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# SAVE AMERICA COMPREHENSIVE IMMIGRATION ACT OF 2007

## 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

ON

**H.R. 750**

NOVEMBER 8, 2007

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# SAVE AMERICA COMPREHENSIVE IMMIGRATION ACT OF 2007

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**THURSDAY, NOVEMBER 8, 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 10:05 a.m., in Room 2237, Rayburn House Office Building, the Honorable Zoe Lofgren (Chairwoman of the Subcommittee) presiding.

Present: Representatives Lofgren, Berman, Jackson Lee, King, Gallegly, Forbes, Gohmert, and Smith.

Staff Present: Ur Mendoza Jaddou, Majority Chief Counsel; J. Traci Hong, Majority Counsel; George Fishman, Minority Counsel; and Benjamin Staub, Professional Staff Member.

Ms. LOFGREN. I understand that two of our witnesses are on their way. And so with that in mind, I would like to call the hearing on the Subcommittee to order. I would like to welcome all the Members, our witnesses, and members of the public to the Subcommittee's hearing on H.R. 750, the "Save America Comprehensive Immigration Act of 2007."

In the hearing on September 6, our Subcommittee examined H.R. 1645, the "Security Through Regularized Immigration and the Vibrant Economy Act of 2007," otherwise known as the STRIVE Act. Today we will review H.R. 750, the "Save America Comprehensive Immigration Act of 2007." Both bills contain the necessary elements of comprehensive immigration reform to fix our broken immigration system. In addition, the Save America Act contains several provisions that would complement the STRIVE Act.

I would like to commend our Subcommittee colleague, Congresswoman Sheila Jackson Lee, for not only drafting and introducing H.R. 750, but also for her service on behalf of comprehensive immigration reform and immigration in general in the 110th Congress and in many Congresses before the 110th, especially as Ranking Member of this Subcommittee for many years. Since I can remember, Representative Jackson Lee has always been a tireless champion for immigration reform.

I was personally disappointed when the Senate was unable to proceed on comprehensive reform this spring. We were prepared on the House side to tackle this important issue. But because of Senate inaction, we didn't get the chance to proceed on hearings or a markup on comprehensive immigration reform.

But the details matter. And today we will get information and details on the Save America Act. We can not know what the future will hold for comprehensive reform, but we can be armed with knowledge about legislation in the House to meet the immigration challenge.

Because this hearing is about Congresswoman Jackson Lee's bill, I would like to yield the balance of my time to my colleague from Texas so that she may properly introduce the subject of our hearing today, before recognizing the Ranking Member.

And so I would yield the balance of my time to Ms. Jackson Lee for her opening statement.

[The text of the bill, H.R. 750, follows:]

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I

110TH CONGRESS
1ST SESSION

# H. R. 750

To amend the Immigration and Nationality Act to comprehensively reform immigration law, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 2007

Ms. JACKSON-LEE of Texas introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Homeland Security and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

## A BILL

To amend the Immigration and Nationality Act to comprehensively reform immigration law, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; REFERENCES TO ACT.**

(a) SHORT TITLE.—This Act may be cited as the "Save America Comprehensive Immigration Act of 2007".

(b) REFERENCES TO THE IMMIGRATION AND NATIONALITY ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act.

# TITLE I—FACILITATING FAMILY-BASED IMMIGRATION

**SEC. 101. INCREASING THE ALLOCATION OF FAMILY-BASED IMMIGRANT VISAS.**

Section 201(c)(8 U.S.C. 115(c)) is amended to read as follows:

"(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The worldwide level of family-sponsored immigrants under this subsection for a fiscal year shall be no more than 960,000.".

**SEC. 102. PROTECTION AGAINST PROCESSING DELAYS.**

(a) AGE-OUT PROTECTION FOR CHILDREN.—

(1) IN GENERAL.—Chapter 1 of title IV (8 U.S.C. 1101 note) is amended by adding at the end the following:

"AGE-OUT PROTECTION FOR CHILDREN

"SEC. 408. (a) IN GENERAL.—In the case of an application initially to grant a benefit under this Act (other than an application for naturalization) that otherwise would be granted only after a determination that the beneficiary of the application is a child (such as classification as an immediate relative under section 201(b)(2)(A)(i)), if the application is neither approved nor denied (on procedural or substantive grounds) during the 90-day period beginning on the date of the filing of the application, the beneficiary shall be considered to be a child for all purposes related to the receipt of the benefit if the beneficiary was a child on the last day of such 90-day period, and the beneficiary shall not otherwise be prejudiced with respect to such determination by such delay, and shall be considered to be a child under this Act for all purposes related to such application.

"(b) TERMINATION OF BENEFIT.—Subsection (a) shall remain in effect until the termination of the 1-year period beginning on the date on which the application described in such paragraph is approved.".

(2) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 407 the following:

"Sec. 408. Age-out protection for children.".

(b) TIMELINESS OF ADOPTION FOR IMMIGRATION PURPOSES.—

(1) IN GENERAL.—Section 101(b)(1)(E)(i) (8 U.S.C. 1101(b)(1)(E)(i)) is amended by striking "a child adopted while under the age of sixteen years" and inserting "a child, under the age of 16 when adoption proceedings were initiated,".

(2) SPECIAL RULE FOR SIBLINGS.—Section 101(b)(1)(E)(ii)(III) (8 U.S.C. 1101(b)(1)(E)(ii)(III)) is amended by striking "adopted while under the age of 18 years" and inserting "under the age of 18 when adoption proceedings were initiated".

**SEC. 103. TEMPORARY STATUS PENDING RECEIPT OF PERMANENT RESIDENT STATUS.**

(a) CLASSES OF NONIMMIGRANT ALIENS.—Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by adding "or" at the end of clause (iii); and

(3) by adding at the end the following:

"(iv)(I) has concluded a valid marriage with an alien lawfully admitted for permanent residence, is the parent of a citizen of the United States, or is the child, son, or daughter of an alien lawfully admitted for permanent residence or a citizen of the United States; (II) is the beneficiary of an approved petition to accord immigrant status on the basis of such family relationship that was filed under section 204 by such family member; (III) has available to the alien an immigrant visa number; (IV) has waited more than 6 months for the issuance of an immigrant visa based upon an application made by the alien; and (V) seeks to enter the United States to await such issuance;".

(b) ADMISSION OF NONIMMIGRANTS.—Section 214(d) (8 U.S.C. 1184(d)) is amended—

(1) by striking "(d)" and inserting "(d)(1)"; and

(2) by adding at the end the following:

**SEC. 104. ELIMINATION OF AFFIDAVIT OF SUPPORT REQUIREMENT.**

(a) GROUNDS FOR INELIGIBILITY FOR ADMISSION.—Section 212(a)(4) (8 U.S.C. 1182(a)(4)) is amended—

(1) by amending subparagraph (B)(ii) to read as follows:

"(ii) If an alien submits an affidavit of support described in section 213A, in addition to the factors under clause (i), the consular officer or the Attorney General shall also consider such affidavit in determining whether the alien is inadmissible under this paragraph."; and

(2) by striking subparagraphs (C) and (D).

(b) REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.—Subsections (a)(1)(A), (f)(1)(E), and (f)(4)(B)(i) of section 213A (8 U.S.C. 1183a(a)(1)(A), (f)(1)(E), and (f)(4)(B)(i)) are amended by striking "125" and inserting "100".

"(2) A visa shall not be issued under the provisions of section 101(a)(15)(K)(iv) until the consular officer has received a petition filed in the United States by the lawful permanent resident or citizen relative of the applying alien and approved by

the Secretary of Homeland Security. The petition shall be in such form and contain such information as the Secretary shall, by regulation, prescribe.".

# TITLE II—ESTABLISHMENT OF A BOARD OF VISA APPEALS FOR FAMILY-BASED VISAS

**SEC. 201. ESTABLISHMENT OF A BOARD OF VISA APPEALS.**

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 224 the following new section:

"BOARD OF VISA APPEALS

"SEC. 225. (a) ESTABLISHMENT.—The Secretary of State shall establish within the Department of State a Board of Family-based Visa Appeals. The Board shall be composed of 5 members who shall be appointed by the Secretary. Not more than 2 members of the Board may be consular officers. The Secretary shall designate a member who shall be chairperson of the Board.

"(b) AUTHORITY AND FUNCTIONS.—The Board shall have authority to review any discretionary decision of a consular officer with respect to an alien concerning the denial, revocation, or cancellation of an immigrant visa of someone who has the immediate relative status described in section 201(2)(A)(i) and (ii); or a preference classification described in section 203(a). The review of the Board shall be made upon the record for decision of the consular officer, including all documents, notes, and memoranda filed with the consular officer, supplemented by affidavits and other writings if offered by the consular officer or alien. Upon a showing that the decision of the consular official is contrary to the preponderance of the evidence, the Board shall have authority to overrule, or remand for further consideration, the decision of such consular officer.

"(c) PROCEDURE.—Proceedings before the Board shall be in accordance with such regulations, not inconsistent with this Act and sections 556 and 557 of title 5, United States Code, as the Secretary of State shall prescribe. Such regulations shall include requirements that provide that—

"(1) at the time of any decision of a consular officer under subsection (b), the interested party defined in subsection (d) shall be given notice of the availability of the review process and the necessary steps to request such review;

"(2) a written record of the proceedings and decision of the consular officer (in accordance with sections 556 and 557 of title 5, United States Code) shall be available to the Board, and on payment of lawfully prescribed costs, shall be made available to the alien;

"(3) upon receipt of request for review under this section, the Board shall, within 30 days, notify the consular officer with respect to whose decision review is sought, and, upon receipt of such notice, such officer shall promptly (but in no event more than 30 days after such receipt) forward to the Board the record of proceeding as described in subsection (b);

"(4) the appellant shall be given notice, reasonable under all the circumstances of the time and place at which the Board proceedings will be held;

"(5) the appellant may be represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as the appellant shall choose; and

"(6) a request for review under this section must be made in writing to the Board within 60 days after receipt of notice of the denial, revocation, or cancellation.

"(d) INTERESTED PARTIES.—The Board shall review each decision described in subsection (b) upon request by the petitioner of an immigrant visa petition approved under section 201(2)(A)(i) and (ii) or 203(a).

"(e) CONSTRUCTION.—This section may not be construed to restrict any right to further administrative or judicial review established under any other provision of law.

"(f) FEES.—The Secretary of State shall charge, and collect, an appropriate fee associated with a request to the Board for a review. Such fee shall be sufficient to cover the cost of the administration of this section.".

(b) TECHNICAL AMENDMENTS.—

(1) Section 222(f) (8 U.S.C. 1202(f)) is amended by adding at the end: "An interested party under section 225(d) or court shall be permitted to inspect the record of proceeding as described in subsections (c)(2) and (c)(3) of section 225.".

(2) Section 104(a)(1) (8 U.S.C. 1104(a)(1)) is amended by striking the "except" and inserting "including".

(3) The table of contents is amended by inserting after the item relating to section 224 the following new item:

"Sec. 225. Board of Visa Appeals.".

# TITLE III—ELIMINATION OF UNFAIR RESTRICTIONS

**SEC. 301. ACQUISITION OF CITIZENSHIP FOR CHILDREN BORN ABROAD AND OUT OF WEDLOCK TO A UNITED STATES CITIZEN FATHER.**

(a) REQUIREMENTS FOR CITIZENSHIP ELIGIBILITY.—Section 309(a) (8 U.S.C. 1409(a)) is amended—

(1) in paragraph (2), by adding "and" at the end;

(2) by striking paragraph (3);

(3) in paragraph (4), by striking "while the person is under the age of 18 years—" and inserting "at any time—"; and

(4) by redesignating paragraph (4) as paragraph (3).

(b) CLARIFICATION REGARDING DECEASED PARENTS OF CHILDREN BORN ABROAD AND OUT OF WEDLOCK.—Section 309 (8 U.S.C. 1409) is amended by adding at the end the following:

"(d) Nothing in this section shall be construed to preclude a person who is a citizen or national of the United States by virtue of a provision of this section from establishing such status under this title after the death of the person's father, mother, or parents.".

(c) APPLICATION OF CITIZENSHIP PROVISIONS.—The amendments made by this Act shall apply to persons born out of wedlock who are alive on or after the date of the enactment of this Act.

**SEC. 302. ALLOW AUNTS AND UNCLES OR GRANDPARENTS TO ADOPT ORPHANED OR ABANDONED CHILDREN OF THE DECEASED RELATIVE.**

Section 101(b) is amended by—

(1) striking "or" at the end of subparagraph (E) and inserting a semicolon;

(2) striking the period at the end of subparagraph (F) and inserting "; or"; and

(3) by inserting the following subparagraph:

"(G) a child adopted in the United States or abroad or who is coming to the United States for adoption by a grandparent, aunt or uncle while under the age of eighteen years, who has suffered the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents, or for whom the sole or surviving parent is incapable of providing proper care and has consented in writing to the adoption, if the Secretary of Homeland Security is satisfied that proper care will be furnished the child if admitted to the United States. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. Nothing in this subsection shall be construed to require the child to be released to an orphanage as a prerequisite for eligibility.".

**SEC. 303. RELIEF FOR SURVIVING SPOUSES, CHILDREN AND PARENTS.**

(a) IN GENERAL.—The second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151 (b)(2)(A)(i)) is amended by striking "for at least 2 years" and inserting ", and if married for less than two years at the time of the citizen's death proves by a preponderance of the evidence that the marriage was entered into in good faith and not solely for the purpose of obtaining an immigration benefit," after "within 2 years after such date"; and by inserting the following sentence after the sentence ending with "remarries": "In the case of an alien who was the child or parent of a citizen of the United States at the time of the citizen's death, the alien shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death but only if the alien files a petition under section 204(a)(1)(A)(ii), as amended, within two years after such date in the case of a parent, or prior to reaching the age of 21 in the case of a child.".

(b) PETITION.—Section 204(a)(1)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1154 (a)(1)(A)(ii) is amended by inserting "or an alien child or alien parent

described in the third sentence of section 201(b)(2)(A)(i)" after "section 201(b)(2)(A)(i)".

(c) TRANSITION PERIOD.—In applying section 201(b)(2)(A)(i) of the Immigration and Nationality Act, as amended, in the case of an alien whose citizen relative died before the date of the enactment of this Act, the alien relative may (notwithstanding the deadlines specified in such subsection) file the classification petition referred to in such subsection within 2 years after the date of the enactment of this Act. In the case of an alien who was excluded, deported, removed or departed voluntarily before the date of the enactment of this Act, such alien shall be eligible for parole into the United States pursuant to the Attorney General's authority under section 212(d)(5), and such alien's application for adjustment of status shall be considered notwithstanding section 212(a)(9).

(d) ADJUSTMENT OF STATUS.—Section 245 (8 U.S.C. 1255) of the Immigration and Nationality Act is amended by adding at the end the following:

"(n) APPLICATIONS FOR ADJUSTMENT OF STATUS BY SURVIVING SPOUSES, CHILDREN AND PARENTS.—

"(1) IN GENERAL.—Any alien described in paragraph (2) who applied for adjustment of status prior to the death of the qualifying relative, may have such application adjudicated as if such death had not occurred.

"(2) ALIEN DESCRIBED.—An alien described in this paragraph is an alien who—

"(A) is an immediate relative as described in section 201(b)(2)(A)(i);

"(B) is a family-sponsored immigrant as described in section 203(a) or (d);

"(C) is a derivative beneficiary of an employment-based immigrant under section 203(b), as described in section 203(d); or

"(D) is a derivative beneficiary of a diversity immigrant as described in section 203(c).".

(e) TRANSITION PERIOD.—Notwithstanding a denial of an application for adjustment of status, in the case of an alien whose qualifying relative died before the date of the enactment of this Act, such application may be renewed by the alien through a motion to reopen, without fee, filed within two years after the date of the enactment of this Act. In the case of an alien who was excluded, deported, removed or departed voluntarily before the date of the enactment of this Act, such alien shall be eligible for parole into the United States pursuant to the Attorney General's authority under section 212(d)(5), and such alien's application for adjustment of status shall be considered notwithstanding section 212(a)(9).

(f) STATE DEPARTMENT PROCESSING OF IMMIGRANT VISAS.—Section 204(b) of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following:

"(7) EFFECT OF DEATH.—

"(A) IN GENERAL.—Any alien described in subparagraph (B) whose qualifying relative died prior to completion of immigrant visa processing may have an immigrant visa application adjudicated as if such death had not occurred, and any immigrant visa issued prior to the death of the qualifying relative shall remain valid.

"(B) ALIEN DESCRIBED.—An alien described in this subparagraph is an alien who—

"(i) is an immediate relative as described in section 201(b)(2)(A)(i);

"(ii) is a family-sponsored immigrant as described in section 203(a) or (d);

"(iii) is a derivative beneficiary of an employment-based immigrant under section 203(b), as described in section 203(d); or

"(iv) is a derivative beneficiary of a diversity immigrant as described in section 203(c).".

(g) TRANSITION PERIOD.—Notwithstanding a denial or revocation of an application for an immigrant visa, in the case of an alien whose qualifying relative died before the date of the enactment of this Act, such application may be renewed by the alien through a motion to reopen, without fee, filed within two years after the date of the enactment of this Act. In the case of an alien who was excluded, deported, removed or departed voluntarily before the date of the enactment of this Act, such alien's application for an immigrant visa shall be considered notwithstanding section 212(a)(9).

(h) NATURALIZATION.—Section 319(a) of the Immigration and Nationality Act (8 U.S.C. 1429(a)) is amended by inserting "or, if the spouse is deceased, the spouse was a citizen of the United States," after "(a) Any person whose spouse is a citizen of the United States,".

**SEC. 304. ELIMINATING THE WIDOWED PERMANENT RESIDENT'S NATURALIZATION PENALTY.**

Section 319(a) (8 U.S.C. 1429(a)) is amended by inserting "or, if the spouse is deceased, the spouse was a citizen of the United States," after "(a) Any person whose spouse is a citizen of the United States,".

# TITLE IV—PREVENTING SEX OFFENDERS FROM USING OUR IMMIGRATION LAWS TO BRING INNOCENT, UNSUSPECTING VICTIMS INTO THE UNITED STATES

**SEC. 401. FINDINGS.**

The Congress finds the following:

(1) Immigration law allows citizens and aliens lawfully admitted for permanent residence to bring foreign family members to the United States on the basis of immediate relative status or a preference classification.

(2) Immediate relative status and preference classifications are obtained by filing petitions with the Secretary of Homeland Security.

(3) For national security purposes, the Secretary of Homeland Security conducts background checks on the beneficiaries of such petitions and, since September 11, 2001, on the petitioners as well.

(4) The Government Accountability Office (GAO) has determined that, in fiscal year 2005, at least 398 of the petitioners who filed family-based visa petitions were on the National Sex Offender Registry maintained by the Federal Bureau of Investigations.

(5) GAO was only able to ascertain the nature of the sex offense for 194 of the 398 petitioners.

(6) GAO was able to ascertain, however, that 119 of the convictions were for sex assault, 35 for child fondling, 9 for strong arm rape, 9 for carnal abuse combined with a sexual assault, 7 were for statutory rape, 4 for crimes against persons, 3 for indecent exposure, 2 for kidnapping, 2 for obscene material possession, 1 for exploitation of a minor with photographs, 1 for incest with a minor, 1 for sodomizing a boy, and 1 for restricting movement.

(7) At least 14 of the 398 petitioners were classified as "sexual predators", which means a determination had been made that they are likely to commit additional sex offenses.

(8) At least 45 of the petitioners were convicted of sex offenses against children.

(9) The Immigration and Nationality Act does not provide the Secretary of Homeland Security with authorization to deny family-based petitions on the basis of a petitioner's conviction for a sex offense, even when the conviction record indicates that a spouse or a child beneficiary may be in grave danger.

**SEC. 402. DISCRETIONARY AUTHORITY TO DENY FAMILY-SPONSORED CLASSIFICATION PETITION BY PETITIONER LISTED ON NATIONAL SEX OFFENDER REGISTRY.**

Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following:

"(l) AUTHORITY TO DENY FAMILY-BASED PETITION BY PETITIONER LISTED ON NATIONAL SEX OFFENDER REGISTRY.—

"(1) IN GENERAL.—The Secretary Homeland Security may, in the discretion of the Secretary, deny a petition under subsection (a) for classification of a spouse or child if—

"(A) the Secretary has confirmed that the petitioner is on the national sex offender registry maintained by the Federal Bureau of Investigation for a conviction that individually (disregarding any aggregation due to any other conviction) resulted in incarceration for more than 1 year;

"(B) the petitioner has been given at least 90 days to establish that the petitioner is not the person named on the registry or that the conviction did not result in incarceration for more than 1 year and has failed to establish such fact; and

"(C) the Secretary finds that granting the petition would put a primary or derivative spouse or child beneficiary in grave danger of being sexually abused.

"(2) DETERMINING DANGER.—In making the determination under paragraph (1)(C), the Secretary shall use the following principles:

"(A) NATURE OF THE RELATIONSHIP.—In evaluating a petitioner who has filed a petition for a spouse, consideration should be given to indications of how well the petitioner and the spouse know each other. Petitions filed on the basis of marriages between men and women who have had little direct, personal contact with each other should be viewed with suspicion. In cases where the petitioner and the spouse have had little direct, personal contact with each other, evidence should be submitted to establish that they have gotten to know each other in some other way.

"(B) NATURE OF THE SEX OFFENSE.—Consideration should be given to when each offense occurred for which the petitioner was incarcerated for more than a year, how serious it was, the sentence that was imposed, how long the petitioner was incarcerated, the age of the petitioner when it was committed, and the characteristics of the victim.

"(C) REHABILITATION.—Evidence of rehabilitation should be evaluated with respect to whether it diminishes the risk of sexual abuse to the primary or derivative spouse or child beneficiaries.

"(D) PREVIOUS VISA PETITIONS.—The records for any previous petitions shall be examined to determine whether they provide or might lead to evidence that is pertinent to determining whether granting the petition would put a primary or derivative spouse or child beneficiary in grave danger of being sexually abused.

"(3) REBUTTAL.—If the Secretary intends to deny a petition under paragraph (1), the Secretary shall provide the petitioner with a notice that states the reasons for the intended denial and provides the petitioner with at least 90 days to submit rebuttal evidence. Rebuttal should focus primarily on the factors that led the Secretary to believe that granting the petition would put a primary or derivative spouse or child beneficiary in grave danger of being sexually abused.

"(4) POST-DENIAL REMEDIES.—

"(A) APPEAL.—All final denials under paragraph (1) may be appealed to the Board of Immigration Appeals.

"(B) NEW PETITION.—The petitioner may file a new petition whenever the petitioner has additional evidence that the petitioner believes might be sufficient to warrant granting the new petition.

"(5) DISCLOSURE BY THE SECRETARY OF HOMELAND SECURITY TO BENEFICIARIES.—In all cases in which it has been confirmed that the name of a petitioner under subsection (a) is listed on the national sex offender registry maintained by the Federal Bureau of Investigation, and regardless of whether the Secretary may exercise discretion under paragraph (1), the Secretary shall give the petitioner at least 90 days to establish that the petitioner is not the person named on the registry. If the petitioner fails to establish that the petitioner is not the person named on the registry within the time allotted, the Secretary shall provide the beneficiaries with a written copy of the information on the registry that is available to the public before making a decision on the petition. The beneficiary shall be informed that the registry information is based on available records and may not be complete.

"(6) DISCLOSURE TO DEPARTMENT OF STATE.—In all cases in which it has been confirmed that the name of a petitioner under subsection (a) is listed on the national sex offender registry maintained by the Federal Bureau of Investigation, and regardless of whether the Secretary may exercise discretion under paragraph (1), the Secretary shall provide the Secretary of State with—

"(A) a separate document with information about the record on the national sex offender registry that is available to the public;

"(B) any additional information it has that raises concern that a primary or derivative spouse or child beneficiary may be subject to sexual abuse, including information from the registry that is not available to the public; and

"(C) information about any previous petitions under subsection (a) filed by the petitioner.

"(7) DISCLOSURE BY CONSULAR OFFICER TO BENEFICIARIES.—When a petition under subsection (a) is granted, if the petition is filed by a petitioner who has failed to make the demonstration of mis-identification described in paragraph (5), the consular officer shall conduct an interview with the primary or derivative spouse or child beneficiary of the petition before issuing a visa to the beneficiary. At least part of the interview must be held without the presence of the petitioner. During the private part of the interview, the beneficiary will be given a written copy of the information about the petitioner from the registry that is available to the public. This document must be written in the beneficiary's pri-

mary language. The consular officer is required to advise the beneficiary that approval of the visa petition does not mean that there are no reasons to be concerned about his or her safety.

"(8) ADDITIONAL RESPONSIBILITIES OF CONSULAR OFFICER.—The consular officer may return files to the Secretary of Homeland Security for further consideration in cases where the consular officer is concerned that granting the visa might put a primary or derivative spouse or child beneficiary in grave danger of being sexually abused. When returning a file under the previous sentence, the consular officer may add any additional information or observations the officer has that might have a bearing on whether the visa should be granted, including the results of any field examination that has been conducted.".

**SEC. 403. REMOVAL OF CONDITIONAL PERMANENT RESIDENT STATUS.**

(a) IDENTIFY AND PROVIDE ASSISTANCE FOR SPOUSES AND CHILDREN WHO ARE SUBJECT TO SEXUAL ABUSE OR RELATED TYPES OF HARM.—Section 216(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1186a(d)(3)) is amended—

(1) by inserting before "The interview" the following:

"(A) IN GENERAL.—Subject to subparagraph (B), the interview"; and

(2) by adding at the end the following:

"(B) PETITIONER LISTED ON NATIONAL SEX OFFENDER REGISTRY.—In all cases where the Secretary of Homeland Security has confirmed that a petitioning spouse is listed on the national sex offender registry maintained by the Federal Bureau of Investigation, an interview with the alien spouse, and any alien sons or daughters, shall be required prior to removal of the conditional status, and at least part of the interview shall be held without the presence of the petitioning spouse. During the private portion of the interview, questions will be asked to determine whether an investigation should be conducted regarding the welfare of the alien spouse, or any alien son or daughter. If it is determined that any alien spouse, son, or daughter is being abused or harmed by the petitioning spouse, the victim shall be offered whatever assistance is appropriate, including information on ways to remain in the United State that do not depend on continuing the qualifying marriage.".

(b) HARDSHIP WAIVER IN CASES WHERE THE ALIEN SPOUSE OR CHILD IS SUBJECT TO SEXUAL ABUSE.—Section 216(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)(4)) is amended—

(1) in subparagraph (B), by striking "or" at the end

(2) in subparagraph (C), by striking the period at the end and inserting ", or"; and

(3) by inserting after subparagraph (C) the following:

"(D) the qualifying marriage was entered into in good faith by the alien spouse and during the marriage the alien spouse, or a son or daughter of the spouse, was sexually abused and the alien was not at fault in failing to meet the requirements of paragraph (1).".

**SEC. 404. SPECIAL TASK FORCE TO IDENTIFY PEOPLE NAMED ON THE NATIONAL SEX OFFENDER REGISTRY WHO HAVE FILED FAMILY-BASED CLASSIFICATION PETITIONS.**

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a task force, to be known as the "Task Force to Rescue Immigrant Victims of American Sex Offenders". The task force shall consist of officials from Federal, State, and local law enforcement agencies with experience in domestic violence, sex crimes, immigration law, trafficking in humans, organized crime, or any other area of experience which may be useful in completing the duties described in subsection (b).

(b) DUTIES.—The duties of the task force shall be the following:

(1) Working back in time from the date of the establishment of the task force, identifying individuals on the Federal Bureau of Investigation's sex offender registry who have filed family-based petitions under section 204(a) of the Immigration and Nationality Act. When a confirmed match has been made with the sex offender registry, the task force should ascertain whether the petitioner filed previous petitions.

(2) Maintaining the information about the petitioners in a comprehensive database.

(3) Prioritizing the information according to the likelihood that primary or derivative spouse or child beneficiaries are in danger of sexual abuse.

(4) Developing a system for investigating the cases in which beneficiaries may be at risk and providing them with information on how to seek assistance if they are abused.

(5) Except for information on the registry that is available to the public, protecting the information produced by its investigations in accordance with the privacy rights of everyone involved in the investigation.

(6) Taking whatever other actions as are reasonable and appropriate when investigations lead to information about sexual abuse or other criminal activities, including notifying State and local police departments, government offices, public organizations that provide assistance to victims of sexual abuse, and religious organizations.

(c) REPORT TO CONGRESS.—Not later than 270 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the findings and recommendations of the task force. The report shall include the following:

(1) An analysis of the information obtained in searching visa petition and national sex offender registry records.

(2) The results of any investigations conducted by the task force.

(3) Recommendations on administrative and legislative actions that would assist in identifying and protecting immigrant victims of sexual abuse or related harm.

**SEC. 405. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Amounts appropriated under this section shall remain available until expended.

**SEC. 406. REGULATIONS.**

Regulations implementing this Act shall be promulgated in final form not later than 180 days after the date of the enactment of this Act.

# TITLE V—LEGALIZATION FOR LONG-TERM RESIDENTS

**SEC. 501. EARNED ACCESS TO LEGALIZATION.**

(a) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245A the following:

"ADJUSTMENT OF STATUS ON THE BASIS OF EARNED ACCESS TO LEGALIZATION

"SEC. 245B. (a) IN GENERAL.—The Secretary of Homeland Security may adjust the status of an alien to that of an alien lawfully admitted for permanent residence if the alien—

"(1) was physically present in the United States for a continuous period of not less than 5 years immediately preceding the date on which this provision was enacted and has maintained continuous physical presence since then;

"(2) has at all times been a person of good moral character;

"(3) has never been convicted of a criminal offense in the United States;

"(4) in the case of an alien who is 18 years of age or older, but who is not over the age of 65, has successfully completed a course on reading, writing, and speaking words in ordinary usage in the English language, unless unable to do so on account of physical or developmental disability or mental impairment;

"(5) in the case of an alien 18 years of age or older, has accepted the values and cultural life of the United States; and

"(6) in the case of an alien 18 years of age or older, has performed at least 40 hours of community service.

"(b) TREATMENT OF BRIEF, CASUAL, AND INNOCENT ABSENCES.—An alien shall not be considered to have failed to maintain a continuous presence in the United States for purposes of subsection (a)(1) by virtue of brief, casual, and innocent absences from the United States.

"(c) ADMISSIBLE AS IMMIGRANT.—

"(1) IN GENERAL.—The alien shall establish that the alien is admissible to the United States as immigrant, except as otherwise provided in paragraph (2).

"(2) EXCEPTIONS.—The provisions of paragraphs (5), (6)(A), (6)(B), (6)(C), (6)(F), (6)(G), (7)(A), (9)(B), and (9)(C)(i)(I) of section 212(a) shall not apply in the determination of an alien's admissibility under this section.

"(d) SECURITY AND LAW ENFORCEMENT CLEARANCES.—The alien, if over 15 years of age, shall submit fingerprints in accordance with procedures established by the Secretary of Homeland Security. Such fingerprints shall be submitted to relevant Federal agencies to be checked against existing databases for information relating to criminal, national security, or other law enforcement actions that would

render the alien ineligible for adjustment of status under this section. The Secretary of Homeland Security shall provide a process for challenging the accuracy of matches that result in a finding of ineligibility for adjustment of status.

"(e) INAPPLICABILITY OF NUMERICAL LIMITATIONS.—When an alien is granted lawful permanent resident status under this subsection, the number of immigrant visas authorized to be issued under any provision of this Act shall not be reduced. The numerical limitations of sections 201 and 202 shall not apply to adjustment of status under this section.

"(f) TERMINATION OF PROCEEDINGS.—The Secretary of Homeland Security may terminate removal proceedings without prejudice pending the outcome of an alien's application for adjustment of status under this section on the basis of a prima facie showing of eligibility for relief under this section.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 245A the following:

"Sec. 245B. Adjustment of status on the basis of earned access to legalization.".

**SEC. 502. LEGALIZATION PROVISIONS FOR CHILDREN.**

(a) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.), as amended by section 201, is further amended by inserting after section 245B the following:

"ADJUSTMENT OF STATUS FOR CERTAIN CHILDREN

"SEC. 245C. (a) IN GENERAL.—The Secretary of Homeland Security may adjust the status of an alien to that of an alien lawfully admitted for permanent residence if the alien is a child at the time of filing the application for such adjustment and establishes that the alien, at such time—

"(1) has been physically present and enrolled in school in the United States for a continuous period of not less than 5 years immediately preceding the date of such application, and during that period has been a person of good moral character;

"(2) has fully integrated into life in the United States;

"(3) has learned English or is satisfactorily pursuing a course of study to achieve an understanding of English;

"(4) is successfully pursuing an elementary school, middle school, high school, or college-level education; and

"(5) if older than 13 years of age, has performed at least 60 hours of community service.

"(b) TREATMENT OF BRIEF, CASUAL, AND INNOCENT ABSENCES.—An alien shall not be considered to have failed to maintain a continuous presence in the United States for purposes of subsection (a)(1) by virtue of brief, casual, and innocent absences from the United States.

"(c) ADMISSIBLE AS IMMIGRANT.—

"(1) IN GENERAL.—The alien shall establish that the alien is admissible to the United States as an immigrant, except as otherwise provided in paragraph (2).

"(2) APPLICABILITY OF CERTAIN PROVISIONS.—

"(A) GROUNDS OF INADMISSIBILITY NOT APPLIED.—The provisions of paragraphs (5), (6)(A), (6)(B), (6)(C), (6)(F), (6)(G), (7)(A), (9)(B), and (9)(C) of section 212(a) shall not apply in the determination of an alien's admissibility under this section.

"(B) WAIVER OF OTHER GROUNDS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Secretary of Homeland Security may waive any other provision of section 212(a) in the case of an individual alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(ii) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Secretary under clause (i):

"(I) Paragraphs (2)(A) and (2)(B) (relating to criminals).

"(II) Paragraph (2)(C) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana.

"(III) Paragraph (3) (relating to security and related grounds).

"(d) NO NUMERICAL LIMITATIONS.—The numerical limitations of sections 201 and 202 shall not apply to adjustment of status under this section.

"(e) CONFIDENTIALITY OF INFORMATION.—Except as provided in this section, neither the Secretary of Homeland Security, nor any other official or employee of the Department of Homeland Security, may—

"(1) use information furnished by applicant for an application filed under this section for any purpose other than to make a determination on the application;

"(2) make any publication whereby the information furnished by any particular applicant can be identified; or

"(3) permit anyone other than the sworn officers and employees of the Department, the applicant, or a representative of the applicant to examine individual applications.

"(f) DISSEMINATION OF INFORMATION.—The Secretary of Homeland Security shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.".

(b) CLERICAL AMENDMENT.—The table of contents, as amended by section 201, is amended further by inserting after the item relating to section 245B the following:

**SEC. 503. UPDATED REGISTRY PROVISION.**

(a) IN GENERAL.—Section 249 (8 U.S.C. 1259) is amended—

(1) in the section heading by striking "1972" and inserting "1986"; and

(2) in paragraph (a), by striking "1972" and inserting "1986".

(b) CLERICAL AMENDMENT.—The table of sections is amended in the item relating to section 249 by striking "1972" and inserting "1986".

"Sec. 245C. Adjustment of status for certain children.".

# TITLE VI—BORDER SECURITY PROVISIONS

## Subtitle A—Rapid Response Measures

**SEC. 601. EMERGENCY DEPLOYMENT OF UNITED STATES BORDER PATROL AGENTS.**

(a) IN GENERAL.—If the Governor of a State on an international border of the United States declares an international border security emergency and requests additional United States Border Patrol agents from the Secretary of Homeland Security, the Secretary is authorized, subject to subsections (b) and (c), to provide the State with up to 1,000 additional United States Border Patrol agents for the purpose of patrolling and defending the international border, in order to prevent individuals from crossing the international border and entering the United States at any location other than an authorized port of entry.

