eastern Europeans. But a countermobilization of immigration defenders--led by employer and ethnic groups--yielded a policy stalemate.

The onset of World War I broke the logjam. In 1917 immigration restrictionists seized upon wartime anxieties to win passage of a literacy test for admission into the country. While the IRL and its allies were closing the gates, an Americanization movement attacked any hint of divided loyalties among the foreign-born already here. Theodore Roosevelt led the charge for "100 % Americanism," denouncing "hyphenated" Americans as guilty of no less then "moral treason." Patriotic conformity was pursued by a government-sponsored network of local defense and patriotic associations, including 250,000 badge-wearing volunteers of the American Protective League (APL). German-Americans, celebrated for decades as the model ethnicity, endured the harshest treatment. They were targets of vandalism, mob violence, surveillance and harassment (by APL watchdogs), job discrimination and arrests for unpatriotic speech. By 1918 public burnings of German books were commonplace, dozens of German-American newspapers and organizations dissolved and some states prohibited speaking German or playing German-composed music in public.

After the war, the immigration restriction movement mobilized for new reforms when the literacy test failed to curb Southern and Eastern European inflows. In 1921 and 1924, during the country's first Red Scare, Congress passed draconian national-origins quotas that slowed Southern and Eastern European immigration to a trickle and barred nearly all

Asian admissions. "The day of unalloyed welcome to all peoples, the day of indiscriminate acceptance of all races, has definitely ended," proclaimed Representative Albert Johnson, a chief architect of the legislation.

The early twentieth century was the high-water mark of the American nativist tradition. Sweeping political successes eventually led the IRL to declare victory and disband. The national-origins quota regime they had built assured that few Jewish refugees would escape the Holocaust to the United States, while leaving the back door open to Mexican guestworkers described as "returnable," thanks to a contiguous border. Japanese internment after the attack on Pearl Harbor was an extension of the marriage of racist beliefs and national security imperatives during World War I and the Red Scare.

Fear and distrust of new immigrant groups is familiar pattern in our nation's history. As early as 1751, Benjamin Franklin aimed his unforgiving pen at Germans in colonial Pennsylvania. These newcomers, he fumed, "swarm" into our neighborhoods without regard for our laws, customs and shared values. Why, he asked, should we suffer outsiders who prefer ethnic enclaves where they "establish their Language and Manners to the Exclusion of ours?" The painful truth, he added, is that these newcomers are so culturally different from the rest of us that they will never assimilate like past immigrants, posing a grave threat to the society we cherish. Franklin was convinced that his home had become "a Colony of Aliens, who will shortly be so numerous as to Germanize us instead of our Anglifying them." Franklin later mellowed on the subject, recognizing the economic benefits of immigration, but we can hear echoes of his original animus toward immigrants in every age of the U.S. experience. Our nativist past should remind us that every major wave of immigrants in our history has inspired critics convinced that the latest newcomers lacked the virtues of earlier settlers and that they would never be fully integrated into American life. These anxieties, we have learned over time, have proven to be unfounded and overwrought.

Faustian Bargains: The Origins of America's Illegal Immigration Dilemma

America's illegal immigration dilemma did not appear overnight. Its origins and development have played out over the past century, yielding patterns and legacies that inform official efforts to address the problem today. It is a story of Faustian bargains among national officials and employers that encouraged porous borders and labor flows.

"Restrictions…with a bribe": Closing the Ports and Opening the Borders

Ironically perhaps, the origins of our illegal immigration dilemma can be traced to one of the most restrictionist periods in our nation's history, namely, the early twentieth-century. After the turn of the century, Mexican laborers were recruited in steady numbers to develop a budding Southwestern economy. But new impediments to this labor stream emerged with enactment of the Immigration Act of 1917. The new law made all alien admissions contingent upon payment of an $8.00 head tax and passage of a literacy test. The new requirements slowed the flow of Mexican workers across the southern border, although many simply crossed without inspection. When the First World War began, the

supply of Mexican laborers was more dramatically dampened when rumors that they would be drafted into the U.S. armed forces spurred a mass exodus.

Against this backdrop, Southwestern growers, ranchers, miners, railroad companies, and supportive lawmakers pressured the Labor Department – then responsible for the Immigration Bureau and domestic enforcement – to facilitate the importation of thousands of Mexican workers. Bowing to this intense lobbying on the grounds that the war had produced labor shortages, Labor Secretary William Wilson ordered that the literacy test, head taxes, and contract labor restrictions be waived for Mexicans. Although Mexican contract labor was justified as an emergency wartime measure, an array of Southwestern employers of low-wage labor demanded extensions of the program after wartime hostilities ceased in 1918. The Labor Department again acceded to this pressure, as it did in subsequent years. Between 1917 and 1921, roughly 75,000 Mexicans worked as contract laborers in the United States under Wilson's waiver plan, along with an indeterminate number of undocumented workers.

The issue of Mexican migratory labor threatened the immigration restriction movement in the 1920s. The diverse nativist coalition that emerged from the Progressive Era was united in its hostility toward Asian and southern and eastern European immigration, as well as in its devotion to eugenicist principles of racial order and Anglo-Saxon superiority. But Mexican labor flows were another matter. The IRL, AFL, patriotic societies, and many northern lawmakers favored stringent limits on Latin and South American immigration. By contrast, lawmakers and groups from the South and West endorsed national origins quotas for overseas immigration but also extolled the virtues of a cheap and flexible Mexican labor force. Representative John Nance Garner (D-TX) explained that "the prices that [Mexicans] charge are much less than the same labor would be from either the negro or the white man." He assured his House colleagues that Mexican laborers were by definition temporary, powerless, and easily expelled. The Grange and the American Farm Bureau Federation adamantly opposed a change in Mexico's nonquota status. "We do not want to see the condition arise again when white men who are reared and educated in our schools have got to bend their backs and skin their fingers," business interests like the Great Western Sugar Company explained to Congress. "You have got to give us a class of labor that will do…back-breaking work, and we have the brains and ability to supervise and handle the business part of it."

The uneasy 1920s coalition of northern nativists, organized labor, and Southern and Western restrictionists were deeply divided over Mexican labor. The controversy seemed to place the national origins quota system begun in 1921 in jeopardy. Immigration defenders attempted to exploit these fractures within the nativist coalition during legislative debates of 1924, they year when the 1921 quotas were due to expire. Representatives Fiorello La Guardia (D-NY) and Adolph Sabath (D-IL) offered an amendment that placed strict quotas on Western Hemisphere countries. Their hope was to kill the 1924 quota legislation by sundering the disparate restrictionist camp. Faced with stalemate or defeat, restrictionists called for a compromise on the divisive Mexican labor question. As one closed-border advocate declared, "I want the Mexicans kept out,

but I do not want this bill killed by men who want these and all others admitted in unrestricted numbers."

The Immigration Act of 1924 ultimately erected formidable barriers to southern and eastern Europeans and reinforced Asian exclusion, but was decidedly permissive on Canadian and Mexican admissions. Aliens with ten years continuous residence in a Western Hemisphere country could enter the U.S. as nonquota immigrants. "Restrictions of immigration and setting up of un-American racial tests has been enacted through a fusion of northern Republicans from urban districts with southern Democrats, with a bribe tossed to the latter by keeping Mexico open," observed one pro-immigration lobbyist. As nativist reformers prepared new quota legislation in 1928, they agreed to treat Mexican inflows as a distinctive issue. "These two kinds of restriction are quite separate and independent," New York restrictionist Demarest Lloyd declared in reference to overseas versus Western Hemisphere migration. "We all agree that unity of restrictionists is desirable." Recalling the potential split in 1924, the IRL also urged coalitional comity on "the National Origins-Mexican Quota situation." It even expressed sympathy for the dilemma faced by Southwestern nativists. "Although the West has become racially conscious and wants to be a white civilization, it also wants to develop and to develop rapidly. For this it needs unskilled labor of a mobile type, like the Mexicans, for it cannot get white labor to do its unskilled work." The 1928 law codified this compromise, reaffirming a bifurcated system imposed draconian restrictions on European and Asian immigration while remaining open and flexible toward labor inflows from Mexico and other Western Hemisphere countries.

A Bedeviled Bureaucracy

During the first century of the U.S. republic, the federal government was mostly a reluctant regulator of immigration. Indeed, it was content to devolve responsibility for inspecting newcomers to the major receiving states and port cities. The development of national governmental capacities to enforce immigration law was initiated only after the federal courts invalidated the constitutionality of state-level controls. From the time the national government began directly regulating immigration in the late nineteenth-century, enforcement efforts focused almost exclusively on European and Asian inflows. Whereas federal inspection stations could be found at nearly every major American port of entry by the turn of the century, efforts to control the country's land borders were negligible. This contrast was not lost on the nation's first Commissioner General of Immigration. In the Immigration Bureau's 1903 annual report, he warned that the Canadian and Mexican borders were largely unmonitored. Only a handful of inspection stations with skeletal staffs were scattered along national land borders. By 1906, Bureau managers lamented that the 75 inspectors patrolling the 1900-mile Mexican border on horseback were unable to curtail illegal immigration, which it described as "constantly on the increase." They regularly complained in the early twentieth-century about a "lack of funds, men, and facilities" at the border.

Even as nativist political actors were building a strong legal foundation for restricting Asian and new European immigration during the First World War and the 1920s, they

had nagging fears that their policy aims would be compromised in the administrative realm. In particular, the IRL and other advocacy groups worried that lax enforcement by the Immigration Bureau may provide openings for European arrivals at immigration stations like Ellis Island. For these reasons, restrictionist groups pressed for innovations in bureaucratic structure and practices that were equal to their legislative breakthroughs in 1917, 1921, 1924 and 1928. What ultimately emerged in the years that followed was a two-tiered system of immigration law enforcement. One layer of immigration control was administered by new State Department agencies and consular officials who zealously employed broad exclusionary powers overseas to all but shut down European and Asian immigration. A second layer of administered by the Immigration Bureau (later INS) focused on Western Hemisphere immigration and was ultimately dominated by powerful Southern and Western business interests and congressional committee barons who promoted legal and illegal entry of low-wage Mexican workers. This bifurcated regulatory system governing immigration was at once draconian toward overseas immigrants (with fateful implications for Jewish refugees seeking to escape the Holocaust) and strikingly tolerant toward the flow of temporary workers across the nation's southern border.

When Congress consolidated consular inspection procedures and visa requirements in 1924 to insure stringent enforcement of national origins quotas overseas, the Immigration Bureau continued to struggle for adequate resources to guard the Canadian and Mexican borders. "It must be conceded that the present law was enacted primarily for the purpose of providing for the closer inspection of aliens coming to the seaports of the United States," U.S. Immigration Commissioner John Clark stated plainly. "When we come to consider the dangers of unlawful invasion along the land boundaries, however, we find our law conspicuously weak, and almost totally inadequate to protect the interests of our Government." Congress later established the Border Patrol, but largely in response to Labor Department warnings that inadmissible Asians and Europeans were flocking to Mexico and Canada "to gain admission by stealth." The Border Patrol was significantly understaffed from the start, and by 1928 Immigration Bureau officials warned lawmakers that "we have simply got to have the men or else we cannot enforce the law." The plea for resources from overwhelmed Border Patrol and Immigration Bureau officers became a familiar refrain for one of our most bedeviled bureaucracies.

Mexican Braceros and Undocumented Aliens

During the first New Deal, AFL leaders campaigned for legislation that would place national origins quotas on Mexico and other Western Hemisphere countries. But the AFL faced insurmountable opposition from the House and Senate Immigration Committees, then dominated by Southern and Western legislators who favored European and Asian restrictions but welcomed Mexican labor migration. By 1938, the Immigration and Naturalization Service (INS) reported that illegal immigration from Mexico was soaring due to the construction of new highways and "automobile travel." At the start of the Second World War, Southwestern growers and other business interests, joined by their legislative champions, complained to executive branch officials that war-induced labor shortages necessitated a new Mexican temporary worker program. In response, an

interagency committee was formed to facilitate the importation of Mexican guestworkers. In 1942, the State Department negotiated a special agreement with Mexico establishing the Bracero Program that Congress swiftly approved. Under the bilateral agreement, the U.S. pledged that wages, living conditions, workplace safety, and medical services would be comparable to those of native workers. In turn, the Mexican government was to supervise the recruitment and contracting of braceros. Once the program began, neither employers nor federal administrators saw that the negotiated protections of Mexican laborers were honored. Mexican braceros routinely received much lower wages than native workers and endured substandard living and working conditions. Over the next two decades, 4.2 million Mexican workers were imported under the Bracero Program. During the decades that the Bracero Program was in full swing, INS officials were not encouraged to confront employers who recruited temporary workers at the border. Moreover, the INS also felt considerable congressional and interest-group pressure to accommodate illegal Mexican immigration in the 1940s and 1950s. The INS avoided search and deportation procedures against illegal aliens during harvest seasons because "it could likely result in a loss of crops." One Texas farm group explained enforcement arrangements to Senator Thomas Connally (D-TX) this way:

> For a number of years, citizens of Mexico entered the United States both legally and illegally, engaging in agricultural work....While from time to time they have been picked up by the Border Patrol, there has been a tendency on the part of the Border Patrol to concentrate their efforts on deporting only those who were bad...This arrangement, although it didn't have the stamp of legislative approval, has worked out very nicely for our farmers down here.

Strict enforcement was reserved principally for those Mexican workers who attempted to organize fellow laborers in pursuit of better wages, housing, or working conditions. The alliance of agricultural growers, Southern and Western committee barons, and INS officials permitted the easy flow of Mexican laborers for most of the postwar era.

The Texas "Proviso"

In the early 1950s, influential restrictionist legislators such as Senators Pat McCarren (R-NV) and James Eastland (D-MS) and Representative Francis Walter (D-PA) fervently guarded stringent limits on Asian, African, and southern and eastern European immigration. Yet they pursued a different approach regarding Mexican labor. In 1951, the AFL protested that tens of thousands of Mexican braceros coupled with an estimated 1.5 million undocumented aliens compromised the "security" of American workers. Their appeal had no impact on the policy process. McCarren and Eastland shepherded passage of Public Law 78 reauthorizing the Bracero Program in 1951, claiming that termination would be "unfair to the farmer and the Mexican involved."

During floor action on the McCarren-Walter bill one year later, liberal Senator Paul Douglas (D-IL) proposed legal sanctions against those who illegally smuggled aliens into the country and on employers who intentionally hired illegal aliens. But McCarran and Eastland successfully defeated the amendment; the final legislation contained language

that made it unlawful to transport or harbor illegal aliens, but stipulated that "harboring" did not include employment of unauthorized migrants. This "Texas proviso," as it became known, highlighted the lengths to which key congressional defenders of national origins quotas were willing to go to preserve Mexican labor flows, both legal and illegal.

After the 1960 election, the AFL-CIO lobbied hard for the Bracero Program's termination. The Kennedy administration and Democratic leadership in Congress lent their support to the effort. Yet growers and other business interests exerted considerable pressure of their own on members of Congress. The American Farm Bureau Federation, the National Cotton Council, the United Fresh Fruit and Vegetable Association, the National Beet Growers, ranchers, and other business interests rallied to save the Bracero Program. In 1961, these pressure groups won a two-year extension of the Program but failed to win reauthorization in 1963 despite vigorous lobbying. Sweeping immigration reform in 1965 dismantled national origins quota in favor of a new preference system that emphasized family-based immigration, but it also placed a 120,000 annual ceiling on Western Hemisphere visas. Reformers did not anticipate that this new ceiling and the end of the Bracero Program would swell unauthorized Mexican inflows.

Illegal Immigration and Employer Sanctions: the 1970s Logjam

The issue of illegal immigration inspired more media attention, public concern, and remedial proposals by policymakers than did any other migratory issue of the 1970s. The dramatic rise in apprehensions and deportations of unauthorized migrants was unmistakable and troubling to decision-makers (see Table 2).

Table 2: Unauthorized Migrants Apprehended and Deported, 1961-1980

YEAR	*NUMBER*	*YEAR*	*NUMBER*
1961	88,823	1971	420,126
1962	95,758	1972	505,949
1963	88,712	1973	655,968
1964	86,597	1974	788,145
1965	110,371	1975	766,600
1966	138,520	1976	875,915
1967	161,608	1977	1,046,215
1968	212,057	1978	1,057,977
1969	283,557	1979	1,076,418
1970	345,353	1980	910,361
1961-1970	**1,608,356**	**1971-1980**	**11,883,328**

Source: Immigration and Naturalization Service, *Statistical Yearbook* (Washington, D.C.: Government Printing Office, 1990).

Liberal Democrats led the assault on illegal immigration. At Senate hearings on the problem in 1969, Senator Walter Mondale (D-MN) warned that if the federal government did not "stop that hemorrhaging…along the Texas border and along the California

border," labor protections and antipoverty programs would be compromised. A year earlier, Cesar Chavez and his Farm Workers Association (FWA) desperately urged Senator Robert Kennedy (D-NY) to pressure INS officials "to remove Wetbacks…who are being recruited to break our strike." In 1971, Representative Peter Rodino (D-NJ), chair of the House Judiciary Committee's Subcommittee on Immigration, led pro-labor liberals in the pursuit of employer sanctions legislation to resolve the perceived illegal immigration crisis. Rodino's employer sanctions legislation initially passed the House in 1972 but languished in the Senate where Eastland refused to allow the Judiciary Committee he chaired to take action. When Rodino reintroduced his bill a year later, new resistance emerged in the House from fellow Democrats who warned that the measure would lead to job discrimination against Latinos, Asians, and anyone who looked or sounded foreign.

Amidst the legislative impasse, President Gerald Ford established a Domestic Council Committee on Illegal Immigration that urged in 1976 that the administration "aggressively pursue legislation [imposing] penalties for employers who knowingly hire aliens not authorized to work." Its report observed that little reliable, "quantified" evidence existed regarding the size of the unauthorized population or its impact on American society. But in explaining why illegal immigration must be discouraged, it appealed to values beyond traditional economic and cultural anxieties. Indeed, it placed special emphasis on the rule of law and equal rights: "People who are underground …cannot be protected from abuse on the job or from landlords, discrimination, disease, or crime; they may avoid education for children, and they are unable or reluctant to assert political or legal rights." This was not the familiar assault on illegal aliens who take American jobs, consume public benefits, and promote crime and disease. Illegal immigration's dangers lay not only with its disregard for the rule of law, its fiscal burdens, or its economic impact on poor citizens, but also with its propensity to create "a substantial underclass" anathema to post-1960s notions of nondiscrimination and equal rights. The report also cautioned against a vigorous internal enforcement campaigns that targeted the unauthorized population for removal. "Mass deportation is both inhumane and impractical," the Domestic Council concluded. Ford's INS Director, Leonard Chapman, reiterated this view when he warned Congress that mass deportation campaigns might require "police state" tactics "abhorrent to the American conscience." It remained silent, however, on how policymakers should deal with the large number of undocumented aliens residing in the country.

In 1977, the Carter White House wasted little time in proposing a comprehensive plan for addressing illegal immigration. The reform package included stiff civil and criminal penalties who engaged in a "pattern or practice" of hiring undocumented aliens; use of the Social Security card as an identification document for verifying employee eligibility; enhanced Border Patrol forces at the Mexican border; and an amnesty program that would confer legal resident alien status on all aliens living in the country before 1970. The White House proposal galvanized opposition from growers and other free market expansionists as unfair to employers, from the National Council of La Raza, Mexican-American Legal Defense and Education Fund (MALDEF) and other groups as detrimental to civil rights, and from law and order conservatives as rewarding law-

breakers with amnesty. With immigration reform mired in conflict, a bipartisan Select Commission on Immigration and Refugee Policy (SCIRP) was formed for the purpose of studying the illegal immigration problem and all other facets of U.S. immigration and refugee policy and issuing recommendations for future reform.

SCIRP and the Immigration Reform and Control Act of 1986

The SCIRP completed a sweeping final report in 1981 that portrayed "lawful immigration" as "a positive force in American life," serving the national interest in terms of economic growth and productivity, reuniting families, and advancing key foreign policy imperatives. But it also concluded that illegal immigration was an urgent problem that needed to be controlled before legal immigration could be expanded. In language similar to Ford's Domestic Council, the SCIRP noted that unauthorized entries created a vulnerable shadow population that had few incentives to report crimes, health problems, or exploitation by employers. The presence of large numbers of undocumented aliens "undercut the principle that all who live and work in the U.S., regardless of ethnicity, should have fundamental rights." The SCIRP members also asserted that unrestrained illegal immigration encouraged a perilous disregard for the rule of law: "illegality erodes confidence in the law generally, and immigration law specifically." To address the problem, the SCIRP endorsed the familiar scheme of enhanced Border Patrol resources and employer sanctions. But it also underscored the notion that the efficacy of sanctions hinged upon faithful enforcement and the development of a tamper-resistant national identification card as the linchpin of a security and universal system of employee eligibility. All sixteen commissioners also agreed on a generous legalization program for undocumented aliens already residing in the country.

Two young lawmakers – Senator Alan Simpson (R-WY), who served on the SCIRP, and Representative Romano Mazzoli, a moderate Kentucky Democrat with ties to the SCIRP chair Father Theodore Hesburgh – took the lead in pressing for immigration reform. Early in 1982, the pair introduced omnibus legislation on illegal and legal immigration. The measure met fierce resistance from a broad coalition of business interests (the U.S. Chamber of Commerce, National Association of Manufacturers, agribusinesses, the Business Roundtable), ethnic and civil rights groups such as NCLR and MALDEF, the ACLU, religious lobbies, and a new immigrant rights organization, the National Immigration Forum. Left-Right opposition to the Simpson-Mazzoli initiative was reflected in the resistance of both the Reagan administration, which saw employer sanctions and national identification cards working at cross-purposes with its regulatory relief agenda, and House Democrats led by the Hispanic and Black Caucuses, which raised familiar concerns about discriminatory impacts of sanctions and other provisions. Gridlock was overcome only after three more years of wrangling, and the resulting Immigration Reform and Control Act of 1986 (IRCA) depended upon a compromise package watered-down employer sanctions provisions, legalization for undocumented aliens living in the country since 1982, and a new Seasonal Agricultural Worker program to appease grower interests. The measure proved highly successful in granting legal status to nearly three million undocumented aliens, but employer sanctions proved to be a "toothless tiger." This was largely by design: In the absence of a reliable identification

system for verifying employee eligibility that the SCIRP described as a linchpin for effective enforcement, the employer sanctions provisions lacked teeth. By the late 1980s, it was clear to national policymakers that the IRCA had done virtually nothing to discourage illegal immigration. But legislators were eager to shift their attention to the politically painless task of expanding legal immigration. The Immigration Act of 1990 unified pro-immigration forces of the Left and Right behind a 40% increase in annual visa allocations that benefited both family-based and employment-based immigration. The Faustian bargains of the 1980s, like their forbears, left the nettlesome problems posed by massive illegal immigration for a future generation to resolve.

Conclusion

One of our most gifted historians, David McCullough, aptly observed that "a nation that forgets its past can function no better than an individual with amnesia." Our rich immigration history provides us with important lessons for contemporary immigration reform. First, we would do well to remember that the ideological traditions that have shaped our vibrant immigration debate since the nation's founding are driven by well-meaning and distinctive conceptions of the national interest. Second, our past reveals that each wave of "new" immigrants has been scorned by critics as incapable of successfully joining our ranks, only later to distinguish themselves among our most loyal and accomplished citizens. Finally, the origins and development of our illegal immigration dilemma highlight a series of compromises over time that fed the nation's appetite for cheap labor while creating a vulnerable shadow population and undermining the rule of law. The consequences of these compromises underscore why our generation must make tough choices to fix the system, recognizing the practical and ethical reasons for giving workplace enforcement real teeth and for giving undocumented immigrants an opportunity to earn legal status.

I would be pleased to answer any questions you have.

Ms. LOFGREN. Thank you very much.

Dr. Myers.

TESTIMONY OF DOWELL MYERS, Ph.D., PROFESSOR OF URBAN PLANNING AND DEMOGRAPHY, UNIVERSITY OF SOUTHERN CALIFORNIA

Mr. MYERS. Thank you, Madam Chairman and Members of the Committee. It really gives me great pleasure to appear before you today and I thank you for the opportunity. My name is Dowell Myers. I'm a demographer and professor at the University of Southern California. I hope Madam Chair won't hold that against me. It's the wrong part of California.

Ms. LOFGREN. We've got someone from Stanford sitting next to you, so it's all right.

Mr. MYERS. It all evens out. Over the last decade, my research group has conducted a number of studies about immigration and immigrant well-being in America. I'm pleased to report that a number of these findings have now been summarized in a book just released this month, a great accomplishment for me, a book called Immigrants and Boomers. I will try to highlight some of the main points in that book into my testimony today.

So I really have just four points to make in my oral statements. First, the social changes we find underway in the United States are part of a global demographic transition. They're not unique to the United States alone. Throughout the whole developed world birth rates have fallen, far below the replacement level and populations are rapidly aging. Not only is there a surging number of older people to be supported, but at the same time for lack of sufficient young people, labor force growth is slowing down markedly. It is this overall demographic transition that is one of the main reasons why immigrants are being drawn into so many countries.

Now the second point I want to make is about how this aging problem impacts the United States specifically. Now the good news here is that we are in much better shape than are all the European nations or Japan. Our birth rates are higher and our aging is slower. Hear that, aging is slower. It's great to be an American. Nonetheless, we do face a dramatic crisis because of our Baby Boom generation which you all have heard so much about already, I know. But it's really no exaggeration here. There are 76 million Americans who are rapidly aging led by, by coincidence, Presidents Bush and Clinton, who were both born in the first year of the Baby Boom, 1946. They're leading the charge.

Now beginning right after the year 2010, 3 years from now, this tidal wave of older Americans will cross age 65. And the ratio of all those aged 65 and older compared to all those who are prime working age which I call 25 to 64, will rise dramatically. In fact, the ratio of elderly will grow by 30 percent for two decades in a row, totalling a 60 percent increase by the Year 2030. This has, as you might imagine, tremendous consequences for Social Security, Medicare and other old age support systems that fund the services entitled by our elderly. This crisis starting in 3 years is one of double decades of 30 percent growth. So what does this have to do with immigration?

Madam Chair, Members of the Committee, my major point today is that immigration plays an important role in moderating the impact of these growing elderly numbers. Certainly immigration cannot stop the aging of America, but it can help to blunt the impact of the growing elderly ratio we must absorb. My calculations suggest that without immigration, the impact of the rising elderly ratio would be about 20 to 25 percent more severe.

My final point is just how much immigrants can benefit us by their economic mobility after they arrive and as they settle in longer. Too often we judge immigrants only when they're newcomers, not after they have been here. The longer immigrants reside in the United States, the higher is their economic status. Let me just describe one fact that I think illustrates the magnitude of the point that I'm making here. Homeownership is widely regarded to be the American dream and a prime indicator of entry into the middle class. My studies have shown a pervasive pattern of strong upward mobility into homeownership by immigrants, including those living in California, New York, Texas, Florida and the whole of the United States.

Let's talk about Latino immigrants, who are not always the most advantaged when they first arrive. The stunning fact is that after they have lived in this country for more than 20 years, more than 55 percent have become homeowners. After 30 years, the figure grows even higher. It is clear from these data that Latino immigrants are climbing into the ranks of the middle class. They can help us close the gap caused by so many retiring Baby Boomers.

Madam Chair, let me just close my remarks by reiterating that immigrants and the aging of the Baby Boom are closely related. One can help address the problems and challenges posed by the other.

Thank you for receiving this testimony today here on Ellis Island.

[The prepared statement of Mr. Myers follows:]

PREPARED STATEMENT OF DOWELL MYERS

Written Testimony of

Dowell Myers
Professor of Urban Planning and Demography
and Director, Population Dynamics Research Group
School of Policy, Planning, and Development
University of Southern California

Before the

House Committee on the Judiciary
Ellis Island, New York and New Jersey

March 30, 2007

Madame Chairman and members of the committee, thank you for the opportunity to appear before you today. My name is Dowell Myers and I am a demographer and professor in the School of Policy, Planning, and Development at the University of Southern California, where I direct a research unit known as the Population Dynamics Research Group. Over the last decade we have completed a number of studies pertaining to immigration and the future of immigrants living in this country. I am pleased to report that a summary of these research findings has just been published in a book from the Russell Sage Foundation. The title is *Immigrants and Boomers: Forging a New Social Contract for the Future of America*.[1] I would like to highlight some of the key demographic insights from this book as they inform the future of immigrants, their success, and the future well-being of our American community.

Today's hearing on the reform of U.S. immigration policy, and its relation to our past, present and future, is extremely timely. It is essential to consider crucial changes in the context within which immigrants are being incorporated. With or without immigrants we face a perilous change, and it is important to see how immigrants fit into this broader concept of our opportunities and pitfalls in the future.

Part of a Global Demographic Transition

Immigrants do not arrive in a vacuum, and in fact they may well provide at least part of the solution to a grave crisis that is about to overtake us. The rapid aging of our population creates stresses that are unprecedented, and the overall effect has enormous social, political, and economic implications for our future. Although this is well known to demographers, the crisis has been generally ignored by the public at large.

Our challenge today is not unique, even if it is exceptional. All across Europe and the rest of the developed world we are facing a global demographic transition. Leading nations of Europe, such as Germany and Italy have seen their births fall to only 1.3 per woman,

and the entire continent averages only 1.4.[ii] Countries of east Asia, such as Japan and Korea have fallen to only 1.2 babies per woman. Stable population growth requires a replacement rate of 2.1 births per woman, and the result of this "birth dearth" is a diminished labor force in many of the developed nations. At the same time, the aging of previous large generation is imposing unprecedented burdens on the diminished numbers of working age residents. At root our crisis is about our elderly and our young, and how we care for one another. One solution to a diminished workforce is immigration to fill labor needs, and that has been growing in many of the developed nations.

The crucial point is that we cannot evaluate the true import of new immigrant arrivals, or the value of our longer-settled previous immigrants, unless we view them in the context of the overall demographic changes we face. Immigrants have especially important roles to play in the two decades just ahead. Some of these needs can be met by new arrivals, but those who are already settled and becoming incorporated into our communities can provide even more assistance.

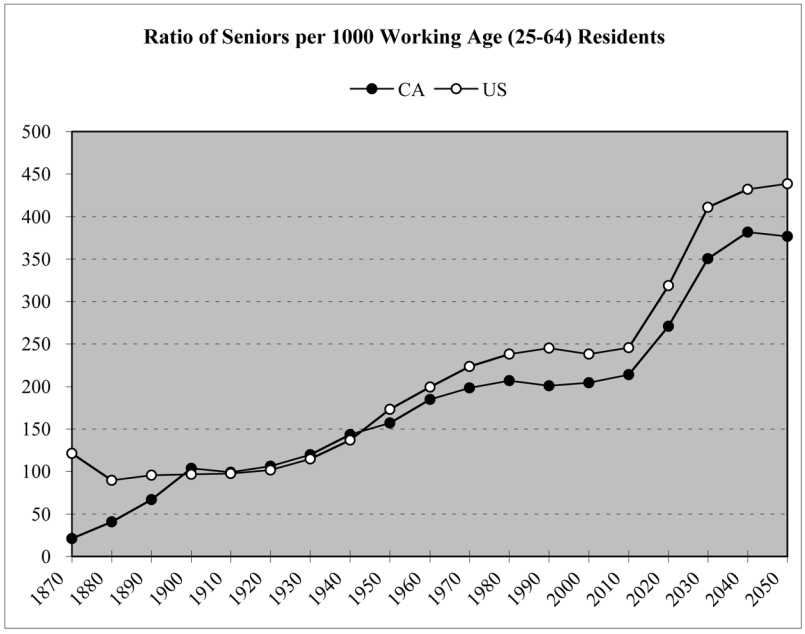
The Aging Crisis

The plunge in birth rates has led to slowing, even shrinking labor forces, and at the same time the previous generation grows older, which threatens to overwhelm the support offered by the working age group. Our giant Baby Boom generation will pose a heavier burden of support in retirement than what we have seen before. As difficult as it will be, we can handle this and handle it well, because other countries are currently in far worse shape than the U.S. For a time Japan appeared to be the most prosperous in the world, but now it is in the realm of population aging where it leads most, and in fact this has steadily undermined its economy. At this moment, fully 20% of Japan's population is age 65 and older, the highest of any country in the world. Italy (19.5%) and Germany (18.6%) are close behind, and indeed all of Europe averages 16% elderly.[iii] The United States currently has 12.4% of its population age 65 and older, but that is projected to increase to 16.3% in 2020 and 20.0% in 2030.[iv] In other words, in 23 years we will be where Japan is now.