(b) CONSULTATION.—The Secretary of Homeland Security shall consult with the President upon receipt of a request under subsection (a), and shall grant it to the extent that providing the requested assistance will not significantly impair the Department of Homeland Security's ability to provide border security for any other State.

(c) COLLECTIVE BARGAINING.—Emergency deployments under this section shall be made in conformance with all collective bargaining agreements and obligations.

**SEC. 602. ELIMINATION OF FIXED DEPLOYMENT OF UNITED STATES BORDER PATROL AGENTS.**

The Secretary of Homeland Security shall ensure that no United States Border Patrol agent is precluded from performing patrol duties and apprehending violators of law, except in unusual circumstances where the temporary use of fixed deployment positions is necessary.

**SEC. 603. HELICOPTERS AND POWER BOATS.**

(a) IN GENERAL.—The Secretary of Homeland Security shall increase by not less than 100 the number of United States Border Patrol helicopters, and shall increase by not less than 250 the number of United States Border Patrol power boats. The Secretary of Homeland Security shall ensure that appropriate types of helicopters are procured for the various missions being performed. The Secretary of Homeland Security also shall ensure that the types of power boats that are procured are appropriate for both the waterways in which they are used and the mission requirements.

(b) USE AND TRAINING.—The Secretary of Homeland Security shall establish an overall policy on how the helicopters and power boats described in subsection (a) will be used and implement training programs for the agents who use them, including safe operating procedures and rescue operations.

**SEC. 604. CONTROL OF UNITED STATES BORDER PATROL ASSETS.**

The United States Border Patrol shall have complete and exclusive administrative and operational control over all the assets utilized in carrying out its mission, including, aircraft, watercraft, vehicles, detention space, transportation, and all of the personnel associated with such assets.

**SEC. 605. MOTOR VEHICLES.**

The Secretary of Homeland Security shall establish a fleet of motor vehicles appropriate for use by the United States Border Patrol that will permit a ratio of at least one police-type vehicle per every 3 United States Border Patrol agents. Additionally, the Secretary of Homeland Security shall ensure that there are sufficient numbers and types of other motor vehicles to support the mission of the United States Border Patrol. All vehicles will be chosen on the basis of appropriateness for use by the United States Border Patrol, and each vehicle shall have a "panic button" and a global positioning system device that is activated solely in emergency situations for the purpose of tracking the location of an agent in distress. The police-type vehicles shall be replaced at least every 3 years.

**SEC. 606. PORTABLE COMPUTERS.**

The Secretary of Homeland Security shall ensure that each police-type motor vehicle in the fleet of the United States Border Patrol is equipped with a portable computer with access to all necessary law enforcement databases and otherwise suited to the unique operational requirements of the United States Border Patrol.

**SEC. 607. RADIO COMMUNICATIONS.**

The Secretary of Homeland Security shall augment the existing radio communications system so all law enforcement personnel working in every area where United States Border Patrol operations are conducted have clear and encrypted two-way radio communication capabilities at all times. Each portable communications device shall be equipped with a "panic button" and a global positioning system device that is activated solely in emergency situations for the purpose of tracking the location of the agent in distress.

**SEC. 608. HAND-HELD GLOBAL POSITIONING SYSTEM DEVICES.**

The Secretary of Homeland Security shall ensure that each United States Border Patrol agent is issued a state-of-the-art hand-held global positioning system device for navigational purposes.

**SEC. 609. NIGHT VISION EQUIPMENT.**

The Secretary of Homeland Security shall ensure that sufficient quantities of state-of-the-art night vision equipment are procured and maintained to enable each United States Border Patrol agent working during the hours of darkness to be equipped with a portable night vision device.

**SEC. 610. BORDER ARMOR.**

The Secretary of Homeland Security shall ensure that every United States Border Patrol agent is issued high-quality body armor that is appropriate for the climate and risks faced by the individual officer. Each officer shall be allowed to select from among a variety of approved brands and styles. Officers shall be strongly encouraged, but not mandated, to wear such body armor whenever practicable. All body armor shall be replaced at least every 5 years.

**SEC. 611. WEAPONS.**

The Secretary of Homeland Security shall ensure that United States Border Patrol agents are equipped with weapons that are reliable and effective to protect themselves, their fellow officers, and innocent third parties from the threats posed by armed criminals. In addition, the Secretary shall ensure that the Department's policies allow all such officers to carry weapons that are suited to the potential threats that they face.

**SEC. 612. UNIFORMS.**

The Secretary of Homeland Security shall ensure that all United States Border Patrol agents are provided with all necessary uniform items, including outerwear suited to the climate, footwear, belts, holsters, and personal protective equipment, at no cost to such agents. Such items shall be replaced at no cost to such agents as they become worn, unserviceable, or no longer fit properly.

# Subtitle B—Detention Pending Removal

**SEC. 621. DETENTION FACILITIES FOR ALIENS ARRESTED FOR ILLEGAL ENTRY.**

The Secretary of Homeland Security shall make arrangements for the availability of 100,000 additional beds for detaining aliens taken into custody by immigration officials. Some of these beds shall be rented from Federal, State, and local detention facilities. The remainder of the 100,000 shall be constructed to meet this demand on a temporary basis and then converted to other use when they are no longer needed as detention facilities.

**SEC. 622. EXPANSION AND EFFECTIVE MANAGEMENT OF DETENTION FACILITIES.**

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Homeland Security shall fully utilize—

(1) all available detention facilities operated or contracted by the Department of Homeland Security;

(2) all possible options to cost effectively increase available detention capacities, including the use of State and local correctional facilities, private space, and secure alternatives to detention; and

(3) the Department's Office of Civil Rights and Civil Liberties shall monitor all facilities that are being used to hold detainees for more than 72 hours.

The monitoring will include an evaluation of whether there is compliance with the requirements of the Department's Detention Operations Manual.

(b) SECURE ALTERNATIVES TO DETENTION PROGRAM.—

(1) NATURE OF THE PROGRAM.—For purposes of this section, the secure alternatives to detention referred to in subsection (a) is a program under which eligible aliens are released to the custody of suitable individual or organizational sponsors who will supervise them, use appropriate safeguards to prevent them from absconding, and ensure that they make required appearances.

(2) PROGRAM DEVELOPMENT.—The program shall be developed in accordance with the following guidelines:

(A) The Secretary shall design the program in consultation with nongovernmental organizations and academic experts in both the immigration and the criminal justice fields. Consideration should be given to methods that have proven successful in appearance assistance programs, such as the appearance assistance program developed by the Vera Institute and the Department of Homeland Security's Intensive Supervision Appearance Program.

(B) The program shall utilize a continuum of alternatives based on the alien's need for supervision, including placement of the alien with an individual or organizational sponsor, a supervised group home, or in a supervised, non-penal community setting that has guards stationed along its perimeter.

(C) The Secretary shall enter into contracts with nongovernmental organizations and individuals to implement the secure alternatives to detention program.

(c) ELIGIBILITY AND OPERATIONS.—

(1) SELECTION OF PARTICIPANTS.—The Secretary shall select aliens to participate in the program from designated groups specified in paragraph (4) if the Secretary determines that such aliens are not flight risks or dangers to the community.

(2) VOLUNTARY PARTICIPATION.—An alien's participation in the program is voluntary and shall not confer any rights or benefits to the alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(3) LIMITATION ON PARTICIPATION.—

(A) IN GENERAL.—Only aliens who are in expedited removal proceedings under section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) may participate in the program.

(B) RULES OF CONSTRUCTION.—

(i) ALIENS APPLYING FOR ASYLUM.—Aliens who have established a credible fear of persecution and have been referred to the Executive Office for Immigration Review for an asylum hearing shall not be considered to be in expedited removal proceedings and the custody status of such aliens after service of a Notice to Appear shall be determined in accordance with the procedures governing aliens in removal proceedings under section 240 of such Act (8 U.S.C. 1229a).

(ii) UNACCOMPANIED ALIEN CHILDREN.—Unaccompanied alien children (as defined in section 462(g)(2) of the Homeland Security Act (6

U.S.C. 279(g)(2))) shall be considered to be in the care and exclusive custody of the Department of Health and Human Services and shall not be subject to expedited removal and shall not be permitted to participate in the program.

(4) DESIGNATED GROUPS.—The designated groups referred to in paragraph (1) are the following:

(A) Alien parents who are being detained with one or more of their children, and their detained children.

(B) Aliens who have serious medical or mental health needs.

(C) Aliens who are mentally retarded or autistic.

(D) Pregnant alien women.

(E) Elderly aliens who are over the age of 65.

(F) Aliens placed in expedited removal proceedings after being rescued from trafficking or criminal operations by Government authorities.

(G) Other groups designated in regulations promulgated by the Secretary.

(5) IMPLEMENTING REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate regulations to implement the secure alternatives to detention program and to standardize the care and treatment of aliens in immigration custody based on the Detention Operations Manual of the Department of Homeland Security.

(6) DECISIONS REGARDING PROGRAM NOT REVIEWABLE.—The decisions of the Secretary regarding when to utilize the program and to what extent and the selection of aliens to participate in the program shall not be subject to administrative or judicial review.

(d) REPORTING REQUIREMENTS.—Not later than 180 days after the date of the enactment of this Act and annually thereafter, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives, the Committee on the Judiciary of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on the Judiciary of the Senate a report that details all policies, regulations, and actions taken to comply with the provisions in this section, including maximizing detention capacity and increasing the cost-effectiveness of detention by implementing the secure alternatives to detention program, and a description of efforts taken to ensure that all aliens in expedited removal proceedings are residing under conditions that are safe, secure, and healthy.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out this section. Amounts appropriated pursuant to this section shall remain available until expended.

## Subtitle C—Recruitment and Retention of Additional Immigration Law Enforcement Personnel

**SEC. 631. ADDITIONAL UNITED STATES BORDER PATROL AGENTS.**

The Secretary of Homeland Security shall increase the number of United States Border Patrol agents by—

(1) 2,500 in fiscal year 2008;

(2) 2,750 in fiscal year 2009;

(3) 3,000 in fiscal year 2010;

(4) 3,250 in fiscal year 2011; and

(5) 3,500 in fiscal year 2012.

**SEC. 632. PROVISIONS RELATING TO THE EXERCISE OF CERTAIN APPOINTMENT AND OTHER SIMILAR AUTHORITIES WITH RESPECT TO THE UNITED STATES BORDER PATROL.**

(a) IN GENERAL.—Notwithstanding any other provision of law—

(1) all authority described in subsection (b) that (but for this section) would otherwise be vested in the Secretary of Homeland Security shall instead be vested in the head of the United States Border Patrol;

(2) an individual may not be appointed or continue to serve as the head of the United States Border Patrol if, at the time of appointment, such individual has not completed at least 20 years of service, within the competitive service (as defined by section 2102 of title 5, United States Code), as a United States Border Patrol agent; and

(3) all activities described in subsection (b) shall be considered inherently Governmental functions and may not be carried out by any persons other than employees of the United States Border Patrol.

(b) AUTHORITIES DESCRIBED.—This section applies with respect to any authority relating to the recruitment, selection, and appointment of applicants (including the conducting of any investigation necessary to approve or grant security clearances) for United States Border Patrol agents, law enforcement officers (other than United States Border Patrol agents), and such other positions within the United States Border Patrol as the head of the United States Border Patrol may by regulation determine.

(c) REGULATIONS.—The head of the United States Border Patrol shall by regulation identify the specific authorities, including citations to the relevant provisions of law, rule, or regulation, to which this section applies.

**SEC. 633. TRAINING FACILITIES.**

The Secretary of Homeland Security shall ensure that the training facilities used to train newly-hired United States Border Patrol agents are sufficiently spacious and modern to ensure that all recruits are afforded the highest possible quality training, as well as reasonably comfortable living conditions. All dormitories shall be constructed so that each trainee is housed in separate quarters. Moreover, the Secretary shall ensure that the training sites selected contains adequate housing for all permanent and temporary instructors within the local commuting area.

**SEC. 634. OPERATIONAL FACILITIES.**

The Secretary of Homeland Security shall ensure that all operational facilities of the United States Border Patrol are well-equipped and sufficiently spacious and modern to enable all of the personnel assigned to such facilities to efficiently accomplish the agency's mission.

**SEC. 635. MAXIMUM STUDENT LOAN REPAYMENTS FOR UNITED STATES BORDER PATROL AGENTS.**

Section 5379(b) of title 5, United States Code, is amended by adding at the end the following:

"(4) In the case of an employee (otherwise eligible for benefits under this section) who is serving as a full-time active-duty United States Border Patrol agent within the Department of Homeland Security—

"(A) paragraph (2)(A) shall be applied by substituting '$20,000' for '$10,000'; and

"(B) paragraph (2)(B) shall be applied by substituting '$80,000' for '$60,000'.".

**SEC. 636. RECRUITMENT AND RELOCATION BONUSES AND RETENTION ALLOWANCES FOR PERSONNEL OF THE DEPARTMENT OF HOMELAND SECURITY.**

The Secretary of Homeland Security shall ensure that the authority to pay recruitment and relocation bonuses under section 5753 of title 5, United States Code, the authority to pay retention bonuses under section 5754 of such title, and any other similar authorities available under any other provision of law, rule, or regulation, are exercised to the fullest extent allowable in order to encourage service in the Department of Homeland Security.

**SEC. 637. REPEAL OF THE DEPARTMENT OF HOMELAND SECURITY HUMAN RESOURCES MANAGEMENT SYSTEM.**

(a) REPEAL.—

(1) IN GENERAL.—Effective as of the date specified in section 4 of the Homeland Security Act of 2002 (6 U.S.C. 101 note), chapter 97 of title 5, United States Code (as added by section 841(a)(2) of such Act), section 841(b)(3) of such Act, and subsections (c) and (e) of section 842 of such Act are repealed.

(2) REGULATIONS.—Any regulations prescribed under authority of chapter 97 of title 5, United States Code, are void ab initio.

(b) NULLIFICATION OF PREVIOUS EXCLUSIONS.—Effective as of the date of the enactment of this Act, all previous determinations as to whether—

(1) an agency or subdivision of the Department of Homeland Security (or a predecessor agency or subdivision transferred into the Department) is excluded from coverage under chapter 71 of title 5, United States Code,

(2) a unit or subdivision of a unit within the Department of Homeland Security (or a predecessor agency or subdivision transferred into the Department) is not appropriate for representation by a labor organization under such chapter, or

(3) an employee or position within the Department of Homeland Security (or a predecessor agency or subdivision transferred into the Department) is

within a unit that is not appropriate for representation by a labor organization under such chapter,

are null and void, except to the extent that such determinations were made in accordance with the criteria outlined in paragraph (1), (2), (3), (4), or (7) of section 7112(b) of such title 5.

(c) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by striking the item relating to chapter 97.

**SEC. 638. ESTABLISHMENT OF SPECIALIZED INSPECTOR OCCUPATIONS.**

The Secretary of Homeland Security shall establish within the Bureau of Customs and Border Protection 3 distinct inspectional occupations: immigration, customs, and agriculture. These divisions shall coordinate closely with each other under the direction of a high-level official within the Bureau, but shall report to separate operational chains of command.

**SEC. 639. INCREASE IN INSPECTORS AT AIRPORT AND LAND BORDER INSPECTION STATIONS.**

In each of the fiscal years 2008 through 2012, the Secretary of Homeland Security shall increase by not less than 1,000 the number of positions for full-time active duty immigration inspectors at airport and land border inspection stations within the Department of Homeland Security above the number of such positions for which funds were allotted for the preceding fiscal year.

**SEC. 640. LAW ENFORCEMENT RETIREMENT COVERAGE FOR INSPECTION OFFICERS AND OTHER EMPLOYEES.**

(a) AMENDMENTS.—

(1) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(A) Paragraph (17) of section 8401 of title 5, United States Code, is amended by striking "and" at the end of subparagraph (C), and by adding at the end the following:

"(E) an employee (not otherwise covered by this paragraph)—

"(i) the duties of whose position include the investigation or apprehension of individuals suspected or convicted of offenses against the criminal laws of the United States; and

"(ii) who is authorized to carry a firearm; and

"(F) an employee of the Internal Revenue Service, the duties of whose position are primarily the collection of delinquent taxes and the securing of delinquent returns;".

(B) CONFORMING AMENDMENT.—Section 8401(17)(C) of title 5, United States Code, is amended by striking "(A) and (B)" and inserting "(A), (B), (E), and (F)".

(2) CIVIL SERVICE RETIREMENT SYSTEM.—Paragraph (20) of section 8331 of title 5, United States Code, is amended by inserting after "position." (in the matter before subparagraph (A)) the following: "For the purpose of this paragraph, the employees described in the preceding provision of this paragraph (in the matter before"including") shall be considered to include an employee, not otherwise covered by this paragraph, who satisfies clauses (i)–(ii) of section 8401(17)(E) and an employee of the Internal Revenue Service the duties of whose position are as described in section 8401(17)(F).".

(3) EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this subsection shall take effect on the date of the enactment of this Act, and shall apply only in the case of any individual first appointed (or seeking to be first appointed) as a law enforcement officer (within the meaning of those amendments) on or after such date.

(b) TREATMENT OF SERVICE PERFORMED BY INCUMBENTS.—

(1) LAW ENFORCEMENT OFFICER AND SERVICE DESCRIBED.—

(A) LAW ENFORCEMENT OFFICER.—Any reference to a law enforcement officer described in this paragraph refers to an individual who satisfies the requirements of section 8331(20) or 8401(17) of title 5, United States Code (relating to the definition of a law enforcement officer) by virtue of the amendments made by subsection (a).

(B) SERVICE.—Any reference to service described in this paragraph refers to service performed as a law enforcement officer (as described in this paragraph).

(2) INCUMBENT DEFINED.—For purposes of this subsection, the term "incumbent" means an individual who—

(A) is first appointed as a law enforcement officer (as described in paragraph (1)) before the date of the enactment of this Act; and

(B) is serving as such a law enforcement officer on such date.

(3) TREATMENT OF SERVICE PERFORMED BY INCUMBENTS.—

(A) IN GENERAL.—Service described in paragraph (1) which is performed by an incumbent on or after the date of the enactment of this Act shall, for all purposes (other than those to which subparagraph (B) pertains), be treated as service performed as a law enforcement officer (within the meaning of section 8331(20) or 8401(17) of title 5, United States Code, as appropriate), irrespective of how such service is treated under subparagraph (B).

(B) RETIREMENT.—Service described in paragraph (1) which is performed by an incumbent before, on, or after the date of the enactment of this Act shall, for purposes of subchapter III of chapter 83 and chapter 84 of title 5, United States Code, be treated as service performed as a law enforcement officer (within the meaning of such section 8331(20) or 8401(17), as appropriate), but only if an appropriate written election is submitted to the Office of Personnel Management within 5 years after the date of the enactment of this Act or before separation from Government service, whichever is earlier.

(4) INDIVIDUAL CONTRIBUTIONS FOR PRIOR SERVICE.—

(A) IN GENERAL.—An individual who makes an election under paragraph (3)(B) may, with respect to prior service performed by such individual, contribute to the Civil Service Retirement and Disability Fund the difference between the individual contributions that were actually made for such service and the individual contributions that should have been made for such service if the amendments made by subsection (a) had then been in effect.

(B) EFFECT OF NOT CONTRIBUTING.—If no part of or less than the full amount required under subparagraph (A) is paid, all prior service of the incumbent shall remain fully creditable as law enforcement officer service, but the resulting annuity shall be reduced in a manner similar to that described in section 8334(d)(2) of title 5, United States Code, to the extent necessary to make up the amount unpaid.

(C) PRIOR SERVICE DEFINED.—For purposes of this subsection, the term "prior service" means, with respect to any individual who makes an election under paragraph (3)(B), service (described in paragraph (1)) performed by such individual before the date as of which appropriate retirement deductions begin to be made in accordance with such election.

(5) GOVERNMENT CONTRIBUTIONS FOR PRIOR SERVICE.—

(A) IN GENERAL.—If an incumbent makes an election under paragraph (3)(B), the agency in or under which that individual was serving at the time of any prior service (referred to in paragraph (4)) shall remit to the Office of Personnel Management, for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, the amount required under subparagraph (B) with respect to such service.

(B) AMOUNT REQUIRED.—The amount an agency is required to remit is, with respect to any prior service, the total amount of additional Government contributions to the Civil Service Retirement and Disability Fund (above those actually paid) that would have been required if the amendments made by subsection (a) had then been in effect.

(C) CONTRIBUTIONS TO BE MADE RATABLY.—Government contributions under this paragraph on behalf of an incumbent shall be made by the agency ratably (on at least an annual basis) over the 10-year period beginning on the date referred to in paragraph (4)(C).

(6) EXEMPTION FROM MANDATORY SEPARATION.—Nothing in section 8335(b) or 8425(b) of title 5, United States Code, shall cause the involuntary separation of a law enforcement officer (as described in paragraph (1)) before the end of the 3-year period beginning on the date of the enactment of this Act.

(7) REGULATIONS.—The Office shall prescribe regulations to carry out this section, including—

(A) provisions in accordance with which interest on any amount under paragraph (4) or (5) shall be computed, based on section 8334(e) of title 5, United States Code; and

(B) provisions for the application of this subsection in the case of—

(i) any individual who—

(I) satisfies subparagraph (A) (but not subparagraph (B)) of paragraph (2); and

(II) serves as a law enforcement officer (as described in paragraph (1)) after the date of the enactment of this Act; and

(ii) any individual entitled to a survivor annuity (based on the service of an incumbent, or of an individual under clause (i), who dies be-

fore making an election under paragraph (3)(B)), to the extent of any rights that would then be available to the decedent (if still living).

(8) RULE OF CONSTRUCTION.—Nothing in this subsection shall be considered to apply in the case of a reemployed annuitant.

**SEC. 641. REESTABLISHMENT OF THE UNITED STATES BORDER PATROL ANTI-SMUGGLING UNIT.**

The Secretary of Homeland Security shall reestablish the Anti-Smuggling Unit within the Office of United States Border Patrol, and shall immediately staff such office with a minimum of 500 criminal investigators selected from within the ranks of the United States Border Patrol. Staffing levels shall be adjusted upward periodically in accordance with workload requirements.

**SEC. 642. ESTABLISHMENT OF SPECIALIZED CRIMINAL INVESTIGATOR OCCUPATIONS.**

The Secretary of Homeland Security shall establish specialized Criminal Investigator occupations within the Department: one for the investigation of violations of immigration laws, another for customs laws, and a third for agriculture laws. These divisions shall coordinate closely with each other under the direction of a high-level official within the Department, but shall report to separate operational chains of command.

**SEC. 643. ESTABLISHMENT OF CAREER PATHS TO CRIMINAL INVESTIGATOR POSITIONS.**

The Secretary of Homeland Security shall ensure that all persons selected for criminal investigator positions within the Department of Homeland Security possess a minimum of 3 years of field experience within the Department or its predecessor agencies in the specialized area of law that will be investigated.

**SEC. 644. ADDITIONAL IMMIGRATION ENFORCEMENT AGENTS.**

In each of fiscal years 2008 through 2012, the Secretary of Homeland Security shall increase by not less than 500 the number of positions for full-time active duty immigration enforcement agents responsible for transporting and guarding detained aliens above the number of such positions for which funds were allotted for the preceding fiscal year.

**SEC. 645. INCREASE UNITED STATES BORDER PATROL AGENT AND INSPECTOR PAY.**

(a) IN GENERAL.—Effective as of the first day of the first applicable pay period beginning on or after the date of the enactment of this Act, the rate of basic pay for all employees of the Department of Homeland Security described in subsection (b) shall be increased in accordance with subsection (c).

(b) EMPLOYEES DESCRIBED.—This section applies to any individual who, as of the date of the enactment of this Act—

(1) is a journey level United States Border Patrol agent or immigration, customs, or agriculture inspector within the Department of Homeland Security, whose primary duties consist of enforcing the immigration, customs, or agriculture laws of the United States;

(2) has completed at least one year of service as a United States Border Patrol agent or inspector (whether as an employee of the Department of Homeland Security, the Department of Justice, or both agencies combined); and

(3) is receiving an annual rate of basic pay for positions at GS–11 of the General Schedule under section 5332 of title 5, United States Code.

(c) INCREASE DESCRIBED.—The basic rate of pay for the employees described in this subsection shall increase from the annual rate of basic pay for positions at GS–11 of the General Schedule to the annaul rate of basic pay for positions at GS–13 of such schedule.

**SEC. 646. FAIR LABOR STANDARDS ACT OVERTIME.**

Notwithstanding any other provisionof law, all overtime hours worked on and after the date of the enactment of this Act by all employees of the Department of Homeland Security who are at or below the second-line level of field supervision shall be compensated in accordance with the provisions of the Fair Labor Standards Act.

# Subtitle D—Enforcement Tools to Diminish Entries Using Fraudulent Documents and Commercial Alien Smuggling

**SEC. 651. FOREIGN LANGUAGE TRAINING.**

The Secretary of Homeland Security shall require all officers of the Department of Homeland Security who come into contact with aliens who have crossed the border illegally to take Spanish and other appropriate foreign language training courses to facilitate communication with the aliens.

**SEC. 652. FOREIGN LANGUAGE AWARDS.**

(a) SPECIAL RULES.—The Secretary of Homeland Security shall apply section 4523 of title 5, United States Code, in conformance with the following:

(1) Any law enforcement officer within the Department of Homeland Security whose primary duties involve—

(A) the enforcement of the immigration laws of the United States,

(B) the detention or transportation of violators of the immigration laws of the United States, or

(C) both,

shall, for purposes of such section 4523, be presumed to make substantial use of a foreign language in the performance of such officer's official duties.

(2)(A) Any individual who successfully completes a foreign language program as part of their agency-sponsored or agency-approved training shall be deemed to possess the foreign language proficiency necessary to qualify for an award under such section for so long as such individual serves as a law enforcement officer within the Department of Homeland Security.

(B) Nothing in this paragraph shall, in the case of any individual who does not satisfy subparagraph (A), prevent such individual from being allowed to demonstrate foreign language proficiency in accordance with the criteria and procedures that would otherwise apply under such section.

(3) For purposes of applying subsection (a) of such section 4523, substitute "equal to" for "up to".

(b) DEFINITION.—For purposes of this section, the term "law enforcement officer" has the meaning given such term by section 4521 of such title 5.

**SEC. 653. ADDITIONAL PERSONNEL FOR INVESTIGATION OF FRAUDULENT SCHEMES AND DOCUMENT FRAUD.**

The Secretary of Homeland Security shall hire at least 1000 additional investigators for investigating fraudulent schemes, including benefit application schemes, and fraudulent documents used to enter or remain in the United States unlawfully.

**SEC. 654. ESTABLISH A SPECIAL TASK FORCE FOR COORDINATING AND DISTRIBUTING INFORMATION ON FRAUDULENT IMMIGRATION DOCUMENTS.**

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a Fraudulent Documents Task Force to carry out the following:

(1) Collect information from Federal, State, and local law enforcement agencies, and foreign governments on the production, sale, distribution and use of fraudulent documents intended to be used to enter, travel or remain within the United States unlawfully.

(2) Maintain the information described in subpart (1) in a comprehensive database.

(3) Maintain a repository of genuine and fraudulent travel and identity document exemplars.

(4) Convert the information collected into reports that provide guidance to government officials in identifying fraudulent documents being used to enter into, travel within or remain in the United States.

(5) Develop a system for distributing these reports on an ongoing basis to appropriate Federal, State, and local law enforcement agencies.

(b) DISTRIBUTION OF INFORMATION.—The task force will distribute the reports to appropriate Federal, State, and local law enforcement agencies on an ongoing basis.

**SEC. 655. NEW NONIMMIGRANT VISA CLASSIFICATION TO ENABLE INFORMANTS TO ENTER THE UNITED STATES AND REMAIN TEMPORARILY.**

(a) IN GENERAL.—Section 101(a)(15)(S) (8 U.S.C. 1101(a)(15)(S)) is amended

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by striking the comma at the end and inserting "; or";

(3) by inserting after clause (ii) the following:

"(iii) who the Secretary of Homeland Security, the Secretary of State, or the Attorney General determines—

"(I) is in possession of critical reliable information concerning a commercial alien smuggling organization or enterprise or a commercial operation for making or trafficking in documents to be used for entering or remaining in the United States unlawfully;

"(II) is willing to supply or has supplied such information to a Federal or State court; or

"(III) whose presence in the United States the Secretary of Homeland Security, the Secretary of State, or the Attorney General determines is essential to the success of an authorized criminal investigation, the successful prosecution of an individual involved in the commercial alien smuggling organization or enterprise, or the disruption of such organization or enterprise or a commercial operation for making or trafficking in documents to be used for entering or remaining in the United States unlawfully.";

(4) by inserting ", or with respect to clause (iii), the Secretary of Homeland Security, the Secretary of State, or the Attorney General" after "jointly"; and

(5) by striking "(i) or (ii)" and inserting "(i), (ii), or (iii)".

(b) ADMISSION OF NONIMMIGRANTS.—Section 214(k) (8 U.S.C. 1184(k)) is amended—

(1) by adding at the end of paragraph (1) the following: "The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(iii) in any fiscal year may not exceed 400."; and

(2) by adding at the end the following:

"(5) If the Secretary of Homeland Security, the Secretary of State, or the Attorney General determines that a nonimmigrant described in clause (iii) of section 101(a)(15)(S), or that of any family member of such a nonimmigrant who is provided nonimmigrant status pursuant to such section, must be protected, such official may take such lawful action as the official considers necessary to effect such protection.".

**SEC. 656. ADJUSTMENT OF STATUS WHEN NEEDED TO PROTECT INFORMANTS.**

Section 245(j) (8 U.S.C. 1255(j)) is amended—

(1) in paragraph (3), by striking "(1) or (2)," and inserting "(1), (2), (3), or (4),";

(2) by redesignating paragraph (3) as paragraph (5);

(3) by inserting after paragraph (2) the following:

"(3) if, in the opinion of the Secretary of Homeland Security, the Secretary of State, or the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S)(iii) has supplied information described in subclause (I) of such section; and

"(B) the provision of such information has substantially contributed to the success of a commercial alien smuggling investigation or an investigation of the sale or production of fraudulent documents to be used for entering or remaining in the United States unlawfully, the disruption of such an enterprise, or the prosecution of an individual described in subclause (III) of that section,

the Secretary of Homeland Security may adjust the status of the alien (and the spouse, children, married and unmarried sons and daughters, and parents of the alien if admitted under that section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(4) The Secretary of Homeland Security may adjust the status of a nonimmigrant admitted into the United States under section 101(a)(15)(S)(iii) (and the spouse, children, married and unmarried sons and daughters, and parents of the nonimmigrant if admitted under that section) to that of an alien lawfully admitted for permanent residence on the basis of a recommendation of the Secretary of State or the Attorney General."; and

(4) by adding at the end the following:

"(6) If the Secretary of Homeland Security, the Secretary of State, or the Attorney General determines that a person whose status is adjusted under this subsection must be protected, such official may take such lawful action as the official considers necessary to effect such protection.".

**SEC. 657. REWARDS PROGRAM.**

(a) REWARDS PROGRAM.—Section 274 (8 U.S.C. 1324) is amended by adding at the end the following:

"(e) REWARDS PROGRAM.—

"(1) IN GENERAL.—There is established in the Department of Homeland Security a program for the payment of rewards to carry out the purposes of this section.

"(2) PURPOSE.—The rewards program shall be designed to assist in the elimination of commercial operations to produce or sell fraudulent documents to be used for entering or remaining in the United States unlawfully and to assist in the investigation, prosecution, or disruption of a commercial alien smuggling operation.

"(3) ADMINISTRATION.—The rewards program shall be administered by the Secretary of Homeland Security, in consultation, as appropriate, with the Attorney General and the Secretary of State.

"(4) REWARDS AUTHORIZED.—In the sole discretion of the Secretary of Homeland Security, such Secretary, in consultation, as appropriate, with the Attorney General and the Secretary of State, may pay a reward to any individual who furnishes information or testimony leading to—

"(A) the arrest or conviction of any individual conspiring or attempting to produce or sell fraudulent documents to be used for entering or remaining in the United States unlawfully or to commit an act of commercial alien smuggling involving the transportation of aliens;

"(B) the arrest or conviction of any individual committing such an act;

"(C) the arrest or conviction of any individual aiding or abetting the commission of such an act;

"(D) the prevention, frustration, or favorable resolution of such an act, including the dismantling of an operation to produce or sell fraudulent documents to be used for entering or remaining in the United States, or commercial alien smuggling operations, in whole or in significant part; or

"(E) the identification or location of an individual who holds a key leadership position in an operation to produce or sell fraudulent documents to be used for entering or remaining in the United States unlawfully or a commercial alien smuggling operation involving the transportation of aliens.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection. Amounts appropriated under this paragraph shall remain available until expended.

"(6) INELIGIBILITY.—An officer or employee of any Federal, State, local, or foreign government who, while in performance of his or her official duties, furnishes information described in paragraph (4) shall not be eligible for a reward under this subsection for such furnishing.

"(7) PROTECTION MEASURES.—If the Secretary of Homeland Security, the Secretary of State, or the Attorney General determines that an individual who furnishes information or testimony described in paragraph (4), or any spouse, child, parent, son, or daughter of such an individual, must be protected, such official may take such lawful action as the official considers necessary to effect such protection.

"(8) LIMITATIONS AND CERTIFICATION.—

"(A) MAXIMUM AMOUNT.—No reward under this subsection may exceed $100,000, except as personally authorized by the Secretary of Homeland Security.

"(B) APPROVAL.—Any reward under this subsection exceeding $50,000 shall be personally approved by the Secretary of Homeland Security.

"(C) CERTIFICATION FOR PAYMENT.—Any reward granted under this subsection shall be certified for payment by the Secretary of Homeland Security.".

**SEC. 658. OUTREACH PROGRAM.**

Section 274 (8 U.S.C. 1324), as amended by subsection (a), is further amended by adding at the end the following:

"(f) OUTREACH PROGRAM.—The Secretary of Homeland Security, in consultation, as appropriate, with the Attorney General and the Secretary of State, shall develop and implement an outreach program to educate the public in the United States and abroad about—

"(1) the penalties for—

"(A) bringing in and harboring aliens in violation of this section; and

"(B) participating in a commercial operation for making, or trafficking in, documents to be used for entering or remaining in the United States unlawfully; and

"(2) the financial rewards and other incentives available for assisting in the investigation, disruption, or prosecution of a commercial smuggling operation or

a commercial operation for making, or trafficking in, documents to be used for entering or remaining in the United States unlawfully.".

# TITLE VII—EMPLOYMENT-BASED IMMIGRATION

**SEC. 701. UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.**

Section 274B (8 U.S.C. 1324b) is amended—

(1) in subsection (a)(5)—

(A) by amending the paragraph heading to read "PROHIBITION OF INTIMIDATION, RETALIATION, OR UNLAWFUL DISCRIMINATION IN EMPLOYMENT";

(B) by moving the text down and to the right 2 ems;

(C) by inserting before such text the following: "(A) IN GENERAL.—"; and

(D) by adding at the end the following:

"(B) FEDERAL LABOR OR EMPLOYMENT LAWS.—It is an unfair employment practice for any employer to directly or indirectly threaten any individual with removal or any other adverse consequences pertaining to that individual's immigration status or employment benefits for the purpose of intimidating, pressuring, or coercing any such individual not to exercise any right protected by State or Federal labor or employment law (including section 7 of the National Labor Relations Act (29 U.S.C. 157)), or for the purpose of retaliating against any such individual for having exercised or having stated an intention to exercise any such right.