The most relevant way to reflect on the changes ahead is to track the trend in what is called the old-age dependency ratio, which is the balance between the numbers of elderly and working age residents. There are different ways to calculate this, depending on when "old age" begins, but most accept age 65 as the key threshold. The retirement benefits of this group are supported by the working age population, which some define as young as 15 or 16 but which I prefer to demarcate as the prime working age population of 25 to 64. (Younger workers are often employed part-time and their earnings are not sufficient to support others.) Viewed over nearly two centuries, from 1870 to 2050, we can better appreciate how historically extreme are the coming increases. Figure 1 is taken from my book, *Immigrants and Boomers* (Figure 3.2). The ratio in the United States actually dipped slightly before the Baby Boomer retirements, but beginning in 2010 the old-age dependency will climb sharply from 246 elderly per 1000 working age residents to 318 in 2020, and then to 411 in 2030, before growing more slowly to 432 in 2040 and 439 in

2050. Just in the coming decade of the 2010s, the ratio will increase by 29.6%, and in the 2020s it will increase by another 29.0%. For simplicity we can think of this old-age dependency burden as increasing roughly 30% each decade for the next two decades. **Our crisis is that, starting in three years, we face double decades of 30% increase in the elderly burden.** That is the demographic truth to which our public policies must adjust.

Figure 1



Source: Dowell Myers, *Immigrants and Boomers*, Figure 3.2

This increase in the old-age ratio is so important that it may be advisable to compare an alternative assessment. Some studies assert a ratio of elderly relative to all *workers* (the presumed taxpayers), rather than working age *residents* (potential workers). The worker-based calculations also often include teenage and elderly workers. Under the latter broad definition, and based on Census Bureau population projections, the Bureau of Labor Statistics has shown that the old-age dependency ratio will increase from 213 elderly dependents per 1000 workers in 2010 to 259 in 2020 and 331 in 2030.[v] This amounts to a relative increase of 21.6% in the elderly burden during the 2010s and 27.8% in the 2020s. These estimates are performed in a very credible manner, but I believe their definition of terms leads to an underestimation of the soaring burden, because they include teenage

workers who often work part-time and elderly workers who are phasing into retirement.

Nonetheless, by any reasonable calculation, we face extraordinary increases in the ratio of seniors to working age residents. Our seniors have well-earned our generous support, but they are so numerous that it will severely burden taxpayers in the next decade, as illustrated in the fiscal simulations prepared August 2006 by the Government Accountability Office (GAO). Due to Baby Boomer retirements, the weight of growing Social Security and Medicare will drive deeper deficits, according to the GAO, and the resulting interest payments on the mounting debt are expected to double from 9.3% of total federal revenue in 2006 to 18.8% in 2020, and double again to 39.2% in 2030.[vi] After debt payments and the major entitlement costs, there will be little revenue left for regular government functions like defense, parks or transportation. In fact, the GAO calls these debt payments unsustainable, and there is growing recognition that it is no longer acceptable to rely on debt to fund our current budget deficits. From a demographic perspective we see that passing the buck to future generations is unwise, even unconscionable, given that the future generations also will be so hard-pressed to carry the extraordinary elderly burden at that time. Deficit financing merely compounds the future demographic crisis.

The GAO does not propose solutions for the fiscal woes rooted in our demographic transition. Somehow the elderly burden, growing 30% each decade (or 22% or 28%), must be accommodated by one means or another. Immigration has the potential to increase the number of taxpayers that help share the load. Alternatively, it might be possible to increase the incomes and tax capacity of more workers, including immigrants and the children of immigrants. Barring those successful adjustments, the demographic burden could be covered by some highly undesirable choices, either by reducing the support benefits paid per elderly citizen or by raising the effective tax rates. Our demographic reality is that the force of the sharply increasing old-age burden is inexorable, and it will confront future administrations and congresses no matter what party has the leadership.

How Much Help Can Immigrants Provide?

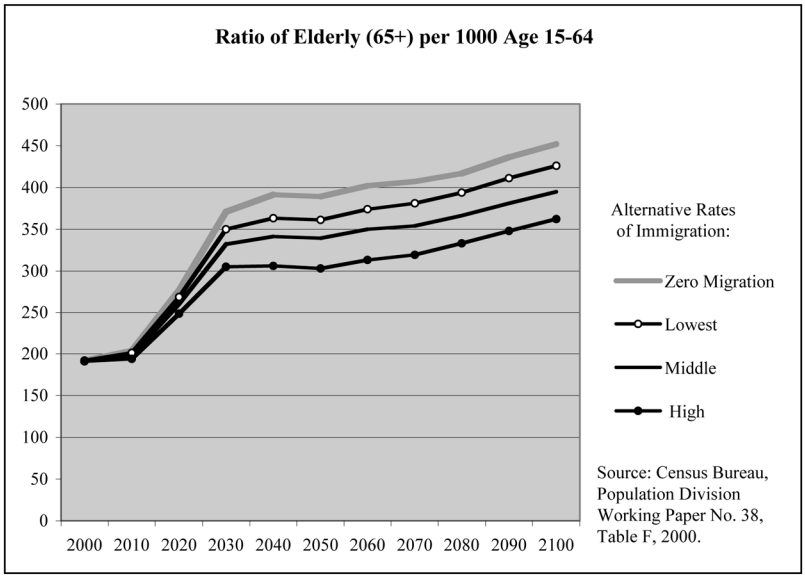
Immigration surely has some role to play in increasing the number of workers to share the load. Critics of immigration have recognized the importance of the aging problem but they have sought to dismiss any role for immigration. One widely distributed but flawed analysis is by the Center for Immigration Studies, which attacks the presumption that immigrants can help provide younger workers.[vii] This study throws out so many different analytical perspectives that it appears to obfuscate the issue. The Center buries the number of immigrants in overall population averages, it looks backward to 1980 when the native-born population was much younger and not that different from the immigrants, and it misconstrues the old-age dependency ratio, turning it upside down (workers as a share of all population, rather than numbers of elderly relative to the working age). The naïve observer might glean from all these arguments that the baby boom never happened, or at least that the Boomers are not growing older and not about to sharply increase the

number of elderly. What may be equally surprising to some is that the Center's study appears to argue that immigration is so small as to be unnoticeable and not of consequence.

The question to focus on is how much difference immigration provides in helping us to cover our future old-age dependency that will soar in the two decades ahead. A recent authoritative demographic study in Europe concluded that immigration can offset the depressed working age numbers caused by excessively low births: "...there is a clear compensatory relationship between fertility and migration. A TFR of 1.0 [i.e., total fertility rate of 1 child over the lifetime of each woman] and a migration gain of 1.2 million per year yields the same old-age dependency ratio in 2050 as a TFR of 2.2 and a migration gain of zero."[viii] This conclusion that immigration can help shoulder the burden of old age dependency differs sharply from that of the Center for Immigration Studies, which examines projections by the Census Bureau for the United States and concludes that immigration has "little impact on the working age share of the nation's total population."

Examining the same projection data from the Census Bureau,[ix] I draw a different conclusion, and I share that evidence with you today so that each observer can draw his or her own conclusion. The data in Figure 2 show that the old-age dependency ratio is substantially higher by 2030, and thereafter, under the assumption of zero immigration rather than if a moderate (net increase of 751,000 per year in 2020) or high (1,854,000) level of immigration occurs. A moderate level of immigration curbs the growth in the old-age dependency ratio, *reducing its increase* by 2030 from 179 to 141, a 21.2% smaller increase. At the same time, a high rate of migration shrinks the increase by 36.3%. Our current rate of net immigration is about 1.2 million per year, midway between the moderate and high rates cited here. Thus, while a moderate level of immigration reduces the rate of increase in the elderly burden by one-fifth, our current level of migration reduces the increase by more than one-quarter. Regardless of this benefit, the data also suggest than even with a high level of immigration, the old-age ratio cannot be held at its 2000 level. Clearly additional steps must be taken to accommodate the growing old-age ratio.

Figure 2



Growing the New Middle Class

An additional solution that must be emphasized is to increase the size of our middle class. After a decade of growing income polarization, we need to consider the merits of pulling more of the residents from lower income levels into the middle class. For our own benefit, we must increase the taxpaying capacity of the next generation so that they can help carry the burden of the growing old-age ratio.

In this regard, some observers believe immigration goes in the wrong direction. They look at immigrants when they are newcomers and think that they are often poor and disadvantaged. However, my studies have found repeatedly that, even when this is true, this poverty effect is largely temporary. The longer immigrants reside in the United States, the higher is their economic status. The evidence is unequivocal and is well summarized in two of my studies.[x]

For example, among Latino immigrants in the United States who were newly arrived in the 1970s, the 1980 census showed 28.0% were living below the poverty line.[xi] Ten years later the 1990 census showed that this group of arrivals had reduced its poverty rate to 22.4%, and 20 years later when they were even longer settled, this group of arrivals had reduced its poverty rate to 16.7%. A similar pattern of poverty reduction has been found among all the immigrant arrival waves I have examined, and a similar pattern is observed

in California, the major immigrant receiving state, as in the data reported here for the United States as a whole.

Escape from poverty may be one thing, but entry into the middle class is another. For that reason we should examine an additional indicator. Homeownership is widely considered to be the American dream, and entry into homeownership is a prime indicator of middle class status.[xii] My studies have shown a pervasive pattern of strong upward mobility into homeownership by immigrants living in both the nation and the major immigrant receiving states of California, New York, Texas, Florida, and Illinois.[xiii] Each arrival group of Latino immigrants has moved progressively up the ladder into homeownership. In the United States as a whole, the 1980 census reported 19.4% homeownership among those who had arrived in the 1970s. Ten years later, when they were longer settled, 37.7% of these Latino immigrants were homeowners, and after another decade of residence, the 2000 census showed that 55.9% had become homeowners.[xiv]

This is an extraordinary rate of progress for a group of immigrants that began its residence in the United States with relatively fewer advantages, but it is no surprise to members of the real estate industry. Spanish surnames are becoming increasingly prevalent in real estate transactions. By 2005, four of the top 10 surnames among home buyers nationwide were Spanish, up from only two in 2000.[xv] It is clear from these data that Latino immigrants are climbing into the ranks of the middle class.

Conclusion

Immigration poses challenges but it also holds great opportunity. My testimony today has emphasized the future context in which immigrants can be of important assistance. Beginning in three years time we enter the double decades of 30% increase in elderly burden. From 2010 to 2030 the giant Baby Boom generation will exit the workforce and join the ranks of retirees, and at that time they will claim their entitled benefits. In this period we are going to need a great deal of help, and young immigrants can help fill this gap. Without the contributions of immigrants, our difficult situation of supporting such a growing elderly population will become even more dire.

Much of the developed world is passing through a similar transition of an aging population, but the United States holds key advantages. Our population is a little younger, but more important is that we have a much stronger tradition of successfully incorporating immigrants. Indeed, the achievements of our recent immigrants have been remarkable, demonstrating a deep commitment to our American dream. With greater attention to the education of their children, these new Americans can help us even more. The aging crisis that is upon us will lead to rediscovery of just how much the generations need each other. That those generations are composed of citizens of many different ethnicities and diverse origins is only fitting. This is our heritage. Indeed, our great history of building a nation from so many diverse peoples can also be our proud future.

Notes and References

[i] Newly released March 1, 2007, *Immigrants and Boomers* is available through booksellers or direct from the publisher: www.russellsage.org/publications.

[ii] The fertility data in this section are drawn from the Population Reference Bureau, 2006 World Population Data Sheet.

[iii] Ibid

[iv] Projections by the Census Bureau.

[v] Mitra Toossi, "A New Look at Long-term Labor Force Projections to 2050," *Monthly Labor Review* (November 2006), 19-39.

[vi] Based on data supplied in "Long-Term Fiscal Simulation Data," August 2006 GAO analysis, available at http:///www.gao.gov/special.pubs/longterm/data.html. These figures are for the simulation scenario described as "Discretionary Spending Grows with GDP and All Expiring Tax Provisions are Extended." For explanation, see Government Accountability Office, "The Nation's Long-Term Fiscal Outlook: September 2006 Update—The Bottom Line: Today's Fiscal Policy Remains Unsustainable," GAO-06-1077R, Washington: GAO, 2006.

[vii] Steven A. Camarota, "Immigration in an Aging Society: Workers, Birth Rates, and Social Security," Backgrounder, April 2005, Washington, D.C.: Center for Immigration Studies.

[viii] Wolfgang Lutz and Sergei Scherbov, "Future Demographic Change in Europe: The Contribution of Migration," pp. 207-222 in Demetrios G. Papademetriou, ed., *Europe and Its Immigrants in the 21st Century: A New Deal or a Continuing Dialogue of the Deaf?* Washington: Migration Policy Institute, 2006.

[ix] Frederick W. Hollmann, Tammany J. Mulder, and Jeffrey E. Kallan, "Methodology and Assumptions for the Population Projections of the United States: 1999 to 2100," Population Division Working Paper No. 38, Washington: Census Bureau, 2000; table F.

[x] Dowell Myers, "Cohorts and Socioeconomic Advancement," in Reynolds Farley and John Haaga, eds., *The American People: Census 2000*, New York: Russell Sage Foundation 2005), and Dowell Myers, *Immigrants and Boomers: Forging a New Social Contract for the Future of America,* New York: Russell Sage Foundation, 2007, especially chapter 6.

[xi] The data reported in this paragraph for the United States are taken from Figure 6.2 in *Immigrants and Boomers*.

[xii] For example, see William A.V. Clark, *Immigrants and the American Dream: Remaking the Middle Class*, New York: Guilford Press, 2003.

[xiii] Dowell Myers and Cathy Yang Liu. "The Emerging Dominance of Immigrants in the US Housing Market 1970-2000," *Urban Policy and Research* 23, 3 (2005): 347-65.

[xiv] These data for the United States are taken from Figure 6.3 in *Immigrants and Boomers*.

[xv] Data collected by DataQuick Information Systems were reported by Haya El Nasser, "Analysis Finds Boom in Hispanics' Home Buying," *USA Today*, May 11, 2006, p.1.

Ms. LOFGREN. Thank you very much, Dr. Myers.
Mr. Siciliano.

TESTIMONY OF DAN SICILIANO, EXECUTIVE DIRECTOR OF THE PROGRAM IN LAW, ECONOMICS, AND BUSINESS, STANFORD LAW SCHOOL

Mr. SICILIANO. Madam Chair, and Members of the Committee, thank you for the opportunity to appear before you today. My name is Dan Siciliano and I am the Executive Director of the Program in Law, Economics and Business at Stanford Law School. I'm also the Senior Research Fellow for the Immigration Policy Center that is a nonpartisan think tank for these matters.

I've submitted written testimony with detailed analysis outlining various economic principles and for the interest of brevity and to try to make some things that are sometimes confusing a little less confusing, I have four main points which I've categorized.

First, a discussion about a storm, a demographic storm which I will make more brief because Dr. Myers covered it so well; a war, which is really a war for talent; an experiment which is underway; and then an opportunity that I think lawmakers face now.

First, we have a looming super storm, a demographic storm with tremendous economic consequences which I'll expand on in a second. We also have a quiet and profoundly impactful war for talent, entrepreneurial spirit, drive and the spirit to strive and succeed that is going on for people who we need to ensure our Nation's dominance over this next century.

We also have an experiment that has been underway for almost 40 years, one that has already run most of its course and tests the premise that immigration, both skilled and unskilled, is good for an economy, generally good for workers and businesses alike. That experiment is called California. And it's been underway for 40 years. And California is one of the most successful and vibrant States of our Nation and in the world, and yet it has experienced over these 40 years, both at the skilled and unskilled levels, levels of immigration that are sometimes two to three times in excess of the national average.

And then finally, we have an opportunity. The economy is something hard to understand. We pretend sometimes that know a lot more than we actually end up knowing, but we can observe one thing and that is that the economy is consistently telling us that there is a divide between what we say we want to do about immigration and what the economy needs in terms of immigration at both levels, the unskilled and the highly skilled. And I think we are well served to listen to that.

To summarize the issue about the storm which I'll make briefer, productivity growth we know is peaking. We wish it wasn't, but it happens to be peaking at this time, more in the 2 to 2.5 percent annual range instead of the 3.5 or 4 percent we experienced before. Labor participation rates in our country at about 66 percent or more are among the highest in the industrialized nations and are also probably peaking. Retirement looms for tens of millions and our native-born work force grows gracefully older and better education, which is a testament to success in other areas of our public policy, but presents a tremendous challenge.

This means that between 2002 and 2012, we will generate at our trend rate of 3 percent GDP growth, about 14.6 percent more jobs. Our population rate of growth for workers will be at about 11.7 percent across that same time frame, even accounting for all types of immigration. This will leave millions of jobs lacking and impair the economy and over time either adjust that trend growth rate down or create dysfunction inside the economy which could result in other issues.

We are at war over talent and talented people, not just smart people with double Ph.D.s coming from other places to populate our research labs, although that's a very important part of it, but also people who have the chutzpa, the desire to show up with $200 something in their pocket and do whatever they can to become successful. And that talent battle is one that is always waging. There's no easy solution as to how to win it, but we do know from an economist's viewpoint, the issue of national security, for example, from an economist's viewpoint is one as much of who we let in and who we manage to keep and whose interest we capture and whose children we excite, as it is as much who we keep out, because over time, the vibrancy of our economy is essential to our national security.

And then finally, the experiment which is California. It's clear from the studies of the likes of Giovanni Peri and others that taking even the historical Borjas data set we know that 9 out of 10 U.S. born native workers benefitted from 1990 to 2006 to the tune of between 2 and 3 percent total wage growth because of immigration. One out of 10 did not. Those were high school dropouts and others in the same demographic category, but most everyone benefitted. We know that in California the story with the backdrop of more immigration is even stronger and more profound. And so we can discern from this that done correctly immigration benefits the average worker.

Finally, and in summary I think that we must listen to the economy, acknowledge that it has been vibrant and successful and ask what part of that has been very important and one part was acknowledging the need for skilled and unskilled labor and to normalize what our laws say by allowing more people in to address that need and ensure continued economic growth.

Thank you.

[The prepared statement of Mr. Siciliano follows:]

PREPARED STATEMENT OF DAN SICILIANO

Written Testimony of

Dan Siciliano

Executive Director, Program in Law, Economics, and Business
Stanford Law School

Senior Research Fellow, Immigration Policy Center
American Immigration Law Foundation, Washington, DC

Before the

House Judiciary Committee
The Subcommittee for Immigration, Citizenship, Refugees, Border Security and International Law

March 30, 2007

Madame Chairman and members of the committee, thank you for the opportunity to appear before you today. My name is Dan Siciliano and I am the Executive Director of the Program in Law, Economics, and Business at Stanford Law School. I am also a senior research fellow with the Immigration Policy Center (IPC) at the American Immigration Law Foundation, a non-partisan, non-profit foundation focused on research and writing about the role of immigrants and immigration policy in the United States.

Today's hearing on U.S. immigration policy and its impact on the American economy comes at a critical time. Efforts are underway in the House and in the Senate to repair a system that is generally acknowledged to be broken. I suggest that any reform to immigration policy should be evaluated by considering how immigrants, both directly and indirectly positively impact our nation's economic prosperity. The evidence continues to mount in favor of the conclusion that immigration is good for economy, good for jobs, and a critical part of our nation's future prosperity.

Much of the public debate over immigration in the United States has focused on the rapid growth of the undocumented population over the past decade and a half. However, undocumented immigration is just one symptom of the larger disconnect between U.S. immigration policy and the reality of our economy's fundamental reliance on a diverse and, hopefully, growing pool of available labor. The U.S. economy has become increasingly reliant on immigrant workers to fill the growing number of less-skilled jobs for which a shrinking number of native-born workers are available and just as reliant on highly skilled immigrants to fill periodic or persistent talent gaps in our native born workforce. Yet current immigration policies offer very few legal avenues for workers in less-skilled occupations to enter the country and not enough flexibility of numbers for highly skilled workers to enter when the economy demonstrates sufficient demand. In part, undocumented immigration has been the predictable result of the U.S. immigration system's failure to respond effectively to actual labor demand.

Some critics of immigration point to economic arguments that the presence of immigrants, particularly undocumented immigrants, has broad negative consequences for the native-born workforce. Some incorrectly claim that immigration reduces employment levels and wages among native-born workers. This is generally not true. These arguments are largely the result of the over-simplification of a particular, and somewhat ill-applied, economic model used to measure the impact of immigration on the workforce. The cohort of critical studies are older, less up to date, largely ignore the role that immigrants play in expanding the economy and stimulating labor demand through their consumer purchases and investments and, most importantly, fail to incorporate the observed reality that businesses expand through the investment of more capital when the labor supply is not artificially constrained. Careful analysis and more recent studies add a dynamic component to the economic analysis of immigration by treating immigrants (both documented and undocumented) as real economic agents: earning, spending, and investing in the economy. Businesses, in turn, are considered dynamic as well: adjusting to the available resources and expanding accordingly.

Few argue with the notion that immigration provides many benefits to the United States. As a nation of immigrants, our culture, customs, and traditions reflect the diverse backgrounds of the millions of individuals who have made their way to America over time. But more than cultural benefits, recent economic analysis, including work by Giovanni Peri of the University of California, shows that the United States sees real economic benefits from immigration. Using one of the most comprehensive and up-to-date sets of data available, Professor Peri demonstrates conclusively that between 1990 and 2004 native-born wages increased an average of 1.8% as a consequence of immigration. Among the 9 in 10 native born workers with at least a high school diploma, wages increased by as much as 3.4%, depending on education.[1] In addition, overall annual growth in the Gross Domestic Product is approximately 0.1 percentage point higher as a result of immigration--a misleadingly small number that represents billions of dollars in economic output and, when compounded across a generation, represents a significant improvement in the standard of living of our children and grandchildren.

The positive impact of immigration results in part from the fact that immigrants help to fill growing gaps in our labor force. These gaps develop as aging native-born workers, in larger numbers than ever before, succeed in attaining higher levels of education and subsequently pursue higher-skill, higher-wage jobs. If the United States were to reform the immigration system to better address the demand for foreign-born labor, largely through ensuring that such workers were a part of the transparent and competitive "above ground" economy, the economic benefits of immigration could be even greater than what we have already experienced. Immigrants, native born workers, and their employers would likely benefit from a more predictable supply and demand environment and less time and resources would be spent addressing the dysfunction that is a result of a strong demand for a labor force that our laws do not accommodate.

Undocumented immigration is largely the result of two opposing forces: an immigration policy that significantly restricts the flow of labor and the economic reality of a changing native-born U.S. population. The extent to which the U.S. economy has become dependent on immigrant workers is evident in the labor force projections of the Bureau of Labor Statistics (BLS). According to BLS estimates, immigrants will account for about a quarter of labor force

growth between 2002 and 2012. Given that roughly half of immigrants now arriving in the United States are undocumented, this means that 1 in 8 workers joining the U.S. labor force over the coming decade will be undocumented immigrants. Many of the jobs that would be harder to fill without this labor supply are already associated with immigrant labor: construction, agriculture, meatpacking, and hospitality. A growing number of immigrants, however, are also filling jobs in fields that are vitally important to serving America's aging population, such as home healthcare. This indicates that while policymakers debate the relative merits of various immigration reform proposals, immigration beyond current legal limits has *already* become an integral component of U.S. economic growth and will likely remain so for the foreseeable future.

The Impact of Immigrants on Native-Born Wages

Despite the critical role that immigration plays in preventing labor shortages that might impede economic growth, many critics of immigration argue that foreign-born workers reduce the wages of native-born workers with whom they compete for jobs. However, this argument relies on an overly simplistic understanding of labor supply and demand that fails to capture the true value that immigrants bring to the economy. If you are to accurately gauge the economic impact of immigration, the role that immigrants play in *creating* jobs is just as important as the role they play in *filling* jobs.

To analyze the impact of immigration on the U.S. economy as a whole, particularly in the studies relied upon in this debate, economists typically use one of two models: "static" or "dynamic." This, in its own right, is an oversimplification, but illustrates the key issue. The static model is the simplest and most frequently used by critics of immigration, yet it is the least realistic because it fails to account for the multi-dimensional role that immigrants play as workers, consumers, and entrepreneurs. The dynamic model, on the other hand, offers a more nuanced portrait of immigrants as economic actors. The net economic benefits of immigration are apparent in both models, but are larger and more consistently positive in the dynamic model.

Under the static model, economists assume that immigrant workers serve only to increase the labor supply, which results in slightly lower wages and thus higher profits for the owners of capital. In other words, if there are more workers competing for a job, an employer might pay a lower wage for that job and pocket the difference. For instance, under a popular version of the analysis that utilizes the static model, the 125 million native-born workers in the United States in 1997 would have earned an average of $13 per hour if not for the presence of immigrants. However, the 15 million immigrant workers who were actually in the country increased the labor force to 140 million and, under the static scenario, thereby lowered average wages by 3 percent to $12.60 per hour. Nonetheless, the net benefit to the U.S. economy of this decline in wages would have amounted to about $8 billion in added national income in 1997.

Despite the seeming simplicity of this logic (more workers competing for jobs results in lower wages for workers and higher profits for businesses), the assumptions underlying the static model bear too little resemblance to economic reality. Recent evidence supports the contention that the impact of immigration on wages is not as simple, or negative, as the static model would suggest. A 2004 study found that, despite the large influx of immigrants without a high-school

diploma from 1980 to 2000, the wages of U.S.-born workers without a diploma relative to the wages of U.S.-born workers with a diploma "remained nearly constant."[2] More importantly, thanks in part to the work of Ottaviano and Peri, we now know that the dynamic response of small and medium sized businesses to this phenomena means that nearly all U.S. born workers, especially those with a high school education or better, have benefited from higher wages due to the presence of this low skilled, often undocumented, immigrant labor.[3]

The inability of the static model to explain this finding rests in part on the fact that the model incorrectly assumes immigrant and U.S.-born workers are perfectly interchangeable; that is, that they substitute for each other rather than complement each other in the labor force. Common sense alone suggests that this is not always the case. For example, less-skilled foreign-born construction laborers enhance the productivity of U.S.-born carpenters, plumbers, and electricians, but do not necessarily substitute for them. More broadly, the different educational and age profiles of foreign-born and native-born workers indicate that they often fill different niches in the labor market.

More importantly, the static model fails to account for the fact that immigrants spend money or invest capital, both of which create jobs and thus exert upward pressure on wages by increasing the demand for labor. This amounts to more than a minor omission given the scale of immigrant purchasing power and entrepreneurship. For instance, in 2004, consumer purchasing power totaled $686 billion among Latinos and $363 billion among Asians.[4] Given that roughly 44 percent of Latinos and 69 percent of Asians were foreign-born in that year, the buying power of immigrants reached into the hundreds of billions of dollars.

The dynamic model accounts for many of these additional economic contributions by immigrants. In the dynamic scenario, immigrant workers spend some of their wages on housing and consumer goods, which in turn increases the demand for labor by creating new jobs. Rising labor demand then increases wages relative to what would have existed if immigrant workers had not been present in the labor market. Businesses in turn invest more capital, expand, and hire more workers across the spectrum of skill levels. The result is a larger economy with higher employment.

The Impact of Immigrants on Native-Born Employment Levels

An IPC research report released in November of 2005 provides strong demographic evidence that the impact of immigrants on native-born employment levels is extremely limited or, in some cases, positive. The report examines the significant differences between the native-born workforce and the immigrant workforce and finds that immigrants are largely complementary to the native-born in education, age and skills profile. The complementary nature of immigrant labor makes it unlikely that immigrants are replacing a significant number of native-born workers, but are instead moving into positions that allow native-born workers to be more productive.

As the number of less-skilled jobs continues to grow, it will become increasingly difficult for employers to find native-born workers, especially younger workers, with the education levels that best correspond to those jobs. In this sense, immigrant workers are a vital complement to a

native-born labor force that is growing older and better educated. On average, foreign-born workers tend to be younger than their native-born counterparts and a larger proportion have less formal education. In addition, immigrants participate in the labor force at a higher rate. As a result, immigrants provide a needed source of labor for the large and growing number of jobs that do not require as much formal education.

Immigrant Workers are More Likely to Have Less Formal Education

Immigrants comprise a disproportionate share of those workers who are willing to take less-skilled jobs with few or no educational requirements. In 2004, 53.3 percent of the foreign-born labor force age 25 and older had a high-school diploma or less education, compared to 37.8 percent of the native-born labor force. Immigrant workers were more than four times as likely as native workers to lack a high-school diploma. In contrast, immigrant workers were nearly as likely to have a four-year college degree or more education, amounting to more than 30 percent of both the native-born and foreign-born labor force.

In general, foreign-born workers are more likely to be found at either end of the educational spectrum, while most native-born workers fall somewhere in the middle. Roughly three-fifths of the native-born labor force in 2004 had either a high-school diploma or some college education short of a four-year degree, whereas three-fifths of the foreign-born labor force either did not have a high-school diploma or had at least a four-year college degree. Given their different educational backgrounds, most native-born workers are therefore not competing directly with foreign-born workers for the same types of jobs and, instead, supplying the critically diversified lesser-skilled and highly skilled workforce the economy requires.

Immigrant Workers Tend to be Younger

Immigrants also include a large number of younger workers, particularly in the less-skilled workforce. In 2004, 67 percent of the foreign-born labor force with a high-school diploma or less education was between 25 and 45 years old, as opposed to 52 percent of the native-born labor force with no more than a high-school diploma. While relative youth is not a requirement for many jobs, it is an asset in those less-skilled jobs that are physically demanding or dangerous.

Given the different age and educational profiles of foreign-born and native-born workers, it is not surprising that immigrants comprise a disproportionately large share of younger workers with little education. In 2004, immigrants made up more than a quarter of all workers 25–34 years old with a high-school diploma or less, and more than half of workers 25–34 years old without a high-school diploma. Employers searching for younger workers in less-skilled positions therefore often find that a large portion of prospective hires are foreign-born.

The Fiscal Costs of Immigration

Critics of immigration often focus on the fiscal costs of immigration instead of the economic benefits. These costs are often exacerbated by the undocumented status of many immigrants. An immigration policy that acknowledges the economic need for and subsequent benefits of immigration would significantly reduce these costs. To support the contention that immigrants

are a net fiscal drain, critics cite studies indicating that immigrants contribute less per capita in tax revenue than they receive in benefits. However, these studies fail to acknowledge that this has more to do with low-wage employment than with native born (or lack of native born) status. Native-born workers in low-wage jobs similarly receive benefits in excess of the level of taxes paid. Indeed, entire categories of citizens, whether school age children or the elderly fall into this category. And yet, for carefully thought out reasons of public policy or future economic advantage (as in the case of educating children and inviting immigrants to participate in the economy), a short-term fiscal impact is a small price to pay for a long term economic advantage. This highlights the key concept that net tax revenue is not the same as net economic benefit. Generally accepted analysis reveals that the net economic benefit of immigration compensates for and exceeds any negative fiscal impact. The "fiscal only" analysis ignores the fact that in the absence of sufficient immigrant labor, certain low-wage jobs and other critical high-skilled jobs, might remain unfilled and regardless of the relative tax implications, this would hurt the economy and forego the opportunity for growth.

Conclusion

Immigration is a net positive for the U.S. economy and the presence of immigrants does not generally harm the native-born workforce. Studies that purport to demonstrate a negative impact on native-born wages and employment levels rely on an overly simplistic economic model of immigration and the economy. The most recent demographic analysis in conjunction with more sophisticated economic analysis reveals that most immigrants, including undocumented immigrants, do not compete directly with native-born workers for jobs. Instead, these immigrants provide a critical element of our nation's economic success and continued resiliency: a relatively young, willing, and dynamic supply of essential workers in areas such as healthcare, construction, retail, and agriculture. These are jobs that, once filled, enable our economy to continue the virtuous cycle of growth and job creation.

Indeed, this makes clear that the implication of the government's own BLS data cannot be ignored. To prosper, our economy desperately needs workers at both ends of the spectrum: young and less skilled as well as more educated and highly skilled. As a nation, we are in the midst of a slow-motion demographic cataclysm unlike any we have previously experienced. Immigration is not the only tool for seeing our way clear of the coming storm – but it is one without which we will not prosper. Without a continued and normalized flow of immigrant labor our workforce will fall well short of the numbers needed to meet the emerging demand for labor. The result will be an erosion of both the growth and increased standard of living that our citizenry has come to expect and to which future generations are entitled. Until the United States adopts a more articulated and thoughtful immigration policy that accommodates these economic realities, the insufficiency of current immigration and the problematic nature of undocumented immigration, in particular, will continue to hobble the economy.

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[1] Gianmarco I.P. Ottaviano & Giovanni Peri, *Rethinking the Gains from Immigration: Theory and Evidence from the U.S.* London: Centre for Economic Policy Research, September 2005. Updated: Peri, Giovanni, *Rethinking the Effects of Immigration on Wages: Data and Analysis from 1990 to 2004*, IPC Policy Paper, August 2006.
[2] David Card, *Is the New Immigration Really So Bad?* (CDP No 02/04). Centre for Research and Analysis of Migration, Department of Economics, University College London, April 2004, p. 23

[3] Gianmarco I.P. Ottaviano & Giovanni Peri, *Rethinking the Gains from Immigration: Theory and Evidence from the U.S.* London: Centre for Economic Policy Research, September 2005. Updated: Peri, Giovanni, *Rethinking the Effects of Immigration on Wages: Data and Analysis from 1990 to 2004*, IPC Policy Paper, August 2006.
[4] David Card, *Is the New Immigration Really So Bad?* (CDP No 02/04). Centre for Research and Analysis of Migration, Department of Economics, University College London, April 2004, p. 23
[5] Jeffrey M. Humphreys, "The multicultural economy 2004: America's minority buying power," *Georgia Business and Economic Conditions* 64(3), Third Quarter 2004 (Selig Center for Economic Growth, University of Georgia).