"(C) DISCRIMINATION BASED ON IMMIGRATION STATUS.—It is an unfair employment practice for any employer, except to the extent specifically authorized or required by law, to discriminate in any term or condition of employment against any individual employed by such employer on the basis of such individual's immigration status."; and

(2) in subsection (c)(2), by adding at the end the following: "The Special Counsel shall not disclose to the Secretary of Homeland Security or any other government agency or employee, and shall not cause to be published in a manner that discloses to the Secretary of Homeland Security or any other government agency or employee, any information obtained by the Special Counsel in any manner concerning the immigration status of any individual who has filed a charge under this section, or the identity of any individual or entity that is a party or witness to a proceedings brought pursuant to such charge. The Secretary of Homeland Security may not rely, in whole or in part, in any enforcement action or removal proceeding, upon any information obtained as a result of the filing or prosecution of an unfair immigration-related employment practice charge. For purposes of this paragraph, the term 'Special Counsel' includes individuals formerly appointed to the position of Special Counsel and any current or former employee of the office of the Special Counsel. Whoever knowingly uses, publishes, or permits information to be used in violation of this paragraph shall be fined not more than $10,000.".

**SEC. 702. DEPARTMENT OF LABOR TASK FORCE.**

The Secretary of Labor, in consultation with the Attorney General and the Secretary of Homeland Security, shall conduct a national study of American workplaces to determine the causes, extent, circumstances, and consequences, of exploitation of undocumented alien workers by their employers. As part of this study, the Secretary of Labor shall create a plan for targeted review of Federal labor law enforcement in industries with a substantial immigrant workforce, for the purpose of identifying, monitoring, and deterring frequent or egregious violators of wage and hour, anti-discrimination, National Labor Relations Act, and workplace safety and health requirements. Not later than 18 months after the date of the enactment of this Act, the Secretary of Labor shall submit to the Congress a report describing the results of the study and the Secretary's recommendations based on the study.

**SEC. 703. RECRUITMENT OF AMERICAN WORKERS.**

Section 214 is amended—

(1) by redesignating subsections (m) (as added by section 105 of Public Law 106–313), (n) (as added by section 107(e) of Public Law 106–386), (o) (as added by section 1513(c) of Public Law 106–386), (o) (as added by section 1102(b) of the Legal Immigration Family Equity Act), and (p) (as added by section 1503(b) of the Legal Immigration Family Equity Act) as subsections (n), (o), (p), (q), and (r), respectively; and

(2) by adding at the end the following:

"(s)(1) No petition to accord employment status under the nonimmigrant classifications described in sections 101(a)(15)(E)(iii) and (H) shall be granted in the absence of an affidavit from the petitioner describing the efforts that were made to recruit an alien lawfully admitted for permanent residence or a citizen of the United States before resorting to a petition to obtain a foreign employee. The recruitment efforts must have included substantial attempts to find employees in minority communities. Recruitment efforts in minority communities should include at least one of the following, if appropriate for the employment being advertised:

"(A) Advertise the availability of the job opportunity for which the employer is seeking a worker in local newspapers in the labor market that is likely to be patronized by a potential worker for at least 5 consecutive days.

"(B) Undertake efforts to advertise the availability of the job opportunity for which the employer is seeking a worker through advertisements in public transportation systems.

"(C) To the extent permitted by local laws and regulations, engage in recruitment activities in secondary schools, recreation centers, community centers, and other places throughout the communities within 50 miles of the job site that serve minorities.

"(2)(A) The Secretary of Homeland Security shall impose a 10 percent surcharge on all fees collected for petitions to accord employment status and shall use these funds to establish an employment training program which will include unemployed workers in the United States who need to be trained or retrained. The purpose of this program shall be to increase the number of lawful permanent residents and citizens of the United States who are available for employment in the occupations that are the subjects of such petitions. At least 50 percent of the funds generated by this provision must be used to train American workers in rural and inner-city areas.

"(B) The Secretary of Homeland Security shall reserve and make available to the Secretary of Labor a portion of the funds collected under this paragraph. Such funds shall be used by the Secretary of Labor to establish an 'Office to Preserve American Jobs' within the Department of Labor. The purpose of this office shall be to establish policies intended to ensure that employers in the United States will hire available workers in the United States before resorting to foreign labor, giving substantial emphasis to hiring minority workers in the United States.".

# TITLE VIII—FAIRNESS IN REMOVAL PROCEEDINGS

**SEC. 801. RIGHT TO COUNSEL.**

Section 292 (8 U.S.C. 1362) is amended by striking the matter after the section designation and inserting the following: "In any bond, custody, detention, or removal proceedings before the Attorney General and in any appeal proceedings before the Attorney General from any such proceedings, the person concerned shall have the privilege of being represented (at no expense to the government) by such counsel, authorized to practice in such proceedings, as he shall choose. With consent of their clients, counsel may enter appearances limited to bond, custody, or other specific proceedings.".

**SEC. 802. PRESUMPTION IN FAVOR OF WITHDRAWAL OF APPLICATION FOR ADMISSION.**

Section 235(a)(4) (8 U.S.C. 1225(a)(4)) is amended to read as follows:

"(4) WITHDRAWAL OF APPLICATION FOR ADMISSION.—

"(A) PRESUMPTION IN FAVOR OF WITHDRAWAL.—The Attorney General shall permit an alien applying for admission to withdraw the application and depart immediately from the United States at any time, unless an immigration judge has rendered a decision with respect to the admissibility of the alien, except that the Attorney General may deny permission for the withdrawal when warranted by unusual circumstances.

"(B) PERMISSIVE WITHDRAWAL.—Except as provided in subparagraph (A), an alien applying for admission may, in the discretion of the Attorney General and at any time after a decision described in such subparagraph has been rendered, be permitted to withdraw the application and depart immediately from the United States.".

**SEC. 803. ABSENCES OUTSIDE THE CONTROL OF THE ALIEN.**

Section 101(a)(13)(C) (8 U.S.C. 1101(a)(13(C)) is amended by amending clause (ii) to read as follows:

"(ii) has been absent from the United States for a continuous period in excess of one year unless the alien's return was impeded by emergency or extenuating circumstances outside the control of the alien,".

**SEC. 804. REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.**

Section 241(a)(5) (8 U.S.C. 1231(a)(5)) is amended—

(1) by inserting ", after a hearing by an immigration judge," after "If";

(2) by inserting ", on or after September 30, 1996," after "alien has";

(3) by striking "is reinstated" and inserting "may be deemed to be reinstated";

(4) by striking "and is not subject" and all that follows through "under this Act"; and

(5) by striking the period at the end and inserting the following: "subject to reopening and review of the previous order. Nothing in this section shall preclude an alien from applying for any relief from removal under this Act.".

**SEC. 805. PERMANENT APPLICATION OF SECTION 245(i).**

Section 245(i) (8 U.S.C. 1255(i)) is amended—

(1) by inserting "and" at the end of paragraph (1)(A);

(2) by amending paragraph (1)(B) to read as follows:

"(B) who is the beneficiary (including a spouse or child of the principal alien) of—

"(i) a petition for classification under section 204; or

"(ii) an application for a labor certification under section 212(a)(5)(A);";

(3) by striking paragraph (1)(C); and

(4) by striking "Attorney General" each place such term appears and inserting "Secretary of Homeland Security".

**SEC. 806. DISCRETIONARY WAIVER OF INADMISSIBILITY BASED ON UNLAWFUL PRESENCE, FAILURE TO ATTEND REMOVAL PROCEEDINGS, AND MISREPRESENTATIONS.**

(a) IN GENERAL.—Section 212(i) (8 U.S.C. 1182(i)) is amended to read as follows:

"(i) The Secretary of Homeland Security may waive the application of subparagraph (A)(i) or (B), or clause (i) or (ii) of subparagraph (C), of subsection (a)(6) in the case of an immigrant who is the parent, spouse, child, son, or daughter of a United States citizen or of an alien lawfully admitted to the United States for permanent residence, if it is established to the satisfaction of the Secretary that the refusal of admission to the United States of such immigrant would result in hardship to the immigrant or to such citizen or lawful permanent resident parent, spouse, child, son, or daughter.".

(b) CONFORMING AMENDMENTS.—Section 212(a)(6) (8 U.S.C. 1182(a)(6)) is amended—

(1) in subparagraph (A), by adding at the end the following:

"(iii) WAIVER AUTHORIZED.—For a provision authorizing the waiver of clause (i), see subsection (i).";

(2) in subparagraph (B)—

(A) by inserting "(i)" after the subparagraph heading; and

(B) by adding at the end the following:

"(ii) WAIVER AUTHORIZED.—For a provision authorizing the waiver of clause (i), see subsection (i)."; and

(3) in subparagraph (C)(iii), by inserting "or (ii)" after "(i)".

**SEC. 807. WAIVER OF INADMISSIBILITY FOR MINOR CRIMINAL OFFENSES.**

Section 212(h) (8 U.S.C. 1182(h)) is amended—

(1) in the matter preceding paragraph (1), by striking "offense of simple possession of 30 grams or less of marijuana" and inserting "controlled substance offense for which the alien was not incarcerated for a period exceeding 1 year"; and

(2) by striking the final two sentences.

**SEC. 808. GENERAL WAIVER FOR ALIENS PREVIOUSLY REMOVED AND FOR THE UNLAWFUL PRESENCE BARS.**

(a) IN GENERAL.—Section 212(d) (8 U.S.C. 1182(d)) is amended by adding at the end the following:

"(14) The Secretary of Homeland Security may, in the discretion of the Secretary, for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive the application of subparagraph (A) or (B)(i) of subsection (a)(9).".

(b) CONFORMING AMENDMENT.—Section 212(a)(9)(B) of such Act (8 U.S.C. 1182(a)(9)(B)) is amended by striking clause (v).

**SEC. 809. WAIVER OF AGGRAVATED FELONY CONSEQUENCES.**

Section 101 (8 U.S.C. 1101) is amended by adding at the end the following:

"(j) For purposes of this Act, and notwithstanding subsection (a)(43), the Secretary of Homeland Security may treat any conviction that did not result in incarceration for more than 1 year as if such conviction were not a conviction for an aggravated felony. This discretion may be exercised for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.".

**SEC. 810. DISCRETIONARY WAIVER TO ADMIT PERSONS IN UNUSUAL CIRCUMSTANCES.**

(a) NEW GENERAL WAIVER.—Section 212(d) (8 U.S.C. 1182(d)) is amended by adding at the end the following:

"(13) The Secretary of Homeland Security may, in the discretion of such Secretary for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive the application of subparagraph (B) or (G) of subsection (a)(6), clause (i) or (ii) of subsection (a)(9)(A), or subsection (a)(9)(B)(i), in unusual circumstances. For purposes of the preceding sentence, an instance of battering or extreme cruelty is deemed to constitute unusual circumstances in the case where it is inflicted on an alien (or a child of an alien) by the alien's United States citizen or lawful permanent resident spouse, parent, child, son, or daughter.".

(b) WAIVER FOR ALIENS PREVIOUSLY REMOVED.—

(1) CERTAIN ALIENS PREVIOUSLY REMOVED.—Section 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is amended by adding at the end the following:

"(iv) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i) or (ii), see subsection (d)(13).".

(2) ALIENS UNLAWFULLY PRESENT.—Section 212(a)(9)(B)(v) (8 U.S.C. 1182(A)(9)(B)(v)) is amended to read as follows:

"(v) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i), see subsection (d)(13).".

**SEC. 811. RESTORATION OF SUSPENSION OF DEPORTATION.**

(a) CANCELLATION OF REMOVAL.—Section 240A(a)(3) (8 U.S.C. 1229b(a)(3)) is amended to read as follows:

"(3) has not been convicted of an aggravated felony for which the sentence imposed is five years or more.".

(b) REPEAL OF RULE FOR TERMINATION OF CONTINUOUS PERIOD.—

(1) Section 240A(d)(1) (8 U.S.C. 1229b(d)(1)) (8 U.S.C. 1229b(a)) is repealed.

(2) Section 240A(d) (8 U.S.C. 1229b) is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(B) by inserting before the period at the end of paragraph (1) (as redesignated) the following: ", unless the alien's departure from the United States was due to a temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien".

(c) CANCELLATION OF REMOVAL AND ADJUSTMENT FOR CERTAIN NONPERMANENT RESIDENTS.—Section 240A(b)(1) (8 U.S.C. 1229b(b)(1)) is amended to read as follows:

"(1) IN GENERAL.—The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien—

"(A) has been physically present in the United States for a continuous period of—

"(i) 7 years immediately preceding the date of application in the case of an alien—

"(I) who is deportable on any ground other than a ground specified in clause (ii)(I); and

"(II) whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or the alien's spouse, child, parent, son, or daughter, who is a citizen of the United States or an alien lawfully admitted for permanent residence; or

"(ii) 10 years immediately preceding the date of application in the case of an alien—

"(I) who is deportable for conviction of an offense under section 212(a)(2), 237(a)(2), or 237(a)(3); and

"(II) whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, child, son, or daughter, who

is a citizen of the United States or an alien lawfully admitted for permanent residence; and

"(B) has been a person of good moral character during such period.".

(d) ELIMINATION OF ANNUAL LIMITATION.—Section 240A (8 U.S.C. 1229b) is amended by striking subsection (e).

# TITLE IX—REMOVAL GROUNDS BASED ON CRIMINAL OFFENSES

**SEC. 901. DEFINITION OF MORAL TURPITUDE.**

(a) EQUITABLE DEFINITION OF "MORAL TURPITUDE".—

(1) CONVICTION OF CERTAIN CRIMES.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended by striking "of, or who admits having committed, or who admits committing acts which constitute the essential elements of—" and inserting "of—".

(2) EXCEPTION.—Section 212(a)(2)(A)(ii)(II) (8 U.S.C. 1182(a)(2)(A)(ii)(II)) is amended—

(A) by striking "the maximum" and all that follows through "such crime,"; and

(B) by striking "6 months" and inserting "1 year".

(b) EQUITABLE DEFINITION OF "CRIMES OF MORAL TURPITUDE".—Section 237(a)(2)(A)(i)(II) (8 U.S.C. 1227(a)(2)(A)(i)(II)) is amended to read as follows:

"(II) for which the alien has been incarcerated for a period exceeding one year,".

**SEC. 902. "AGGRAVATED FELONY" DEFINITIONS.**

(a) IN GENERAL.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by striking "The term 'aggravated felony' means" and inserting "Aggravated felony means a felony".

(b) ILLICIT TRAFFICKING.—Section 101(a)(43)(B) (8 U.S.C. 1101(a)(43)(B)) is amended by striking "Code);" and inserting "Code), except it does not include simple possession of a controlled substance;".

(c) CRIMES OF VIOLENCE AND THEFT OFFENSES.—Subparagraphs (F), (G), (R), and (S) of section 101(a)(43) (8 U.S.C. 1101(a)(43)(F), (G), (R), and (S)) are each amended by striking "imprisonment" and all that follows through the semicolon and inserting "imprisonment of more than five years;".

(d) CORRUPT ORGANIZATIONS AND GAMBLING OFFENSES.—Section 101(a)(43)(J) is amended by inserting "more than five years" after the words "sentence of".

(e) ALIEN SMUGGLING.—Section 101(a)(43)(N) (8 U.S.C. 101(a)(43)(N)) is amended—

(1) by inserting "committed for the purpose of commercial advantage," after "smuggling),"; and

(2) by adding at the end a semicolon.

(f) DISCRETIONARY WAIVER IN CASES OF OTHER MINOR FELONIES.—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following:

**SEC. 903. DEFINITIONS OF "CONVICTION" AND "TERM OF IMPRISONMENT".**

Section 101(a)(48) (8 U.S.C. 1101(a)(48)) is amended—

(1) in subparagraph (A), by striking "court" and all that follows through the period at the end and inserting "court. An adjudication or judgment of guilt that has been expunged, deferred, annulled, invalidated, withheld, or vacated, an order of probation without entry of judgment, or any similar disposition shall not be considered a conviction for purposes of this Act."; and

(2) in subparagraph (B)—

(A) by inserting "only" after "deemed to include"; and

(B) by striking "court of law" and all that follows through the period at the end and inserting "court of law. Any such reference shall not be deemed to include any suspension of the imposition or execution of that imprisonment or sentence in whole or in part.".

"(i) For purposes of this Act, and notwithstanding subsection (a)(43), the Attorney General may treat any conviction that did not result in incarceration for more than 1 year as if such conviction were not a conviction for an aggravated felony.".

**SEC. 904. ELIMINATING RETROACTIVE CHANGES IN REMOVAL GROUNDS.**

(a) APPLICATION OF AGGRAVATED FELONY DEFINITION.—The last sentence of section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended to read as follows: "The term shall

not apply to any offense that was not covered by the term on the date on which the offense occurred.".

(b) GROUNDS OF DEPORTABILITY.—Section 237 (8 U.S.C. 1227) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this section, an alien is not deportable by reason of committing any offense that was not a ground of deportability on the date the offense occurred.".

(c) GROUNDS OF INADMISSIBILITY.—Section 212 (8 U.S.C. 1182) is amended by adding at the end the following new subsection:

"(p) Notwithstanding any other provision of this section, an alien is not inadmissible by reason of committing any offense that was not a ground of inadmissibility on the date the offense occurred.".

**SEC. 905. ELIMINATING UNFAIR RETROACTIVE CHANGES IN REMOVAL RULES FOR PERSONS PREVIOUSLY REMOVED.**

(a) IN GENERAL.—The Attorney General shall establish a process by which an alien described in subsection (b) may apply for reopening a proceeding so as to seek relief from exclusion, deportation, or removal under section 212(c) of the Immigration and Nationality Act, as such section was in effect prior to the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, or section 240A of the Immigration and Nationality Act, as amended by this Act.

(b) ALIEN DESCRIBED.—An alien referred to in subsection (a) is an alien who received a final order of exclusion, deportation, or removal, or a decision on a petition for review or petition for habeas corpus, on or after September 30, 1996, and who was—

(1) excluded, deported, or removed from the United States by reason of having committed a criminal offense that was not a basis for removal, exclusion, or deportation on the date on which the offense was committed;

(2) excluded, deported, or removed from the United States by reason of having committed a criminal offense that is not a basis for removal, exclusion, or deportation on the date of enactment of this Act; or

(3) excluded, deported, or removed from the United States by reason of having committed a criminal offense prior to April 24, 1996, for which there was relief from exclusion, deportation, or removal available prior to such date.

(c) PAROLE.—The Attorney General may in her discretion exercise the parole authority under section 212(d)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)(A)) for the purpose of permitting aliens excluded, deported, or removed from the United States to participate in the process established under subsection (a), if the alien establishes prima facie eligibility for the relief.

# TITLE X—DIVERSITY VISAS

**SEC. 1001. INCREASE IN WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS.**

Section 201(e) (8 U.S.C. 1151(e)) is amended by striking "55,000" and inserting "110,000".

# TITLE XI—HAITIAN PARITY

**SEC. 1101. ADJUSTMENT OF STATUS FOR HAITIANS.**

(a) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.), as amended by section 202, is further amended by inserting after section 245C the following:

"ADJUSTMENT OF STATUS OF CERTAIN HAITIAN NATIONALS

"SEC. 245D. Notwithstanding the provisions of section 245(c), the status of any alien who is a national or citizen of Haiti, and who has been physically present in the United States for at least one year, may be adjusted by the Secretary of Homeland Security, in the Secretary's discretion and under such regulations as the Secretary may prescribe, to that of an alien lawfully admitted for permanent residence, if the alien makes an application for such adjustment and the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence. Upon approval of such an application for adjustment of status, the Secretary shall create a record of the alien's admission for permanent residence as of a date 30 months prior to the filing of such an application or the date of the alien's last arrival into the United States, whichever date is later. The provisions of this Act shall be applicable to the spouse and child of any alien described in this section,

regardless of their citizenship and place of birth, if the spouse or child is residing with such alien in the United States.".

(b) CLERICAL AMENDMENT.—The table of contents as amended by section 202, is further amended by inserting after the item relating to section 245C the following:

"Sec. 245D. Adjustment of status of certain Haitian nationals.".

(c) SUNSET.—The amendments made by this section shall cease to be effective on the date that is 3 years after the date of the enactment of this Act.

**SEC. 1102. LIMITATION OF ATTORNEY GENERAL'S BOND DISCRETION.**

Section 236 (8 U.S.C. 1226) is amended by adding at the end the following:

"(f) EXERCISE OF AUTHORITY FOR ARREST, DETENTION, AND RELEASE.—The Secretary of Homeland Security shall exercise the discretion afforded under subsection (a) on a case-by-case basis. If bond is to be denied on the ground that the alien's release would give rise to adverse consequences for national security or national immigration policy, the finding of such adverse consequences shall be based on circumstances pertaining to the individual alien whose release is being considered.".

**SEC. 1103. ELIMINATION OF MANDATORY DETENTION IN EXPEDITED REMOVAL PROCEEDINGS.**

Section 235(b)(1)(B)(iii)(IV) (8 U.S.C. 1225(b)(1)(B)(iii)(IV)) is amended to read as follows:

"(IV) DETENTION.—Aliens subject to the procedures under this clause shall be detained in accordance with section 236.".

**SEC. 1104. AMENDMENTS TO HAITIAN AND IMMIGRANT FAIRNESS ACT OF 1998.**

(a) GROUND FOR INADMISSIBILITY FOR DOCUMENT FRAUD DOES NOT APPLY.—The Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note) is amended in subsections (a)(1)(B) and (d)(1)(D) of section 902 by inserting "(6)(C)(i)," after "(6)(A),".

(b) DETERMINATIONS WITH RESPECT TO CHILDREN.—Section 902(d) of such Act is amended by adding at the end the following:

"(3) DETERMINATIONS WITH RESPECT TO CHILDREN.—

"(A) USE OF APPLICATION FILING DATE.—Determinations made under this subsection as to whether an individual is a child of a parent shall be made using the age and status of the individual on the date of the enactment of this section.

"(B) APPLICATION SUBMISSION BY PARENT.—Notwithstanding paragraph (1)(C), an application under this subsection filed based on status as a child may be filed for the benefit of such child by a parent or guardian of the child, if the child is physically present in the United States on such filing date.".

**SEC. 1105. NEW APPLICATIONS AND MOTIONS TO REOPEN.**

(a) NEW APPLICATIONS.—Notwithstanding section 902(a)(1)(A) of the Haitian and Immigrant Fairness Act of 1998, an alien who is eligible for adjustment of status under such Act, as amended by section 804 of this Act, may submit an application for adjustment of status under such Act not later than the later of—

(1) 2 years after the date of the enactment of this Act; and

(2) 1 year after the date on which final regulations implementing section 804 are promulgated.

(b) MOTIONS TO REOPEN.—The Secretary of Homeland Security shall establish procedures for the reopening and reconsideration of applications for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998 that are affected by the amendments under section 804 of this Act.

(c) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—Section 902(a)(3) of the Haitian and Immigrant Fairness Act of 1998 shall apply to an alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily, and who files an application under subsection (a), or a motion under subsection (b), in the same manner as such section 902(a)(3) applied to aliens filing applications for adjustment of status under such Act before April 1, 2000.

**SEC. 1106. TEMPORARY PROTECTED STATUS FOR HAITIANS.**

It is the sense of the Congress that the Secretary of Homeland Security should be more liberal with respect to Haiti in deciding whether to designate that country for temporary protected status under section 244(b)(1)(A) of the Immigration and Nationality (8 U.S.C. 1254(b)(1)(A)). It is the sense of the Congress that this decision has sometimes been made without due regard to the serious threat to personal

safety that results from sending Haitians back to Haiti during a period of ongoing armed conflict in that country.

# TITLE XII—FAIRNESS IN ASYLUM AND REFUGEE PROCEEDINGS

**SEC. 1201. REFUGEE STATUS FOR UNMARRIED SONS AND DAUGHTERS OF REFUGEES.**

Section 207(c)(2) (8 U.S.C. 1157(c)(2)) is amended by adding at the end the following:

"(C) When warranted by unusual circumstances or to preserve family unity, the Attorney General may, in the Attorney General's discretion, consider an unmarried son or daughter of a refugee to be a child of the refugee for purposes of this paragraph.".

**SEC. 1202. ASYLEE STATUS FOR UNMARRIED SONS AND DAUGHTERS OF ASYLEES.**

Section 208(b)(3) (8 U.S.C. 1158(b)(3)) is amended by adding at the end the following:

"(C) When warranted by unusual circumstances or to preserve family unity, the Attorney General may, in the Attorney General's discretion, consider an unmarried son or daughter of an alien who is granted asylum under this subsection to be a child of the alien for purposes of this paragraph.".

**SEC. 1203. ELIMINATION OF ARBITRARY TIME LIMITS ON ASYLUM APPLICATIONS.**

Section 208(a)(2) (8 U.S.C. 1158(a)(2)) is amended—

(1) by striking subparagraph (B);

(2) in subparagraph (C), by striking "(D)," and inserting "(C),";

(3) in subparagraph (D)—

(A) by striking "subparagraphs (B) and (C)," and inserting "subparagraph (B),";

(B) by striking "either"; and

(C) by striking "asylum or extraordinary" and all that follows through the period at the end and inserting "asylum."; and

(4) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

**SEC. 1204. GENDER-BASED PERSECUTION.**

(a) TREATMENT AS REFUGEE.—Section 101(a)(42) (8 U.S.C. 1101(a)(42)) is amended by adding at the end the following:

"(C) For purposes of determinations under this Act, a person who establishes that he or she suffered persecution in the past, or has a well-founded fear of persecution, on account of gender shall be considered to have suffered persecution, or to have a well-founded fear of persecution, on account of membership in a particular social group.".

(b) RESTRICTION ON REMOVAL TO COUNTRY WHERE ALIEN WOULD BE THREATENED.—Section 241(b)(3) of such Act (8 U.S.C. 1231(b)(3)) is amended by adding at the end the following:

"(C) GENDER-BASED PERSECUTION.—For purposes of determinations under this paragraph, an alien who establishes that the alien's life or freedom would be threatened in a country on account of gender shall be considered to have established that the alien's life or freedom would be threatened in that country on account of membership in a particular social group.".

# TITLE XIII—TEMPORARY PROTECTED STATUS

**SEC. 1301. ADJUSTMENT OF STATUS FOR CERTAIN RECIPIENTS OF TEMPORARY PROTECTED STATUS.**

(a) IN GENERAL.—Section 245 (8 U.S.C. 1255) is amended by adding at the end the following:

"(n)(1) If, in the opinion of the Secretary of the Homeland Security Department, a person granted temporary protected status under section 244—

"(A) has been physically present in the United States in that status for a continuous period of at least 5 years;

"(B) has at all times been a person of good moral character;

"(C) has never been convicted of a criminal offense in the United States;

"(D) in the case of an alien who is 18 years of age or older, but who is not over the age of 65, has successfully completed a course on reading, writing, and speaking words in ordinary usage in the English language, unless unable to do so on account of physical or developmental disability or mental impairment;

"(E) in the case of an alien 18 years of age or older, has accepted the values and cultural life of the United States; and

"(F) in the case of an alien 18 years of age or older, has performed at least 40 hours of community service;

the Secretary may adjust the status of the alien to that of an alien lawfully admitted for permanent residence.

"(2) An alien shall not be considered to have failed to maintain a continuous presence in the United States for purposes of subsection (a)(1) by virtue of brief, casual, and innocent absences from the United States.

"(3)(A) The alien shall establish that the alien is admissible to the United States as immigrant, except as otherwise provided in paragraph (2).

"(B) The provisions of paragraphs (5), (6)(A), (6)(B), (6)(C), (6)(F), (6)(G), (7)(A), (9)(B), and (9)(C)(i)(I) of section 212(a) shall not apply in the determination of an alien's admissibility under this section.

"(4) When an alien is granted lawful permanent resident status under this subsection, the number of immigrant visas authorized to be issued under any provision of this Act shall not be reduced. The numerical limitations of sections 201 and 202 shall not apply to adjustment of status under this section.

"(5) The Secretary of Homeland Security may terminate removal proceedings without prejudice pending the outcome of an alien's application for adjustment of status under this section on the basis of a prima facie showing of eligibility for relief under this section.".

(b) LIMITATION ON CONSIDERATION IN THE SENATE OF LEGISLATION ADJUSTING STATUS.—Section 244 (8 U.S.C. 1254a) is amended by striking subsection (h) and redesignating subsection (i) as subsection (h).

**SEC. 1302. FOREIGN STATE DESIGNATIONS.**

Section 244(b)(1)(C) (8 U.S.C. 1254a(b)(1)(C)) is amended to change the following phrase "the Attorney General finds that there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety," so that it reads as follows: "the Secretary of Homeland Security finds that extraordinary and temporary conditions in the foreign state make returning aliens to the state undesirable for humanitarian reasons,".

# TITLE XIV—MISCELLANEOUS PROVISIONS

**SEC. 1401. NATURALIZATION PROVISIONS.**

(a) PHYSICAL PRESENCE REQUIREMENT.—Section 316(a) (8 U.S.C. 1427) is amended by adding at the end the following:

"(g) When warranted by extraordinary circumstances, the Secretary of Homeland Security may reduce, by not more than 90 days, the physical presence requirement described in the preceding sentence.".

(b) ABSENCES FROM THE UNITED STATES.—Section 316(b) (8 U.S.C. 1427(b)) is amended—

(1) in the first sentence, by striking "one year" and inserting "18 months"; and

(2) in the second sentence, by striking "continuous period of one year" and inserting "continuous period of 18 months".

**SEC. 1402. PREVENTING INAPPROPRIATE STATE AND LOCAL GOVERNMENT INVOLVEMENT IN THE ENFORCEMENT OF CIVIL IMMIGRATION PROVISIONS UNDER THE IMMIGRATION AND NATIONALITY ACT.**

(a) ELIMINATION OF BAN ON STATE AND LOCAL GOVERNMENTS FROM PREVENTING COMMUNICATIONS WITH THE DEPARTMENT OF HOMELAND SECURITY.—

(1) IN GENERAL.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is repealed.

(2) VERIFICATION OF ELIGIBILITY FOR FEDERAL PUBLIC BENEFITS.—Section 432 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1642) is repealed.

(b) ELIMINATION OF AUTHORITY TO PERMIT STATE PERSONNEL TO CARRY OUT IMMIGRATION OFFICER FUNCTIONS.—Section 287(g) (8 U.S.C. 1357(g)) is repealed.

**SEC. 1403. NONIMMIGRANT CATEGORY FOR FASHION MODELS.**

(a) ELIMINATION OF H–1B CLASSIFICATION FOR FASHION MODELS.—Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)) is amended—

(1) by striking "or as a fashion model"; and

(2) by striking "or, in the case of a fashion model, is of distinguished merit and ability".

(b) NEW CLASSIFICATION.—Section 101(a)(15)(O) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(O)) is amended—

(1) in clause (iii), by striking "clause (i) or (ii)" and inserting "clause (i), (ii), or (iii)" and by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following new clause:

"(iii) is a fashion model who is of distinguished merit and ability and who is seeking to enter the United States temporarily to perform fashion modeling services that involve events or productions which have a distinguished reputation or that are performed for an organization or establishment that has a distinguished reputation for, or a record of, utilizing prominent modeling talent; or".

(c) EFFECTIVE DATE AND IMPLEMENTATION.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) REGULATIONS, GUIDELINES, AND PRECEDENTS.—The regulations, guidelines, and precedents in effect on the date of the enactment of this Act for the adjudication of petitions for fashion models under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)) shall be applied to petitions for fashion model under section 101(a)(15)(O)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(O)(iii)), as added by this section, except that the duration of status approvals shall be based on regulations applicable to other occupations under section 101(a)(15)(O) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(O)).

(3) CONSTRUCTION.—Nothing in this section, or the amendments made by this section, shall be construed as preventing an alien who is a fashion model from obtaining nonimmigrant status under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(O)(i)) if such alien is otherwise qualified for such status.

(4) TREATMENT OF PENDING PETITIONS.—Petitions filed on behalf of fashion models under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)) that are pending on the date of the enactment of this Act shall be treated as if they had been filed under section 101(a)(15)(O)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(O)(iii)), as added by this section.

(5) VISA VALIDITY PERIOD.—The validity period for visas issued to beneficiaries of petitions filed under section 101(a)(15)(O)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(O)(iii)) shall be for the full period of approval notwithstanding the reciprocity validity periods that would otherwise be applicable.

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Ms. JACKSON LEE. Thank you very much, Madam Chairwoman, and particularly for your leadership on this issue and the opportunity to work with you, not only in this Congress but in past Congresses. And thank you for recognizing the complementary role that H.R. 750 can play in comprehensive immigration reform.

Might I also suggest to this hearing that there are many ways of looking at comprehensive immigration reform? And I am delighted that as a member of the Congressional Black Caucus and a co-chair of their Immigration Task Force, we have been studying this issue for a very long time, and the Congressional Black Caucus has made a commitment on the record that they understand the value and the importance of comprehensive immigration reform, which includes border security and earned access to citizenship,

but an economic opportunity with fair wages and diversity for equal treatment of immigrants coming from all backgrounds.

Madam Chair, I would like to ask unanimous consent to put into the record the CBC statement on immigration reform.

Ms. LOFGREN. Without objection, so ordered.

[The information referred to is available in the Appendix.]

Ms. JACKSON LEE. As it relates to H.R. 750, as I indicated, it is a complementary step among the number of immigration bills that have been offered. And it recognizes in particular the diversity of America and, of course, those who come from the fields of Mississippi and Alabama, factories in Detroit and Cleveland, the packinghouses and office buildings of Chicago, and the shipyards of Philadelphia and Los Angeles. It recognizes that as we look toward comprehensive immigration reform, we must address the question of ensuring the protection of American jobs, the American dream, and the training of Americans so that we can parallel the need for more workers with the opportunity for American workers.

I think it is a creative approach to addressing the question of assuaging, or, if you will, comforting Americans who are concerned about the loss of their jobs. It is important in this legislation to note also that we in fact are concerned about fair wages and the treatment of the undocumented, providing them with access to protecting themselves from abuse.

In addition, this has a strong component on border security. We are realistic about the needs of Americans and, frankly, we stand strong on covering the issues of border security with something unique: professional development and training for our Border Patrol agents, acknowledgement of their service, technology and new equipment so that they can perform in the most effective way.

It addresses the question of security in relation to the idea of sex abuse of those who come into the United States who may be abused, and they may come in on a legal aspect.

As I close, let me say that this bill has been recognized by a number of individuals, including the Border Patrol Association. It has been acknowledged by Senator Kerrey, which admitted it into the legislation that was passed in the Senate, the rapid response measures. A lot of them are also in the STRIVE Act.

So we have led out on this issue, and we believe this is an important hearing because our bill also includes a number of provisions dealing with legal immigration that many of our legal immigrant advocates, and particularly our Bar Association has asked for relief in order to be able to prosecute and to maintain the right kind of balance in helping those who are here legally and are seeking greater opportunity.

So I am delighted with the witnesses that will be here today, which I will compliment them as they come forward. I certainly thank the Chair of the Congressional Black Caucus, Congresswoman Carolyn Kilpatrick, for her leadership in working with me not only on this bill, but on our principles, as we have tried to be a very, very large participant in this important debate.

Let me thank the first Vice Chair, Congresswoman Barbara Lee, who is present here today, and we thank her for her presence. And, as well, we thank our good and dear friend—and I assume in a hearing we don't call them a dear friend, we call them the Chair-

man of the Intelligence Committee—but a leader on these issues, Silvestre Reyes from Texas.

And we do thank Nancy Boyda who is here as a frontliner, but a new leader in the community, and raises important issues which we look forward to hearing.

Thank you very much, Madam Chair, and I yield back my time.

Ms. LOFGREN. Thank you.