Ms. LOFGREN. Thank you very much.

Mr. DeCell, thank you for coming today.

TESTIMONY OF BRUCE DeCELL, MEMBER OF THE 9/11 VICTIMS FOR A SECURE AMERICA (READING THE PREPARED STATEMENT OF MICHAEL W. CUTLER, FORMER SENIOR SPECIAL AGENT OF THE INS, FELLOW AT THE CENTER FOR IMMIGRATION STUDIES)

Mr. DECELL. Thank you very much.

"Chairman Lofgren, Ranking Member King, Members of Congress, ladies and gentlemen; it is an honor and a privilege to"—I'm sorry—"it is an honor and a privilege to appear before this subcommittee. It is especially fitting to conduct a hearing about the past, present and future of immigration at this important historical location, Ellis Island. According to the Ellis Island Museum, from 1892 until 1954, this historic facility processed nearly 12 million aliens seeking to begin their lives anew in our land of freedom and opportunity." Being that I'm reading this for my, he says, "My mother, in fact, was one of those who first set foot on American soil when she stepped off the ocean liner that brought her to the United States a few short years before the onslaught of the Holocaust that caused the death and suffering of so many millions of innocent people. My grandmother, for whom I was named, was one of the 6 million who was killed for no reason other than the fact that she was a Jew. My father was born in the United States but his parents and most of his siblings arrived at Ellis Island in 1908 from Russia seeking the freedom and economic opportunity that were not possible in their homeland.

"The United States was indeed built by immigrants and New York City is perhaps one of the most ethnically diverse cities in the entire United States of America. New York is not only an extremely diverse city; it is a city that celebrates its diversity with a great deal of passion. During the summer months there is rarely a weekend when there isn't a parade, street fair or food festival that celebrates the many different cultures, ethnicities and religions. Our nation is greatly enriched by this diversity, living up to its motto, E Pluribus Unum, 'From one, many. From many, one.' I am nearly as proud of being a New Yorker as I am of being a citizen of the United States.

"However, as we celebrate the lawful immigration of people from all over the world who enter our nation in accordance with our laws, to share the 'American Dream' I believe it is critically important that we distinguish between those aliens who enter our nation lawfully and those who enter our country in violation of law. Not long ago I sat in an auditorium at a college on Long Island, watching a series of panel discussions as I awaited my turn to participate in a discussion about immigration. I heard one of the speakers make a disturbing point. She said that in the old days immigrants came through Ellis Island, today they come across the Mexican border. That simple statement illustrated that the debate about immigration often loses sight of reality. Ellis Island was not simply a terminal where aliens arrived and then waited to catch a ride to some town in the United States. Ellis Island was a facility that provided immigration inspectors, public health officials and others

the opportunity to screen those aliens who were seeking to enter the United States to enjoy a better life, a better way of life than was possible in their native countries. Simply arriving here was no guarantee of being admitted to the United States. Ellis Island was, in effect, America's waiting room.

"If there was a doubt that the arriving alien might harbor a dangerous communicable disease, that person was kept here as long as necessary, until public health officials could determine if that applicant for admission posed a health risk to our citizens. Similarly, Ellis Island provided law enforcement officials with adequate time to identify those who might be fleeing criminal prosecution in their homelands. In those days there were no computers that could assist with this vital issue.

"Today when aliens run our nation's borders without being inspected, the potential exists that these aliens may carry disease. These aliens may be fugitives from justice in their home countries who have extensive criminal backgrounds. In this perilous era, the potential also exists that these aliens may be involved directly or indirectly with terrorism. This is not a matter of xenophobia; it is a matter of common sense. Our nation needs to know who is entering or seeking to enter our country. At present it has been estimated that there are from 12 million to twenty million illegal aliens in our country whose true identities are unknown and ultimately unknowable. Because they are undocumented, we cannot be certain of when they entered the United States and in fact, we cannot even be certain as to their true nationalities. The President has called for legalizing illegal aliens which would require our beleaguered adjudications officers at USCIS to suddenly have to confront many millions of applications for amnesty filed by aliens whose identities can not be verified. I fear that terrorists and criminals would seize this opportunity to acquire official identity documents in fictitious names in conjunction with such a guest worker amnesty program and use those documents as breeder documents to create new identities for themselves, obtaining driver's licenses, Social Security cards and other such documents. They could then use these officially issued documents to embed themselves in our country and also circumvent the various terror watch lists and so-called no fly lists.

"I started out by telling you how proud I am to be a New Yorker. On September 11, 2001 the United States was attacked but the focal point for much of the destruction was the iconic World Trade Center complex that would have been easily visible from this island on which we are now conducting this hearing. Our nation needs to balance its desire to open its doors to legitimate visitors and immigrants with the need to protect our nation and our citizens from those who would come here and do us harm.

"Virtually all homes and apartments come equipped with a front door that has a peephole and a door bell. This is provided so that the responsible homeowner may determine whether or not to open his door to the stranger who shows up on his doorstep. For the United States, Ellis Island provided that peephole. Today millions of aliens enter our nation in accordance with law through many ports of entry. Many come for a temporary visit to engage in commerce, tourism, education or to visit a friend or family member.

These visitors are inspected by an inspector of CBP who can attempt to determine the intentions of aliens seeking entry into the United States. It is a daunting job with a serious responsibility. I speak from experience because for the first 4 years of my career with the INS I worked as an immigration inspector at John F. Kennedy International Airport located not far from here.

"Other aliens enter our country as immigrants, seeking to reside in the United States permanently, contributing to the vibrant tapestry that comprises the United States of America.

"Of course, this inspection process is not without its failings and, indeed, it is estimated that perhaps as many as 40 percent of the illegal alien population of the United States did not run our nation's borders but were admitted through the inspections process and then, in one way or another, violated the terms of their admission into the United States, either by overstaying the temporary period for which a nonimmigrant alien was admitted, accepting——"

Ms. LOFGREN. Mr. DeCell, you're about 6 minutes over. I wonder if you could summarize or leap to the end. It's hard when you're reading someone else's testimony, I know.

Mr. DECELL. I'm sorry.

Ms. LOFGREN. That's all right.

Mr. DECELL. In summary, what it boils down to is that it sounds nice to let everybody come into our country, but there are people out there who are going to do us harm and before we open up our doors, we have to secure our borders and make sure that the people are here that we know who they are and their documents are verified.

[The prepared statement of Mr. Cutler follows:]

PREPARED STATEMENT OF MICHAEL W. CUTLER

TESTIMONY OF MICHAEL W. CUTLER
FOR THE HEARING TO BE HELD ON
MARCH 30, 2007
BEFORE THE HOUSE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY AND INTERNATIONAL LAW
"PAST, PRESENT AND FUTURE: A HISTORIC AND PERSONAL RELECTION ON AMERICAN IMMIGRATION"

Chairwoman Lofgren, Ranking Member King, members of Congress, ladies and gentlemen; it is an honor and a privilege to appear before this subcommittee. It is especially fitting to conduct a hearing about the past, present and future of immigration at this important historical location, Ellis Island. According to the Ellis Island Museum, from 1892 until 1954, this historic facility processed nearly 12 million aliens seeking to begin their lives anew in our land of freedom and opportunity. My mother, in fact, was one of those who first set foot on American soil when she stepped off the ocean liner that brought her to the United States a few short years before the onslaught of the Holocaust that caused the death and suffering of so many millions of innocent people. My grandmother, for whom I was named, was one of the 6 million who was killed for no reason other than the fact that she was a Jew. My father was born in the United States but his parents and most of his siblings arrived at Ellis Island in 1908 from Russia seeking the freedom and economic opportunity that were not possible in their homeland.

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However, as we celebrate the lawful immigration of people from all over the world who enter our nation in accordance with our laws, to share the "American Dream" I believe it is critically important that we distinguish between those aliens who enter our nation lawfully and those who enter our country in violation of law. Not long ago I sat in an auditorium at a college on Long Island, watching a series of panel

discussions as I awaited my turn to participate in a discussion about immigration. I heard one of the speakers make a disturbing point. She said that in the old days immigrants came through Ellis Island, today they come across the Mexican border. That simple statement illustrated that the debate about immigration often loses sight of reality. Ellis Island was not simply a terminal where aliens arrived and then waited to catch a ride to some town in the United States. Ellis Island was a facility that provided immigration inspectors, public health officials and others the opportunity to screen those aliens who were seeking to enter the United States to enjoy a far better way of life than was possible in their native countries. Simply arriving here was no guarantee of being admitted to the United States. Ellis Island was, in effect, America's waiting room.

If there was a doubt that the arriving alien might harbor a dangerous communicable disease, that person was kept here as long as necessary, until public health officials could determine if that applicant for admission posed a health risk to our citizens. Similarly, Ellis Island provided law enforcement officials with adequate time to identify those who might be fleeing criminal prosecution in their homelands. In those days there were no computers that could assist with this vital issue.

Today when aliens run our nation's borders without being inspected, the potential exists that these aliens may carry diseases. These aliens may be fugitives from justice in their home countries who have extensive criminal backgrounds. In this perilous era, the potential also exists that these aliens may be involved directly or indirectly with terrorism. This is not a matter of xenophobia; it is a matter of commonsense. Our nation needs to know who is entering or seeking to enter our country. At present it has been estimated that there are from 12 million to twenty million illegal aliens in our country whose true identities are unknown and ultimately unknowable. Because they are undocumented, we can not be certain of when they entered the United States and in fact, we cannot even be certain as to their true nationalities. The President has called for legalizing illegal aliens which would require our beleaguered adjudications officers at USCIS to suddenly have to confront many millions of applications for amnesty filed by aliens whose identities can not be verified. I fear that terrorists and criminals would seize this opportunity to acquire official identity documents in fictitious names in conjunction with such a guest worker amnesty program and use those documents as breeder documents to create new identities for themselves, obtaining driver's licenses, Social Security cards and other such documents. They could

then use these officially issued documents to embed themselves in our country and also circumvent the various terror watch lists and so-called no fly lists.

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Of course, this inspection process is not without its failings and, indeed, it is estimated that perhaps as many as 40% of the illegal alien population of the United States did not run our nation's borders but were admitted through the inspections process and then, in one way or another, violated the terms of their admission into the United States, either by overstaying the temporary period for which a nonimmigrant alien was admitted, accepting unauthorized employment or by being convicted of committing a felony in our country. We have been told that the enforcement only approach to immigration does not work and that is why we need to have a guest worker program for millions of illegal aliens. In point of fact, the Office of the Inspector General just released a report that disclosed that the number of

fugitive aliens now stands at more than 600,000; nearly twice the number of such fugitives who were present in the United States on September 11, 2001. There are approximately 3,000 special agents at ICE to enforce the immigration laws from within the interior of the United States for the entire county. New York City has been found to be safest big city in the United States even though it has more than 8 million residents living in a city that covers some 400 square miles. This is largely attributable to the simple fact that the NYPD has roughly 37,000 police officers. The NYPD also has a wide variety of resources that can be called into action when the situation arises that require such resources.

Where immigration law enforcement is concerned, I believe that all that we have been given is the illusion of enforcement and it is the illusion that has failed to accomplish the mission of securing our borders against those who enter the United States illegally. The illusion of enforcement has failed to address the millions of illegal aliens who are present in our country today. The illusion of enforcement and the constant effort to keep up with the huge numbers of applications for immigration benefits has caused USCIS to put speed over accuracy as evidenced last year when it apparently naturalized 30,000 aliens even though their immigration alien files were among the more than 111,000 such files that were lost last year.

By not differentiating between those aliens who have played by the rules and abided by the law to enter our country to become a part of this magnificent nation and those aliens who succeed in violating our nation's borders and laws and then being rewarded for it, we make a mockery of our own laws and insult those decent people who have patiently waited their turn to lawfully immigrate to the United States.

It has been said that you only get one opportunity to make a first impression. For many people throughout the world, the first impression that they have about the United States and our resolve to live up to our standard of being a nation of law, is the way that we enforce or fail to enforce the immigration laws. It is therefore critically important that we do not create any ambiguity about the difference between being an alien who is lawfully present in the United States and being an illegal alien.

I look forward to your questions.

Ms. LOFGREN. Thank you very much and for filling in at the last minute.

Mr. Martin, we're going to expect you to stay within the 5 minutes.

TESTIMONY OF JACK MARTIN, SPECIAL PROJECTS DIRECTOR, FEDERATION FOR AMERICAN IMMIGRATION REFORM

Mr. MARTIN. Chairman Lofgren, Ranking Member King, Members of the Committee, this site here at Ellis Island is important in reminding us of our immigration history. Actually, we should remember that during a period of the development of our country, we didn't have an immigration policy. We had open borders. I think that it's also worthwhile remembering that during part of our history, the States actually recruited for immigrants, sending missions abroad to attract immigrants to this country. But the country changes and the needs of the country change. And immigration policy is a discretionary policy. It is set by our policy makers presumably to be in the national interest. And what is to be the best benefit of the country.

The fact is that Ellis Island was a screening station. It was not intended to simply admit everyone, but rather to admit those people who by our policy we considered would be a benefit to the country and to exclude those who would—were not admissible under our laws. Our immigration policy has changed over time. The most recent reminder was this morning in reading in the Washington Post the Administration is apparently considering as part of its comprehensive immigration policy eliminating sibling reunification. We have to remember that the Jordan Commission in the mid-1990's recommended a significant reduction in legal immigration as well as new controls against illegal immigration. One of those recommendations was doing away with extended family reunification. Another was eliminating unskilled immigration. Yes, the number is only 5,000, but we have more people in this country that are unemployed, under employed, seeking their first jobs than we have people illegally working in this country. We have to consider those people as well.

My other major point that I would like to make is that it is important in any analysis of the effects of immigration on the United States to make a very clear distinction between those people who are admitted into the country legally pursuant to our immigration policies that have been designed in the national interest and those people who have come into the country outside of those immigration laws basically to suit their own interests whether it's economic advantage of taking advantage of gullibility of the American people.

In particular, I would like to suggest that any study that lumps together legal immigrants and illegal immigrants, whether assessing education, assessing economic impact, assessing impact on crime rates, basically does a disservice to people who are legally admitted because those people have been subjected to screening. They're screened, for example, for previous criminal activities or the likelihood of engaging in criminal activities. I've done so myself as a consular officer abroad. I know how that works. Whereas those people who come into the country illegally are not screened. And

they are much more likely to be attracted into some type of criminal activity, whether they came in for that purpose or not. And I don't mean to say that all people in the country illegally are involved in criminal activities. That certainly is not true. But my own studies have found that the incidents of criminal activities by those people who are in the country illegally is higher than those of the general public. And I would suggest that you can derive from that a conclusion that it is not irrational for a country or a community to want to screen out people who have come into the country not subject to our criteria of admission.

And I know that there are communities across the country that have become increasingly concerned with regard to the settlement of people illegally residing in this country, not only because of the fact that they have seen association with crimes, but other fiscal impacts and other impacts that are harmful to their communities. And they, of course, are looking to the U.S. Congress to offer relief from this situation which has not been forthcoming thus far. But I think that if we take an accurate focus on how the United States has changed over time, what the economic needs of the country have changed over time, what those needs are at the present time, we will come to a more intelligent decision with regard to designing an immigration policy for the future.

And lastly, I would simply note that during the period of time that we had restrictive immigration between 1914 and 1965, I don't know of any study that suggests that the United States was harmed economically, or militarily, or industrially.

[The prepared statement of Mr. Martin follows:]

PREPARED STATEMENT OF JACK MARTIN

Subcommittee on Immigration, Citizenship, Refugees,
Border Security, and International Law
U.S. House of Representatives

March 30, 2007
Hearing on
Past, Present, and Future: A Historic and Personal Reflection on American Immigration

TESTIMONY OF JACK MARTIN
SPECIAL PROJECT DIRECTOR
FEDERATION FOR AMERICAN IMMIGRATION REFORM

Good morning Chairman Lofgren, Ranking Member King, and Members of the Subcommittee. My name is Jack Martin, and I am Special Projects Director for the Federation for American Immigration Reform. FAIR is a national, non-profit, public interest organization representing more than 250,000 members and activists that has been working for more than 26 years to end illegal immigration, to restore moderation to legal immigration and to reform our immigration laws to bring them into accord with the national interest. On behalf of the more than 250,000 FAIR members and activists, thank you for this opportunity to share with you our perspectives on current day immigration.

The setting here at Ellis Island in sight of he Statue of Liberty is a vivid reminder of America's immigration history. It is estimated that as many of two-fifths of today's Americans have ancestors who were among the over 12 million immigrants processed at Ellis Island during its 62 years of operation. While we remember our immigration history and those who entered through this portal, we should not forget that Ellis Island was a screening center. Not everybody who came here was admitted as an immigrant. Since the beginning of Ellis Island as an immigration portal, we have not had open borders to all comers.