I would now recognize the Ranking Member, Mr. King of Iowa, for his opening statement.

Mr. KING. Thank you, Madam Chair. And I must be frank and express my disappointment with the subject of this hearing.

H.R. 750, the Save America Comprehensive Immigration Act really is quite a title for a bill that grants amnesty to the large majority of the 12 to 20 million illegal aliens currently residing in the United States. America has rejected mass amnesty by a large margin. And amnesty, I believe, is an affront to native-born Americans, to naturalized citizens, to legal immigrants, and to the very concept of the rule of law. Amnesty rewards law breakers and will only encourage new waves of illegal immigration. Amnesty will doom millions of the most underprivileged Americans to a future without any hope of good jobs or a good education as recipients continue to depress the labor market and crowd our children's schools. And amnesty will cost American taxpayers billions of dollars a year as illegal aliens become eligible for a whole host of Federal, State and local welfare programs.

The Senate Democrats' plans for mass amnesty were defeated in June by an unprecedented outpouring of opposition by the American people. It shut down the switchboards in the Senate. When has that happened and what was the subject matter? Immigration would have to be it. I had thought that the Senate defeat convinced the House leadership to abandon its own plans for a mass amnesty in this Congress. And after all, Rahm Emanuel got into some hot water about immigration policy when he said no way comprehensive reform would happen until the second term of the next Democrat President.

However, I can only assume that since the Subcommittee is holding a hearing at this late date on mass amnesty legislation, that the House Democratic leadership still entertains plans for passing mass amnesty. Apparently the House Democratic leadership has not heard the pleas of the American people to secure our borders, uphold the rule of law, stand up for American workers and American communities.

Apparently the House Democratic leadership has heard the pleas of States and localities for the Federal Government to take charge—has not heard the pleas of States and localities for the Federal Government to take charge of immigration law enforcement so that they do not have to. But we are hearing from the States, the counties, the political subdivisions, as they step up and do what they can within the limits and the constraints of the Constitution.

But, most startlingly, the House Democratic leadership has apparently not heard the pleas of members of its own Caucus who ask that Congress step up to the plate and pass meaningful immigration enforcement legislation.

Only this week, freshman Democrat Heath Shuler introduced his bipartisan immigration law enforcement legislation with the support of 44 of his Democratic colleagues and 40 Republicans. The Shuler bill contains no mass amnesty. And in fact, the Shuler bill—Mr. Shuler has said about his bill that he would oppose his own bill should an amnesty ever be attached. What the bill does contain are a number of significant provisions to end the job magnet that draws most illegal aliens to this country.

I would point out the definition of amnesty. To grant amnesty is to pardon immigration law breakers and reward them with the objective of their crime. The Shuler bill sends an important message that some Democrats are now joining Republicans in calling for serious immigration law enforcement.

And yet we are heeding this hearing today on mass amnesty legislation, mass amnesty legislation that doesn't even pretend to address the job magnet for illegal aliens. I can only assume that the House Democratic leadership has not yet heard the message that Mr. Shuler and his Democratic colleagues have sent.

I haven't even mentioned all of the other objectionable provisions in H.R. 750. The bill dramatically increases legal immigration, which is contrary to the wishes of the vast majority of the American people. The bill perversely makes it much easier for criminal aliens to avoid deportation. It actually puts up roadblocks in the way of effective immigration law enforcement, such as empowering—such as by empowering sanctuary cities.

I again want to express my disappointment with today's hearing. I would urge instead that the Chair consider holding a hearing on Mr. Shuler's bill at the earliest opportunity, followed by a markup. There are 80 cosponsors there. I don't believe there are anywheres near that many cosponsors on this bill. In fact, it is 22 cosponsors on this bill.

So with that encouragement, Madam Chair, I would yield back the balance of my time. I look forward to the testimony of the witnesses and thank them for being here.

Ms. LOFGREN. The gentleman yields back and we will reserve.

If the Ranking Member of the full Committee and the Chairman of the full Committee come, we will of course hear their statements at that time. Other Members are asked to submit their statements for the record.

We have two distinguished panels of witnesses here today to help us consider the important issues before us.

Seated at our first panel are our colleagues. It is my pleasure to introduce our friend and colleague, Congresswoman Carolyn Cheeks Kilpatrick, born and raised in Detroit, MI. Congresswoman Kilpatrick has represented her hometown in Congress since 1997. She is a leader on the Appropriations Committee and she was unanimously elected to chair the Congressional Black Caucus earlier this year.

Next, I am pleased to welcome my fellow Californian, Congresswoman Barbara Lee. Congresswoman Lee has served the people of the Ninth District since 1998, and she currently serves also on the Appropriations Committee. Born in El Paso, we know her as the first Vice Chair of the Congressional Black Caucus, a senior Democratic whip, and co-chair of the Progressive Caucus.

Next, we have Congressman Silvestre Reyes who has served in the House for 11 years as a Representative from the Texas 16th District. He began his career with the U.S. Immigration and Naturalization Service and the U.S. Border Patrol. He started as a Border Patrol agent, later rose through the ranks of immigration inspector, instructor at the Border Patrol Academy, and assistant regional Border Patrol commissioner, and, of course, now serves as Chair of our Intelligence Committee.

Finally, I am pleased to welcome Congresswoman Nancy Boyda, serving her first term in Congress as the Representative of Kansas' Second District. Congresswoman Boyda grew up in Marshall County, Kansas and served with distinction in the U.S. Marine Corps. She serves on the Committees of Agriculture and Armed Services, and it is a real pleasure to serve with her in Congress as well. So we look forward.

As you know, your full statements will be admitted into the record. We are advised that we have votes at around 11. So we will look forward to your testimony orally of about 5 minutes, beginning with you, Congresswoman Kilpatrick.

**TESTIMONY OF THE HONORABLE CAROLYN CHEEKS KILPATRICK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN**

Ms. KILPATRICK. Thank you, Madam Chair, and for your hard work and the work of the Committee who have held several hearings on immigration in general, and comprehensive immigration in some regards.

I want to thank our colleague, Sheila Jackson Lee, who co-chairs our task force for the Congressional Black Caucus, 43 Members from 21 States who represent over 40 million Americans; 18 of our members have less than 50 percent African Americans; 5 of our members have less than 15% African Americans. So we represent the conglomerate: Asian Americans, African Americans, European Americans, Native Americans, Latino Americans, and the like.

We are here today to put our statement in the record and our principles. And we choose to call the glass half full legal access to immigration. And that is what we want, legal access to immigration.

I represent the largest port in North America in the northern part of our country. My city, the City of Detroit, borders an international crossing with Canada, one of our friendly partners. So I as a member and Chair of this Congressional Black Caucus, as well as all of our members and many Members of Congress, want legal access to immigration in a comprehensive way.

I would like to put on the record—and my full statement in the record—the principles of the Congressional Black Caucus. We want earned access to lawful, permanent resident status for persons currently in the United States. Earned access.

We want to assure education, job training, nondiscriminatory employment, and livable wages for all legal workers; immigration regulations that will increase diverse immigration among historically underrepresented regions such as the Caribbean and Africa; a strong border security and comprehensive immigration reform.

We know that much work has been done. That when we get through with this, we hope we will attack and have a good policy for legal immigration; that people must earn their status, must file the papers, must do the proper procedures before they become current citizens of our country. We are not asking for a mass illegal immigration of anyone. We want to work with you.

We intend to do that forthwith, and thank you for the opportunity to come before you today.

Ms. LOFGREN. Thank you, Congresswoman.

[The prepared statement of Ms. Kilpatrick follows:]

PREPARED STATEMENT OF THE HONORABLE CAROLYN CHEEKS KILPATRICK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Madame Chair, Members of the Immigration Subcommittee, and my colleagues:

Giving thanks to God, who is the guide of my life, I welcome you on behalf of the 43 Members of the Congressional Black Caucus or CBC. Next year, I will celebrate three decades of public service to the people of the great State of Michigan and of the United States of America. One of the key issues that face all Americans today is that of immigration. It is my hope that the Committee analyzes H.R. 750, the Save America Comprehensive Immigration Act of 2007, as a bill worthy of serious consideration if we are going to move forward with immigration reform. I want to thank all of the Members of both this subcommittee and the full committee. However, I once again, want to commend the gentlelady from Texas, Congresswoman Sheila Jackson Lee, for her hard work, her diligence, and her dedication and that of her staff in drafting H.R. 750 and for her continued effort in helping to educate the CBC on this issue.

The Congressional Black Caucus has issued four guiding fundamental principles as Congress tackles immigration reform:

- Earned access to lawful permanent resident status for persons currently in the United States;
- Assure education, job training, non-discriminatory employment and livable wages for all legal workers;
- Immigration regulations that will increase diverse immigration from historically underrepresented regions, such as the Caribbean and Africa; and
- Strong border security and comprehensive immigration reform.

H.R. 750 contains all of these provisions, and much more. This bill ensures that families of immigrants will be allowed to stay together. It tackles the challenge of human trafficking in its establishment of a task force to rescue immigrant victims of American Sex offenders. It helps immigrants, who want to come to American lawfully, who are victims of document fraud and unscrupulous lawyers. It strengthens our border patrol system, provides more pay for Border Patrol Agents, and speeds up deportation proceedings against those who have been found guilty of breaking American laws. And, finally, it changes the complexion of the issue of the immigration of Haitian Refugees to ensure that the children and families of Haitian immigrants can remain whole. When we think "immigration," we don't think about the hundreds of thousands of individuals who cross into my home city of Detroit, Michigan, home to the largest port in North America. When we think "immigration, we don't consider those hundreds of thousands of families who want to become American citizens from the land that is the origin of all of us, Africa. When we think "immigration," we don't remember the fact that the fabric that makes up the blanket of America is made of human beings who represent all of God's children.

Most importantly, H.R. 750 gives our nation, and other citizens of the world, hope. H.R. 750 re-establishes part of the inscription that is at the base of the Statue of Liberty:

"Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tossed to me,
I lift my lamp beside the golden door!"

H.R. 750 lifts the lamp of freedom, of justice, of fairness and of equality to those who sometimes risk their very lives to become nothing more than hard-working, tax

paying American citizens. It ensures that jobs and job training for Americans will not be eroded. In summary, this bill meets all of the dynamics and recommendations of the Congressional Black Caucus.

Among other things, according to the Congressional Research Service, this bill will:

Direct the Secretary of State to establish a Board of Family-based Visa Appeals within the Department of State.

Authorizes the Secretary of Homeland Security (Secretary) to deny a family-based immigration petition by a U.S. petitioner for an alien spouse or child if: (1) the petitioner is on the national sex offender registry for a conviction that resulted in more than one year's imprisonment; (2) the petitioner has failed to rebut such information within 90 days; and (3) granting the petition would put a spouse or child beneficiary in danger of sexual abuse.

Direct the Secretary to establish the Task Force to Rescue Immigrant Victims of American Sex Offenders.

Authorizes the Secretary to adjust the status of aliens who would otherwise be inadmissible (due to unlawful presence, document fraud, or other specified grounds of inadmissibility) if such aliens have been in the United States for at least five years and meet other requirements.

Authorizes the emergency deployment of Border Patrol agents to a requesting border state.

Sets forth provisions for Border Patrol acquisition and use of specified equipment.

Direct the Secretary to: (1) provide for additional detention space for illegal aliens; (2) increase Border Patrol agents, airport and land border immigration inspectors, immigration enforcement officers, and fraud and document fraud investigators; (3) enhance Border Patrol training and operational facilities; (4) establish immigration, customs, and agriculture inspector occupations within the Bureau of Customs and Border Protection; (5) reestablish the Border Patrol anti-smuggling unit; (6) establish criminal investigator occupations within the Department of Homeland Security (DHS); (7) increase Border Patrol agent and investigator pay; (8) require foreign language training for appropriate DHS employees; and (9) establish the Fraudulent Documents Task Force.

Redefines the term "law enforcement officer" under provisions of the Federal Employees Retirement System (FERS) and the Civil Service Retirement System (CSRS) to include: (1) federal employees not otherwise covered by such term whose duties include the investigation or apprehension of suspected or convicted individuals and who are authorized to carry a firearm; and (2) Internal Revenue Service (IRS) employees whose duties are primarily the collection of delinquent taxes and the securing of delinquent returns.

Authorizes S (witness or informant) nonimmigrant status for aliens in possession of critical reliable information concerning commercial alien smuggling or trafficking in immigration documents.

Establishes a reward program to assist in eliminating immigration-related commercial document fraud operations.

Sets forth unfair immigration-related employment practices.

Requires petitioners for nonimmigrant labor to describe their efforts to recruit lawful permanent residents or U.S. citizens.

Makes permanent an INA provision allowing adjustment of status of certain aliens for whom family-sponsored or employment-based applications or petitions were filed by a specified date.

Lessens immigration consequences for minor criminal offenses. Eliminates retroactive changes in grounds of inadmissibility and removal.

Amends criminal offense removal-related provisions.

Increases the worldwide level of diversity immigrants.

Authorizes adjustment of status for certain nationals or citizens of Haiti.

Eliminates mandatory detention in expedited removal proceedings.

Amends the Haitian Refugee Immigration Fairness Act of 1998 to: (1) waive document fraud as a ground of inadmissibility; and (2) address determinations with respect to children.

Eliminates the one-year filing requirement for asylum applicants. Includes gender persecution within the particular social group category of persecution.

Provides for the permanent resident status adjustment of certain temporary protected status persons.

Amends the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to eliminate a provision prohibiting restrictions on the communication of immigration status information by a government entity.

Replaces the existing fashion model H-1B visa classification with an O-visa classification.

As elected officials, we can worry about our next elections, or we can worry about the next generation. The Congressional Black Caucus has historically chosen the path least taken and the road less traveled as we continue to be the conscience of the Congress. If we do not tackle the challenge of immigration now, it will be something that will haunt my children, our children, and my five grandsons, our grandsons, for a generation to come. This not only affects our families, but it affects the safety and security of our nation, and the businesses of our country. This is too important a matter to allow to lie dormant.

In summary, I applaud the Committee for continuing to focus on this matter. If Congress does not tackle this matter, we will have abdicated our responsibility to the many states, cities and counties of this nation. You cannot pick up a newspaper with another new, often politically expedient and sometimes draconian measure that has been passed regarding immigration.

H.R. 750, the Save America Comprehensive Immigration Act, while not perfect, is a step in the right direction regarding immigration reform. It will help bring the more than 12 million undocumented immigrants out of the shadows of our economy because it creates a clear path to lawful residency for those willing to pay fines and demonstrate a commitment to America and becoming Americans. It protects our nation by strengthening our Border Patrol agents and speeds up the lawful immigration process. It eliminates the onerous backlogs in our family immigration system. It ensures that due process of the law and protects legal immigrants from fraudulent lawyers and unscrupulous operators. It changes the dynamic of immigration to include the issues of Northern border states and the unique challenges of Caribbean and African immigrants. It protects the jobs and job training opportunities of hard working, tax paying Americans. It is a common-sense bill that, based upon its merits, deserves complete, comprehensive and fair consideration by all Members of Congress.

I thank the Committee for inviting me to this most important hearing, and for its time.

Ms. LOFGREN. Next we turn to our friend, Barbara Lee.

## TESTIMONY OF THE HONORABLE BARBARA LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. LEE. Thank you very much. Let me also thank you, Madam Chair, for your leadership and for really conducting the hearings and an agenda on immigration reform that has been very thorough and very comprehensive. And thank you, Congresswoman Jackson Lee, for oftentimes being the voice in the wilderness on immigration reform and why we cannot allow immigration policy, immigration reform, to become a wedge issue. And thank you for your legislation and for your leadership.

Let me commend this esteemed panel. We all have different points of views on immigration, but I think everyone agrees that our Nation—we understand that our Nation is a Nation of immigrants and that immigration really is an issue of family values, opportunity, and it is a core issue of civil rights.

My view, of course, is shaped by my own personal history. I grew up in El Paso, Texas, which is represented by my colleague, Congressman Silvestre Reyes, who is doing a phenomenal job not only for his congressional district but for my home city, and I consider

him my Congressman. So I attended school in El Paso, Texas and got to know the immigrant community in a very intimate way because of my upbringing, and understand very clearly that immigrants have contributed immeasurably to American ingenuity and innovation and to our economy. So even though we have different histories, all of us, and exposure to immigrants and their contributions, we all should be able to agree that the current system of immigration is not meeting the current needs and that we do need to move forward on comprehensive immigration reform.

Now, as the co-chair of the Congressional Progressive Caucus, I am proud to share that that caucus has outlined a series of principles to sum up our position on immigration and immigration reform. Simply put, we must have a fair and equitable immigration policy that provides a well-defined and time-bound path to permanent residency and citizenship, and I would like to ask these principles to also be included in the record.

Ms. LOFGREN. Without objection, they will be.

[The information referred to is available in the Appendix.]

Ms. LEE. Let me just summarize what some of these principles are, because I want to make sure it is very clear that we are talking about:

A clear and legal and earned access as the path to permanent residency and citizenship for all of the millions of undocumented workers and their immediate families.

A policy that works to unite families and not to separate children from their parents.

A system that is timely and straightforward without charging excess fees or fines that are out of reach for immigrant families.

The ability of children to pursue an education and have access to student loans and in-State tuition.

A system that minimizes mandatory and indefinite detention of noncitizens and safeguards the universal human rights of every person.

A plan that provides for equitable and nondiscriminatory enforcement of laws, that does not make first responders like firemen and -women and police into immigration agents. We want to encourage employers—for employers to citizens and legal residents first, but does not make them into immigration officers either.

And a strong, of course, and sensible border security plan. We all agree border security must be essential and central to any immigration policy to ensure the safety of our country.

Also we heard from our esteemed Chair of the Congressional Black Caucus, which I am honored to serve as Vice Chair, and the principles which the Congressional Black Caucus has put forth does quite a bit to make certain, first of all, that immigrants do not become—or immigration does not become a wedge issue.

And I want to thank the Congressional Black Caucus because it recognizes the importance of job training, education, and jobs for American workers in its principles.

Congresswoman Jackson Lee, your bill, H.R. 750, the "Save America Comprehensive Immigration Act of 2007," really does move us forward in terms of strengthening the focus on family reunification and also making sure that we increase the level of diversity of immigrants worldwide, which is very important.

Oftentimes we forget that there are immigrants from Haiti and Liberia, which have been treated unfairly in our immigration policy. So your legislation does put us forward—makes a major step forward to make sure that our immigration policy is not discriminatory and that it is fair.

So, Madam Chair, I am here today to urge this Subcommittee to provide, really, the support for a morally correct, tough, comprehensive immigration plan and to consider Congresswoman Jackson Lee's bill in a way that all of us have, because we think it is an excellent bill and we appreciate the opportunity to provide some input and share our principles with you. And thank you again for your leadership.

Ms. LOFGREN. Thank you, Congresswoman.

[The prepared statement of Ms. Lee follows:]

PREPARED STATEMENT OF THE HONORABLE BARBARA LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Thank you, Chairwoman Lofgren for holding this important hearing today. And let me thank my colleague Congresswoman Sheila Jackson Lee for inviting me to join this accomplished panel to share our perspectives on immigration.

Also, thank you for your strong leadership and unwavering commitment to one of the most important issues facing America today: ensuring that our immigration system works.

Even though America is a nation of immigrants, we may have different views of what immigration means to America. To me, immigration is an issue of family values, opportunity, and at it's core, an issue of civil rights.

My view is shaped by my personal history. I grew up in an El Paso border town and lived and learned in a community of immigrants. I attended college and university in and now am lucky enough to represent another community of immigrants, the Ninth District of California.

I have always known and valued the contributions of immigrant communities. I know that immigrants have contributed immeasurably to American ingenuity, innovation, and the economy.

Still, I understand that we may have different histories and exposure to immigrants and their contributions to our nation. We may have different views on what immigration means to America's future. But what we can all agree on is that the current system of immigration is not meeting the current needs.

As the Co-Chair of the Congressional Progressive Caucus, I'm proud to share that the Caucus has outlined a series of principles to sum up our position on immigration and immigration reform. Simply put, we must have a fair and equitable immigration policy that provides a well defined and time bound path way to permanent residency and citizenship.

More specifically, the Progressive Caucus believes that comprehensive immigration reform must include:

- a clear legal path to permanent residency and citizenship for all the millions of undocumented workers and their immediate families;
- A policy that works to unite families and not to separate children from their parents;
- a system that is timely and straightforward without charging excessive fees or fines that are out of the reach for immigrant families;
- the ability for children to pursue an education, and have access to student loans and in-state tuition;
- a system that minimizes mandatory and indefinite detention of non-citizens and safeguards the Universal Human Rights of every person;
- a plan that provides for the equitable and non-discriminatory enforcement of laws that does not make first responders like firemen and police into immigration agents;
- encouragement for employers to hire citizens and legal residents first, but does not make them into immigration officers either;
- a strong and sensible border security plan to ensure the safety of our country

In the same vein, I'm a pleased to share the perspective of the Congressional Black Caucus for which I'm honored to serve as Vice-Chair under the leadership of our friend and colleague Congresswoman Kilpatrick.

The CBC's immigration reform goals also include a call for a pathway for earned access to citizenship that focuses on the reunification of families and provides a pathway for permanency for every immigrant in America.

The Congressional Black caucus also understands that we must not allow outdated policies to unfairly discriminate between immigrants from one part of the world from another.

This is why I am pleased that you, Chairwoman Jackson Lee have introduced, H.R. 750, the Save America Comprehensive Immigration Act of 2007. H.R. 750 provides a platform to move America forward by providing a new framework to acknowledge the cultural and economic benefit that immigration provides for all Americans.

This bill will strengthen the focus on family reunification, provide the flexibility for the Department of Homeland Security to make status adjustments for immigrants who have been in the US for at least 5 years. It will also increase the level of diversity immigrants worldwide and fixes the unfair provisions that apply to citizens of Haiti and Liberia. In short this legislation represents an important step forward towards bringing our immigration policy into the 21st century.

We have all heard the fear-mongering from some parts and the bottom line is that we must stop playing politics with immigration. We must focus on legislation that will get this country headed in a direction that will make sense for everyone.

Madam Chair, I am here today to urge this committee to support a fair and moral comprehensive immigration plan and to support an end to the attacks on hard-working, law-abiding members of our immigrant community, our American community.

Again Congresswoman Jackson Lee thank you for your leadership and your vision on this issue and I look forward to working with you as we craft a solution to this important challenge

Ms. LOFGREN. Mr. Chairman.

## TESTIMONY OF THE HONORABLE SILVESTRE REYES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. REYES. Thank you, Madam Chairwoman. I want to thank you and the Ranking Member for holding this very important hearing this morning. Special thanks from me to my fellow Texan, Sheila Jackson Lee, both for inviting me to speak to your Committee this morning and, most importantly, for being a champion in working on the three and very important aspects of comprehensive immigration reform.

As most of you know, before coming to Congress, I served for 26-1/2 years in the U.S. Border Patrol where I began as an agent and was fortunate enough to work my way through the ranks and be chief for the last 13 years, at two different locations. I think I am the only Member of the Congress with a background in border enforcement. So I have firsthand knowledge of what we need to do in order to reduce illegal immigration while keeping our borders and the Nation safe.

This, I want to be clear, is a national security issue. Right now we have an underground world of, take your pick, from 9 to 12—I just heard Ranking Member King talk about 20 million—so somewhere in that range we have a world of people living in our own country who are those that would want to hurt our communities, can move around freely. So, to me comprehensive immigration reform makes sense. It is a national security issue.

During my tenure, I not only oversaw long stretches of terrain between the ports of entry, but for 4 years I also worked the international bridges. I have a broad understanding of what it takes in order to secure the many components of our Nation's borders.

With that, Madam Chairwoman, I am going to applaud your efforts to keep comprehensive immigration reform at the forefront of our discussions here in Congress. I have always said that we needed a comprehensive immigration reform plan with three main components: number one, strengthen border security; number two, earned legalization for those who qualify; and, three, a guest-worker program with tough employer sanctions and provisions.

Comprehensive reform for me is like a three-legged stool. Without one leg, the stool topples over. Our Nation's current immigration system is broken, and, as I think a lot of us recognize, is in desperate need of repair. For the past few years, Congress and the Administration have been very concerned with cracking down on illegal immigration and have focused much of their energy on security and the security-only concept in legislation. While I will certainly agree that we need to focus on assuring everyone that enters our country enters legally, we must also remember not to put all of our attention and resources into one particular agency or one leg of the stool.

While I do not this morning have enough time to address each of the legs that I feel are equally important, I would like to comment on one border security aspect which is, I think, very prominent not just around the country, but certainly in a district like mine. I represent a border district. While the number of United States Border Patrol agents has risen dramatically, the other agencies that assist in the security effort, sometimes with equal importance, have often been neglected.

When the average person thinks about the men and women overseeing our Nation's borders, the first group, and understandably so, that comes to our minds are the men and women that serve us proudly wearing that green uniform of the Border Patrol. However, people often forget about the men and women in blue, the customs and border protection officers who, for instance, like in my district, saw more than 28.5 million individuals traveling by car or truck, this fiscal year alone, into our country through our international bridges.

Our international bridges are suffering because attention has not been placed on them as a top priority. Over the last several months, constituents in my district and across the Nation have faced the increased wait times, and recent reports state that times have escalated upwards from 2 to 3 hours. This problem must be stopped and help directed in order to keep security high, while at the same time allowing the free flow of trade, commerce, and the everyday interchange between communities at the border region. I might add that applies not just to the U.S.-Mexico border but the U.S.-Canada border as well.

I would also at this point take a moment and talk specifically to a section in my colleague Ms. Jackson Lee's bill H.R. 750, which is the Save America Comprehensive Immigration Act. Section 639 would increase the number of inspectors at our land and ports of entry. And while I applaud the 1,000 additional officers as a much-needed increase, we simply need to do more.

In El Paso alone, in my district, we have four international bridges that are in need of a total of more than 150 additional CBP

officers just to maintain the already authorized on-duty force. That doesn't include expansion, just the on-duty force.

We must continue to look at the current state of our Nation's ports of entry and commit to properly funding staffing levels which would be adequate enough to provide security for our Nation. Being understaffed and underfunded simply in today's world, with the challenges that we face as a Nation, is unacceptable.

We must also remember all the agencies that have a role in securing the border along with the Border Patrol. We must increase the number of United States attorneys, immigration and customs enforcement inspectors, immigration judges, Federal judges, U.S. marshals, as well as Bureau of Prisons personnel.

Immigration reform must continue to move forward and we must take, in my opinion, a holistic approach to ensure that we encompass all relevant agencies. They are all important in this process, just like a comprehensive approach.

So I appreciate, Madam Chairwoman, the opportunity to testify this morning. And I look forward to continuing to work, certainly with my colleague from Texas, but from every Member of this Committee as you do very important work for our country. Thank you.

Ms. LOFGREN. Thank you very much.

[The prepared statement of Mr. Reyes follows:]

PREPARED STATEMENT OF THE HONORABLE SILVESTRE REYES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

I would like to begin by thanking Chairwoman Zoe Lofgren and Ranking Member Steve King for holding this very important hearing today. Special thanks to my fellow Texan, Representative Sheila Jackson Lee, for inviting me to testify on an issue very familiar to me.

As most of you know, before coming to Congress, I served for 26 1/2 years in the U.S. Border Patrol where I began as an agent and was fortunate enough to be chief in two different locations for the last thirteen of those years. As the only Member of Congress with a background in border enforcement, I have first-hand knowledge of what we need to do in order to reduce illegal immigration while keeping our borders and the nation safe.

During my tenure, I not only oversaw long stretches of terrain between the ports of entry, but for four years, I also worked at the international bridges. I have a broad understanding of what it takes in order to secure the many components our nation's borders.

Madame Chairwoman, I applaud your efforts to keep comprehensive immigration reform at the forefront of discussion. I have always said that we need a comprehensive immigration reform plan with three main components: strengthened border security; earned legalization for those who qualify; and a guest worker program with tough employer sanctions. Comprehensive reform is like a three-legged stool. Without one leg, the stool topples.

Our nation's current immigration system is broken and is in desperate need of repair. For the past few years, Congress and the Administration have been very concerned with cracking down on illegal immigration and have focused much of their energy on security-only legislation. While I certainly agree that we need to focus on assuring everyone enters our country legally, we must also remember not to put all of our attention and resources on one particular agency or leg of the stool.

While I do not have enough time to talk to each leg of the stool, I would like to comment on the border security aspect which is very prominent in my district of El Paso, Texas. While the number of United States Border Patrol agents has risen dramatically, the other agencies that assist in the security effort have been neglected. When the average person thinks about the men and women overseeing our nation's borders the first group that comes to mind is the men and women in green. People often forget about the men and women in blue, the Customs and Border Protection Officers (CBOs), those who, for instance in my district, saw more than 28.5 million individuals traveling by car over this past fiscal year alone.

Our international bridges are suffering because attention has not been placed on them. Over the last several months, constituents in my district and across the na-

tion have faced increased wait times, and recent reports state that times have escalated upwards from two to three hours. This problem must be stopped and help must be directed in order to keep security high while allowing for the free flow of trade and commerce.

I would like to take a moment and talk specifically to a section in Ms. Jackson Lee's bill, H.R. 750, the Save America Comprehensive Immigration Act. Section 639 would increase the number of inspectors at our air and land ports of entry. While 1,000 additional officers is an increase, we need to do more. In El Paso alone, four international bridges are in need of a total of more than 150 Custom and Border Protection Officers. We must look at the current state of our nation's ports of entry and commit to properly funding staffing levels adequate enough to provide security for our nation. Being understaffed and underfunded is unacceptable.

We must also remember all the agencies securing the border along with Border Patrol. We must increase the number of United States Attorneys, Immigration and Customs Enforcement inspectors, immigration judges, federal judges, U.S. Marshals, as well as Bureau of Prison personnel.

Immigration reform must continue to move forward, and we must take a holistic approach to ensure we encompass all relevant agencies. I appreciate the opportunity to testify this morning, and I look forward to working on this important mission together. Thank you for giving me time to testify, and I would be happy to answer any questions you might have.

Ms. LOFGREN. And our last witness is our colleague, Congresswoman Boyda.

**TESTIMONY OF THE HONORABLE NANCY E. BOYDA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS**

Mrs. BOYDA. Madam Chairwoman and Ranking Member King, and thanks to Barbara Jackson Lee as well, for having the discussion, at least on this issue.

Thanks for inviting me to testify on this critical issue of immigration. We are at a crisis. The lack of enforcement of our immigration laws has in fact led to increased illegal immigration. Quite honestly, this is simply unacceptable to the people of the Second District of Kansas. And I agree, like you, that it is time, it is actually past time that we find real solutions to the problem.

In addition to my concerns about what has become a flood of illegal immigrants, I am concerned about where the immigration conversation is going in our country. We are losing control not only of our borders, but we are also losing control of the conversation on illegal immigration and how to fix the problem. The longer we delay action, the worse the problem gets and the worse the rhetoric gets. At this time we are still able to have a conversation that discusses how we can move forward to secure our borders, to verify unemployment, and to enforce our laws. My fear is if we do not address this immigration crisis soon, that we will no longer be able to have a conversation about how we fix the problem; instead, we may end up in a yelling match with heated rhetoric against immigration and immigrants.

That is not what our country is about. It would be—could be a conversation truly about hatred. This is not a conversation that represents America at its finest, and it is a not a conversation that we need to have. Again, I agree with this Committee that it is time, it is past time, that we find solutions.

I believe that there are three steps to stopping the flow of illegal immigrants. We have to secure our borders. But we must require that employers verify employment eligibility and we must enforce our immigration laws. Congress must and can demonstrate to the American people that we are willing and able to protect our Na-

tion's borders. We are a Nation of laws and they must be enforced. Those violating laws cannot be rewarded. Enforcement of immigration laws would substantially reduce illegal immigration and greatly increase border security.

This is why I have serious concerns about some of the provisions of H.R. 750, the "Save America Comprehensive Immigration Act of 2007." I believe that several provisions actually reward people who have broken our laws, and all that does is encourage more to do the same.

I believe that the three steps to stopping the flow of illegal immigrants—securing our borders, requiring employers to verify employment eligibility, and to enforce immigration laws—are the answer. Congress can and must demonstrate to the American people that we are willing and able to control our borders.

To that end, H.R. 750 has worthwhile provisions. It increases, as Mr. Reyes has said, it increases the number of Border Patrol agents by significant numbers, and it contains much-needed provisions to retain those agents with loan repayments, easement of the regulations on recruitment and retention, and the repeal of the DHS human resources management system which has been the cause of much of the career disaster that has happened to this vital agency lately.

H.R. 750 also pays particular attention to addressing concerns about sex offenders already abusing our dysfunctional immigration system. For that I congratulate you and say thank you.

We are at a turning point. The longer that we delay action, the more the rhetoric I am concerned will get out of hand. If that happens, our ability to come together to solve this problem will in fact get farther and farther away. The solution is clear: Secure our borders, eliminate the job magnet, and enforce our laws.

Madam Chairwoman, I yield back. Thank you so much for allowing me to testify.

[The prepared statement of Ms. Boyda follows:]

PREPARED STATEMENT OF THE HONORABLE NANCY E. BOYDA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Madam Chair, and fellow Members, thank you for inviting me to testify on the critical issue of immigration.

We are at a crisis. The lack of enforcement of our immigration laws has led to increased illegal immigration. This is unacceptable to the people of the Second District of Kansas.

In addition to my concerns about the flood of illegal immigrants, I am concerned about where the immigration conversation is going in our country. We are losing control, not only of our borders, but also of the conversation on illegal immigration and how to fix the problem. The longer we delay action, the worse the rhetoric is going to get. At this time we are able to have a conversation that discusses how we move forward securing our borders, verifying employment and enforcing our laws. If we do not address the immigration crisis soon, we will no longer be able to have a conversation about how we fix the problem—it will instead be a yelling match with heated rhetoric against immigrants and immigration. That would be a conversation about hatred. That is not a conversation that represents America at its finest and it is not a conversation that we need to have.

I believe that there are three steps to stopping the flow of illegal immigrants—secure our borders, require employers to verify employment eligibility and enforce immigration laws. Congress can and must demonstrate to the American people that we are willing and able to protect our nation's borders.

We are a nation of laws—and they must be enforced. Those violating these laws cannot be rewarded. Enforcement of immigration laws would substantially reduce illegal immigration and greatly increase border security. This is why I have serious

concerns about some of the provisions of H.R. 750, the Save America Comprehensive Immigration Act of 2007. I believe that several provisions reward those who have broken our laws. And all that does is encourage others to do the same.

I believe that there are three steps to stopping the flow of illegal immigrants—secure our borders, require employers to verify employment eligibility and enforce immigration laws.

Congress can and must demonstrate to the American people that we are willing and able to control our nation's borders. To that end, H.R. 750 has some worthwhile provisions. It increases the number of border patrol agents by significant numbers and it contains much needed provisions to retain those agents with loan repayments, easing of the regulations on recruitment and retention bonuses, and the repeal of the DHS Human Resources Management System which has been the cause of much of the career dissatisfaction in this vitally important agency.

H.R. 750 also pays particular attention to addressing concerns about sex offenders abusing our already dysfunctional immigration system.

We are at a turning point, the longer we delay action, the more the rhetoric will get out of hand. If that happens, we will not be able to solve this problem.

The solution is clear—secure our borders, eliminate the jobs magnet and enforce our laws.

Ms. LOFGREN. Thank you very much for your testimony and thanks to all of you for your testimony. We note that Congresswoman Kilpatrick has had a conflict and has had to leave the hearing, So if we have questions for her, we will submit them to her in writing. And we will now go to our questions for our colleagues. And I will turn first to the Ranking Member, Mr. King, to begin.

Mr. KING. Thank you, Madam Chair. I do want to thank all the witnesses. And certain things have raised my curiosity.