Today the country is intently focused on the issue of who should be admitted as immigrants and in what numbers. Our standards today are similar to those that applied during most of the time that Ellis Island was operating as a screening station. Not only were our laws aimed at protecting the American public against possible harm, they also were aimed at regulating the size of the flow.

The immigration debate today is heavily influenced by the issue of millions of foreigners who are residing illegally in our country. These are persons who have not been screened to make sure they represent no threat to the American public, and who have violated the limits that are intended to regulate a moderate flow of immigrants.

A FOCUS ON THE UNSCREENED, UNINVITED ILLEGAL ENTRANTS

My focus today is not on immigrants who enter America legally, but rather on those who disregard our immigration law by illegally entering the country or who chose to ignore the requirement that they leave the country when their entry permit expires.

It is important not to ignore the distinction between those who come to the United States legally as immigrants and those who come here illegally. It is important because legally admitted immigrants are screened by our consular and immigration officials to assure that they do not represent a threat to the American public, while illegal immigrants, by the nature of their presence in the country, bypass any such screening. If legally admitted immigrants were found to have any significant involvement in crime in our country, it would be a serious indictment of our screening process akin to the scandalous sloppiness of our consular nonimmigrant screening process that gave visas to the 19 terrorists who committed the

mass murder of nearly 3,000 innocents here in New York, in Washington, DC and in Pennsylvania on September 11, 2001.

When both legal and illegal immigrants are lumped together in studies of their impact on the country, the results are misleading. Whether studying immigrant educational levels, or poverty, or criminal activity, for example, such studies do a disservice to legal immigrants and disguise the impact on the country by illegal alien residents. Legal immigrants are screened to make sure that they will be self-supporting after their arrival, they also often have sponsors, and they are not admitted if they have criminal records or are considered some threat to the American public. This obviously is not true for those who are in the United States in violation of our immigration laws.

A Focus on the Issue of Criminal Aliens

As noted above, it is unsurprising that the incidence of criminal activity is much greater among those who have broken our immigration laws than among those who have adhered to them. Not only are those who violate our immigration laws not screened to exclude those who have criminal backgrounds, but those entering the country illegally are more likely to be living on the economic margins of our society and be attracted to criminal activity, especially economic crimes.

Arizona serves as a case in point. The state in 2000 had the nation's highest per capita rate of illegal aliens. According to the FBI Uniform Crime Reports, it also had the nation's highest rate of property crimes, the highest rate of vehicle theft, and the 2nd highest rate of larceny theft. It also ranked above the median among the states for burglaries (5th), murders (9th), robberies (15th), and aggravated assaults (15th).

While it would be wrong to assume that most illegal immigrants enter the country with the intent of harm to Americans, nevertheless, they are likely to leave harm in their wake. At the outset, they often cause property loss to landowners through whose property they cross. If they cross through public lands, they often contribute to ecological damage. Human smuggling operations often are related to criminal activities in the United States such as prostitution, drug distribution, or increasingly gang-related activities.

According to a recently released report of Homeland Security's Inspector General's Office, about 5.4 percent of the estimated illegal alien population in the country – about 623,000 persons – is comprised of fugitive aliens, i.e., those who have had their day in court and been ordered to leave. That share is understated because it compares fugitive aliens, who may be presumed to be adults, with the overall estimated illegal alien population, which has a significant number of children in it. A more realistic percentage of the share of illegal aliens in the country who are fugitive aliens is likely higher than eight percent. Despite the fact that the immigration authorities have mounted a major effort in recent years to locate and remove these fugitives from the country, the number of fugitive aliens loose in the country continues to climb.

According to DHS Inspector General Richard L. Skinner, "The fugitive alien population is growing at a rate that exceeds the teams' ability to apprehend." He noted the inability of the apprehension teams, "to keep pace with the increase in the backlog of fugitive aliens, not to mention reduce it."

This enormous number of fugitive aliens does not include the number of deportable aliens who are not at large because they are incarcerated. The Bureau of Justice Statistics reports on the basis of a prisoner census in 2000 that one-fourth of federal prisoners are deportable aliens. About 5 percent of state prisoners are similarly deportable aliens, as are about 12 percent of those in privately-run prisons. A Government Accountability Office report in April 2005 prepared for Congress found 49,000 criminal aliens incarcerated in the federal prison system in 2004 and an additional 77,000 criminal aliens in state prisons plus a further 147,000 criminal aliens in local jail systems. That totals to 273,000 deportable criminal aliens in prison.

DISTORTED DATA ON CRIMES BY IMMIGRANTS

Some researchers recently have issued findings that suggest that criminal activity by immigrants is not a problem, because the crime incidence is lower than for native-born citizens. That finding has been taken to the absurd conclusion of suggesting that if a community wanted to reduce its crime rate, it should seek the settlement of immigrants.

This research finding is very misleading for the reason previously mentioned. It is a serious error to lump together both legal immigrants and illegal aliens when studying crime incidence. Legal immigrants should be assumed to have a criminal activity incidence near zero. And, because legal residents constitute the largest share of the foreign-born population, a study that lumps the two groups together distorts the crime incidence by both legal and illegal aliens, but especially the latter, as they are the smaller group.

CORRECTING THE RECORD

In fairness to legally admitted immigrants and to policymakers who must grapple with the problem of confronting the illegal immigration problem, it is necessary to focus specifically on the incidence of illegal alien criminality. This can only be done with data that identifies who among the prison population are criminal aliens. Fortunately, data are available that allow for this focus. They are compiled in the State Criminal Alien Assistance Program, known as SCAAP.

SCAAP data are reported by state and local prison authorities to the federal government in the process of seeking reimbursement for their costs. The data are partial, because some jurisdictions judge the level of compensation is so low that it is not worth the effort. The recent GAO report was based on data reported in the SCAAP program by 47 states and about 700 local governments.

My recent report is "Illegal Aliens and Crime Incidence: Illegal Aliens Represent a Disproportionately High Share of the Prison Population" used SCAAP data to identify the size of the incarcerated population and the share composed of deportable aliens. I found that the criminal aliens were 4.5 percent of the total prison population in terms of detention days. I then calculated how this share compared to the illegal alien share of the overall population, using a federal government estimate of the illegal alien population and adjusting the overall population and the illegal alien population for just adults. My finding was that illegal aliens constituted 3.1 percent of the population. The higher incidence by criminal aliens in the state and local prisons than their representation in the adult population demonstrates that illegal aliens are likely to be incarcerated for crimes nearly half-again – a more than 45 percent higher rate – than their presence in the population.

This finding suggests that, on average, a community that turns a blind eye to or accommodates illegal resident aliens is running a risk for a higher incidence of crime in that community.

A growing number of states and local jurisdictions are acting to discourage the settlement of illegal aliens in their communities despite the argument that immigration policy is a federal responsibility. FAIR certainly agrees that immigration policy is a federal responsibility, but it is actively engaged in defending the right of local jurisdictions to adopt policies to discourage illegal immigration. We know from our extensive network of members across the country and our contacts with local officials that they are hoping that Congress will act to alleviate the problem of illegal immigration without repeating the serious mistake of the amnesty in 1986 that resulted in a major increase in illegal immigration.

A Realistic Aspiration

It is our hope and that of a majority of Americans, I am sure, that we effectively end the illegal immigration problem now confronting us so that the American people may again confidently welcome all foreigners – whether immigrants, refugees, students, tourists, or other visitors – as legal entrants into the country in compliance with our immigration law. That will not be achieved until we have effective control over our

borders and our workplaces. The tools to achieve this aspiration are available, what is still lacking is the political will and the legal framework necessary to make it a reality.

Ms. LOFGREN. Thank you. Your time has expired. And we will now go to questions for the witnesses, noting that their full testimony is a part of the record and an important part it is.

I will begin, and I'd like to talk first to Dr. Myers. Your entire testimony is very interesting to me and I plan to share it with the Administration and others who are looking at this. You mentioned that we face two decades of 30 percent increases in what you call the elderly burden, in other words, people like well, I was born in 1947, not the oldest Baby Boomer, but close to it, that basically I'm going to be looking to the younger people to work and pay my Social Security and in the sense that I hear you right, you're saying if we don't make sure we have an adequate flow of immigration when I'm in the nursing home, there's going to be no one to help me out with my dribble on the chin. Is that about right?

Mr. MYERS. Not quite. Certainly you need help in a nursing home, but you're going to need help with a lot more than that. I was reflecting that here we are on Ellis Island. I'm looking at my data. It's in a chart, Figure 1 in my testimony. And back in 1900, the heyday of Ellis Island's admissions, there was one senior, aged 65 and older for every 10 workers, aged 25 to 64. And then in the most recent decades, last three or four decades, it's been about 2.5 senior for every 10 workers. And coming up here in the next 10 years, and the next 20 years, we're going to 4 seniors for 10 workers. And that really alters the nature of America. We used to have just a lot of people at the bottom supporting the top. And now we're going to have a lot more people at the top expecting support from the bottom and it's going to really press us to deliver all the services that seniors need, not just nursing home attendants.

Ms. LOFGREN. And because of our birth rate, immigration can help ameliorate that phenomena.

Mr. MYERS. It won't solve the aging problem, but it can definitely make a contribution in maybe a quarter of solving the problem.

Ms. LOFGREN. Let me ask Mr. Siciliano, we appreciate your coming out as well all the way from California, you cite the work of the economist Giovanni Peri and many of us are from California. His study found no evidence that immigrants worsened the employment of native-born workers with similar educational experiences, and in fact, his study showed that between 1990 and 2004, immigration actually led to a 4-percent real wage increase for average native-born workers. Now people are worried about the impact of immigration on the wage rates of Americans. How could he find—what's going on here?

Mr. SICILIANO. Thank you. I think it's important to note that in the last five or 6 years our demographic and econometric tools, the way we look at data and how we analyze and how we isolate factors has improved tremendously and Dr. Peri is kind of leading that front.

The reason, the difference, the way he concludes this fact that, in fact, wages are going up because of immigrants is by isolating the behavior of how small and medium size businesses invest capital. Obviously, it takes labor and capital to run a business and when you have constraints in both you have to make decisions. It turns out that our old models which kind of held capital as fixed and then we just fluctuated the labor and looked to see what would

happen, were not the appropriate approach. In fact, we know in the real world what happens is small and medium size businesses, when they're faced with different opportunities for hiring different levels of skilled labor, alter their capital mix and optimize. The classic example is the same restaurant, same table, same cutlery has a dinner session, but can't do lunch because it can't find the right qualified people. With the right qualified people it adds lunch. That capital is more efficiently deployed and that business owner might then open another restaurant across town. Everyone grows and benefits and that's the insight from Giovanni Peri's work which supports that conclusion.

Ms. LOFGREN. Dr. Tichenor, your full testimony is wonderful and so—I learned so much reading it. As a matter of fact, it filled in some gaps in my own family history. Lots of times people say well, we're for immigration, but we want it to be the way it used to be. I hear that all the time, and many of us do in our districts. My grandmother actually was stuck with her mother and younger brother in Sweden for 13 years while her father earned enough money to send them second class. What—explain how the immigration worked at that time in terms of first class, second class? What was the rejection rate at Ellis Island and put a little context in how was it the legal way then?

Mr. TICHENOR. What's interesting is that we had different tiers of admission. So that, for instance, if you came over on a steamship and you were riding in first class, you, in fact, didn't come through Ellis Island. You would actually have one of our agents who would come and inspect the passage information from the captain of the ship and you would go on your way. And it was, in fact, those who were in steerage class, who would then be funnelled through like my grandparents were funnelled through Ellis Island. We have from the very beginning a kind of a first class entry and a second class entry system. And if we add the undocumented experience today, I guess we have a third version.

So one of the things that's quite striking is that when Ellis Island and other inspection stations and key ports of entry were in operation, the focus was on individual issues of whether we wanted to exclude someone for basically individual reasons, whether it was for health problems or clear signs of criminality and so forth. It was the great exception, in fact, to exclude someone under those conditions. And what became unfortunate is that our shameful national origins quota system that was enacted in 1924 created a system where we focused on groups and that's really where we went wrong. One of the effects of that was that families were separated. Those who came in, in the earlier part of this century, after the quotas were in place, the flow slowed to a trickle and as a result many families were separated for decades and it was very tragic.

Ms. LOFGREN. My time has expired, so I will turn now to Mr. King, the Ranking Member.

Mr. KING. Thank you, Madam Chair. I'd like to thank all the witnesses for their testimony and say it's a rare opportunity to have. I understand the security position the two witnesses have delivered here. So we're an opportunity to have in addition an historian, a demographer and an economist in front of me and try to put this

together in 5 minutes to figure out how to solve this intractable problem.

So I'm going to ask macro questions here and hopefully it's going to bring some illustrations. First of all, you mentioned, Mr. Tichenor, a xenophobic reaction and you talked about Franklin saying they will have Germanized us before we Americanize them. I'm going to ask a hypothetical then. Let's just say the Isle of Atlantis emerged and there were a billion people on the Isle of Atlantis and we decided we're going to take them all in in one fell swoop in a given year. They have a different language, a different culture, a different religion and they refuse to assimilate. Does it affect our culture?

Mr. TICHENOR. Oh absolutely. One of the punch lines for Ben Franklin was that, in fact, the Germans did help Germanize the United States as much as they were affected by the English population. So there was a blending. I'm sorry, you wanted——

Mr. KING. My point will be then is culture a part of this debate, this immigration debate, and is there is a missing component to the American culture that we should be reaching out, trying to fill? Is there a void like we might have an economic void that's in our culture, or would you conclude we have a fairly complete culture? What's missing?

Mr. TICHENOR. I don't think we're missing anything in our culture. I would say that we've always been a Nation becoming and so as such we've always added extra layers to it and if anything, those who are the biggest critics over time, of a new wave of immigrants bringing in a new culture that they find threatening, it's that they've been impatient with how long it takes, in fact, for newcomers to assimilate.

Mr. KING. So we'll conclude then that it is, that it can be overdone, that there is a pace that would be an appropriate pace. We just probably don't know that.

Mr. TICHENOR. I think that's correct, yes.

Mr. KING. And I thank you. And then Dr. Myers, the demography, the question I would have on the macro scale would be, I know you're familiar with the kind of chart that shows a different generation, the sizes of the generations, kind of like stacked checkers, one bigger, one smaller and we are Baby Boomers, pretty good sized checkers here. And so what is the optimum configuration of the generations of a society so that the younger generations can sustain the older generations? Is there a way to do this with a static population and get it right or are we always going to have to go for growth in order to meet it and at the bottom of this question is who is going to take care of the retirement of the millions of people whom you have proposed to bring in here to pay for the retirement of the people like the Chair and myself.

Mr. MYERS. That's some very good reasoning you have there. It's called a population pyramid and traditionally it's a pyramid shape, but the way it's evolving in Europe and North America is to more of a cylinder. But temporarily, we have a problem. Because we had so many kids in the Baby Boom——

Ms. LOFGREN. Could you pull the microphone a little bit closer? Thank you.

Mr. MYERS. Sorry, I didn't realize. We have a problem in that we had so many kids during the Baby Boom that now they're moving up into the elderly ranks, so where it should be tapered, it's bulging at the top. Our problem is the next 20 years, sir. We have to get past the next two decades and absorb this bulge.

Mr. KING. But what's optimum?

Mr. MYERS. Optimum would be, I think if it was not top heavy, it was a little larger at the bottom, but you can't have optimum because whoever is in one age group moves up. So if you have two few kids, they move up and become two few workers. If you have too many kids, then you have too many workers.

Mr. KING. So if you exceed your growth, then you're locked in to having to continue to exceed your growth in order to adapt, unless you would have the kind of prosperity that will allow the senior people to take better care of themselves economically.

Mr. MYERS. In the long run, it will smooth out, but we have to get past the next 20 years. So all I'm saying is that this crunch that we're facing needs to be softened.

Mr. KING. And I understand that. Mr. Siciliano, then—and I read through your testimony with great interest. It's detailed and I appreciate the thought you put into it. My question comes back to it seems as though as you extrapolate this and use your dynamic model that there isn't a place where you have demonstrated in your testimony, at least, where you hit the law of diminishing returns. Where is that? Let's go to the billion people from the Isle of Atlantis who had come over here and work for a dollar an hour and consume $15 an hour. Where do you cross that line and can you produce for this Committee a matrix of how we could set up the optimum economic impact on America's economy by identifying the very best demographic of immigrants?