I will go first to the gentleman, Mr. Reyes. And as you spoke to this, I will say that I agree with you, we need to enhance our ability at a lot of the ports of entry. I see traffic backed up for hours and miles. And I would say widen that, add to the personnel, be more effective and efficient on screening those that come in. That would be my view.

But I would ask you, you have read this bill; and do you then support H.R. 750?

Mr. REYES. I do support it. I will tell you that we need to do more. I think it is a good starting point. I think that there are sections that we do need to look at and expand. I think we——

Mr. KING. Are there sections you disagree with?

Mr. REYES. Well, in the concept of comprehensive immigration reform, I haven't seen, at least from my viewpoint, a process that takes into account all three different areas, which are border enforcement, the legalization process for those that have earned it, and, most importantly, a guest-worker program with employer sanctions, provisions, because I think that is——

Mr. KING. Excuse me. Those sections that diminish the standards that—let's see—that allow people to have a path to an LPR and citizenship, that may have served less than a year to a sentence, those kind of things that lower our standards to identify those people who are criminals, is that a part of concern to you?

Mr. REYES. Of course. Those are all—that is why I say I have not seen a piece of legislation that I completely agree with, including this bill. But it is important that through these hearing processes that we have—that we honor the process that gets us to a position of compromise that takes into, in my opinion, those three different areas.

Mr. KING. Thank you, Mr. Reyes.

And I turn to Ms. Lee. And as I listened to your testimony, I see this word "immigrants" come up, but I never see a reference there to illegal immigrants or illegal aliens. Do you in your mind draw a distinction between illegal aliens and immigrants? Because a lot of immigrants out there that came through the legal process don't really want to be marked with the commingling of that concept by the illegal aliens who didn't come through the process.

Ms. LEE. Well, sir, first, "aliens" is an alien term to me. These are——

Mr. KING. Let's go with illegal immigrants then.

Ms. LEE. Illegal immigrant workers, primarily. And there is a distinction between those who have come through the legalization process and those who haven't.

Mr. KING. In your testimony when you refer to immigrants, then——

Ms. LOFGREN. I ask the Ranking Member to show enough courtesy to allow the witnesses to answer.

Ms. LEE. And in my testimony, I believe—I generally refer to those coming here illegally as undocumented workers; primarily they are coming here to work. And I believe that as part of comprehensive immigration reform, we have to have an earned access and earned pathway to citizenship. I believe the bureaucracy—oftentimes there is a lot of red tape, first of all. And I think that people should be able to become citizens as quickly as possible.

Border security is very important. We heard Silvestre Reyes talk about and this has got to be a comprehensive approach.

Mr. KING. Hopefully I have shown adequate courtesy. But I don't think I understand the distinction, then, when you refer to the word "immigrant" in your testimony, which group you might be referring to if there is a distinction.

Ms. LEE. In terms of what? What are you talking about? In terms of—those that we are talking about, that I am talking about who should be allowed to become citizens are undocumented. And my position is, like that of the Progressive Caucus, that there should be earned access to legalization. And those are the individuals that we hope we can come up with a policy to allow this to take place. Of course, within whatever laws we come up with, with whatever time frames we come up with, and with whatever criteria we come up with.

Mr. KING. And I ask the gentlelady—and still it is not clear to me what you mean when you say "immigrants." I do think it is in the blood. I take you back to, if I might ask my question, I take you back to the term "undocumented" then. And I ask you that when you refer to undocumented immigrants, do you—and I want to make sure this panel understands that most of them are documented, it is just that they have a lot of counterfeit documents. So when we use the term "undocumented," it is hard to understand by using Noah's dictionary what we really mean by that. And what do you mean?

Ms. LEE. I mean—when I talk about undocumented immigrants, I am talking about those immigrants who have come to this country without the legal documents that are required by law, that come here to work, primarily in the farm, in the agricultural fields.

They come to work, as we know, primarily in a lot of the service industries, and without legal documents.

And what I am saying, I think you understand, I hope the Committee understands, that it is these individuals, those individuals that we believe should have the earned access to legalization in a way that makes sense, that is within the jurisdiction of the laws that we pass here, and it has got to be comprehensive.

Mr. KING. I would ask unanimous consent to ask one additional question.

Ms. LOFGREN. Without objection, the gentleman has another minute.

Mr. KING. Thank you, Chairwoman. It takes—is this part—I have many other questions, but I do want to focus it to one. And that is, as I read your testimony, Ms. Lee, and as I read through the summaries of the bill presented by Ms. Jackson Lee, I begin to see that this list of people who would be brought in under this bill is a vastly expanded list from anything that we have contemplated in this Congress before, and it takes me clear to the other side of this analysis. I used to analyze this legislation on how many more would be added to the list of those legalized in each of the categories to try to get a sense of the magnitude of the bills that would open up through this guest-worker status, for example. This bill takes me clearly to the other side of that concept, to asking the question who would be excluded?

And I would pose that question to you, Ms. Lee. Who would be excluded under this bill?

Ms. LEE. Well, Mr. King, I am not certain that I could answer that question with regard to who would be excluded. I think the purpose of this bill is very clear in terms of what it states, and I want to—you know, one section of this bill, I think, that is very important for us to understand, which I have to commend Congresswoman Jackson Lee for including, and that is making sure that the immigration laws don't discriminate between immigrants from some countries and immigrants from Haiti and Liberia, for example. That is a very important provision.

You may think that may include additional individuals, but I think that it is important that whatever immigration policy we come up with, that it be fair and that it not discriminate against those from countries such as Haiti or Liberia.

Ms. LOFGREN. The gentleman's extension of time has expired, and I would turn now to the author of the bill, Congresswoman Jackson Lee, for her questions.

Ms. JACKSON LEE. Thank you very much, Madam Chair. And I am delighted with the testimony of all of the witnesses. And let me thank you very much for taking your time to be here and elaborate for us that there is a need for comprehensive immigration reform and that H.R. 750 is a complement to bills like the STRIVE Act and a number of others, including our good friend Heath Shuler.

Let me just put into the record, Madam Chair, I think an important quote that helps me explain my good friend from Iowa's line of questioning. President Kennedy said: The great enemy of truth is very often not the lie, deliberate, contrived and dishonest, but the myth, persistent, persuasive and unrealistic. Beliefs in myths allow the comfort of opinion without the discomfort of thought.

Let me simply indicate aspects of the bill that go to earned access, Mr. Reyes. My bill says that if you are here in the country for 5 years—I think other bills may say 6 years or more—no criminal record. And therefore as you well know, there would be a vetting. You would already be here. You might be a family member. You might have been working. And then once you get in line and have a process, then we even require community service. Some bills don't require that, but you are here in the country for a 5-year period.

The other aspect of the bill provides facilitating for family-based immigration. And I know that many of us have heard of, say, the Philippines, family members here on line for 13, 14 years. I remember going to a hearing with then-Chairman Hyde of the Judiciary Committee when we had a crisis, with lines around the building, the immigration services, before Homeland Security, when people were waiting in line for access to legal immigration. And so I am very proud that in this bill we have that aspect.

And let me quickly, so that I can ask a question, cite as well some of the elements that Mr. Bonner will testify to. But in this question of inspectors, I agree with you. We should amend the bill to include more. But the bill has, of course, helicopters and powerboats controlled by the United States Border Patrol agents. But what it does do—and I think this was taken by the Governor of New Mexico. It was going to have an emergency dispatching to the border of States who call for additional Border Patrol agents at the time, so that if a State declares a crisis, the Federal Government could dispatch immediately and enhance the number of those individuals.

So I would like to pose a question first to Mr. Reyes, Chairman of the Intelligence Committee, without asking for classified information. Is there a benefit to Americans to know who is in the country, to be able to get your hands around, in a documented satisfactory fashion, identifying everybody? Is there a definitive security benefit to Americans to have that—to have that process in place?

Mr. REYES. Absolutely. That was the genesis of my comment that this in fact is a national security issue. This country after 9/11 cannot afford a shadow world of 9 to 12 million people, where those that would be intent on harming us can move about at will. So there is definitely, I think, that is why it cries out for comprehensive immigration reform.

The reality that I think we have to recognize is that we are not going to get those 9 to 12, or, if you use Ranking Member King's estimate of 20 million, you are not going to get people to voluntarily come forward, and we are not going to be able to address it in a timely fashion as we are concerned about the potential for another terroristic threat, terroristic act, here within our own country.

So it is imperative that we look at this from a national security issue. That is why these kinds of hearings are so important.

Ms. JACKSON LEE. Do you think there is a benefit to the provision that if Governors declare a crisis or an emergency in their State, they could appeal to the Federal Government for a dispatching of an additional thousand troops, for example—excuse me, Border Patrol agents, for example, as did New Mexico, where they

did it on their own. And that is a provision in this bill. Is that a viable——

Mr. REYES. Absolutely. As you and I discussed a number of these provisions, I think that kind of flexibility in this legislation is not only a good idea, but post-9/11, imperative that we include it.

Ms. JACKSON LEE. Ms. Lee, thank you very much. And if you would look to—and you don't have to look to section 703. It talks about recruitment of American workers. As you know, the principles of the CBC talks about the economic arm of paralleling comprehensive immigration reform with protecting American workers. And just quickly, it says that in order to get visas for particular positions, you have to have an affidavit that attests that you have tried to recruit American workers and that you have looked for them and that you cannot find them; for example, historically Black colleges.

In addition, it provides a fee for training of American workers. How does that—is that a good focus to ensure the protection of American workers?

I would like to ask Ms. Boyda, just quickly, the idea should we be concerned about American workers even as we look at immigration reform in a different way? And, Madam Chair, I thank you for yielding. If they could answer the questions, I would appreciate it.

Ms. LOFGREN. Without objection, an additional minute is granted. We do have votes pending. So, Ms. Lee, quickly answer.

Ms. LEE. I think that is a very important provision of this bill, which I haven't seen in many of the immigration bills. It is very important for several reasons. But when you look at, especially minority communities in the United States, communities that have high rates of unemployment, oftentimes jobs aren't available, job training, educational efforts—educational initiatives are not available for a lot of historical reasons. And providing this provision in an immigration bill does make it comprehensive because it makes sure that, one, American workers are protected, but it also gives an incentive and gives resources for those communities which have high rates of unemployment to be able to move forward with job training and education and employment opportunities. So I think this is a major, major provision.

And, finally, let me just say it helps reduce the tensions in terms of the immigration debate because America is a country of immigrants. We cannot forget that African Americans have come to this country in chains, have built this country, built this capital. And it is important to recognize the labor, the historical contributions of our country by the African American community, and recognize that in a comprehensive immigration reform bill. So I thank you for including that provision.

Ms. LOFGREN. The gentlelady's time has expired. Ms. Boyda, very quickly, because we have one more Member.

Ms. JACKSON LEE. Does the idea of protecting American workers through legal visas that companies may seek—there is a provision in here that talks about attesting to the fact that you cannot find an American worker.

Mrs. BOYDA. I think, again, in the Second District of Kansas, the biggest issue is how do we enforce when we don't have a way to come back and enforce? We have many, many different proposals

that have been made. The question is constantly, Tell me how you are going to enforce it and then we'll talk.

I think people have been asked to trust so much, that at some point they are just saying I can't trust anymore; show me how you are going to enforce, and then talk to me about how we are going to do everything. I am hoping perhaps the Committee might be able to hear—would hear Heath Shuler's bill at some time as well.

Ms. JACKSON LEE. There is enforcement through an affidavit. And I appreciate your comment on that. Thank you very much.

Mr. Reyes, the idea of ensuring recruitment of American workers to those who want the legal visas so that the community has access to jobs?

Mr. REYES. Absolutely. You know, we have had a number of studies—and I would ask that you allow me to provide those studies for the record—that have essentially indicated that without the labor force in the construction and the agriculture and the service industry that is represented by those that are undocumented, our economy would be in great jeopardy. So I think it makes sense for a guest-worker provision. I think it makes sense that in a comprehensive manner, it would provide us the opportunity to do both guest worker and employer sanctions enforcement.

Ms. LOFGREN. The gentlelady's extension of time has expired. We have had our 10-minute—is that the 5-minute warning? Ten-minute warning. Ten minutes.

I have not had a chance to ask questions. Mr. Gohmert has not had a chance to ask questions. And I think we lose this panel after this vote.

Mr. Gohmert, do you have an abbreviated question? And I will waive and let you ask them instead of me.

Mr. GOHMERT. That is all right. I will wait.

Ms. LOFGREN. We are going to lose the panel.

Mr. GOHMERT. I know we will. I don't want to hold them up.

Ms. LOFGREN. All right. Then that is very gracious of you. And we thank our colleagues for their testimony. We will return right after the vote for our second panel and we thank you for being with us.

As we now have both myself and the Ranking Member here. Hopefully other Members will join us.

We will convene our second panel of distinguished witnesses.

I am pleased to introduce Dr. William Spriggs, a professor and chair of the Economics Department at Howard University. In addition to his scholarship, Dr. Spriggs served for over 15 years as the executive director of the National Urban League's Institute for Opportunity and Equality. He earned his bachelor's degree with honors from Williams College and his doctorate from the University of Wisconsin at Madison.

Next I would like to introduce Gregory Siskind, a partner in the law firm of Siskind Susser & Bland. He has practiced immigration law since 1990 and created visalaw.com, the world's first immigration law firm Web site. He currently edits Siskind's Immigration Bulletin, a newsletter that reaches over 40,000 subscribers each week. He received his bachelor's degree from Vanderbilt University and his law degree from the University of Chicago

It is my pleasure next to welcome Charles Kuck, the president-elect of the American Immigration Lawyers Association and an adjunct law professor at the University of Georgia. Mr. Kuck is a managing partner of the immigration law firm of Kuck Casablanca. And he earned his bachelor's degree from Brigham Young University and his law degree from Arizona State University.

Next, I would like to introduce Christopher Nugent, the senior counsel with the Community Services Team at the law firm of Holland and Knight. Mr. Nugent directs the firm's immigration pro bono work in public policy. He earned his bachelor's degree from Sarah Lawrence College and his law degree from the City University of New York School of Law.

Next, it is my honor to extend our warm welcome to Kim Gandy, the president for the National Organization for Women, NOW. First elected as president in 2001, Ms. Gandy has served NOW at the local, State and national level since 1973. She graduated from Louisiana Tech University and received her law degree from the Loyola University School of Law.

Next I am pleased to welcome T.J. Bonner, president of the National Border Patrol Council of the American Federation of Government Employees, the AFL-CIO affiliate that represents approximately 12,000 nonsupervisory Border Patrol employees. Mr. Bonner has worked as a Border Patrol agent in the San Diego area since 1978, and he has served as the union president since 1989.

And finally I would like to welcome Julie Kirchner, the executive director at FAIR, the Federation for American Immigration Reform. Prior to joining FAIR, Ms. Kirchner worked as counsel at the Minnesota House of Representatives, where she staffed the judiciary and several law committees. She earned her bachelor's degree from Yale University and her law degree with high distinction from the Iowa University School of Law.

Each of you will have your entire written statement made a part of the hearing.

We would ask that your oral testimony consume about 5 minutes. And I think as our counsel has explained, when you use 4 minutes, the little yellow light goes on, and when your time is up, the red light is on, but I don't have a heavy gavel. But since there are many witnesses and we have about an hour until our next vote, I would hope that we could keep within the 5-minute time frame so we can have some time for questions.

So we will begin with you, Dr. Spriggs.

**TESTIMONY OF WILLIAM E. SPRIGGS, Ph.D., CHAIRMAN, DEPARTMENT OF ECONOMICS, HOWARD UNIVERSITY**

Mr. SPRIGGS. Thank you very much, Madam Chairwoman. I want to thank you for the opportunity to be here, and to the Ranking Member who is from my father's home State of Iowa, and special thanks to Congresswoman Sheila Jackson Lee for inviting me to speak.

I want to direct my comments on this legislation's effect and implications for the labor market. I think this is an important piece of legislation because it has specific policy recommendations for the labor market. And I think that while economists don't have a con-

sensus about the effects of immigration on the native workforce, we are clear about some things, as you look across the studies.

Basically, that if you look in the 1990's and the beginning of the decade here, in 2000, that what we find is that immigrants and native-born workers basically have very similar occupations. When we say they have dissimilar occupations, it is nowhere near like what we really mean, when you think about the difference between the occupations of men and women, where, just to use a measure of occupational segregation that is easy to understand, the index of dissimilarity, 60 percent of men or women would have to change their occupations in order to make the distribution of occupations the same, whereas for immigrants compared to native-born workers, you are looking at a number closer to, like, 33 percent. So they do similar occupations, similar jobs, and therefore are in similar labor markets.

I think that what is the problem in our low-wage labor market, and our labor market in general, is that it no longer functions in a clear, transparent way. This has nothing to do with immigration. It has to do with the failure of our low-wage labor market in particular.

And I think this legislation addresses that directly, by calling on employers to open up and be more transparent in the way that they would go about their search. And the legislation provides enough incentive and penalties to make this begin to be a real open labor market. And that is a very important contribution to make.

In the last 4 years, when we have had some of the worst job growth that we have seen in the Nation's history, people, of course, have been very concerned about immigration. But I would remind everyone that, in the 1990's, when immigration was at a much higher rate, that many communities did really well. The African American community, in particular, did extremely well in the 1990's when immigration was at a higher rate than it was in the 1980's.

I think we have to remember that it is really overall economic policy that matters the most to workers, and whether we are creating jobs or not creating jobs is a macroeconomic issue. And we can set the macroeconomic policy to accommodate any sort of labor force, but we must fix the way that that labor market itself works. And that is the good thing about this legislation.

I would say that it is not only for those workers who are in low-wage jobs, but we also have a problem among high-wage jobs. The information industry which we billed to everyone as the wave of the future went through a downturn in employment after 2001. It reached a peak in 2001. It has not yet recovered from that peak. And so the number of Americans who are working in the information industries has declined. And that industry is not above having discrimination or effects that look like discrimination.

I would just point out a job which isn't high on the rank of high-tech jobs but one where the job title stayed the same from the 1990's through 2000. In 1995, most computer operators in the United States were women. In 2002, after the shrinkage of that industry, the industry became about balanced between men and women. So it is not consistent from an economist's perspective that

you could have an industry lose jobs and the workers who happen to be the dominant workforce lose their jobs disproportionately.

And I think it is a clue that we should be very careful, even for high-tech jobs, that we see employers verify that they really did search. Because this, again, is a labor market which has indications that things are not as transparent in how people attain jobs and how they get to keep jobs.

So I appreciate this impact of the legislation. And I think it is called for that we integrate the way we look at immigration and the labor market, not because immigrants are a problem, but the way that the labor market works is the problem.

[The prepared statement of Mr. Spriggs follows:]

PREPARED STATEMENT OF WILLIAM E. SPRIGGS

Testimony on H.R. 750 "Save America Comprehensive Immigration Act of 2007"

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

110th Congress, 1st Session

Thursday, November 8, 2007

By

William E. Spriggs*

I would like to thank the Chairwoman, the Ranking member and Congresswoman Sheila Jackson Lee for the invitation to present my thoughts on H.R. 750. The views I express are my own, and do not necessarily reflect those of my employer, Howard University.

I will direct my comments on the legislation towards its implication for the labor market. I think it is important that the legislation has specific policy recommendations for the labor market. Economists do not have a consensus on the labor market effects of immigration on the native work force. A basic disagreement exists between economists on how to measure the impacts of immigration on the native work force, whether the effects can be seen by comparing labor markets in cities with different rates of immigration or looking at the national labor market over time. There is also disagreement on identifying which workers are most likely to have their labor market outcomes affected by immigration.[1]

There is some agreement however, that a sizable group of native and immigrant low-wage workers do have similar occupations. The work of David Card, which shows negligible impacts

[1] See for example David Card, "Is the New Immigration Really so Bad?" *The Economic Journal, 115* (November 2005): F300-F323, and George J. Borjas, "The Labor Demand Curve *IS* Downward Sloping: Reexamining the Impact of Immigration on the Labor Market," *Quarterly Journal of Economics, CXXII* (November 2003): 1335-1374.

of immigration on native workers who are high school drop outs, relies on the variation across of cities of immigrant populations. His work highlights that the size of the native born high school labor force does not appear to respond to changes in immigration levels across cities. He also finds little difference in industry structures across cities that might explain how local labor markets might absorb increases in less educated workers. The result is that Card's work strongly suggests that there is a great deal of overlap in the occupations of less educated immigrant and native workers. George Borjas, on the other hand, relies on relatively high correlations in occupations for similarly educated native and immigrant workers in the same age group to argue that a ten percent increase in immigration can lower annual earnings of native workers by 6.4 percent.[2]

I want to concentrate on the agreement that there is similarity in the occupations of immigrant and native workers to underscore the importance of including specific policies aimed at insuring an efficient labor market. In particular, I want to commend the legislation for calling on employers to make extensive searchers for workers, and to require documentation of the employers' efforts to look for workers.

I have included a chart to show the index of dissimilarity for the occupations held by out-of-school workers with a high school diploma or less, and aged 18 to 34. The index is a commonly used measure to describe differences in occupation between two groups of workers. It has an easy interpretation, in that it shows the share of workers of a given race, gender or group that would have to shift occupations to make the share of workers holding each occupation equal between the two groups of workers.

[2] Borjas, *op. cit.* 1349.

The chart I have included show data for detailed occupations from the March Current Population Surveys for 2003 and 2007, so the data are for 2002 and 2006. The data show that immigrants have different jobs than native workers in about the same way that Black Non-Hispanics have from White Non-Hispanics and that Hispanics have from White Non-Hispanics. These differences suggest that between 36 and 38 per cent of immigrants, or native born workers, would have to switch occupation to make the shares of the two sets of workers equal in all occupations. This is much less than the difference in the types of jobs that men and women have in this less educated work force, where about six of ten men, or women, would have to change occupations to make the distribution of jobs equal between them.

Index of Dissimilarity Measuring Occupational Segregation[3]
for Out of School Workers, Ages 18 to 34
2002 and 2006

| | | 2002 | 2006 |
|---|---|---|---|
| All Women to All Men | | 0.62 | 0.62 |
| All Immigrants to Native Workers | | 0.36 | 0.39 |
| Immigrant | Women to Native Women | 0.37 | 0.39 |
| | Men to Native Men | 0.36 | 0.38 |
| Native Hispanics to Immigrants | Native Hispanics to Immigrants | 0.39 | 0.41 |
| | Native Hispanic Men to Immigrants | 0.40 | 0.40 |
| | Native Hispanic Women to Immigrants | 0.43 | 0.46 |
| Native Black Non-Hispanics to Immigrants | Black to Immigrants | 0.42 | 0.48 |
| | Black Men to Immigrant Men | 0.43 | 0.51 |
| | Black Women to Immigrant Women | 0.40 | 0.45 |
| Native Black Non-Hispanics to White Non-Hispanics | All Blacks to All White Non-Hispanic | 0.33 | 0.34 |
| | Black Men to White Men | 0.40 | 0.38 |
| | Black Women to White Women | 0.32 | 0.34 |
| Native Hispanics to White Non-Hispanics | All Hispanics to All White Non-Hispanics | 0.24 | 0.25 |
| | Hispanic Men to White Men | 0.28 | 0.29 |
| | Hispanic Women to White Women | 0.28 | 0.29 |

[3] Authors calculations from March Current Population Survey for March 2003 and March 2007 using March supplement weights, out-of-school workers listed by detailed occupation for longest job held in previous year, ages 18 to 34. Black refers to Black alone or in combination, white refers to white only.

The concern is that while the level of occupational segregation between men and women and between Blacks and Whites and Hispanics and Whites has remained fairly steady during the recovery in the labor market from 2002 and 2006, the level of occupational segregation between immigrant and native workers is increasing. The most dramatic increases are between Blacks and immigrants, so that now about one in two Black men would have to switch occupations to make the distribution of occupations between immigrants and Black men equal, and 46 percent of Hispanic women would have to switch occupation to make the share of Hispanic and immigrant women equal in the occupations. For workers with similar education levels and of the same age group, such a difference is disturbing; by comparison, during this same period the difference between the occupations of Black men and white men in this age and education group, remained mostly unchanged at near 33 per cent.

Economists are more keenly aware of the importance of job networks—the informal exchange of information on job openings and job recommendations among workers—as important to getting workers access to jobs. Economists however have fewer consensuses on whether job networks can boost the wages of individual workers, and have less information on the impact of such networks on wage levels in general.[4] I think the evidence leans toward the networks making the labor market less efficient by lowering the amount of information that employers and potential employees have. I think the growing occupational segregation suggests that employers may be limiting their search for workers.

[4] See Linda Datcher Loury, "Some Contacts are More Equal than Others: Informal Networks, Job Tenure, and Wages," *Journal of Labor Economics, 24* (Number 2, 2006): 299-318.

So, I think the legislation is correct when it calls for extensive search methods by employers. I think the legislation might go further in requiring all employers looking for workers with less education to centrally post their job openings. The legislation then might consider using that data as stronger evidence of the existence, or absence, of available workers.

Congress has already taken some steps to improve the general low wage labor market by increasing the federal minimum wage. This was a very important step in improving the functioning of the low wage labor market. Increasing the flow of information on job openings and making job matches happen faster is another; and this legislation takes the steps to move in that direction.

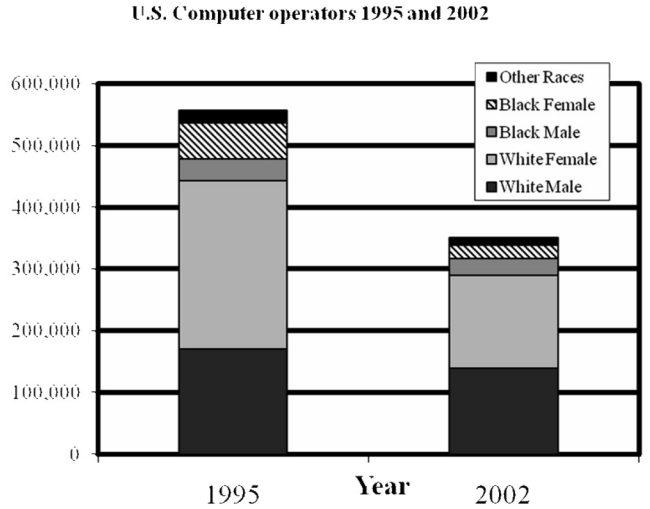
The legislation is also on target in calling for increased funding for job training. While the wage gap between high school educated and high school drop-outs has remained fairly flat over the last twenty-years, there is a growing gap between workers with high school education and those who have some post-secondary education. Increasing the skills of less educated native workers will, of course, reduce the supply of less educated workers in the work force and help offset any effects of the increase in the supply of less educated workers through immigration.

In closing my remarks, I want to touch the issue of high skilled workers. Too often, discussions of immigration focus on the perceived conflicts between African Americans and Hispanics and less skilled workers. But, for African Americans and Hispanics it is vitally important to discuss jobs in the Information Industries—those industries billed as the wave of the future, and based on knowledge and information exchange, including software development, internet service providers, publishers, motion pictures and similar knowledge and content based industries.

For prime age workers, those ages 21 to 61, maintaining access to those jobs is important. Blacks and Hispanics work in the Information Industries in about the same share as is true of the U.S. work force as a whole. But, in particular, Black and Hispanic college graduates are more likely to work in Information Industries than is true of college graduates in the U.S. work force as a whole.[5] In 2006, Blacks made up a disproportionate share of workers in the occupations of: computer support specialists; operation research analysts, computer hardware engineers, computer operators, data entry keyers; and computer, automated teller and office machine repairers. Black workers are essential to the telecommunications that forms the backbone of the internet, including be over represented in the occupations of: radio and telecommunications equipment installers and repairers; telecommunications line installers and repairers; and, electrical, electronics, and electromechanical assemblers. And, among college educated workers, a higher share of Black college graduates are employed as computer programmers, computer scientists and systems analysts and computer software engineers than is true for college graduates as a whole; making access to those occupations very important to college educated workers.

Jobs in the Information Industries reached a peak of 3.7 million in March 2001. In July 2006, jobs in those industries reached a bottom of 3.043 million. They have since edged up to 3.092 million as of October. However, there are still roughly 700,000 fewer jobs today than in 2001. A key inefficiency in any labor market is brought about by discrimination. And, even in this important labor market, there are data more consistent with discrimination than an open labor market.

[5] Authors calculations based on the March Current Population Survey, out of school workers, ages 21 to 61, by longest industry worked in previous year. Black means Black alone or in combination.




Source: Authors' calculations from March Supplement to Current

Between 1995 and 2002, the number of computer operators fell in the U.S. Interestingly, the drop was very mild for white males in the occupations, but very steep for women—and Black women in particular. Given that the job was dominated by women prior to the 2000, it is unlikely that it was simply a matter of letting the least experienced workers go.[6] With such disparities, it is very important that efforts to address shortages faced by Information Industry companies take steps to make the labor market appear more efficient.

I think this legislation takes the correct approach to directly look at issues of the labor market. It is important contribution to the immigration debate. I think a close look at America's labor

[6] Susan McElroy and William E. Spriggs, *The Journal of The Center for Research on African American Women*, 2006.

markets reveals that we have too much inefficiency in our labor markets. I thank you again for the opportunity to share my thoughts.

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Ms. LOFGREN. Thank you very much, Dr. Spriggs.
Mr. Siskind?

**TESTIMONY OF GREGORY SISKIND, PARTNER, SISKIND SUSSER BLAND**

Mr. SISKIND. I would like to thank the Chairwoman and the Ranking Member and Congresswoman Jackson Lee for the opportunity to testify regarding the Save America Comprehensive Immigration Act of 2007.

I am Greg Siskind, and I practiced immigration law for a number of years and have written a lot on the topic of consular processing. And I am here today to specifically address the importance of title II of the SAVE Act, which would create a Board of Visa Appeals for the review of denied family-based green card cases.

When the State Department denies a visa application, the applicant loses an opportunity to come to the U.S., but the impact is felt also by the lawful, permanent resident or citizen of the United States who is sponsoring the immigrant. This legislation is about ensuring that if the foreign American's family is torn apart for a lifetime by the State Department's denial of a visa application, there is at least a fair process in place to review the justness of the decision.

Citizens and permanent residents sponsoring family members for green cards undergo a two-step process. First, they file a family immigrant petition with USCIS, depending on the kind of relative—a spouse, a child, a parent or a sibling—whether the petitioner is a U.S. citizen or permanent resident, and the nationality of the sponsored relative. An applicant can wait many years, potentially more than 20 years, for an immigrant visa to come available.

Next, once the visa number finally comes available, there are two alternative procedures to complete processing. The applicant in the United States, he or she typically is able to complete the application domestically by filing an adjustment-of-status application with USCIS. Applicants outside the U.S., however, process green card applications based on the very same kinds of petitions but they can't apply for adjustment of status. They have to apply to a U.S. Consulate abroad.

U.S. immigration law is probably more complex than any other country in the world, and correctly applying the law to each applicant's facts can be extremely challenging. Fortunately, applicants in the second step of processing or adjusting in the U.S. can challenge a denial in administrative tribunals, including an immigration court, the Board of Immigration Appeals or Federal courts. But applicants processing at consulates do not have this ability.

As a matter of discretion, the case can be referred to the State Department in Washington for an advisory opinion on a pure question of law. Applicants are not, however, permitted to see the opinion and are only notified that a decision has been issued. Federal courts have upheld the State Department Visa Office's position that an advisory opinion only offers guidance to consular officers.

Senator Edward Kennedy called for an appeals process as early as 1970, and the need remains today. The SAVE Act would create a Board of Visa Appeal, a BVA, within the State Department to review family-based green card denials.

There are a number of reasons why this is needed. First, there is a basic question of fairness. Why should two persons with the same type of immigrant visa petitions and the same set of facts be entitled to different rights and protections based strictly on where they are physically located? Why should Americans who have had their relatives waiting for years outside the U.S. be treated worse than those who have not?

Second, the BVA would provide needed oversight of the system. While the vast majority of consular officers try to be objective and to make sure that they have a sufficient understanding of the facts and the law to issue a fair decision, the reality is that the consular officer acts as a judge, jury and prosecutor, and they do it during the interview that typically only lasts for a few minutes. The applicant is usually not permitted to have a lawyer present or be accompanied by the petitioning U.S. Relative, and he or she may have limited English skills. In smaller posts, consular officers may be inexperienced and may have very little supervision.

Third, the BVA will enhance America's image in the world. A recent study commissioned by the Discover America Partnership comprised of many of the country's leading travel and hospitality organizations found that travelers rate America's entry process as the world's worst by a greater than two-to-one margin over the next worse country. The U.S. Ranks among the lowest when it comes to traveler-friendly paperwork and officials.

While a consular appeals board would only apply to green card cases and not the many visitor visa denials that occur every day, the impact of family-based green card denials on American citizens and permanent resident sponsors can be great. Sending out the message that our consular offices are arbitrary and capricious does nothing to advance America's public diplomacy efforts. The fact that at least some cases will be reviewable will send a signal that the U.S. is trying to be fair.

A Board of Visa Appeals is long overdue, and I would encourage you to support the proposal.

[The prepared statement of Mr. Siskind follows:]

PREPARED STATEMENT OF GREGORY SISKIND

Testimony of Gregory Siskind
Attorney
Siskind Susser Bland, P.C. – Immigration Lawyers
Memphis, Tennessee

Before the US House of Representatives Committee on the Judiciary
Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law

Hearing on the Save America Comprehensive Immigration Act of 2007
November 8, 2007

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Thank you for this opportunity to testify before the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law to share my views on the Save America Comprehensive Immigration Act of 2007, which I will refer to as the SAVE Act. The SAVE Act was introduced by Representative Sheila Jackson-Lee.

I am Greg Siskind and I have practiced immigration law for the past seventeen years and am the author of a number of books, book chapters and articles on US immigration law. They include *The J-1 Visa Guidebook*, published annually by Lexis-Nexis, *Siskind's Immigration Bulletin*, a weekly newsletter with more than 40,000 readers, as well as chapters in the American Immigration Lawyers Association books *Immigration Options for Physicians*, *Immigration Options for Religious Workers* and *Immigration Options for Religious Workers* and a chapter on immigration law in the book *The Biggest Mistakes Physicians Make*, published by SEAK. Visalaw.com, the web site I created in 1994, has more than a thousand articles on various immigration topics and was the first web site in the world devoted to the subject of immigration law.

While I will largely focus my remarks on Title II of the SAVE Act regarding the creation of a Board of Visa Appeals, I would first like to make some general comments about the bill. The SAVE Act does not seek to solve every immigration problem in the current system. Rather, Congresswoman Jackson-Lee, the former Ranking Member of the Immigration Subcommittee, has identified a number of the most pressing problems in immigration and has offered solutions that are both straightforward and workable. This includes items that, while important, have not been covered in comprehensive immigration reform proposals introduced in the House or the Senate. SAVE is a "good ideas" bill that will hopefully pass on its own or be largely incorporated in to other legislation that may move through Congress.

A few sections of SAVE that are not covered in pending comprehensive immigration reform proposals are worth special mention:

- provisions making applicants less vulnerable to administrative delays such as one allowing for the sponsorship of adopted children when adoption proceedings

*begin* prior to the beneficiary turning sixteen (as opposed to the current law requiring completion of the adoption by that age);
- a provision allowing spouses of permanent residents to file for K visas allowing for entrance to the US more quickly once a visa number is available;
- a section providing grandparents, aunts and uncles with the ability to sponsor a grandchild, niece or nephew when an applicant's parents died before the age of eighteen;
- a provision making it a violation of federal law for an employer to threaten an employee with deportation or other immigration consequences if the purpose is to intimidate or coerce;
- expanding the right to counsel for immigrants in bond, custody and detention hearings;
- a sensible, fair waiver availability for persons with minor controlled substance offenses;
- the granting of refugee and asylees benefits to handicapped adult children of asylees and refugees if they are unable to care for themselves or when needed to preserve family unity;
- allowing long-term temporary protected status beneficiaries to seek permanent residency.