Mr. SICILIANO. I think it's hard to understand where that point comes. And you're right, you can't just extrapolate this argument to an infinite level. One thing we know with certainty is that if we look backwards and we say let's take a snapshot of the last 16 years. We have 1990 to 2006 data which is very, very good. And let's ask the question how many immigrants impacted the work force and the answer, depending on how you counted both documented and undocumented, ranges from 800,000 to 1.4 million a year. And then we ask the question how did the economy do during that time? And the answer turns out to be really, really well, all things considered. We have deep resiliency and growing wages. And so one thing we can say with fairly high certainty without knowing what the upper bound is is to say that the mid-bound which is relatively safe and maybe even necessary is in the range of what we've experienced historically in the last 16 years and hence we need to alter the—if we all agree with the premise that all immigration should be legal and planned and deliberate and screened, then we need to alter what we're doing now to accommodate that historical trend.

Mr. KING. Thank you, Mr. Siciliano. And a very quick question then back to Dr. Tichenor. When General Winfield Scott was in Mexico and we signed the Treaty of Hidalgo in I believe 1848, why didn't the United States when they were in the middle of Manifest

Destiny just stay there? There must be a historical reason for that and I don't know the answer.

Mr. TICHENOR. I don't know. We can find out for you.

Mr. KING. I look forward to that and I thank the gentlelady, and yield back.

Ms. LOFGREN. Thank you, Mr. King. We'll now go to the gentleman from Illinois, Mr. Gutierrez.

Mr. GUTIERREZ. Yes. The microphones. Well, thank you all for your wonderful testimony this afternoon. I'm going to go back to Dr. Tichenor. So if I were to say that in the 1840's, 1850's, if we were in Boston, there might be news accounts about these immigrants that were coming to the United States that were hungry, not very well educated and apart from that could corrode or undermine our American way of life because they were Catholic and not White, Anglo-Saxon Protestant. Would that be correct?

Mr. TICHENOR. That's absolutely right.

Mr. GUTIERREZ. And if it were the turn of the century, we were here in New York, we might even pick up the venerable New York Times and find someone accusing the Italian immigrants of coming here and undermining our society because somehow they had a suspect criminal element to them. Would that be correct?

Mr. TICHENOR. Right on target.

Mr. GUTIERREZ. Okay, so if they were wrong about the Irish and they were wrong about the Italian immigrants as has been evidenced in the history of the United States, tell me how they won't be wrong making those same arguments about today's immigrants?

Mr. TICHENOR. We're obviously on the same wave length, as you know, from my testimony on this. And we make these mistakes all the time and one of the best funded, but poorly researched studies was the Dillingham Commission Reports which occurred in 1911. You can go to the library and find 40 plus volumes there. It spent a record amount of money to investigate the question of these new immigrants. And they were focused particularly on Southern and Eastern Europeans at the time. And we carted out, I hate to say, our best social scientists and scholars on the issue, and we got it wrong.

Mr. GUTIERREZ. And indeed, the history of America is replete with even political parties in and of themselves and political parties taking up the issues of immigration as a focal point of what they believe in and stand for and asking people to vote for them based on their immigration policy.

Mr. TICHENOR. Yes, that's right. And on occasion, parties decided to go in an anti-immigrant direction. The Whig Party, for instance, in 1844 with Henry Clay, and decided afterwards that they had gotten whipped badly by these new immigrants who had become assimilated into the political system quickly.

Mr. GUTIERREZ. It's interesting because the Pew Research Group yesterday indicated to us that last year more people applied in unprecedented numbers, statistically speaking, unprecedented, for American citizens, that's legal, permanent residents. And I always tend to think that maybe that's come around again since let me see, in January, February and March of last year, the hits on the U.S. citizenship for petitions, let me see, for applications to become American citizens, just off the charts. I don't know maybe, we

passed some very repressive legislation, anti-immigrant legislation, but I don't think it was their New Year's resolution from that immigrant community. So that's happened before.

Mr. TICHENOR. Yes, absolutely.

Mr. GUTIERREZ. I mean in terms of immigrants playing a key, and changing the political dynamics in this country.

I'd like to now go to Mr. Siciliano. I want to get this right. You're saying that the productivity of Americans workers is at an all-time high, that is, the people that are working are producing really well. They're very productive. And that those that can work are able to work, our labor participation, that is those that can work, have ample opportunity to—we've got lots of people working and very low unemployment in terms of them. But then we have this older population of people as we have. So I guess what you're saying is that workers that we've got working are working real well and most people who can and are able to work are working and our economy continues to expand at who's going to do that work?

Mr. SICILIANO. It looks like our short-run constraint is likely to be people to be labor. Because though our productivity does continue to advance, we become more productive every year and it is the source of our great wealth among other things. It isn't going to be four or 5 percent gains. It's going to be 2 percent, maybe 1.8 percent and that means you have to turn and find more people to produce the economic gains that we have and to work on the jobs. And the participation rates, we don't have the ability to have women join the work force or have others join the work force.

Mr. GUTIERREZ. Let me ask you a question, so we know we need to secure our borders, and I know that we are going to find fundamental agreement among all the Members of the House of Representatives, we know we're going to do that. I think America, the tradition of immigration has always been based on the unity of families, so I don't think we're going to change that or there might be some attempt to change that, but in the end economic security is also a basic fundamental part of our immigration policy, and if we don't deal with new workers and having those workers, do we put at risk our economic security of this country?

Mr. SICILIANO. Economic security is arguably, in my opinion, the foundation of democratic stability and national security. Without economic security, everything starts to fall apart.

Mr. GUTIERREZ. Thank you all so so much. I'm going to read all the other stuff that you put out in the books to read. Thank you.

Mr. SICILIANO. Thanks.

Ms. LOFGREN. Thank you, Mr. Gutierrez. We now turn to the gentlelady from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you, again, and thank all of the gentlemen for their testimony and might I offer to Mr. Cutler my best wishes. We've worked together in the past. So thank you so very much.

The history of this building that we're in is, I think, complemented by the individual stories that you've heard most of the members, I believe all of the members of the panel, recount their immigrant histories, their grandparents, and I might note that you sense that we said it with a sense of pride. I think that is the downfall of the undermining of our basic values that we have de-

monized immigration, immigrants. We have labeled them and therefore it clouds the political process of getting to the right solution. For example, I always try to put on the record that immigration and in this city of such great history of the moment, dealing with 9/11, I still try to make clear that immigration does not equate to terrorism. And my good friend indicated that I don't think you could find one partisan divide on the question of securing the homeland, both the northern and southern border. There is no doubt.

So once we get that on the table, and I don't see anyone here shaking their head saying no, I don't think we want to secure the homeland. We want these borders to be secure. Part of that is a system that works, that deals both with legal immigrants, because we don't need to reflect on 9/11 where some were statused or had visas and also those who may not be documented. Let's look at the holistic issue that we're confronting.

Let me quickly then raise these questions with you and try to get this sense. First, Dr. Tichenor, and because of my opening remarks I beg of your indulgence for quick answers. We've been erratic in the United States Congress. We started probably way back in the 1800's and before, but 1924, I cited in my opening remarks we then said you know what, I don't want these Eastern Europeans, I don't want to these Asians, let me just stick with the Western Hemisphere. Then we came back in 1965 and said okay, we've got an overload, let's go back to two hemispheres and then we'll let family members in. Would consistency and structure help us be more adaptable? Because what I'm asking you is we've been moved by politics, by emotion, by someone is taking my job, would we now need to look to this concept of comprehensiveness so that it can be a breathing law that grows with America?

Mr. TICHENOR. I think absolutely and to give one quick example, one of the sources for undocumented immigration are the huge backlogs in terms of reunited families. And so——

Ms. JACKSON LEE. Not that we have that policy as a suggestion by the Administration, we'll cut down on reuniting families, but let me not interrupt. Go right ahead.

Mr. TICHENOR. The quick point is simply that decoupling these aspects of our immigration policy between cracking down on porous borders and on undocumented immigration from legal immigration preferences is I think one of those examples of inefficiency.

Ms. JACKSON LEE. And I want to just emphasize that we had a 1924 bill that shut down on the Europeans and Asians and we went back to 1965, we changed it again. And we went to 1986 and we got something that everybody calls amnesty, and it's a bitter taste in some of our Members and others that have different perspective. But coming now, Dr. Myers, full circle, let it be clear that those of us who are looking at comprehensive now are starting out with English even before the citizenship track. I think that should be well noted. And I just—your demographics, and I want to just raise this quick question about the fact of more foreign doctors and nurses which have become a source, a needed source, but can't we parallel that, and Mr. Siciliano, would you comment, too, because I see the yellow light on. Can't we parallel the need for foreign nurses and doctors in this instance? I think that's been proven that

our numbers have gone down, with the idea of investing in American workers by way of training and otherwise, so that immigration does not equate to my job being lost because there's certainly a dearth of professions or trained persons in a lot of the areas that immigrants are in, besides the unskilled, nurses, doctors, because you have the professionals saying I'm losing my job. How do we match the engine of immigration with making sure Americans have jobs and retain jobs?

Mr. MYERS. Well, we have this shortage of workers that's coming up because of the retirements. And we have some neglected youth who we could train up. And I think as part of this package, it would be good to think about how do we invest in the youth we have here today now, because the more they can fill those jobs, you wouldn't need to have, import so many doctors, perhaps.

Ms. JACKSON LEE. Nurses.

Mr. SICILIANO. I think that's exactly right. It's a 20-year plan and we need to have a plan for Year 0 through 20 and we need to begin investments so that after Year 20, it starts to pay off. And I think it really does have to be a comprehensive approach, and it's not a displacement. It is complementary, an augmentation. If people can't be taken care of and be made healthy and if health care becomes too expensive, that offsets other pieces of the economy, so we have to take care of that now, not just in 20 years.

Ms. JACKSON LEE. And so training American workers is also a component of the economic——

Mr. SICILIANO. It's not mutually exclusive. In fact, you almost, at a certain level with the nursing shortage, have to make sure you have immigrants available so that you have sufficient training staff. Our shortage has become so critical that you almost can't secure the next generation of nurses.

Ms. JACKSON LEE. Thank you, Madam Chair.

Ms. LOFGREN. The gentle lady's time has expired. And we will go to our last questioner, the gentlelady from California, Ms. Sánchez.

Ms. SÁNCHEZ. Thank you, Madam Chair, and thank you to all of the witnesses. I don't know when I've been so excited about the information that I've received from a congressional panel, so I have to say you've all done an excellent job.

I want to start my questions with Mr. Siciliano. Lower-skilled immigrant workers tend to be over-represented in certain industries, agriculture, for example, landscaping, textile, etcetera. I'm interested in knowing if you could tell us what would be the economic impact if we restricted immigrant labor in those industries?

Mr. SICILIANO. I think a lot of people wonder if the impact would be that wages would simply go up, right, because people wouldn't be available, so they'd have to pay more wages and you would get higher wages in those industries. We know from empirical evidence that that probably isn't the case. The bottom line is many industries would become non-viable and after initial spike in inflation related to those industries, the industries themselves would probably go away. People would simply not be able to access landscapers, and the like.

The long run is a little more complex, but in the short run I think it would collapse those industries.

Ms. SÁNCHEZ. One of the arguments that is often used against immigrants coming to this country is that they take American jobs away from American workers, and something that I am familiar with, both with experiences my family has had and constituents that I represent, is that folks that are in the country in undocumented status often work for the lowest wages and in the most dangerous or inhumane working conditions. How would this country—what would the economy look like if people who are currently working in an undocumented status could get their citizenship and would pay taxes on their wages and the underground economy didn't exist? If we could clean that up through getting these folks into a legal, viable work program?

Mr. SICILIANO. That's a hard question, but I think one thing that can be said is that we'd be benefitted by the fact that there are people in the economy, particularly undocumented workers who are sometimes taken advantage of and where wage and hour rules are not applied correctly, where OSHA rules are not applied correctly. By bringing those people into the regular economy, we can enforce that more aggressively and any worker who takes advantage and violates these now should be stopped and punished. I think everyone generally agrees with that, but this would make that easier.

And in the long run it would also make it easier for the children of these immigrants, and this is important, to continue what we refer to as the virtuous cycle of climbing up the economic and social ladder of the United States. Right now, the underground economy such as it is may make that harder which I think a dangerous trend which should be interrupted.

Ms. SÁNCHEZ. Okay, Dr. Myers, this sort of dovetails very nice into that last point. In your written testimony, you state that immigration has a role to play with respect to the aging Baby Boomer crisis, but you also state that those who are already settled and becoming incorporated into our communities can provide even more assistance. I'm intrigued to know what you mean by this and comparatively speaking, compared to other countries, how has America fared in trying to integrated immigrants and allow them to rise up the economic ladder?

Mr. MYERS. Let me just take that last question first, if I may. I don't know any other country on the planet where some of the poorest immigrants that they bring to the country can become home owners after 20 years. The fact that over half of Latino immigrants in California, a high priced State, become home owners is astounding. It's not possible in Germany or France or any of those other countries.

The beauty of immigration is that immigrants don't remain constant. They're not frozen in time. And as they settle in, they develop this power, this upward mobility that invigorates our whole economy. The housing market in California is notorious for its high prices and you wonder how do immigrants survive in that. They buy at the bottom of the market and it's through their energies that they push up the market from the bottom and the person in Beverly Hills then has the high priced house supported by the infrastructure of all these small owners at the bottom. It's that energy of immigrants who are settling in and incorporating and they're working their way up the ladder that pushes up the econ-

omy from the bottom. And I think that we shouldn't think about immigrants coming in new and all of a sudden playing that role. It's when they get settled on the ground or their children and then they come up from the bottom that that's the real advantage.

Ms. SÁNCHEZ. Okay, I have one last question. I wonder if you could speak to the changing settlement patterns of new immigrants. Do they generally help rejuvenate communities with shrinking populations, or do they simply push out native born workers out of those communities?

Mr. MYERS. Well, there are a class of Americans who wish they had some immigrants coming to their town. But immigrants really only go where there's job opportunities that are growing. For example, in Texas, Houston is the mecca for immigration, not San Antonio, which has the most Mexican-Americans, but it doesn't have the job growth. And so immigrants gravitate to where the new openings are, not where existing workers are they're pushing aside. They really a growth oriented.

Ms. SÁNCHEZ. Thank you.

Ms. LOFGREN. Well, thank you very, very much. I would like to thank all of the witnesses for their testimony today. Without objection, Members will have five legislative days to submit any additional written questions for you which we will forward and ask that you answer as promptly as you can to be made part of the record and without objection, the record will remain open for five legislative days for the submission of other additional materials.

I would just like to close by thanking not just the witnesses for truly exceptionally fine testimony, but for members of the public who have sat here with us, to listen. You are sitting on the benches that the immigrants sat on waiting to be called when they were here at Ellis Island. We thank you for listening and participating in that way. I'd like to thank also the Park Service and the Border Patrol for their wonderful participation.

I'd like to thank the staff of the Committee on both sides of the aisle for their hard work in making this hearing possible at such a wonderful and historic place and I would like to thank the Members of the Committee for coming up here this morning from Washington, so that we could help illuminate the numerous issues that concern us in our wonderful country, both in the past, in the present, so that we can create a future for America that's as vibrant and exciting and prosperous as our wonderful history has been. So with that, this hearing is adjourned with thanks to all.

[Whereupon, at 1:25 p.m., the hearing was concluded.]

APPENDIX

Material Submitted for the Hearing Record

PREPARED STATEMENT OF THE HONORABLE MICHAEL CHERTOFF, SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY

STATEMENT FOR THE RECORD
OF THE HONORABLE MICHAEL CHERTOFF
SECRETARY
U.S. DEPARTMENT OF HOMELAND SECURITY
BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW

FRIDAY, MARCH 30, 2007

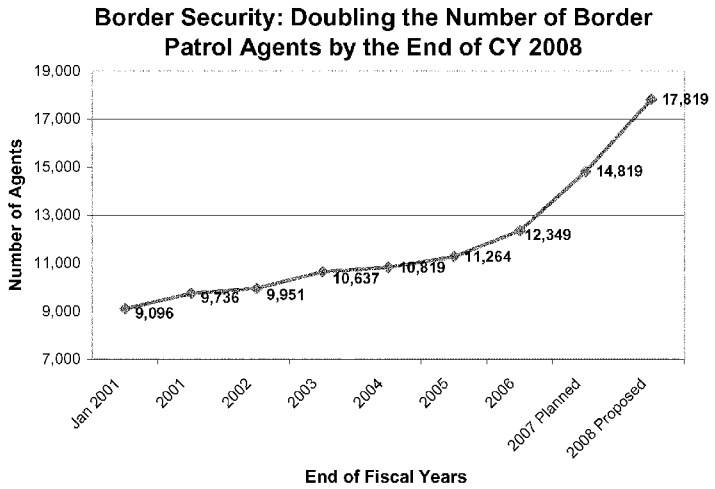
Madam Chairman, Representative King, Members of the Subcommittee:

Thank you for inviting me to testify today about immigration reform. I would like to thank members of the subcommittee for holding this hearing and for their interest in, and work on, the important issue of immigration. The Department of Homeland Security (DHS) is committed to the President's vision of immigration reform based on five main pillars: (1) gaining effective control of the border; (2) building a robust interior enforcement program; (3) establishing a Temporary Worker Program (TWP); (4) bringing illegal aliens who are now in the U.S. out of the shadows; and (5) promoting assimilation of new immigrants into our society. With Congress's help, DHS has made measurable progress in achieving effective control of the border and improving the enforcement of our immigration laws in the interior. I would like to share some of our accomplishments with you today. But to continue on this path of success, you must help us further by giving us effective tools to do our job. As you consider immigration reform legislation, I urge you to heed the lessons of past reform efforts and avoid repeating their mistakes. In that respect, I would like to share with you some of my views, as the head of the Department charged with administering our immigration programs, of what we could learn from our past experience.