All of these ideas as well as many others in the bill are worth consideration and would represent substantial improvements to the immigration system.

As I previously noted, I focus my remarks today on Title II of the bill on the establishment of a board of visa appeals for immigrant visa petitions denied at US consulates abroad. The idea for a board of visa appeals is not new. In fact, Senator Edward Kennedy wrote about the need for such a board back in 1970 in an article he wrote on needed reforms to the US immigration system.[1] While nearly four decades have passed since Senator Kennedy introduced the concept, the need for such a board remains.

Generally speaking, there are two procedures available for people eligible for permanent residency to process their applications. If the aliens are in the United States, after processing an I-130, I-140 or other immigrant visa classification petition with US Citizenship and Immigration Services (USCIS), which indicates that they are eligible for the status being sought, they typically are able to complete their applications domestically by filing an adjustment of status petition with US Citizenship and Immigration Services.

Applicants outside the US processing green card applications based on the very same USCIS-approved immigrant visa classification petitions must instead process their immigrant visa petitions at US consulates overseas.

One of the most serious mistakes a would be immigrant or the individual's lawyer can make in a permanent residency case is assuming that the approval of an I-130 or I-140 immigrant petition by US Citizenship and Immigration Services guarantees the applicant

[1] "Immigration Law: Some Refinements and New Reform," by Edward M. Kennedy, International Migration Review, Vol. 4, No. 3 (Summer 1970), pp. 4-10.

will be able to obtain permanent residency. For instance, the applicant must also be "admissible" to the United States and the rules regarding inadmissibility are extremely complex. Applying the facts to those laws is often quite challenging.

An application can be denied based on a variety of admissibility grounds. One common example is triggering a reentry bar by overstaying an authorized period of stay. The facts in these cases are not always clear cut. For example, an engineer at a well-known company in my home state of Tennessee recently came to me to deal with the problem of being misled by the one of the company's human resource officials regarding the timely filing of an extension of the employee's H-1B application. The company informed the employee that the extension was filed when, in fact, no application had ever been filed. After more than six months of asking, the truth was revealed. Unfortunately, this did not happen soon enough to stop a three year reentry bar from being triggered even though the engineer believed he was complying with US laws.

Sometimes the denial may be based on questions of eligibility for the visa such as the application of the Child Status Protection Act, rules regarding the legitimating of a child who is the child of a US citizen parent not married to the child's other non-citizen parent, issues regarding the legality of a marriage under the laws of the country where the marriage took place, or a broad variety of other legal questions that arise in immigrant visa cases.

For applicants adjusting status in the United States, a denial can be challenged in administrative tribunals (immigration court and the Board of Immigration Appeals (BIA)) and in the federal courts.

However, denial of an immigrant visa at a consular post is almost impossible to have overturned. Section 104(a) of the Immigration and Nationality Act provides

> *The Secretary of State shall be charged with the administration and enforcement of the provisions of this Act .... relating to .... the powers, duties and functions of diplomatic and consular officers of the United States except those powers, duties and functions conferred upon the consular officers relating to the granting or refusal of visas.*

Various court decisions over the past century have held up the principle that a consular officer's decision is not subject to administrative or judicial review. [2]

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[2] In the case of *Burrafato v. United States Department of State*, 523 F.2d 554 (2d Cir. 1975), the doctrine of Consular Non-reviewability barred a review of the denial of a wife's petition on behalf of her husband even where the consular officer failed to provide the specific reasons for the denial despite the fact that this was what was required under the applicable law.

Even where an applicant has sought review of a denial on the grounds that a consular officer has acted on erroneous information, the court has been unable to assist. A father of three U.S. citizen children sought review of his denial on the grounds that the visa was denied due to erroneous information. He argued that

The opportunity to challenge visa denials by consular officers is minimal. The appeal would have to be made to the officer's superiors at the office and they would not be required to respond to an applicant's challenge to the consulate officer's decision. As a matter of discretion, a case may be referred to the State Department in Washington for an advisory opinion on a pure question of law. Applicants are not permitted to see the advisory opinion and applicants are only notified that the decision has been issued. And the State Department's Visa Office view that an Advisory Opinion Division determination only offers "guidance" to consular officers has been upheld in Federal Court.[3]

The Save Act's Board of Visa Appeals proposal

Title II of the Save America Comprehensive Immigration Act of 2007 will create a Board of Visa Appeals (BVA) within the State Department to review family-based visa appeals. The board would have five members appointed by the Secretary of State, two of whom may be consular officers. The BVA would have the authority to review any discretion decision of a consular officer on a family-based immigrant visa petition. Unlike the current system where the only aspect of a decision that may be reviewed is a consular officer's interpretation of the law, the BVA would be able to review the entire decision of

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if this information were not corrected he would never be able to legalize his entry or residence. *Loza-Bedova v. Immigration and Naturalization Serv.*, 410 F.2d 343 (9th Cir. 1969).

Courts have refused to review the denial of a visa based on what a consular officer determined to be an invalid marriage. *DeGomez v. Kissinger*, 534 F.2d 518 (2d Cir. 1976). In this particular case, the court refused to review the denial of a visa denied on the grounds that the consular officer believed the marriage between the husband and his permanent resident wife was a sham. Due to the doctrine of consular non-reviewability the court also refused to interview the wife despite her request that they do so

The court refused to review the decision of a consular officer to deny the husband of a permanent resident a visa even where he sought to prove that the only grounds for his denial was his former political affiliation that he claimed he held only as a result of the turbulent political state in his home country, and further that if he were forced to return to that country, that this would be a threat to his personal safety. *Ben-Issa v. Reagan*, 645 F. Supp 1556 (W.D.Mi.1986).

The court was barred from reviewing the denial of a husband's visa petition on behalf of his alien wife where he sought to prove that she had not been charged with the crimes of "moral turpitude" that her visa denial was based upon. *States ex rel. Ulrich v. Kellogg*, 30 F.2d 984 (D.C. Cir. 1929).

Despite allegations that the consular officer disregarded the Attorney General's controlling interpretation of the law, the court was unable to review the denial of an immigrant visa petition of an unmarried adult daughter of a permanent resident. *Garcia v. Baker*, 765 F.Supp. 426 (N.D. Ill. 1990).

The doctrine of consular non-reviewability barred a father seeking relief when he alleged that a consular officer denied his petition based on the false belief that his permanent resident son was not legitimate. *Grullon v. Kissinger*, 417 F.Supp. 337 (E.D.N.Y. 1976).

[3] *Garcia v. Baker*, 765 F. Suppl. 426 (N.D. Ill. 1990); *United States ex rel. Ulrich v. Kellogg*, 30 F.2d 984 (D.C. Cir. 1929).

the consular officer and the board itself shall have the authority to override the consular officer when the preponderance of the evidence is contrary to the officer's decision.

Applicants denied immigrant visas will be provided a notice of the availability of the BVA and that a request for review shall be made within 60 days of the denial of the case. Once a request for a review is made, the BVA shall have thirty days to notify the consular officer to provide the Board with a written record of the proceedings in order to review all of the facts of the case. The consular office shall then have up to 30 days to provide the requested documentation.

Applicants will be advised when the Board hearing will occur and shall be permitted to be represented by counsel. The legislative language does not require the State Department to allow for an in-person hearing and presumably the agency will use its discretion to establish a written appeals process in order to operate efficiently. Finally, the State Department shall charge a fee for an appeal sufficient to cover the State Department's cost for the proceedings.

There are a number of reasons supporting the creation of a Board of Visa Appeals.

Fairness

First, there is the basic question of why two persons with the same type of immigrant visa petition and the same set of facts should be entitled to different rights and protections based strictly on where they are physically located?

Arguably, many individuals who are consular processing actually have a *stronger* case for having the option to appeal than applicants in the US who are adjusting status. Adjustment applicants are often in a non-immigrant work status and can continue living in the US while they re-apply (assuming they can present evidence to overcome the basis for the denial). An individuals consular processing is likely going to have to wait several additional years.

Many individuals in the US with immigration status violations are able to process under provisions like Section 245(k) or Section 245(i). Consular applicants generally have no status violations and have been waiting patiently – often for many years – for their cases to be heard. During the comprehensive immigration reform debate this past summer, many opponents of that legislation argued that people who play by the rules should not be treated worse than those don't. Presumably, the lack of an appeals process for consular-processed immigrant visa petitions should cause similar concerns

Another issue of fairness in the consular process versus the adjustment of status process involves the role of the attorney.

Interviews are waived in many easily approvable adjustment of status cases. In those cases where interviews are mandatory or where a USCIS examiner determines that an

interview is appropriate, an applicant is entitled to be represented by counsel. The presence of counsel, of course, can be critical in the determination of a case.

The State Department notes the importance of counsel in the visa process:

> *In the sometimes-complex world of visas, a good attorney can prepare a case properly; weed out "bad" cases; and alert applicants to the risks of falsifying information. The attorney can help the consular officers by organizing a case in a logical manner, by clarifying issues of concern, by avoiding duplication of effort and by providing the applicant with the necessary understanding of the intricacies of the visa process.*[4]

But despite this acknowledgement of the importance of counsel, many consulates around the world bar attorneys from participating in the interview process. The State Department allows consulates and individual consular officers to determine the circumstances if and when an attorney can represent a client. Many consulates have decided to bar attorneys not just from the interview, but even from entering the consulate at all. Communication by an applicant or the applicant's attorney with a consular officer in person or by any means of communication such as telephone or email is often impossible or severely limited.

The interview itself often takes place at a window and lasts just a few minutes with only a few questions being asked and no opportunity for the applicant to address questions relating to the eligibility for the visa. The applicant may have waited many years – as long as twenty years in some cases - for an interview and have his or her entire future hanging in the balance. The burden is on the individual to prove their eligibility; however, they only get one chance to do this. Individuals from foreign nations often lack a highly sophisticated understanding of our nation's laws and are likely to be confused about how best to present their case before a U.S. consular officer.

While an appeals board would not affect the role of the attorney in a consular interview or otherwise alter the interview process, applicants would benefit from representation of counsel in front of an appeals board.

Oversight

While the vast majority of consular officers try to be objective and to make sure that they have a sufficient understanding of the facts and the law to issue a fair decision, the fact is that the consular officer acts as judge, jury and prosecutor, and they do it during an interview that typically only lasts a few minutes. And in smaller posts, a consular office may be inexperienced and have very little supervision.

[4] 9 FAM 40.4 N12.

Consular officers are required to provide a timely, written notice to applicants explaining the reason for a visa denial. In practice, however, the notice may contain virtually no information useful in determining the actual basis for denial of the application and may simply list a section of the statute with no analysis explaining the basis for a negative decision.

A consular appeals board could help in ensuring that consular officers who deny cases are more careful in documenting the reasons surrounding the decision and that the alien will be able to understand the reasons for the denial. And the State Department would get a better sense of problems in adjudications at posts when they have the ability to review the entire records of decisions. If the board is able to determine that certain posts or individual officers are making poor decisions, training can be offered or officers can be assigned to other duties.

The Image of America

As Geoff Freeman, executive director of the Discover America Partnership, noted in testimony before the Subcommittee on International Organizations, Human Rights and Oversight Committee on Foreign Affairs this past March, treatment of visa applicants at US consulates is having serious consequences when it comes to shaping the image American has around the world.[5] As noted in Mr. Freeman's testimony:

- Travelers rate America's entry process as the "world's worst" by greater than a 2:1 margin over the next-worst destination area.
- The U.S. ranks with Africa and the Middle East when it comes to traveler-friendly paperwork and officials.
- 54 percent of international travelers say that immigration officials are "rude."
- Travelers to the U.S. are more afraid of U.S. government officials (70%) than the threat of terrorism or crime (54%).

While a consular appeals board would only apply to green card cases and not the large number of visitor visa denials that occur every day, these are the denials that prevent Americans from bringing family members to the US. The fact that at least some cases will be reviewable will send out a signal that the US is trying to be fair. Sending out the message that our consular officers are arbitrary and capricious does nothing to advance America's public diplomacy efforts.

[5] http://www.poweroftravel.org/freeman_testimony_3_20_07.pdf

Conclusion

A Board of Visa Appeals is long overdue and would ensure that applicants processing immigrant visas at US consulates are now worse off than those processing in the US. The costs would be borne by the applicants, not by US taxpayers, and the quality of adjudications at consulates overseas are likely to improve with the additional oversight.

There are some changes to the proposal that might be worth considering. For example, the current version only covers family-based green cards. Similar problems arise in cases involving employment-based immigrant visas and those cases could also be covered. While I recognize that including non-immigrant visas across the board would dramatically expand the work of an appeals board, Congress might also look at including certain types of non-immigrant visa categories that are relatively small in number and that involve complex legal questions. Those might include, for example, E-2 and E-1 treaty investor and trader cases as well as O-1 extraordinary ability petitions.

Finally, it is important to remember that in most family immigrant cases, the petitioner is a US citizen seeking to be reunited, for example, with a wife, a husband, or a child. They are also being protected by this proposal and they deserve assurance that if they play by the rules, there is a fair system available to their families.

I appreciate the invitation to testify today and am happy to answer any questions.

Ms. LOFGREN. And before asking Mr. Kuck to give his testimony, I would like to note that Jeff Kuck, his 16-year-old son who is studying American history, has been here today to see some American history being made. And we would like to welcome the young Jeff Kuck to our hearing and to watch his dad testify.

Mr. Kuck?

**TESTIMONY OF CHARLES H. KUCK, PRESIDENT-ELECT, AMERICAN IMMIGRATION LAWYERS ASSOCIATION, ADJUNCT PROFESSOR OF LAW, UNIVERSITY OF GEORGIA**

Mr. KUCK. First, I want to thank the Chairwoman and the Ranking Member, Mr. King, for allowing me to testify today. I want to especially thank Congressman Sheila Jackson Lee for this opportunity. And my son thanks you because he now has an excuse for not being in school today.

I am currently serving as the president-elect of the American Immigration Lawyers Association. I have been asked to talk today about a couple of the problems in our current law and how this legislation, House Bill 750, fixes what are, I believe, problems that have led to an increase in illegal immigration in the United States.

Folks call me all the time and they say, Mr. Kuck, I want to bring my spouse. I want to get them a green card. He has been here since he was 13, 12, 10, 25—you pick the age. We have been married for 2 years; we have two kids. We have been married for 5 years; we have three kids. I want to make him legal. What can I do?

And the answer, because of current law, is nothing. Current law requires anybody who has been unlawfully present in the United States to leave the country to obtain their permanent residence.

There is nothing wrong with that. There is nothing wrong with making people leave the country the fix their immigration situation. But the law also says that if you have been unlawfully present in the United States for longer than 6 months or a year, you are simply not coming back for between 3 and 10 years. There are very few families that could survive that level of separation.

The current law provides for a waiver or a forgiveness of that provision. That requires the U.S.-citizen spouse to show extreme hardship to them only if their spouse couldn't come back, keeping in mind that financial hardship, emotional hardship, physical hardship are simply not enough to meet the extreme hardship standards. And in some countries, the approval rate for these waivers is less than 10 percent.

It is not unusual for us to note the following statistic: Before this law took effect in 1996, migrants simply came and left the United States and didn't have to deal with the situation. But individual immigrants, upon realizing that this law was in effect after they had been here for 6 or 12 months illegally, simply decided to stay. And since that law took effect, the number of illegal immigrants in the United States has increased from anywhere between 2.5 million in 1996 to somewhere between 12 million and 20 million today. Is this law the sole reason this has happened? Absolutely not. But it is estimated that there are 3 million American citizens married to individuals who would be required to leave the country or to legalize their immigration status.

By a simple change in the law, by simply reducing the standard hardship that this law provides in section 808 to a level that could be meetable by numbers of people who could show hardship if their spouse is not in the United States, you could solve the situation of over 3 million individuals that are undocumented here, which then leaves you 3 million less people to worry about as you begin the process of truly enforcing immigration law.

I also want to briefly touch on another provision of our laws that says that if you make a false claim to citizenship as a United States citizen, that you cannot ever obtain legal status, period.

Now, it should be illegal to claim to be a U.S. citizen. There is nothing wrong with that law either. But the law itself does not provide for a waiver. You can falsely claim to be a permanent resident and get away with it. You can falsely submit documents that don't claim U.S. citizenship and get a waiver. But if you make that one mistake, even if by accident, then you are simply never going to get immigration benefits regardless of who your family is, regardless of how long you have been here and regardless of what other options you may have. And we could make a very simple change in the law to make that go away, by simply saying there is now a waiver available under section 212(h) if you can show extreme hardship to your U.S.-citizen spouse or children.

Finally, the last provision I would like to talk about that causes a great deal of hardship is that found in the change of "suspension of deportation" to "cancellation of removal" in the 1996 legislation. This standard changed a hardship standard by showing somebody had been here in the United States, had significant ties here, had paid their taxes, had families, had made contributions, an immigration judge could give, in his discretion, permanent residence to that individual if they had anywhere between 7 to 10 years in the United States. If you had a criminal conviction, simply not eligible.

Under the new law that we have been living with for the last 11 years, the standard has become exceptional and extremely unusual, what I like to refer to as the two-headed baby standard. Unless your child is significantly sick, ill or has some sort of disability and cannot get treatment back home, you simply cannot meet the standard that this law requires to get relief in front of an immigration judge. And we would encourage you to change that law.

[The prepared statement of Mr. Kuck follows:]

PREPARED STATEMENT OF CHARLES H. KUCK

**TESTIMONY OF CHARLES KUCK**

**Before the**
**House Judiciary**

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

**CONCERNING**

**IMMIGRATON REFORM LEGISLATION**

November 8, 2007
10:00 A.M.
2141 Rayburn House Office Building

**INTRODUCTION** – I am Charles H. Kuck, National President-Elect of the American Immigration Lawyers Association (AILA). AILA is the immigration bar association of more than 11,000 attorneys who practice immigration law. Founded in 1946, the association is a nonpartisan, nonprofit organization and is affiliated with the American Bar Association (ABA). AILA members represent millions of immigrants in a variety of legal situations, including: U.S. families who have applied for permanent residence for their spouses, children, and other close relatives to enter and reside lawfully in the United States (U.S.); U.S. businesses, universities, colleges, and industries that sponsor highly skilled foreign professionals seeking to enter the U.S. on a temporary basis or, having proved the unavailability of U.S. workers when required, on a permanent basis; applicants for naturalization; applicants for derivative citizenship as well as those qualifying for automatic citizenship; and healthcare workers, asylum seekers, often on a pro bono basis; as well as athletes, entertainers, exchange visitors, artists, and foreign students. AILA members have long assisted both Congress and government agencies in contributing ideas to increase port of entry inspection efficiencies, database integration, security enhancement and accountability, and technology oversight, and continue to work through our national liaison activities with federal agencies engaged in the administration and enforcement of our immigration laws to identify ways to improve both enforcement and adjudicative processes and procedures.

**SCOPE OF THE PROBLEM, OR WHAT IS WRONG WITH THE IMMIGRATION SYSTEM TODAY?**

**We Need Legislation that Fixes our Current Immigration Laws, which Current Immigration Laws Discourage, Rather than Encourage, Legal Migration. The Save American Comprehensive Immigration Act of 2007, H.R. 750, Balances Enforcement of Current, Positive Immigration Laws with Corrections to Current,**

**Negative Immigration Laws to Begin to Resolve the Immigration Situation in America.**

Lawmakers remain divided over key questions such as whether or not to grant legal status to some or all of the 12 million undocumented immigrants now living in the United States, and whether or not new enforcement measures should be accompanied by an expansion of legal avenues for temporary or permanent immigration as well.[1]

There are approximately 12 million undocumented immigrants living in the United States today. This population has continued to increase *despite* ten years of consistent and significant increases in the border-enforcement budget and a parallel surge in the number of Border Patrol agents stationed on the nation's borders. Indeed, a proper understanding of the causes of international migration suggests that punitive immigration and border policies tend to backfire, and this is precisely what has happened in the case of the United States and Mexico.[2]

These punitive immigration policies not only affect undocumented immigrants from Mexico, but immigrants from all countries, without regard to gender, marital status, age, employment status, occupation or education. Many have lived here in the U.S. for years; have ties to the communities, pay taxes, own homes, and have close family members who are either U.S. citizens or lawful permanent residents. Indeed, but for the punitive nature of our current immigration laws, many well-deserving and hardworking undocumented immigrants would be eligible to apply for permanent resident status.

Congresswoman Sheila Jackson-Lee has introduced important legislation, in the form of the Save America Comprehensive Immigration Act of 2007, H.R. 750, which incorporates vital and necessary changes to our current immigration laws. What many in Congress and the mass media fail to understand is how minor changes in the law today can help us solve our current immigration conundrum, and help dissipate the climate of hatred and fear that is beginning to build against immigrants. We cannot tolerate another mass hysteria in American against Immigrants. We are too good a nation to allow this to happen. If history has taught us anything about immigrants, it is that immigrants are good for American.

But, past Congressional action has resulted in nonsensical and simply bad immigration laws. We have to understand how certain provisions of the Immigration and Nationality Act actually discourage, rather than encourage, legal immigration. To do so, it is essential to 1) identify those provisions; 2) show how they disqualify otherwise eligible undocumented immigrants from acquiring lawful permanent resident status; 3) provide real-life examples of how these provisions affect U.S. citizen and lawful permanent resident families and employers; and 4) provide legislative alternatives to

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[1] Immigration Policy in Focus: Learning from IRCA: Lessons for Comprehensive Immigration Reform, by Jimmy Gomez and Walter A. Ewing, Volume 5, Issue 4, May 2006

[2] AILF IPC "Beyond the Border Build up: Towards a New Approach to Mexico-U.S. Migration, Volume 4, Issue 7 By Douglas Massey

these punitive measures, that will reduce the number of undocumented immigrants in the U.S. and restore principles of fundamental fairness and justice to our immigration system. The Save America Comprehensive Immigration Act of 2007 is broad based and incorporates both effective means of smartly increasing the enforcement of immigration laws, but also recognized that some provisions in our current immigration laws are simply bad. Bad laws do not help America. Congress has a long history of fixing bad laws when the effects of those laws become apparent.

The opportunity to address one of the most pressing issues in America today is not one I take lightly. I am grateful to Congresswoman Jackson-Lee for the chance to tell this Committee, and the Congress as a hole, how vital movement on Immigration Legislation is resolving what as become for too many in politics and the media, a "hot-button" issue designed to inflame passion and prejudice, rather than to resolve problems. Many people say they don't hate immigrants, they just want people to follow the law and come to the U.S. legally. Let's take those folks at their word. I dare say then, everyone wants that exact same thing. However, when the laws simply do not function to lead to that ultimate positive end, then the laws must change. Our laws do NOT encourage legal immigration!

Now, I do not have necessary time today to talk about all of the positive enforcement tools in H.R. 750, nor do I have time to speak to all of the many other positive aspects of this Bill. So, I want to focus this testimony on the I consider to be some of the most necessary changes to our bad immigration laws and on how the Save America Comprehensive Immigration Act of 2007 positively ameliorates the harsh effects of some of the most offending sections found in:

- INA § 212(a)(9(B)(i)(I) and (II) relating to inadmissibility based on unlawful presence;
- INA § 212(a)(6)(C)(ii) relating to false claims to U.S. citizenship; and
- INA § 240A(b) relating to cancellation of removal for certain nonpermanent resident aliens.

## SPECIFIC SHORTCOMINGS OF THE IMMIGRATION AND NATIONALITY ACT

### UNLAWFUL PRESENCE AND THE THREE AND TEN YEAR BARS

Starting with changes enacted by IIRAIRA in 1996, Section 212(a)(9)(B) of the Immigration and Nationality Act, as amended, created new automatic bars to reentry to the United States for "unlawful presence". It applies to people who have been unlawfully present in the country for six months or longer, whether or not they were living in the U.S. lawfully at one time. Under these provisions, noncitizens who try to enter the U.S.

after having previously been in the country unlawfully for more than 180 days, but less than one year, will be barred from reentering the U.S. for three years. Noncitizens that have been in the U.S. unlawfully for one year or more will be barred from reentering the U.S. for ten years.

An immigrant is deemed to be unlawfully present after their authorized stay expires or if they are present in the United States without ever having been admitted or inspected. The period of "unlawful presence" is accumulated while the undocumented immigrant is living in the U.S. The bars to admissibility, however, are triggered when an immigrant leaves the U.S. This means, for example, that when an undocumented immigrant who is otherwise eligible for an immigrant visa, leaves the U.S. to apply for the visa at a U.S. Consulate abroad, the immigrant will be subject to either the 3 or 10 year bar, meaning that he or she will have to wait another 3 or 10 years outside the U.S. before they can re-enter.

The end result is that many immigrants who have family in the U.S., who have worked and paid taxes in the U.S., who have established their lives in the US, who contribute to their communities, whose children and spouses are US citizens or lawful permanent residents; and who are employed are ineligible for permanent residence or even for temporary work visas until they wait outside the U.S. for either three or ten years.

There is a waiver of the three and ten year bars in INA § 212(a)(9)(B)(v). To qualify for the waiver, the applicant must establish that denial of the waiver would result in "extreme hardship" to the U.S. citizen/lawful permanent resident spouse or parent. Unfortunately, extreme hardship to the immigrant is not recognized. Nor his extreme hardship to her children considered relevant; it is also not recognized in the hardship determination. Most important to understand is that extreme hardship involves more than the usual level of hardship associated with being separated from one's family . They are literally trapped inside the United States: damned if they go, damned if they stay. Dante would be happy. This law has created the perfect "catch-22" for immigrants who have unlawful presence, even those, like children brought here when minors, who had on choice in the matter.

The standards for what constitute "extreme hardship" at some posts are quite stringent, and the approval rates dismally low. One particular U.S. Consulate has stated: "The key term in the provision 'extreme' and thus only in cases of real, actual or prospective injury to the United States national or lawful permanent resident will the bar be removed. Common results of the bar, such as separation, financial difficulties, etc., in and of themselves are insufficient to warrant approval of an application unless combined with much more extreme impacts." Matter of Ngai, 19 I & N Dec. 245. The approval rates at consulates fluctuate depending on changes in personnel. There are no bright lines and there are no assurances that an individual will be able to demonstrate sufficient hardship.

Unfortunately, decisions on waiver applications are frequently made arbitrarily and capriciously with reckless disregard of the human toll on the applicants, their families and employers. Rather than discouraging unlawful migration to the U.S., the three and ten year bars encourage people to remain in the U.S. unlawfully notwithstanding that immigrant visas have been approved for them and visa numbers are available. After all, if you knew the chance of your returning to live with your wife and children were less than 10% (the approval rate in some countries), would you leave? Or would you take your chances and stay.

Finally, decisions on the waiver application are not reviewable by any court or entity outside of the Executive Branch. And, with applicants having to wait anywhere from 6-12 months outside the U.S. while their waiver applications are being considered, the difficulties faced in make this choice of separation is agonizing. Leaving the U.S. for an indefinite period of time in order to apply for a visa is alone a disincentive for applying at the consulate, and knowing that a denied waiver will result in a three or, most often a ten year reentry bar makes it even more unlikely that people will assume that risk.

As a result, far from curtailing illegal immigration and deterring people from overstaying their visa as intended, this policy actually contributes to the unprecedented rise in the number of undocumented immigrants. The statistics are clear, this law, coupled with increase border enforcement (which is not a bad thing) literally stopped the old back and forth flow of "migrant" labor, and instead has made the flow one way. The dramatic rise in those immigrants unlawfully present in the United States started immediately after the effective date of this law. Thus, faced with the choice of either voluntarily leaving their families in the U.S. for a period of three or ten years, or being forced underground but remaining united with their families, many naturally chose the latter, joining the legions of undocumented individuals in this country, and virtually eliminating the circular migration patterns that had characterized immigration to and from Latin America.

**Example:** The case of Jose Mara Rodriguez is an example of how these bars negatively impact immigrants and their families, and discourage legal migration. All names used are aliases.

Jose originally entered the U.S. without inspection in 2000 and has lived and worked in the U.S. since that time. His wife is a U.S. citizen and they have 2 children born in the U.S. His employer is willing to file a labor certification on Jose's behalf.

Jose has never been outside the U.S. since entering in 2000. He has no criminal convictions or prior deportations and has built a good life for his family in the U.S. They even own a home here. The only possible way for Jose to become a permanent resident is if his wife files a family petition on his behalf. Because he entered without inspection, Jose would have to leave the U.S. to apply for a visa and will need to get a waiver of the ten year bar to admissibility.

Jose can apply for a waiver of the ten year bar, but he is not sure whether it will be granted. Furthermore, it could take up to one year before his waiver is processed. The

waiver will be denied if he fails to prove that his wife would suffer extreme hardship (hardship to his U.S. citizen children is not considered under the current waiver.) Even if his waiver is approved, he has to wait for the consulate to interview him again. It could take another year for this interview to be rescheduled. As such, he is likely to be separated from his family for at least two years. If the waiver is not approved, he may have to wait ten years before he will be allowed to re-enter. If he reenters the U.S. illegally while waiting for the decision to be with his family, he then face a permanent bar to reentry to the U.S. In the alternative, his family could accompany him to his home country wherever that may be. In this case, the consequences of the bar go well beyond preventing inadmissibility of those who have violated immigration laws because U.S. citizens and lawful permanent residents are the ones who would suffer greatly. The risks of being barred from the US for ten years are a substantial deterrent even to those immigrants for which a legal channel of migration exists. This punishment is completely out of proportion to the violation.

**Suggested Legislative Fix:** The Save America Comprehensive Immigration Act of 2007, Section 808 addresses the "fix" to this bizarre, "catch-22" law. The bars created under § 212(a)(9)(B) are extremely harsh and prevent many individuals with extremely strong ties to the United States from becoming permanent residents. The current waiver is extremely limited and fails to consider the human toll suffered by children when separated from their parent or when the breadwinner in a family is forced to leave for an indeterminate period of time. A general waiver, such as that offered in Sec. 808 of the Save America Comprehensive Immigration Act, introduced Congresswoman Jackson Lee, would allow the Secretary of Homeland Secretary to waive the unlawful presence bars for humanitarian purposes, to assure family unity or when it is otherwise in the public interest. Such a waiver would, if approved, alleviate the human suffering suffered by U.S. citizen and lawful permanent resident family members and restore fairness to once again under our immigration laws. Although it does not guarantee that a waiver will be approved, it will certainly allow the Secretary more discretion in making those determinations and will indeed, encourage legal immigration rather than discourage it. We estimate that literally millions of spouses of United States citizen, people who pay taxes, have children and who contributed to America will benefit from such a change. This means that those people would no longer be living in fear, their families will be healed and you will have done what is right for the American family.

**FALSE CLAIMS TO U.S. CITIZENSHIP**

INA § 212(a)(6)(C)(ii) bars admission (and adjustment of status to lawful permanent residence) to anyone who claims to be a U.S. citizen *for any purpose or benefit under the Act*, or *under any other Federal or State law*. It applies only to false claims to U.S. citizenship made on or after September 30, 1996.

Section 212(a)(6)(C)(ii) of the Act applies not only to false claims to U.S. citizenship to obtain a benefit under the Act, but also to false claims for any purpose or

benefit under any other Federal or State law.[3] It is not necessary for the claim to have been made to a U.S. government official, since the statutory language includes specific mention of 274A of the Act which covers both government and private employers.

Unfortunately there are no waivers for immigrants found inadmissible under this section. Therefore, immigrants found inadmissible under section 212(a)(6)(C)(ii) of the Act are permanently inadmissible regardless of the circumstances or the reason for the claim. Nonimmigrants, however, may seek the exercise of discretion under section 212(d)(3)(A) or (B) of the Act, as applicable.

Unlike fraud or material misrepresentation under the INA for which a waiver is available, (INA § 212(i)), no waiver is authorized for false claims to U.S. citizenship, not even for spouses and children of U.S. citizens and lawful permanent residents. Unlike fraud and material misrepresentation which require a willful intent, a false claim to U.S. citizenship is a strict liability offense with no defenses and requiring no specific intent on the part of the person making the statement.

This per se bar violates fundamental values of fairness, due process and punishment proportional to the offense. As a result, many noncitizens with meritorious claims to status are deemed inadmissible and removed under these provisions. Regardless of the circumstances, they are permanently barred from acquiring any status and have no opportunity to explain the context of their alleged false claims, nor are they able to present humanitarian, family unity or public interest reasons for why they should be allowed to gain status, despite their mistake.

Please understand that I do not minimize the nature of a false claim to citizenship. It should be a bar to entry and admission to the United States. We want to discourage any immigrant from making such a claim. It is the lack of a waiver that causes the harm here, not the actual prohibition itself.

**Example:** Consider for example the real life case of a returning Cuban lawful permanent resident in Arizona who went to Mexico on vacation. When asked his citizenship at the port of entry, he responded "Miami, Florida" since he misunderstood the question. He was barred reentry by the Department of Homeland Security, detained as an "arriving alien," stripped of his permanent residence, barred from applying for cancellation of removal and permanent residence under the Cuban Adjustment Act, and

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[3] **212(a)(6)(C)(ii) Falsely claiming citizenship.**—

(I) In general.—Any alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this Act (including section 274A) or any other Federal or State law **is inadmissible.**

**(II) Exception**—In the case of an alien making a representation described in subclause (I), if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making such representation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such representation.

forced to apply for withholding of removal protection. Fortunately, he was granted withholding of removal status because he came from Cuba, and was released and resides in legal limbo in Miami. Most noncitizens in his situation would not be found eligible for withholding of removal, which is reserved for those who can show they would be tortured if returned to their home countries.

Also consider the plight of the battered immigrant woman whose U.S. citizen abuser forces her to tell border agents as they cross the Mexican border together that she is a U.S. citizen, using his sister's passport. Although the abused spouse is eligible for special status created by Congress in 1994 under the Violence Against Women Act, her "false claim" will make her permanently ineligible to gain lawful permanent residence. Thus, the abuser has successfully used the immigration laws against his victim to continue his power and control over her and his children. These are but two of a myriad of examples that I could cite over how statements of "citizenship" are turned into permanent bars in unjust situations.

**Suggested Legislative Fix:** Given the multitude of hard-working, tax-paying immigrants who would benefit from legal status, INA § 212(1)(6)(C)(ii) must be modified to be consistent with the fair and just treatment of fraud and misrepresentation under the INA. Under current law, a waiver under Sec. 212(i) of the INA is available for fraud and misrepresentation. Under Congresswoman Jackson-Lee's Save America Comprehensive Immigration Act, Section 806, this waiver would be expanded and would be made available to an immigrant who is the spouse, parent, son or daughter of a U.S. citizen or of an immigrant lawfully admitted for permanent residence if refusal of admission to the U.S. would result in hardship to the lien or to the citizen or lawfully permanent resident parent, spouse, son, or daughter of the immigrant. This waiver is not granted without showing hardship and retains the punitive nature of the law, without making such a claim and "unforgivable sin." Our own Judeo-Christian ethos in the United States would have us make only the most vile actions unforgivable. Everything other action should and must have some level of forgiveness available. It is, simply put, the right thing to do, and this Act does just that.

**CANCELLATION OF REMOVAL**

In 1996, through IIRAIRA, Congress changes our immigration laws to eliminate a two-tier form of relief from deportation known as "suspension of deportation" and replaced it with a severely limited form of relief known as "cancellation of removal." Suspension of deportation was available to immigrants by application to an immigration judge in deportation proceedings. The first tier required seven years of continuous physical presence, good moral character, and proof that deportation would result in extreme hardship to the immigrant or to his or her U.S. citizen or lawful permanent resident spouse, child, or parent. If the immigrant is subject to deportation for more serious grounds (such as for certain criminal offenses, for security grounds, for failure to register, or for falsification of documents), suspension of deportation relief required 10 years of continuous physical presence and good moral character, and proof that

deportation would result in exceptional and extremely unusual hardship to the immigrant or to his or her U.S. citizen or lawful permanent resident spouse, child, or parent.