Protecting Our Nation's Border

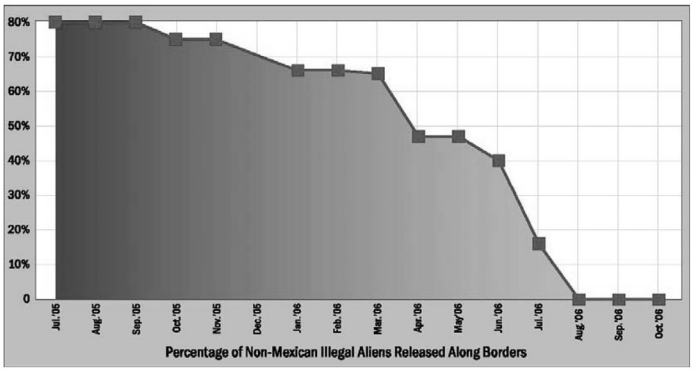
We have accomplished a lot in improving our border enforcement. The following are our key accomplishments in this area:

6,000 National Guard Deployed to Border: In support of the President's initiative to secure the border, 6,000 National Guard personnel were deployed to the Southwest border as part of *Operation Jump Start*. In addition to the National Guard deployment, Border Patrol agent staffing increased by over 30 percent since 2001, as shown in the chart below.



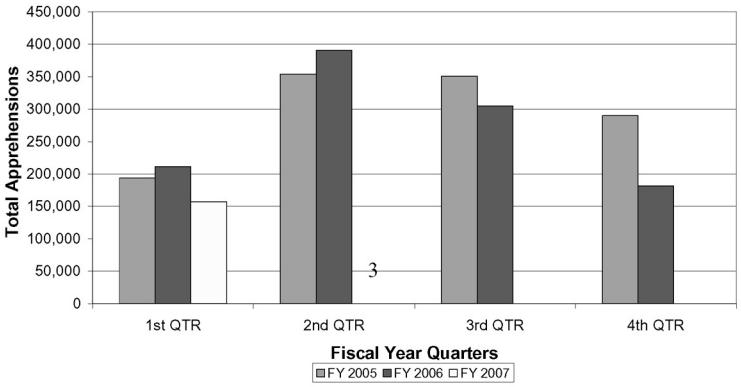
"Catch and Return" Replaced "Catch and Release" Along the Borders: As part of the Secure Border Initiative, the Department ended the practice of "catch and release" along the Southern and Northern borders. In the past, we apprehended illegal aliens at the border from countries other than Mexico, who we could not immediately remove from the U.S., and then released them on their own recognizance. Often these illegal aliens failed to return for their immigration hearings. In July 2005, we were releasing up to 80 percent of non-Mexican illegal aliens because we did not have the bed space to hold them. As of August 2006, all removable aliens caught at the border are detained until returned to their home countries. When people know they will be held in detention and then returned to their home country, it creates a strong disincentive to cross illegally in the first place. Ending this practice and replacing it with "catch and return" is a breakthrough in deterring illegal immigration on the Southern border.

SBI Ends Catch and Release



Apprehension Rates Declined: Beginning in the third quarter, FY 2006 showed a marked decrease in the apprehension rate due, in principle, to the end of "catch and release," the implementation of *Operation Jump Start*, and the expanded use of expedited removal procedures, among other factors. The graph below provides historical data by fiscal year for total apprehensions of both Mexican and non-Mexican aliens between U.S. ports of entry. CBP's Office of Border Patrol (OBP) made nearly 100,000 fewer apprehensions in FY 2006 than in FY 2005 due to these factors. This decline is represented below by quarter, with the drop in apprehension rates corresponding to the implementation of *Operation Jump Start* in the third quarter of FY 2006 and the full implementation of "catch and return" in FY 2007.

Border Security Deterrence



Border Security at and Between the Nation's Ports of Entry Increased: By deterring illegal immigration, security has been strengthened. With fewer alien crossings, DHS can more effectively target resources to control our borders with fewer alien crossings. As shown in the chart above, our efforts resulted in a reduced number of apprehensions at the borders during each of the three quarters since *Operation Jump Start.*

SBI*net:* Last year, DHS initiated a multi-year plan – SBI*net* – to secure our borders and reduce illegal immigration by upgrading technology used in controlling the border, including improved communications assets, expanded use of manned and unmanned aerial vehicles, and state-of-the-art detection technology. We are currently evaluating the proper mix of fence and other tactical infrastructure, as well as personnel and technology, to gain effective control of the Southwest border.

Two operational task orders have already been contracted under SBI*net*; they are Project 28 and Project 37. Project 28 is being carried out along 28-miles of border flanking the Sasabe, Arizona Port of Entry. It will demonstrate the SBI*net* system's capabilities by deploying sensor towers, unattended ground systems and upgrades to existing Border Patrol vehicles and communication systems. Project 28's completion date is set for June 2007. In January 2007, we awarded a task order for Phase I (9 miles) of the Barry M. Goldwater Range Project 37. The next phase of this project involves completion of 34 miles of fencing and vehicle barriers.

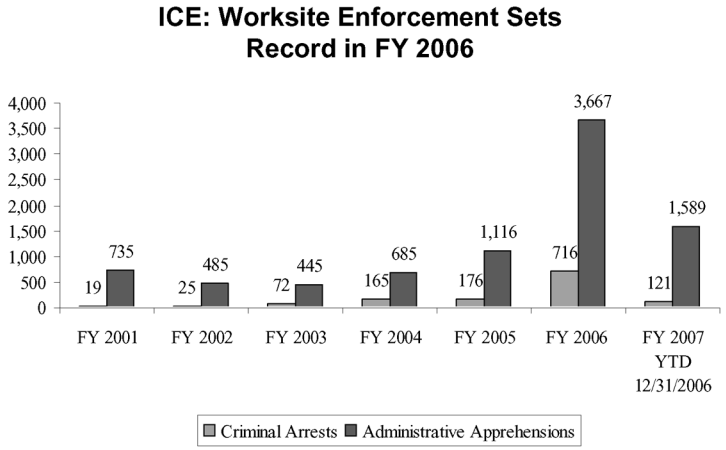
US-VISIT's Biometric Program Kept Terrorists and Other Criminals Out of Our Country: US-VISIT's biometric program increased watch list hits by 185 percent at consular offices between FY 2005 and FY 2006. The program protects American people by keeping terrorists and other criminals out of our country, while facilitating visits from legitimate travelers. In FY 2006, there were 2,558 watch list hits at consular offices, up from 897 hits in FY 2005. The use of biometrics has allowed DHS to deny entry to more than 1,100 known criminals and visa violators.

Improving Interior Enforcement

We have also dramatically improved the enforcement of our immigration laws in the interior. The following are some of our key accomplishments:

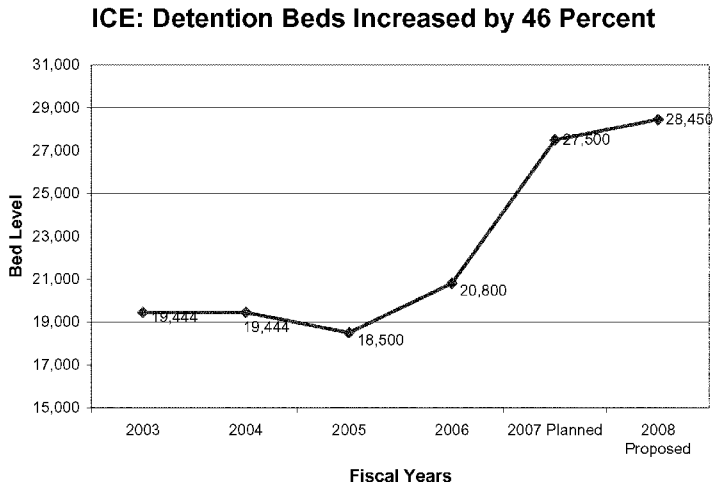
ICE Set New Records for Worksite Enforcement and Compliance Enforcement: As depicted in the graph below, in FY 2006 more than 4,300 arrests and apprehensions were made in the U.S. Immigration and Customs Enforcement (ICE) worksite enforcement cases, more than seven

times the arrests and apprehensions in FY 2002, the last full year of operations for the U.S. Immigration and Naturalization Service (INS). ICE completed 5,956 compliance enforcement investigations resulting in the administrative arrest of 1,710 overstay and status violators, a 75 percent increase over the number of administrative arrests in FY 2005.



In our recent worksite enforcement operation, on February 22, 2007, ICE agents arrested 190 unauthorized workers in 64 locations who were employed by ROSENBAUM-CUNNINGHAM INTERNATIONAL, Inc. (RCI), a Florida-based company that specializes in nationwide contract cleaning services at several national restaurant chains and resorts. The charges include allegations that one of the owners and his co-conspirators obtained over $54 million from its contracts by using sub-contracting cleaning crews comprised almost entirely of undocumented aliens. This two-year investigation is just the latest example of our intent to maintain an aggressive worksite enforcement program that targets egregious employers who are knowingly violating the law.

ICE Set New All-Time Record for Alien Removals: ICE removed 192,171 illegal aliens including 88,217 criminals, from the country in fiscal year 2006. This marks a 13 percent increase in total removals and a 4 percent increase in criminal removals over the prior fiscal year. As shown in the following chart, ICE also increased its detention bed space by 6,700 during FY 2006 and is now funded for a total of 27,500 beds for FY 2007.



Elements of a Successful Immigration Reform

Border Security and Interior Enforcement

The continuation of our success in securing the border and enforcing immigration laws in the interior depends on whether the immigration legislation that Congress enacts gives us the necessary tools to accomplish our task. Let me outline some of the authorities that I believe are needed:

- First, and most important, immigration reform should ensure that we maintain effective safeguards preventing terrorists from taking advantage of our tradition of welcoming immigrants of all nations. To that end, I urge Congress to enhance DHS's authority to consider national security and terrorist activity in determining an alien's eligibility for citizenship and other immigration benefits, including relief from removal.

- We should make it clear that "port running" and evasion of DHS checkpoints are criminally punishable. We should strengthen criminal sanctions for dodging checkpoints or failing to obey a DHS officer.

- We should strengthen our ability to penalize countries that impede effective removal of their nationals from the United States by such means as delaying issuance of travel documents to their citizens, limiting the repatriation flights, or otherwise refusing to take back their own nationals.

- We should set reasonable rules to govern courts ordering immigration-related injunctions, to ensure that our practice of "catch and return" can continue.

- We should ensure DHS's ability to detain dangerous aliens until removal.

- We should strengthen the definition of "aggravated felony" in the immigration law to ensure that it bars aliens who committed certain serious felonies. We should make gang membership an independent ground for removal and inadmissibility.

Worksite Enforcement

I especially urge Congress to ensure that the immigration legislation contains provisions strengthening the worksite enforcement system. Effective worksite enforcement tools are crucial to mitigating the economic incentives that draw illegal aliens into the United States. If those who are here illegally cannot find jobs, we will remove the main incentive drawing illegal immigration to our country.

While we have dramatically increased our worksite enforcement efforts, they have been severely hampered by a lack of tools, both for enforcement officials and for employers who want to comply with the immigration laws. I urge Congress to fill gaps in current law, and to do the following to make sure that our worksite enforcement is both workable and effective:

- We should make it mandatory for employers to use the Electronic Employment Verification System (EEVS). This system would enable employers to confirm that their new hires are U.S. citizens or work-authorized aliens. This system would give employers a verification tool that is accurate, fast and easy to use. But we need legal authority to assure that the Social Security Administration can share with us and with employers data concerning stolen identities being misused to obtain work illegally.

- One of the mistakes of the Immigration Reform and Control Act of 1986 (IRCA) was to deprive immigration authorities and employers of the ability to adapt to new forms of worksite fraud. As a result, it has become much easier for illegal immigrants to avoid the verification requirements by using fraudulent documents. To remedy this mistake, DHS should be given flexible authority to establish new requirements in response to new forms of immigration fraud, such as identity theft.

- We should not tie up worksite enforcement in endless litigation. This was yet another mistake we made in 1986. To the greatest extent possible, we should build an

enforcement system that does not mire employers, workers, and the government in drawn out litigation.

- We should ensure that civil and criminal penalties for violation of the immigration laws are tough enough that scofflaw employers cannot just treat fines as a cost of doing business. We cannot afford another law like the 1986 reform that makes enforcement expensive and violations cheap. We should increase penalties for repeat offenders and establish substantial criminal penalties and injunction procedures that punish employers who engage in a pattern of knowing violations of the laws and effectively prohibit the employment of unauthorized aliens.

Temporary Worker Program and Program for Currently Undocumented Workers

Our efforts to ensure vigorous enforcement of our laws in the interior, and especially at the worksite, are crucial to controlling the problem of illegal immigration. But they alone will not be sufficient. We must create a lawful mechanism so that in the future, foreign workers can come into the United States on a temporary basis to fill jobs that U.S. workers do not want. This regulated channel for temporary workers would dramatically reduce the pressure on our borders, aid our economy and ease the task of our law enforcement agents inside the country. There is an inextricable link between the creation of a TWP and better enforcement at the border.

We also cannot ignore the presence in our country of about 12 million illegal aliens. Many of them have been living in the United States for a long time, doing jobs that our economy needs to have filled. It is simply not in our interest to have a population of this size remain in the shadows of our economy and often beyond the reach of law enforcement. We should seek to bring these people out of the shadows and under the rule of American law. That process must also involve acknowledgment and atonement for those who have broken our immigration laws.

Over the course of the past two months, I have had the chance to meet with many of you and your House and Senate colleagues. We listened carefully to your views on the main features of immigration reform in general and of this problem in particular. We are considering carefully what we have learned in our conversations. After we have had some time to consider your advice, I hope to return to you so that we can work together on sound and long overdue immigration reform legislation.

Today, though, I would like to share with you some of my own thoughts, as the head of the Department that would be charged with administering the TWP, as to some of the principles that should guide that program. These thoughts are shaped by our experience administering the system that was bequeathed to us by the 1986 immigration reform:

- First, we need to have clear and consistent application standards that will protect the applicant, guide those reviewing and granting each application, and defend against fraud. One of the mistakes made by the drafters of IRCA was the vagueness of its eligibility provisions. The requirements for applicants must be simple and

straightforward. The more confusing or complicated the process is, the less likely it is that applicants will seek to enter the program, and the more likely it is that the system will be abused. We should minimize the number and complexity of fact-based adjudications that must be performed by a government agency.

- Second, we should carefully design judicial review of application decisions to ensure that applications are treated fairly and objectively but do not become a source of never-ending litigation. As a result of IRCA, judicial review provisions have jammed the federal court system with a huge backlog of legalization cases. Some of this litigation continues even today, 20 years later. Excessive litigation will break any immigration system.

- Third, we should not give illegal aliens who have already broken the law greater access to our courts than those who have legitimately applied for a visa or green card from outside our country. There is no reason to grant special treatment to those who flouted our laws to get here.

- Fourth, as with worksite enforcement, we need to have flexibility in implementing and managing a TWP and a program for currently undocumented workers. On an annual basis the DHS immigration agencies oversee the monitoring, evaluation, and processing of millions of legal immigrants. The work of implementing a TWP and a program for currently undocumented workers will be piled on top of this already enormous workload. To do this work well, we will need to have sufficient time and resources to develop regulations, develop and implement contract requirements, hire and train workers, and plan for the enhanced workload.

- Fifth, we cannot give a blank check of "confidentiality" for information learned in the course of adjudicating applications for the program. Counterterrorism and law enforcement investigators should not be hobbled by artificial walls that keep them from gaining access to relevant information that could protect Americans.

Workable reforms are needed in many areas of immigration law. Today, I have shared with you some of my thoughts as to the measures needed to build a successful immigration system. I thank you for the opportunity to do so.