This old "suspension of deportation" law provided relief to immigrants who found themselves in deportation proceedings without another form of relief available to do them. It was, for many, a last line of defense prior to being deported from the United States, and allowed the Immigration Judge to exercise his discretion in determining whether that immigrant deserved to remain in the United States.

Under current law, Section 240(A)(b) of the INA replaces "suspension of deportation" with cancellation of removal as it applies to nonpermanent residents who are in removal proceedings. And while the laws appear somewhat the same on their face, such as if the application for cancellation of removal is approved, an immigrant may apply to adjust his or her status to that of a lawful permanent resident, the reality is that the laws are substantially different and this new law is much harsher and more limited in its application.

Specifically to be eligible for cancellation of removal under Section 240(A)(b) of the INA, an immigrant must have been physically and continuously present in the United States for a period of ten or more years; the immigrant must establish exceptional and extremely unusual hardship to a qualifying family member; and must be a person of good moral character. Immigration Judges can only grant 4000 such cases each fiscal year.

Given the extreme level of hardship that must be demonstrated, there are very few cases that rise to this level of hardship, no matter how compelling the case. The cap certainly provides another disincentive to immigration judges to deny cancellation of removal applications, even when there is a meritorious claim. However, the immigration judges of the Executive Office for Immigration Review have never even come close to the annual cap; there are that few cases that meet this incredibly high legal standard. So few in fact, that this law is rendered a virtual nullity for many deserving people.

A very limited number of applicants are eligible for cancellation of removal due to the difficulty of showing "exceptional and extremely unusual hardship" to the immigrant's spouse, parent, or child, who is a U.S. citizen or a legal permanent resident. Hardship to the immigrant is not a consideration, regardless how long the immigrant has lived in the U.S. and regardless of why and how the immigrant entered. Therefore, unmarried, undocumented immigrants who have no qualifying family members are disqualified from demonstrating hardship even if they have lived here most of their lives. Many hardworking individuals, who would be otherwise eligible based on good moral character and continuous physical presence, are precluded from applying for this relief.

Most courts find against worthy applicants because of the elevated level of this standard. Requiring an applicant to show "exceptional and extremely unusual hardship" to a USC or LPR spouse, child or parent is an almost impossible burden. Factors such as family separation, economic hardship, requiring USC/LPR children and/or spouses to leave the US for the sake of family unity or to avoid breaking up the family, and/or losing the immigrant breadwinner of a family are simply sufficient to meet the "exceptional and

extremely unusual hardship" standards. It is of little consequence that an immigrant has not lived in their native country for years or entered when they were babies and have no memory of their native land of the language spoken there.

The fact of this law is this: in order to qualify for relief, the immigrant must have a sick spouse or child, whose disease or disability is virtually untreatable in the home country, and then must still combine other factors of hardship to meet this standard.

Not surprisingly, this standard vastly restricts an immigration judge's ability to utilize his or her discretion in granting cancellation to an otherwise worthy applicant. In 2004, Senator Feinstein herself voiced concern about the apparent lack of sufficient grants of Cancellation of Removal to meet the yearly allowable totals.[4] But apparently did not attribute the reason for the reduced numbers correctly. My conversation with numerous Immigration Judges leads to only one conclusion as to why 4,000 cases are granted each year in this category—the standard is simply too extreme.

Based on the current standard, few cases qualify for this form of relief.[5] One reason is that the applicant must also demonstrate that they have been physically present in the United States for a continuous period of not less than 10 years. Under the suspension of deportation provisions, an applicant only had to prove 7 years of physical, continuous presence. Cancellation of Removal is recognized as an equitable remedy to avoid otherwise unconscionable consequences in compelling cases. There is no apparent or obvious reason for this increase from 7 to 10 years other than to cut this form of relief to otherwise eligible applicants who would be otherwise eligible for this relief. Further, because of the "stop time" provisions in this law, the time period counted toward cancellation of removal eligibility stops running as of the date a disqualifying event, such as issuance of a Notice to Appear occurs, rather than at the time of the hearing. This removes from eligibility many otherwise eligible applicants.

Of great concern currently, the immigration courts are being flooded with these applications because the Asylum Office of the USCIS has finally begun adjudicating asylum cases of Central American asylum seekers filed in the early 1990s. Unfortunately, while many of these individuals, who have now been here for more than 15 years living under the protection of and with the permission of the U.S. government, quietly establishing and living their lives, creating U.S. families, and are "statutorily eligible" for such relief, will now be torn apart because their family's suffering upon their departure will not be "exceptional and extremely unusual." Their suffering will only be typically heartbreaking, emotionally destructive, and financial ruinous--not quite enough to meet this standard. What a horrible trick to play on someone who sought the protection of the U.S. Government.

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[4] See Press Statement of Senator Diane Feinstein, dated June 4, 2004.

[5] It is noteworthy that the House Conference Report regarding this legislation stated that "[t]he managers have deliberately changed the required showing of hardship from 'extreme hardship' to 'exceptional and extremely unusual hardship' to emphasize that the alien must provide evidence of harm to his spouse, parent, or child substantially beyond that which ordinarily would be expected to result from the alien's deportation." H.R. Conf.Rep. No. 104-828.

Even more limiting, Cancellation of Removal requires perfection, and neither offers nor provides any forgiveness to those who may have erred, even in a small way. In order to qualify for cancellation of removal, nonpermanent residents and victims of domestic violence/abuse who qualify for INA §240A(b)(2) (special cancellation of removal under the Violence Against Women Act (VAWA)) must not have a conviction under:

1. INA §212(a)(2) relating to criminal grounds;
2. INA §237(a)(2)(A) relating to multiple moral turpitude offenses, aggravated felonies, controlled substance offenses, firearm offenses, domestic violence convictions after September 30, 1996; or
3. INA §237(a)(3) relating to failure to register and falsification of documents.

A conviction under one of these grounds serves as a statutory bar from receiving this form of important relief. The definition of an "aggravated felony" for immigration purposes was greatly expanded in 1996. In many cases, the definition is unrelated to any criminal definitions and includes non-violent crimes such as shoplifting and writing bad checks. In addition, DHS' aggressive interpretations of the aggravated felony definition have led to overreaching enforcement that have led to two near-unanimous Supreme Court decisions rejecting DHS interpretations that led to the unlawful deportation of thousands of immigrants. [See 8-1 decision in *Lopez v. Gonzales*, 127 S. Ct. 625 (2006)(rejecting broad application of the drug trafficking aggravated felony category to simple possession offenses); 9-0 decision in *Leocal v. Ashcroft*, 543 U.S. a (2004)(rejecting the broad application of the crime of violence aggravated felony category to DWI offenses)]. Moreover, many changes to the law in 1996 and its interpretation have greatly expanded the reach of other deportation law provisions to apply to offenses which are even more minor or to cases where criminal charges have actually been dropped or expunged.

For example, an applicant may be statutorily barred because of a conviction committed more than 10-20 years ago that does not rise to the level of an aggravated felony. Another applicant, who suffered abuse at the hands of his or her U.S. citizen or lawful permanent resident spouse, may have committed a crime flowing from domestic violence, such as shoplifting food for her children when her abusive spouse refuses to give her money. While Congress has deemed that such a conviction may be excepted from the good moral character bars to status, such an applicant will never get her foot in the court door, because of the per se bar to eligibility for a conviction under 212(a)(2).

Prior to the elimination of suspension of deportation as an equitable remedy, there was no limitation on the number of suspension cases that could be granted in one year. The law, as it was changed, limited to 4000 the number of immigrants who are permitted to adjust status under INA Section 240A. This limitation applies to the aggregate number of decisions in any fiscal year to cancel the removal of an immigrant. The intent of INA

Section 240A is to permit qualifying applicants to adjust to lawful permanent resident status if they are eligible and meet the statutory requirements. Therefore, once their removal is cancelled, there is no reason to further thwart their efforts to become lawful residents of the U.S. by imposing additional obstacles that have no nexus to their eligibility.

**Example** There are tens of thousands of compelling cases which demonstrate the inequities in cancellation of removal. Consider the true case of Francisco Monreal, who was a nonpermanent resident in the United States for over 20 years when placed in removal proceedings.[6] He entered the U.S. in 1980 at the age of 14. He was married, and had three children, all of whom were U.S. citizens. At the time of the removal proceeding, one of the children was an infant, the others were 8 and 12 years old. Mr. Monreal's parents were both lawful permanent residents of the U.S. and seven of his siblings were lawful permanent residents, as well. Mr. Monreal had been gainfully employed in the U.S. since he was 14 years old and was the sole financial supporter of his wife and three children.

The government did not dispute the fact that Mr. Monreal met the 10-year physical presence requirement and good moral character requirement. However, his application for cancellation of removal was denied for failure to meet the stringent hardship requirements. The Board of Immigration Appeals upheld the Judge's decision and ordered Mr. Monreal to return to Mexico. Mr. Monreal, who had never committed a crime and had always been an asset to the United States, was deported to Mexico, where he had not lived in 20 years. The decision to deport Mr. Monreal also effectively deported his 12 and 8-year-old U.S. citizen children and also separated them from their cousins, aunts, uncles and grandparents.

This is only one example of many that shows the fundamental unfairness of our current immigration laws. By adopting a one-size fits all approach, we are effectively disrupting millions of families and separating children from their parents and spouses from each other.

**Suggested Legislative Fix:** Restoring suspension of deportation is the most reasonable and logical legislative fix. This change will allow eligible, long-term immigrants, who have established their lives here, and who have no other legal channel of acquiring legal status, an opportunity to do so. It is a remedy of last resort. Section 811, of the Save America Comprehensive Immigration Act of 2007 offers this logical and easily implemented fix; while at the same time not increasing the workload of the Immigration Judges or requiring additional resources necessary to implement it. There are thousands of long–term immigrants who are being plucked from their jobs and their lives as a result of the stepped-up worksite enforcement raids who are likely eligible for suspension. It would save many children from suffering the trauma of never seeing their parent come home. Suspension of deportation is an equitable remedy of last resort to many long term immigrants who pay taxes, own their own businesses, have their own

[6] In re Francisco Javier Monreal-Aguinaga, 23 I&N Dec. 56 (BIA 2001)

homes, are involved in their communities, their churches, their schools, and of course, their families. They are invested in this country and contribute to the economy. Restoring this relief is simply the right thing to do.

**Conclusion**

The net result of the enforcement and punitive measures under our current law has been a reduction in the discretion available to the immigration authorities in administering the immigration laws. Thanks to the comprehensive legislation offered by Congresswoman Jackson-Lee in the form of the Save America Comprehensive Immigration Act of 2007, H.R. 750, Congress should and must revisit the question whether restoration of some of that discretion will lead to more efficient use of resources and the ability for DHS to focus its finite enforcement resources on identifying, detaining and removing those people who pose real threats to our national security and the safety of our communities. This legislation must be incorporate into any legislation considered by Congress as it addresses immigration reform. This is, simply put, reform that cannot wait.

A number of lawmakers have become fixated on the notion that border fences and other enforcement measures are the most promising means of stemming undocumented migration into the country, even though the past two decades of escalating border enforcement have witnessed unprecedented growth in the size of the undocumented population. It is clear that the investment by the federal government of billions of dollars in policing the U.S.-Mexico border has had the unintended effect of trapping undocumented immigrants in the United States rather than keeping them out. Undocumented immigrants, prevented from moving back and forth across the border, have either brought their families with them or created families in the United States.

A proper understanding of the causes of international migration suggests that punitive immigration and border policies tend to backfire. U.S. immigration law and border-enforcement policies have actually reduced the apprehension rate to historical lows, rather than to raise the odds that undocumented immigrants will be apprehended.

I encourage Congress to analyze instead, the provisions under current immigration law that are so unforgiving, unfair, unrealistic and onerous and which have the unintended consequence of discouraging legal immigration rather than encouraging it. One key part of the solution to the problems associated with undocumented migration must provide undocumented immigrants currently living in the United States, who may be otherwise eligible for permanent resident status, but for some of the onerous, unforgiving provisions under current law, an opportunity to apply for legal status.

**ADDENDUM**

From **ILW.COM.**

**...Honest Voices Speak Out About the IIRAIRA Law:**
**The following stories and comments are posted from those that were sent to us by way of our Town meeting at the Townhall on this site. If, after listening to these voices, you yourself wish to tell us about how the new immigration law has affected, or perhaps will affect, your life, then join us over at the Townhall to tell us your own story...**

***Click here to view ARCHIVES ONE, stories posted from the beginning of our site until June, 1997***

*Click here to view ARCHIVES TWO, stories posted between June, 1997 and November 1998*

*Click here to view ARCHIVES THREE, stories posted between December 1998 and April, 1999*

*Click here to view ARCHIVES FOUR, stories posted between May 1999 and December 1999*

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February 14, 2001

On April 6th, 2000 my Wife of three years, Martha and I were crossing the San Ysidro border crossing at San Diego, CA. As we approached the gate in our car, I got out the I-512 reentry permit we needed for Martha to reenter the US. She was returning from a visit to her Mother and Father for one week. I saw the permit was expired. Not knowing what to do and almost to the crossing I told my wife to say USA if asked if she was citizen. Of course I did not know that this was the worst thing we could possibly do. The Police knew something was not right and sent us to secondary inspection. Their Martha told the police what happened and how we did not know what to do. He said he wold talk to his supervisor and see if Martha could be released into Tijuana Mexico and I could be sent to fix the paper work.
But this was not what the supervisor decided to do. My wife was charged with illegal entry into the USA. Martha was not only charged with the first time offence of "5 year removal from the USA", but also charged with an additional third time offence illegal entry into US. This carries the trim of LIFE sentence removal from the USA. Yes my wife of three years, my Martha can NEVER RETURN TO OUR HOME FOR THE REST OF HER LIFE. Martha and I have NO criminal records not even a traffic ticket. Martha showed her valid United States social security card, California driver's license and her valid work permit (green card). The police woman behind the counter said they were fake and Martha replied they were not, check your computer. The policewoman replied;nothing comes up on the computer;. She then told us Martha was going to jail and

was still angry from about ½ hour before when she yelled and stomped away from the counter yelling, and screaming then her fellow officers told her to calm down.
The Illegal Immigration Reform and Immigrant Responsibility act of 1996 has clear cut guide lines as to what the arresting police force that sentences my wife, as to what the sentence should be. They were not followed in my wife's case for she was given the extra charge of "Third time of illegal entry to the USA" LIFE SENTENCE. I now tell the border guards my story, as I pass daily comminuting from Tijuana to San Diego. They tell me that those charges do not sound correct, and explain the 1st, 2nd and 3rd offence charges to me, One even said I should appeal.
The Illegal Immigration Reform and Immigrant Responsibility act of 1996 has removed the Judicial Review from our type of case. I have talked to numerous attorneys and there is no legal recourse they could take one even said "Your dead in the water, sorry nothing I can do;. I can't believe that my Untied States of American Government would give any Police or Military force the unbridled power of sentencing with No Judicial Review. This arresting Police force that has the power to pass and carry out any sentences if chooses and not follow the Law's set out by the Untied States of America can only be abuse waiting to happen. As in our case Judicial Review is a necessary without it all hope is lost for fair and just treatment for every Untied States citizen.
At the time of this happing I was a full time student and a year away from my bachelor's degree, Martha had a business with two employees, and this was our only source of income. We were struggling trying to pay our bills and to have food for us and our two children. We were working toward a better future and the future looked bright. We dreamed of moving into a bigger house so Saul and Nayeli could have there own rooms after I finished school. Now Martha's business has closed, my schoolwork has suffered and now we all live in Tijuana, Mexico in a one bedroom house with bars on all the doors and windows. I had never lived in a third world country before and the noise and water conduction’s are very difficult here. The wild dogs running everywhere, is a hazard to our children's safety and the feces all over the sidewalks are a constant problem. The public school (we cannot afford privet schools) only teaches in Spanish so our children are falling behind in their English skills.
Our attorney has sent three letters to Ms. Salinetti, the AAPD at the San Ysidro, San Diego, CA. Port of entry. At this point we are waiting for any papers from the INS that would withdraw the life charges. Then and only then we could deal with the 5-year sentence charges if they are not withdrawn also. We have been patient for almost 1 year now waiting for the INS to right this wrong. The shock and trauma that Martha our children and me have suffered seems cruel and unusual punishment for claiming to be a US citizen. I met my wife in the Untied States got married in the Untied States and my wife has been improperly charged (life sentences) and without due process (no impartial judge for sentencing) and is now denied by written law, any judge to review the case. My civil rights have been violated by a system that has destroyed my family and future forever. Our sentence was passed by a female police officer behind a counter at a detention facility no judge, no jury, no attorneys, no trail, no Miranda rights. My civil rights as a US citizen, to raze a family, to be protected by the laws of the US, to live in a safe and protected environment all have been removed from my life. For me the Untied States no longer stands for a just and fair system always against oppression and totalitarian governments. My life now is looking at a government with cruel and unusual

punishment no due processes and has written laws to prevent a judge from being able to correct the error.
For me all hope is lost.
Mark

mar1mar2@hotmail.com

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February 5, 2001

My husband story starts 11years ago. He was sentenced for 15yrs. in the prison for drug related charges. The system put all charges on him because when they took him out on bail, instead of giving people to the narcs, he left town, so they put a warrant on him. He was working at Montana at the oil rigs at that time. He went to purchase a stereo for his truck, and comming home the police stopped him. They flew him back to Dallas where they had the warrant. He stayed in jail for more than a month until they decided to send him to TCD. That is when they gave him the 15yrs., but only did 18 months. Back then every month was like a year. When he came out they said that he did not have any legal right to be in the U.S. because he had no papers, but that is a BIG LIE! His motherhad her citizenship so she decided to get their papers in 1975, he was six years old. So they deported him thinking that he was illeagal. They gave him special conditions about returning to the U.S. till the year 2003. Well he came back, but not with the same intentions, what he did back then was a mistake, he knows that. But my argurment with the system is that they have to look at his record from then and now, and they have to see that he has been a hard worker, paying taxes like everyone else, supporting his family, making sure that we never went hungry, or without of roof over our heads. He is a good man, a wonderful husband, a wonderful fathere. What I don't understand right now is that they have in jail right now has been there for four months, he had a revocating hearing and just been revoked, right now we don't even know how long he been in prison again. Here we have a man that has been working all this time, then for a couple of mistamieners, they find out that he should not be here. A bounty hunter came to my door one evening about 5:00pm my husband answered the door, he said my name and when I went outside I saw my husband in handcuffs, I was blown away. He had just gotten out of work, tired and hungry. They took him to the sherrif dept. and he is still there. I thank Jehova God that he has given me the strength to keep going, but can you imagine someone in your life so close to you and just taken away. Now I know how the people in those countries that have there love ones taken away without any explaination. My children are so lost right now, and asking for there father everyday. And to leave there home because I cannot afford to pay the bills and and house payment. I have lost everything due to these laws that they have or make up on the way. I don't know who els to turn too! I'm scared that I will never see my husband again!!. What can I do or who can I turn to. Here we have a man that can support his family, pay state taxes, and they would rather imprision him and have the tax payers pay $30,000 a year just to house him. Is there any alternative for this kind of case? Like putting him on probation, or house arrest or something, but not prison. He has a family to support and child support to pay. Please if any one has any legal information please help me. He is legal to be here

because he has been here all this time, I just need some help to were he won't be doing all that time and still end up going back to Mexico after. They need to change those laws, because no matter how many times you send them they will always come back.

"A Wife and Mothere in Dispair"

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February 1, 2001

I was deported out of the US in 98, after serving a two sentence in an Ohio institution. I have lived in the US since I was born in 1970, I was married to a US citizen, and I have four kids that are US citizens.
I was deported back to Mexico, just because I was born their, I have never live their prior to my deportation. I miss my kids and they miss me. After serving 2 years in prison I have been taught a valuabe lesson in life and sometimes we can mature and grow or stay stuck, I chose to use learn from my mistakes. Now all I ask for is to be given one final chance to return to the US to be a model citizen and to raise my kids. If anyone one can help or has any advice please, please let me know.

Thank you for you time, and may god bless you all.

Sincerely,

Kristina

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January 31, 2001

hello,i need some justice for my brother who is in detention centre for the last 4months, his wife and three small childern live in phonex, AZ, in poor conditions, My brother is not a citizen, thats why last year they left for pakistan to start a new life,his wife and kids couldn't adjust there due to the strick religious differences, his wife is non-muslim, which was the major issue over there ,they use to get threatning calls from some relogious group saying that they will kill his wife cause she is raising a non-muslim family.finally they decieded to return to U.S, upon getting a visa he and his family arrived at pheonix airport where he got arrested for over stay last time, by INS and since then he is in detention.he also filed for political assylum as he thought is important.i hired a lawyer also for initial fee of 2000$ his name is Eric Bowman he filed his PITITION and promise to help us, but unfortunately he never appeared on any of the hearings, upon asking him,he said that he had a rough week and he is sorry that he couldn't make it.
now my brother is fighting his case by himself hoping that they will release him, but now i think they will deport him becaues he don't have a lawyer to fight his case.in that case his family will go through hell, which is extremely heartbreaking.his next hearing is on 5th feb'01 and he wants to know if he takes a volunteer departure how much time will it

take him to return to U.S.????PLEASE LET US KNOW SO THAT WE COULD TAKE PROPER STEPS.

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January 29, 2000

Feb.15,1973i entered the united states and i have only visited my native jamaica once since.In the thirty years that i have been living in america i have only been in trouble with the law only once.In 1992 i was indicited on a posession,intent and a school zone violation,in 1994 i took a plea agreement of which i was given 364 days and three years probation.i spent three months in the county jail and was released to compleate the probation time, of which i compleated in two years instead of the three. ON May17,2000 ins took me into custody and charged me with voilating the immigration law.i was taken away from my job of five years shackled handcuffed and wisked away to the hunson county correctional facility before i knew what was happening.i spent two weeks at this facility,i was then shackled,cuffed and driven to an airfield in up state new york and flown to the federal detention center for another two weeks. i was then given a 1500 dollar bail and released. sinc!
e then i have lost my job,my car,i cannot find work since the ins has taken all my paper work.i cannot take care of my child , my life is in ruins.if i could get a judicial review i could win my case.America has taken everything from me because of one mistake, they then waited seven years after my crime and after they changed their laws to punish me again.i have no family members on the island no place to live no means to live. I HAVE TRUELY BEEN SENTENCED TO DEATH.

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January 29, 2001

ALL what I have done have been imposible,I wonder to many people facing the same problem,how is this posible that nobody has communication with nobody for doing something? what is going on? Are we that back in the time that were not right to speech or freedom for press? . It is sad to think that only money can make people to care about other human being,do we all do not have one head,two legs,like everyone else,even if we do not have money?Rotten justice,where only the wealthy have the right to justice,and the poor is nothing.I wonder what is justice at all? why certain people can avoid it,without remorse or punishment,should we have respect for something that does not have respect for itself,or is only is the imagen of something that doesnot exist,at list for who are the weak?

Move,DO Something,wake up,you,yes you t!
hat are crying,waiting for something to happens. Too many letters,too many people,what have you done? only complain and wait. Think again and act,contact the same people that have written in this site and ask them what can be done,but do it.BYE,BYE
now.

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January 19, 2001

I want to know what is happening with the 245i law? Is our goverment going to help the illegals that come here to harvest our food? Without them, the farmers know they can't get any other people to work. I can't
imagne working in Mexico for$2.00 a day, know wonder the Mexican's come
here to work. On another note, what happen's to the money that is taken
out of their check's for Social Security, Federal tax, State tax and so on if these people
can't file taxes. Where is this money over the year's? Who is benefiting? The people that
are legal is not enough to
do all the work that is needed to be done. I have many friend's that
are farmer's and they feel the same way I do, we need to have more
people that are legal so that mean's our goverment need's to help the
farmer's.I fail to see the problem, where is it? All that these people
want to do is work here, we should be gald because these people work
very hard, more hard than I have seen in a long time.Why can't we help them? Does
anybody care anymore?

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January 18, 2001

TO WHOM IY MAY CORCERN.THE REASON WHY I'AM WRITEING BECAUSE I'HAVE A HUSBAND WHO ARE IN I.N.S. CUSTODY AND I' THINK IS INHUMANITY ABOUT WHAT THEY ARE DOING TO PEOPLES LIVE AND THE CHILDREN THAT FATHER ARE BENING HELD BY I.N.S.ARE DERSTROYED AND SHATTERING CHILDREN LIVE THIS IS SO UNJUSTLY. SOME OF THE PEOPLES ARE LEGAL RESIDENT THAT HAS U.S.CITIZEN WIFE AND CHILDREN.AND I.N.S.IS STILL HOLDING THEM IN CUSTODY MY HUSBAND HAS BEEN IN THEIR CUSTODY FOR 8 MONTHS ON A 1987 CASE HE HAS CHANGE HIS LIFE AROUND.HE NEVER BEEN A DANGER TO SOCIETY THIS IS AFFECTED MY LIFE AND MY CHILDREN SEEM LIKE THESE PEOPLES THAT HAS THE POWER OVER PEOPLES LIVE THEY JUST GO AND PICK UP PEOPLES BECAUSE THEY LOOK LIKE THEY DON'T BELONG HERE THEY EVEN PICKING UP U.S. CITIZEN LOCKING THEM UP I' THINK I.N.S. IS CAUSEING THIS COUNTRY MORE MONEY THAN ANYTHING THE WAY THEY GOING AROUND PICKING PEOPLES.THAT ARE CITIZEN MAKE YOU THINK I'AM A CITIZEN WILL THEY COME AND PICK ME UP TO BECAUSE NO ONE SPEAKING UP ON THIS PROBLEM THEY SAID THIS NEW LAW HAS PASS BUT NO ONE IS TALKING ABOUT IT MY HUSBAND IS JUST SITTING THERE.WHILE I'AM STRUGGLING TO SUPORTED THREE CHILDREN.SEEM LIKE NO ONE CARE ABOUT FAMILY ANYMORE IT ALL ABOUT MONEY.I' HAVE ASKED MY HUSBAND LAWYER TO TRY AN GET MY HUSBAND OUT ON BAIL BUT THEY SAID NO HIS CASE HAVE TO BE REOPENING FIRST AND

THAT COULD TAKE UP TO MONTHS MY HUSBAND HAS NEVER SEEM THIS LAWYER BECAUSE THEY MOVE HIM TO BATAVIA N.Y.AND THE LAWYER DID,NT WANT TO GO THAT FAR THEY MOVE HIM FOUR TIME AND HIS FAMILY WE CAN'T GO TO SEE HIM EITHER THANK YOU.

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January 9, 2001

I am a sixteen year old,american white female. I met my boyfriend two years ago. Finding out he is an illegal citizen is hard for the both of us. Mexicans come to the united states because Mexico is so poor. Maybe America should stop being so stubborn and wake up and realize that people in Mexico die because they can not afford enough food for their families. My boyfriend told me he had two siblings that had to die because his family did not have enough money or food for his family to feed his younger siblings. Some Americans need to realize that God made us all equal and we should all work together. Having Mexicans come over to America shouldn't be a big deal. My boyfriend is a really nice guy he would do anything for anyone. He is a very hard worker and Because he is an illegal immigrant he has to work twice as hard. Sometimes he will work seven days a week. It is good to say that he has a very good job. Illegal immigrants don't deserve the racism they get from the americans. We act like we are better than every one else just because we have all the great technoligies and all the other great things we take for granted. We have it made compared to the illegal immigrants. Every Mexicans dream is the American dream. They just want to live a good life. If the united states doesn't want Mexicans coming over here to America than maybe we should help them make their a country a better place for them to live.

The way this has effected my life is that my boyfriend and I plan on spending the rest of our lives togther. And if doesn't become legal we may not be able to get married. But Know matter what happens I will stand behing my boyfriend every step of the way.

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January 7, 2001

My name is Lisa Duarte, my husband of 4 years is facing deportation. We have 2 chidren together a 3year old and a 2 month old. mario was arrested in December of 99, with 2 kilos of cocine which he was set up by the government. he was sentenced to 34 months in the federal bureau of prisions and has been there since March. Mario has been in the U.S. since he was 3 years old and became a resident when he was 10 years old and is now 27 years old. He has no family left in his home country of Mexico. We don't have many choices if this law doen't get passed and he gets deported. What will my kids and I do? We eather go with him where there is no kind of life or education or leave there father and the love of my life. What a choice!!! I will do what I can for this bill hr 1485 to be passed. I don't agree with what my husband did but it is unhumane to give him a life sentence. The u.s is the only country he can remember. He is a good father and husband

who made a bad choice and our family doesn't want to be ruined over it. I have a lot more I couls say but i have been kicked off the computer 4 times.. We are lost on what to do.
Worried Family

,I wrote earlier and want to make it clear I will do what I can to get the bill passed. I really fill this is unfair like in my husbands case has been her for 24 years and a tax payer and a hard worker for years. people make mistakes anf that what prision is for they should not be looking at everyone as one but as individuals.
Thank You Lisa Duarte Lisa, Keano, Angelo Duarte

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January 6, 2001

I entered the US as a 21 year old Permanent Resident Alien (PRA) back in 1992. I have been working hard ever since, graduated with a degree and i am now working in a really good paying job that has enabled me to buy a house. Back in 1996, i was arrested for battery and as i did not know the law - i pleaded guilty with the first offenders act. It was explained by the prosecutor that my charge would be taken off my record if i did not get in trouble within the 1 year period of probabtion that was given to me. I did not spend any time in jail.....I then decided to apply for citizenship in late 1997, i have passed the history and written exams and was under the impression i was waiting for my "Oath" ceremony....was i in for a shock when i was sent a "Notice to Appear" which means the INS want to deport me for the one and only offence i was charged with. (i was innocent and was in the wrong place at the wrong time which makes this even worse) A lawyer has been contacted and i am positive that this crazy law will be beaten and with all our efforts we can all move forward together.

I will keep you updated on my fight for freedom. -An angry PRA

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January 5, 2001

A new law has been referred to the Immigration Subcommitee.
It is HR 87 by Bob Filner.
Please call the committee and ask them to support it. It will change the definition of'aggravated felonies' for the better.
Please call and fax as soon as possible .
the phone number for the committee i 202-224-6098
the fax number for the commitee is 202-224-9102

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January 3, 2001

I"am a 39 year old American citizen, Married to a Mexican man who took volentary departure from the U.S in June of 1999. I have Cancer (Urinary Tract) I"ve lived here in Mexico for a year and a half without proper medical care, not able to work, nor are we able to live on the 90 pesos he makes daily(about 9 dollars and 23 cents a day) I"ts very difficult to find my medications each month and even harder to afford them,they go up in price every month. My husband and I are waiting for medical statements from Doctors in the U.S To take to the Consulate in Juarez, to ask for my husband"s Pardon (I-601) and a Discretionary Relief. Without my husband I have no where to live in the U.S , no money to live on and no Health insurance. IF the Doctors (who haven"t seen me for a year and a half) decide to send the statements I need, It could still take a year to grant my husband"s Pardon. How much Cancer treatment can we afford on $9.23 a day,(after rent,electicity, food, and medications)

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January 2, 2001

My name is Kathryn Ware Villarevia. I met Juan Villarevia while in Costa Rica in 1995-96 while studying tropical biodiversity and participating in a rodent biogeography research project. We continued out relationship long distance and I visited when I could get away from work. Juan went to the US Embassy to apply for a mere tourist visa to visit me and meet my family. He was denied almost immediately. I visited an attorney in Dallas, TX who advised me of some documents that might help him secure a tourist visa. After the six month wait to re-apply, I flew down with the paperwork and went to the Embassy with him. After hours of lines, we had a 2 minute interview and he was again denied. Sadly, I had to return to the US without him. As I was not ready to commit to marriage I did not pursue the fiancee visa--I felt it was unethical and dishonest. How I wish I had done that now. Juan and I both grew impatient and he decided to come anyway. I knew it was wrong and I didn't want him to become part of the reason why there exists such harsh legislation, but we didn't want to be apart either. Why is it so difficult for two honest people to simply be together? Because of where he was born? Am I not a "free" American citizen who only wanted some time with him? Happily, regretfully, and thank goodness safely, he came anyway. We spent 2 1/2 happy yet difficult years together here in the US. We were married in March of 2000. He recently went home to visit his elderly father. He is not coming back. Painfully aware that he is banned from the US for 10 years, I have resigned myself to being very far away from my mother. I have thought about what it will be like to either give birth in a country where the health care is not what it is here amidst doctors speaking a foreign language, or here in the US without the baby's father. I have thought about the loss of opportunity for future children as I don't feel confident we will be able to finance a decent eduacation living in Costa Rica. The list goes on. I find myself having to choose between my husband and living next door to my mother which was my dream. I wanted my kids to have those same experiences that I had with her. I realize that we are not completely innocent, but is it necessary to pay such a high price? I just want to be with my family.

All of them. We are currently pursuing permanent residency in Canada as a sort of compromise. It makes me sad that a young, energetic, well-educated American citizen must take her talents and patriotism elsewhere. If the US doesn't want my husband, then they don't want me. They have much friendlier immigration laws in Canada and seem to strive to keep families together and not separate them as the US does hundreds of times each and every day. Is there anyone out there that can help me? Am I misinformed? Am I missing something? I keep hoping someone will think of or know something that I don't about the laws. I hope someone will contact me. Pezote@aol.com

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December 16, 2000

I am a British husband of an American Citizen. To cut along story short, we met over the internet and after a lengthy courtship, I flew to the states to marry my bride ON THE ADVICE OF THE INS who said I could apply for a social security number and a work permit upon marriage. After we were wed we were told the rules had changed and we had to file forms which cost a lot of money. Not being allowed to work it was difficult to save the money. I was recieving an insurance payment from the UK which helped but not by much. Unscrupulous companies soaked up our funds and we could not again raise the funds for the papers, but also were afraid to apply as every time we rang the INS to get information, we were told a different story. We didn't know what to do for the best. Eventually, my insurance company insisted I return to the UK to keep the payments which I needed merely to keep a roof over my families head, I also had the pressure from the INS saying I had to return and apply for a visa. Only to find out after the event that I could have stayed and applied. Now, I am in the UK and stuck as I am on state benefit now and cant afford the money for the visa application let alone the flight back. We are STUCK thanks primarily to the INS. I have read the many letters on this site and am appalled that there are so many similar cases of families being ripped apart by the callous and uncaring people. These individual cases all count as an act of inhumanity against innocent families. In our desperation to get the INS to change their rules and procedures, my wife and I have built a website on which we are collating helpful information, links to other sites or relation, and other peoples experiences. Our goals are to stop the parting of families and to allow automatic immigration with the filing of forms in retrospect, particularly in the case of families.
Please give us a visit, and make your contibution to the poll, the message board and the petition.
Thank you.

http://www.maxpages.com/caringfriends

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December 11, 2000

This law has distroyed my life and the life of my US citizen family. Due to this law we all are living out side of USA to keep our family together.

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December 6, 2000

hello, my name is cynthia. back in march 27, 2000 my husband was deported by ins. they said he was claiming to be a us citizen, but that was not the case. we filed all his paperwork in january 14,1998, and payed the 1500 fine like ins asked. we met the deadline date which was that same day. at first ins made different statements on why he was being deported and finally they told the truth. we have an attorney and we had to sent all the paperwork all over again and payed 1500 again. the problem i have is that when the law changed should it have applied to my husband 3 years later? my husband was never in trouble with the law, never even got a ticket, never did anything but support his family. we have 3 children 3, 2, and 4 months. this year he will miss his daughters first christmas and his sons 2 birthday all because ins wasn't telling us what was going on with his papers. we made several visits to ins to find out more information and what else we could do, or if we needed to pay for something else, but they never could give us a straight answer. they only gave my husband a work permit for 3 years. at every interview we had that was all they gave us. but now i need some sort of help or suggestion on what else i can do for him. a response we be greatly appreciated. thank you so much, cynthia

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December 1, 2000

Two months ago, much to my suprise, my husband discovered that an offense he commited 13 years ago (he is now 35yrs old) now makes him deportable. Sometime in the spring of 2001, my husband will be returning to the Dominican Republic, and place he has not seen since he was 10 years old. Without divine intervention, we can see no possible way of stopping this action. When my husband was originally convicted he was not aware that what he was advised to plead guilty to by the public defender was a deportable offense. Based on constitutional issues, we could reopen the criminal case and try to get a reduced changed but we don't have the liquid funds to be involved in a long court battle that may not do any good, and my husband does not want to sit in an INS detention center until things are decided, especially if not in our favor. My husband is a legal resident alien and I am appalled that he and others like him are stripped of due process and equal protection. In additon to this to make sure that they are deported, there is no longer any judicial review or discretion. It is the most discrimentory law on the books to date, and I would know as I am a minority. With the hispanic population on its way to becoming the largest group living in the U.S., it is no suprise that there are tools in place to curtail that growth as much as possible. This, naturally, will rip our family apart. Because of some previous surgery, in order for us to have children, we must go through

the invitro process. If he is deported, we will not be able to have the children we despartely want. We were just beginning the process when we heard from INS.

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November 25, 2000

I have a story about a young man that illegally crossed into the USA. He came from Nicaragua, from a very life threatening situation. He was arrested for trespassing in 1996 and when he attempted to apply for political asylum, they provided him with an attorney that worked with the INS and this attorney interpreted his testimony falsely which caused this young man to be deported. He was able to cross again illegally in the USA and was arrested again for trespassing in April of 1998. He
became very depressed during his imprisonment and was sent to a psychiatric facility. He remained at this hospital from Sept. 1998 until Jan 1999 when he was released under the Temporary Protection Status due to the hurricane that devastated his country. I helped him fill out the applications and paid the fees that were required for this status and also for a work permit. This man wanted to begin a new life, working legally and without fear of being killed by his government. (He
witnessed a murder by the Nicaraguan police), We sent these applications off immediately and didn't hear anything until June of 1999. He was asked to report to the INS office to be fingerprinted and to provide a picture for his id card. He did what they asked, (I provided the transportation), yet he didn't hear anything about his working permit. I called the INS office numerous times trying to find out what happened and received no information or answers to my questions. He also appeared in person to the office downtown and asked them about his card. They informed him that they didn't speak Spanish and couldn't help him. (Why don't they have enough staff that can help immigrants in their own language?) I then took off of work and went with him again down town to the INS building and again they pulled his file but said they didn't know anything about his work permit application and no answers or help was given. (What are computer data bases for?) Finally, in August of 2000 we received a letter about his work permit stating he needed to refile and provide proof of who he was (again - we already sent it once) and identification that was state recognized (AZ driver's licensee, AZ identification, passport or a birth certificate translated in English by only approved agencies) Well he couldn't obtain the first two items because you have to have a green card which we were still waiting for. We have been unable to locate his family members in his country and do not know if they survived the hurricane, therefore he did not have any identification on him. (When an immigrant fleas his country in fear of his life - he does not carry identification with him). This has been a hardship on him and has caused him to live on the streets at times and unable to get the proper help for his mental health as well. This young man is suffering from post traumatic stress disorder and was not able to continue his medication after he was discharged from the hospital because he was not able to work legally in the USA to support himself. He came from a country that is very poor and corrupt. His mother dies when he was 15 years old leaving him to live on the streets because his father left the family when he was a young age. He dropped out of school at the age of 10 to help and

support his family by working 10 - 12 hours everyday. He is not eligible for a professional status here because he was not privileged enough to stay in school and obtain a profession. His sisters had to prostitute themselves after the parents were no longer there to care for them. He was falsely imprisoned in his country several times but never convicted because he was not found guilty. In his country, the accused remains imprisoned until found innocent and that can take years, especially when you don't have the money for an attorney. There were many times while he was in prison that they fed him only the bones of the chicken that the guards had eaten. He witnessed the last time he was imprisoned, some guards beat a man to death and when they discovered he was a witness, they told him he would be next if word got out. This caused him to panic and he escaped the prison and made his way by bus and by train to the USA for hope of beginning a new life without living
in fear. During his imprisonment, they tortured him and he pleaded to contact the Amesity Organization for Human Rights but the prison staff refused to allow this contact. He has scars on his wrists and up his arms from trying to kill himself before they tortured him to death. Still, nothing was done - no help was offered to this young man. He is now 28 years old and has desperately done everything that the INS requested only to be arrested in Apache Junction for being drunk (self
medicated his symptoms of PTSD) and walking out of a store with a bottle of alcohol. During this time he was in a black out and didn't remember his place of residency which was with me so they took him to jail and did not allow him to make a phone call to me and then transported him to Las Vegas jail because INS was to full in Florence. He now is facing deportation back to his country which is a death sentence to him. This man has suffered years of poverty, torture, and now the unjust treatment of the INS. If the INS had given him a means of financially providing for himself (work permit), he would not have continued in his depression
and attempting to self medication himself. This man is in desperate help and if you are interested in more of this story - I have more to give and he has his whole story written on paper (in Spanish). I would like to get America's attention on why many illegal and even legal (in his case with the temporary protection status), turn to crime, alcohol and drugs. If they were given the means to work legally and provide for themselves, the stigma surrounding them would not point to all of them
coming over the border and bringing drugs and crime with them. Sure there are those that do that but how many US citizens also participate in that type of activity? Many of these immigrants are willing to work a full day of hard physical labor for maybe $25.00 because they have to work for cash illegally but they want to be able to provide for themselves and maybe for their family without doing illegal acts. Something needs to be done here. This young man continues to have flashbacks of being tortured and the dangerous trip he made to the US and now behind bars again, his flashbacks are stronger and his depression and anxiety is rising which interferes with his decision making and understanding what is happening to him. Please consider this story. I am a professional and do not want my name disclosed in any of this story. This story is only about him and others like him.

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November 23, 2000

The following is my experience with the INS.

I an a Canadian citizen and I was married on August 25, 2000 to an American citizen in Port Huron, Michigan. Before we were married, we had been advised by an INS person in the branch office of Omaha, Nebraska, that all that was required was our marriage certicate and my husband's birth certificate, for me to enter the U.S. to live there until the proper papers were processed.

I proceeded to give up my place of residence, employment and arranged to have all my belongings shipped down to the states on this advice. When I arrived at the border on September 19, 2000, I was sent to immigration to be processed. It was then that I found out that I did not have all the proper documentation to join my husband, who was waiting for me in Port Huron.

The person that interviewed was one Officer Tweedy (spelling?) who was extremely abusive and ignorant. He asked me all kinds of questions i.e. where did you meet your husband, how long have you known him, who did I think I was, marrying an American citizen, why didn't we get married in Canada or down in Nebraska. He kept me there for a couple of hours and was discussing me with the other officer there and making fun. I told him nothing but the truth and he was treating me like a hardened criminal. When he was finally finished, he gave me all the necessary papers that had to be filled out, practically threw my passport at me, when I asked for it back and he escorted me to my car and sent me back to Canada.

I contacted my husband and he called a lawyer in Port Huron. He wasn't able to help and referred us to another lawyer in Detroit. This lawyer advised us that I should cross at Windsor and tell them that I was going on vacation.

Well to make a long story short, I didn't listen and tried to cross at Sombra on the car ferry on September 21, 2000. I was stopped once again, after telling the officer there that I was going on vacation. He made me go into the office and after going into his computer, asked me again where I was going and once again, I said I was going on vacation.

He got extremely angry and said I was committing fraud, lying about where I was going. By this time, I was extremely upset and scared. He threatened to put me away, seize my car and made me give what he called a sworn statement. This comprised of asking me questions and entering the answers into the computer. I was never asked at any time to sign this statement. There wasn't even a copy printed off.

I was detained for four hours and he finally made me go out to my car and called me back about 1/2 hour later and advised me that he had spoke with his supervisor and they had agreed to let me go a second time, but warned me not to try to cross the border again, because it would have very, very serious consequences. I then proceeded to go back to

Canada once more.

The reasons for being refused entry are 212(a)(6)(C)(i) and 212(a)(7)(A)(i)(I). I understand the first reason is for misrepresentation and could be very serious.

We have now submitted the I-130 petition to INS in Lincoln, Nebraska. We haven't heard as yet, whether it is being processed. I have been told it can take as long as two years to come through.

So now we play the waiting game, like everyone else.

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November 22, 2000

My name is tammi and i need someone to help me i don't know what to do my boyfriend of 3 years has gotten him self in alot of trouble he has committed a crime that has landed him self in jail and is now faceing deportation immagration canada wants to declare him a danger to the public if that happens he will have no chance of an appeal i can't let this happen to my family or his he is a great man that made a big mistake that he regrates and will for the rest of his life he has a son from a previous marrage and has been the only person my 6 year old daughter has ever known as a father and now we have a son together i don't know what else i can do in this situation a lawyer has already made a submission to immigration and she got some facts wrong when i spoke to her about it she did not want to change anything and when she did she got that wrong to and now she does not want to change it and i don't know if this is going to change anything i need help i will not accept anything else then answer saying that he can stay can someone ther help me do this or refere me to someone who can if he has to go i will pack up my children and go to uraguay with he and i don't really want to do this please help us all stay comfortable in canada

thank you tammi

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November 21, 2000

I am committed and desire to do anything I can to help restore humanity to immigration law as it relates to deportation. Please let me know how you think I could help. I am a California resident and lifelong U.S. citizen.

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November 20, 2000

iam a 13 year old whos parent are from Mexico (and proud of it ) i know how hard it is coming from another contry, my father has been hear for more than 17 years my mom has been hear for 10 years my parents have acomplished many thing in the time they have been hear. other kids at school are imbaressed of being hispanic because they fell they are not welcomed ANY MORE i dont think that's right thank to my parents hard work we now own our own house, that's been thir dream like for ever when i turn 14 i am planing on going out to work an my dream is to be the first Cortes (last name) to go to cllege. J.C.

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November 13, 2000

I would like to know who the lawmakers were that voted for this stupid law, so that I will never vote for them again.

Thanks Stuart

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November 13, 2000

I married a wonderful man in 1993 who is a dominican resident. We had our own business and were flourishing. Due to an error in judgment, my husband got involved with people who were looking to hide behind him and use his standing and commit a crime which will forever mark our lives. He was sentenced to 10 years for conspiracy to traffic illegal substance Due to inconsistencies in his trials (he had two trials - one was deadlock and they other after the evidence and closing statement were done the jury wanted to see more evidence) his sentence was overturned.When given the option to go back to try his case by jury, because of the tremendouse stress it put our family through (his trial process lasted two years) he decided to plea bargain and get a 7 1/2 year sentence. According to federal statistics the chances of a hispanic winning a trial by jury is less than 1%. If convicted, he could do 20 years. My husband and I are under the understanding that eventhough he did not personally commit the crime, he is responsible for not avoiding it either and we were conformed with the sentence imposed. However, the buck does not stop there. Because he is not a US citizen, now we have immigration to contend with. With the new laws my husband is surely to get deported and put our family to live in a world unknown to us. Yes, we have visited - visited the country but to live there is another story. It a highly expensive country and unless you have a car and a house -- its harder. We have nothing in the Dominican Republic, except family that are in more need than we are. I have a great paying job and my own home here in the states. I am a US Citizen born and raised and so are my children and his children. What are we to do when he gets deported? Sell my house? What am I going to get? I owe more than 90% of it. I have car loans, credit cards and personal line loans that I can never pay all in one shot. My daughter who is having her second child lives with me because she(boyfriend lives with his mother too!) is back in school and can't afford to live on her

own yet.
My son starts high school this year and only knows english. I have to work two jobs (plus sell avon) in order to pay my bills now here in the states.
I need the financial support of my husband and his children from his first marriage need their father. Not to mention my children that consider him their father. Some people say, "oh! Don't worry, your an american - you will find a job" But even if I do (with my broken spanish) is that going to be enough to send my son to school, pay rent, buy a car in the Dominican Republic? And until we do find jobs--what are we going to live? This is so frustrating, is like your being banned, vanished and (metaphorically speaking) put to death because of a crime that you have done your time on. However, they are rapist, child molestors that because they are Americans are walking the streets with no kind of restrictions -- is this unfair or what I feel they should amend these laws and give the people the chance to rehabilitate and start anew. Increase supervision/parole, there are people that do change and become responsible citizens. I have read that they are trying to amend the laws, however everything comes before they make a decision on how they will amend them -- especially now with not knowing who's going to be our next president Life in America is not fair -- God forbid you commit a mistake that will subject you this cruel and unspeakable punishment.

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November 12, 2000

I recently became a US citizen. I have been married for over six years. When I married my wife I was a legal resident. I applied for her legal residency as soon as February 1994. It took over 5 years before I heard anything from the INS. On December 1999, her status was changed and she was granted a work permit and a social security number, but was told that she cannot leave the country. We have waited for many years and she really would like to see her family. The immigration officer told us that we needed to wait three more years before she can travel abroad. Now that I had become a US citizen I would like to know if there is anything that I can do to help her see her parents before the three years. Her parents are older and do not like to travel, so basically, is there any way that she would be allow to travel without jeopardizing her status? How can I help change this stupid law that is keeping us as prisoners?

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November 10, 2000

To Whom It May Concern,
This is a plea for help and assistance in keeping Francisco Luna from being deported.We are not currently married but plane to marry in the near furture. However,we have lived together for 15 years sharing marital responsibilities and have a wonderful family.We have two sons and Francisco also has one child from a previous marriage.Francisco is buying the home where we reside and also owns his own car. In February 1999 he was charged with trafficking marijuana. He was

given a twelve-month sentence.Around the last of May 2000,immagration visited him in prison and stated he probably was sure to be deported. In Atlanta, immagration says this charge is a aggravated felony and you get no hearing or chance to prove you are worthy of remaining in the United States. He committed a crime and takes responsibility for it and served the sentence handed him by the courts. Francisco, born in Mexico has lived in thr United States for twenty years.He has no prior criminal record and had never been in any type oftrouble before this.He has never been anything less than a good hard working father,perfect companion and provider for our children and I.I am a stay at home mom,which Francisco and I think is best for our children.He has always been our sole support,even while incarcerated sending our house payment and support for the children as well as myself. This was accomplished from his job during work release in which he earned for being a model prisoner.Not only did he make provisions for our children and I but was able to save some money also. I have letters of recommendation and character from the President of the company he worked for,one from his supervisor, and one from his case manager at Cabarrus Correctional Center.Anyone acquainted at all with Francisco has nothing but praise for his hard work ethics and attention and care for his family. If anyone has ever deserved a second chance it is Francisco. He and I know what he did was wrong.He served his sentence and we were preparing to get on with our lives until this occurred with immagration.He signed deportation papers October 10.I have contacted lawyers from Raleigh to Atlanta and all say there is nothing they can do.We were told
if charges were reduced then he would not have to be deported.A district attorney in Cabarrus County was asked if she could help get thr charge reduce to keep him from being deported and she replied absolutely not, and stated this would be a better area if they were all deported. Please help save my childrens father an my fiancee,he has served his punishment and vows to never be near trouble again.He was very cooperative when arrested and assisted the authorities in every way he
could.Now if this happens the children and I will be punished as well by our family being broke up. I need Francisco,the children need him and we will all be devastated if our family is separated.Please any consideration and help will be so greatly appreciated.I thank you for your time and consideration and Francisco as well as our children thank you.

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November 9, 2000

Hi,
I have a family member who has been deported.This has affected the whole family,He has two kids that are American. They miss their father every day .he got deported back in 98".because of something that happed in 1989 .He did four months for that crime.Than this new law goes into effect and they pick him up but him in jail for a month and than they deported him.This new law is not fair! they have to change the law. To many people are getting deported for something they have done years ago.It is not fair, he has two kids that can't see thier father! My family came to America back in 1975. We have been here for a long time. My father is ill and if anything happens to him ,he will not be able to see

his son.I would like to have my brother back in the United States Of America.After all this is the land of the free! My brother was a tax payer for many years,and a home owner. I believe that if you kill someone it would be best to send them back to their country.But not for something you have done in the past!

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November 7, 2000

I AM A US CITIZEN WHO MARRIED IN 1990 MY HUSBAND WHO WAS BORN IN MEXICO BUT LIVED IN THE US SINCE HE WAS 4 YEARS OLD HE IS NOW 30YEARS.WE HAVE THREE BEAUTIFUL CHILDREN WHO ARE ALSO US CITIZENS.IN 1998MY HUSBAND HAD PROBLEMS WITH THE LAW YET HE SERVED HIS TIME MADE COURT ORDERED PAYMENTS AND WE BEGAN TO GET OUR LIFE BACK TOGETHER TO KEEP OUR FAMILY UNITED. IN JANUARY 2000 MY HUSBAND DID NOT COMPLY WITH HIS PROBATION OFFICER BY ATTENDING COURT ORDERED CLASSES,SO THE COURTS SENTENCED HIM TO TIME IN THE COUNTY JAIL. ONCE HIS TERM WAS OVER WE PLANNED TO KEEP STRIVING TO MAKE OUR LIFE BETTER FOR OUR CHILDREN YET I RECIEVED THE NEWS THAT THE INS HAD A HOLD ON HIM.THE LOOK AND TEARS OF A 9 YEAR OLD DAUGHTER KNOWING THAT HER DAD WOULD BE MISSING HER TENTH BIRTHDAY A 8 YEAR OLD WONDERING WHEN SHE COULD PLAY BALL WITH HER DAD AND A 5 YEAR OLD SON NOT UNDERSTANDING THAT DAD WAS NOT GOING TO BE NEAR ENOUGH FOR US TO VISIT HIM.I STARTED TO MAKE PHONE CALLS LIKE A MANIAC NOT KNOW!
ING WHEN I WOULD SEE MY HUSBAND AGAIN. YET MY EFFORTS WHERE NOT ENOUGH WHAT RIGHTS DID I HAVE ONLY BEIGN A "CITIZEN". I CAN NOT AFFORD A LAWYER WHO WOULD LIKE TO CHARGE ME 3000 DOLLARS. I AM HERE IN THE LAND OF OPPORTUNITY TO STRUGGLE EVERYDAY AS A MOTHER ALONE TO FEED AND CLOTHES MY CHILDREN WHAT OPPORTUNITY HAS THE PRIVILEGE OF BEING A US CITIZEN GIVEN ME IF MY HUSBAND CAN NOT BE BY MY SIDE . WHAT MAKES ME REALLY UPSET IS THE FACT THAT THE INS COURTS COULD NOT EVEN CONSIDER THAT THE CRIME WAS IN 1998 AND THE TIME WAS SERVED WHY DID THEY HAVE TO DEPORT MY HUSBAND 2 YEARS AFTER THE TIME WAS SERVED?NOW I HAVE TO WAIT UNTIL THE INS DECIDES TO REPLY TO MY PETITIONS AND WAIVERS AND I HAVE TO FACE MY CHILDREN EVERYDAY WITH THE QUESTION OF WHEN THEIR FATHER WILL BE HOME.

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October 29, 2000

After reading some of the letters, I find that I'm in a similar situation to most because I feel at times I'm the only one going through this with no help in sight. I have written to congressman, the President, the Vice-Pres. the Governor of my state, Representatives and members of my tribal council to no avail as all the doors have been shut. On 7-14-00, my spouse was arrested on an "anonymous" tip at a gas station and the agents were going to leave our three year-old in the hot pick-up truck. Anyway, he's been in jail awaiting his fate on this harsh law that was passed in 1996. I didn't realize how bad it was until now and I don't know what to do. He does have a criminal record from ten years ago but has lived a good life since we've been together which is five years in July and we've been married since 1999 and have a three year old daughter and he has been raising his step-daughter since she was nine. He has been categorized by the courts to be a danger to thecommunity, a threat and a flight risk which I have to disagree with as he's been in this country since 1976 and only lost his status in 1992 after he paid his debt to society. We are a happy, modest family who keep to ourselves and are happy to be with one another. He has done more than his part in cooperation with various agencies to make his name good but this isn't good enough for the prosecution who sees fit to label him as though we are still in 1991 and they don't seem to care about what happens to the family he has presently. Our daughter is an emotional wreck and to see her suffer in this matter makes me sad. I along with the family has suffered emotionally and financially as I can't seem to make ends meet anymore without him. I feel this law is so harsh and I wish they'd (the lawmakers) would stop to think if they were in this situation where they were torn from their families without the chance to participate in the family's life, just what would they do? I need my spouse back home with me to provide and upkeep the home we've had together all this time and it's as though I've lost a limb with his absence. I hope there is someone out there to listen to my plea to be reunited with my husband as he wants to live the american dream just to live in peace and harmony just as anyone else wants to. It isn't fair for these laws to dictate that 5th & 6th amendment rights and due process don't apply to him, yet we live in the "land of the free". I have to admit responsibility in my lack of knowledge in making his status right and I regret to be learning it the hard way now but I'm hoping that he can remain here in the states pending final outcome of his visa status as I've retained an immigration attorney who is doing everything he can so my husband can remain here in the states because I don't want to see him deported at all.

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October 26, 2000

MY HUBAND HAS BEEN IN MEXICOCITY SINCE MY BABY GIRL WAS 3 MONTHS OLD MY I (130) HAVE BEEN APPROVED SINCE DECEMEBER OF 98 I GOT A LAWYER WHEN I HAD MORE PAPERWORK COME IN THAT I DIDN'T UNDERSTAND .KNOW I GOT A CDJ NUMBER WHICH NO ONE UNDERSTANDS AND MY BABY GIRL IS A TODDLER WHICH SEE HER DAD WHEN I WORK AND GET ENOUGH MONEY UP TO TRAVEL TO MEXICOCITY IMMIGRATION PUTS A 3 MONTH SPAND ON MY STAY AND THEN I HAFT TO GO BACK TO AMERICA AND START WORKING FOR WE CAN SEE DAD IN ANOTHER 3 MONTH BUT KNOW WE HAVE A SON MY HUSBAND SEEN

HIM ONE TIME AND HE IS 8 MONTHS OLD I GO TOO SCHOOL FULL TIME AND RAISE MY KIDS THE BEST I CAN AND HOPE IMMIGRATION LETS MY HUSBAND COME HERE SOON MY LITTLE GIRL WHICH IS 2 YEARS LOVES TO LOOK AT PICTURE OF HERE DAD AND HOPE THE SYSTEM CHANGES TOO LET FAMILES BE TOGETHER .WE HAVE BEEN MARRIED FOR THREE YEARS AND STILL THE SYSTEM HAS NOT APPROVED A GREENCARD. THIS IS TRUE LOVE AND A TRUE MARRIAGE..LOOK AT MY KIDS AND YOU WILL SEE THERE DAD...

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October 23, 2000

the land of the free home the brave that is pure bull sh__ i am facing the immigration laws with my husband to ins is telling us he has to leave and go back to mexico i live in minnesota i just seen on the news tonight that our wonderful govner jesse ventura wants a trade agreement with mexico but hes also part of making me and my husband have to split up i was married for 12 yrs before i just recently married my new husband who is a mexican male we are still newly weds and now we are facing him having to leave and go back to mexico for maybe 3-10 years my ex husband a american like myself was very vaery abusive and he gets slaps on the wrist hes a man that put me in the hospital many times on life support only let out of jail to do it again my husband now is the most sensitive caring loving man i have ever met there is a big age differance with us i am 33 and he is only 22 but age dont matter in my eyes only love and respect does and hes a wonderful man would harm!
or hurt anything but hes treated like a crimnal you have my ex that is mean abusive and should of been brought up on crimal charges alot of times but was let off on a technically only to do the same thing to me 24-48 hrs later and hes treated like a king some country we live in aint it

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October 23, 2000

on oct 11th 2000 i was married to my boyfriend a mexican male i went to ins the next day to get all the paper work i needed to get his green card work permit etc and when i got home he then told me he was here illegally i went back to ins to find out what i need to do now so he can still stay here and they say there is no way he has to go back to mexico hes only been here going on 4 weeks now but ins is telling mw they he wont be able to come back for 3 to 10 years and there is no way i can go to mexico with him i have kids from a previous marriage and id never be able to take my kids with me and im not going to leave my kids behind so now i have to face loosing my husband or loosing my kids and it really sucks all the attorneys i have talked to around here want an outragous price and they all think i married my husband just to get his green card being there is such a big age differance between us i am 33 and he is 22 and the fact hes an illegal they say they think i maried him just to get his green card and wont help me and they ones who will help me

want like 5000 up front i dont know what to do i am so depressed i love my husband dearly

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October 17, 2000

It is inconceivable that the American public is aware of what is going on with their friends, neighbours, colleagues, and even relatives, and are content to let these people, who have paid their debt to society, be treated in the way they are being treated now, thanks to Janet Reno. How would the American public like it if they had to pay for their crimes twice. There would soon be an out-cry. And what about the new influx of internationals that are getting special treatment so that they can bring their technological skills to build the same country that will throw them out in a minute if they commit the smallest crime, (like hair pulling). I bet they are not
aware of the dangers of helping "big brother", while their own country men and women are being thrown out like trash no matter how long ago their crime was committed. LAND OF THE FREE! Indeed!

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October 17, 2000

I came to America on a visitor's visa. I married my ex-husband two weeks after being here. We had a son together in England where I grew up. I was born in Trinidad, West Indies. I was assured that I would be able to get my status changed within the next two years and I would not have to worry about a thing. Fourteen years later, I am divorced, an illegal alien and so is my son who is now 19 years old and cannot even get a driver's license. I am in this situation because my ex-husband refused to do what was necessary for myself and my son to become residents. Had he filled out the forms and sent the fee of a mere $60, we would have been residents within six months. Now I have to fight my ex-husbands lawyer who has already threatened to have me put in jail because I will not give up the house I claimed in the divorce and then deal with INS too. As a single-parent, I also have a ten year old daughter, I have to provide for my children with no apparent chance of relief. I am praying that the senate will at least hear, the proposal for amnesty for those here since 1986. I am also hoping that there will be a way to do something about all the other injustices going on with those who have been here legally and are being deported for crimes that they have already been punished for. It is rediculous to punish a person twice. That does not happen to other criminals who are born in America! Where are the attorneys who are fighting against this unfair practice? How can a person be sentenced again after serving their sentence? It is like being executed twice.

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October 15, 2000

My Fiance entered the United States as a legal permanent resident in 1976 when he was 14 yrs old. In 1986 he was convicted of attemted murder and served five years and 10 months in state prison. Fifteen years later after my fiance has served his time and is now a law abiding citizen, INS came to our door at 6:00 am, the same way they came to get Elien is the same stratagy they used to get my fiance. This is not fair. This man has served his time and now they have him as a political prisoner. Being that he is labled as a aggravated felon they did nt give him a bond. We are in the 11th circuit (Georgia). The same thing happened to a man in New York (2nd circuit) and this man was released. INS is suposed to be federal. So why aren't the laws practiced the same way across the country no matter what state you live in. I am ashamed to say that I am a US citizen because of the was my so called country is treating not only my fiance but all of the immigrants in the US.

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Ocotober 11, 2000

I am an English lady, married to a US citizen in Nov' 97. Filed for permanent status in Feb '98. I have always obeyed the law, both in England and here in the US. So why, when I become an immigrant am I treated as a criminal with something to hide? One of the worst experiences I have ever had occurred when I finally went to receive my work permit in Dallas. We were informed we had to be there at 10am, no later. We arrived at 9.30 only to find a line of people stretching to the next building. The temperature was 100 degrees and we waited outside in line for over 5 hours. There were women fainting and children constantly crying. Nobody dared leave the line. When we finally got into the building it was another 4 hours before my name was called. A lady opposite me went to the toilet, her name was called and of course she was'nt present so she lost her place after waiting nearly 9 hours. We were then herded into a corridor where we waited once more in line for our photo!
graphs etc - at no time was anybody remotely polite to us poor immigrants. I am sure you get the gist of it and understand how demorolising it all is !!by the way are there any other English ladies out there living the Dallas/Fort Worth area and having the same experiences? I would love to speak to them. Kay Abbott !!

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October 5, 2000

We are immagrants from Italy. 2 yrs ago my brother got deported back to Italy. We have been in this country for 28yrs. My brother was 8 months old baby when we moved here. He got in trouble with drugs. What he learned he learned here, not abroad. He helped the government and they said they would help him. When everything was done the just deported him without even caring what they had promised. Me and my family are so upset with the United State government. I have been trying to get my brother back for my mothers sake. She hasn't been the same since he was deported. I'm trying to find

out any new laws or attorneys that can help me and my family to get my brother back home. Thank You, Lore

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October 5, 2000

My brother was convicted of a drug charge four years ago. He has served 4 1/2 years in jail and was recently released. On the day of his release, INS picked him up and he is awaiting proceedings in front of an imigration judge. Due to the nature of his conviction he is not eligible for parole. He is deportable under IIRA and to complicate matters worse, he is a cuban national. He cannot be deported to Cuba! My family and I have very grim expectations. We are trying to be hopeful but everything I have read leads me to believe that my brother has no form of relief under these new laws. I feel angry. My brother was 3 years old when he came to this country, he is now 32 and all of his life this was his country. He made a big mistake and for that he paid by serving time in jail. Now he he is being punished again by facing the possibility that he could remain in jail indefinitely if the imigration judge doesn't grant him parole. This incident is tearing our family apart. !
My brother has a 14 year old son that he cared for before he was incarcerated. My parents have been raising him for the last few years hoping that upon my brother's release he would resume his parental role. Now all we can do is hope that we get a fair and understanding judge that will allow my brother to be released pending his deportation. All of the lawyers we have visited have been unwilling to take this case. They feel it is not winnable. We take it day by day and hope that they don't transfer my brother to Oakdale. If you feel you can help my brother please contact me at jackiesa@fox.com

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October 1, 2000

IMMIGRANT FAIRNESS ACT, 2000, pls RESTORE JUDICAL REVIEW OF DECISION ON LIFE ALTERING DECSIONS OF ALL IMMIGRANTS< GO TO THIS WEBSITE TO SEND A FAX/EMAIL LETTER TO YOUR REP AND CLINTON. THANKS ..http://www.aclu.org/action/detjud106.html

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September 27, 2000

My friend came to this country 12 yrs ago through Mexico. This poor guy did all the right things up to now and this whole inmigration issue still hunting him.
He just graduated from an accredited Master Program in Physical Therapy and currently he is seeking to get license in the state of NY, but people in Albany are giving him a hard time. He is been married to a US green card holder since August 1997 and I am wondering if there is something he can do. He heard from people that Physical

Therapy is under Class 1 Category, which would allow him to apply directly for the Greencard if some company is willing to sponsor him. My question is: If he is grandfather under his wife's status, does he has to leave the country to apply or he can pay the penalty ($1,000)and apply here. Now, if these people are giving him a hard time to obtain his license, how can anybody sponsors him if he is not license officially.

Please let me know if there is anything I can do to help him. This is the story of a great guy who is been affected by an unfair system.

Than you. Hector

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September 23, 2000

I am a US citizen who may soon have his heart deported due to IIRAIRA. Is there a way to file a human rights violation protest to the United Nations over these 1996 laws, or has it been done? While I doubt that the UN would condemn the US over anything since we can veto, maybe it would raise some public awareness in the US among voters.

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September 20, 2000

My husband has been here for 12 years. He has paid taxes for the last 6 years, and even had to pay extra $3,000 to IRS because of there screw up. My husband and I have been marride since JAN.23,2000. We have been together for five years now. We've bought our own house, we've got are own vehicles.I couldn't have gotten all this without my husband. He was the one that had all the good credit, and work for so many years. In July of 1999 my husband and his brother were arrested for drug trafficing. After my husband stayed in jail for six months the state attorney found him innocent. They wasted me and my daughters life for six months. I busted my butt working every day trying to keep our house and our belongings. While he was in jail, INS came to see him. They were one reason why he could not get bailed out. Instead of trying to sue the state of Florida for wrongful arrest, I tried being a good citizen and drop evrything.My husband and I have a 4 year old and a newborn. On Oct.24,2000 we have to go back to INS court and pray that my husband want be deported.Also when my husband and his brother was arrested, his brother had two boy's that he took care of because the mom didn't have nothing to with them.But he's in jail now for about three more years. My husband and I decided to take custody of the boys till he gets out. Now if my husband is deported I will be stuck with for children not being able to take care of them. One of the boys is mentally handicap, and needs special care. If the worst happens they may have to go to Mexico with him, and miss everything here especially school. My husband is a real good person he would help anybody if they needed it. He just wants all this stuff pass by and stay with his family. I hope in Oct. that the judge will actually listen to this story, and really think about his decision and not go by what all the laws say.

From an American in love with a Mexican

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September 18, 2000

I am the wife of Sergio Gonzalez he was deported after 30 years of being a tax payer. I am a USA citizen, I had to leave the USA to be with my husband in London, On. Canada. We want to return as soon as possible to our home & family in Fla. we need advise on what we can do to change that law and speed up our return to the USA. Our attorney in Miami Charles Sibley was unable to help us farther more, because of this unfairness of this law Sept 1996. My husband has been trying to solve his immigration status before this law Sept 1996. I am a USA citizen I feel I have rights to keep my husband in my own country.

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September 17, 2000

First of all I would like to say I am an American citazen.I can no longer say that proudly.Here is my story.I met My husband about 5 years ago while we were working together.From the very begining we formed a very close friendship.He was honest and told meof his illegal situation.He came here 6 years ago from mexico.He entered with no visa.To make a long story short we fell in love got married and decided it was time to come foward and fix our situation.My husband is the most loving kind man I know.His goodness has no end.He has raised a child that is not biologically his since she was 3 months old.He loves her so much and they share such a special bond.What will i tell her(she is now 3 years old)when she wakes up one day and daddy is no longer here.It is the only faher she knows.He is my husband ,my love and the part that makes me complete.How will I go on when he leaves.So Ihad tomake a decsion that i will go with him.He is due toleave in december some time.I will have to go to Mexico take my daughter and myself to a country we are not used to.They have diffrent language diffrent standards of living.Besides the fact that I have family here that will miss us Is that the kind of rights they give to an american citazen.My husband has done nothing wrong while in this country.I only wish that all our letters will get through to someone andsee how they are devestating the lives of good people.Have they forgotten that immigrants is how this country has grown to be what it is today?have they forgotten that if not for immigrants most of us would not be here today?My husband is my life and he belongs here with me and our daughter and me.That should be my right as an american citazen. thank you for listening and standing up for our rights. diane

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September 12, 2000

Recently, last September 6,2000, my fiance' was deported by INS at Detroit Airport upon arrival. My fiance' has a tourist visa and has been here in the states prior to deportation for the following reasons: 1.) Training at Arthur Andersen . 2.) Tourist Visa - Tour of

Michigan (w/c I supported) She obliged as prescribed by INS allowed dates of her first 2 stay. On her 3rd arrival in the states on w/c she was deported for allegedly of intent to " STAY here in the states ilegally" as per INS. This is because as the INS said that she does not have the proper visa. INS said that she should have an H4 or K1 visa. How could she have H4 if we are not married and K1 for I am not a US Citizen ? Her intent here is for us to get together and probably get married. There is no way that we will stay here legally because I have an H1-B visa and she will not become an immigrant here in case we get married. Plus we have proof that we have been law-abiding since she has been here twice legally and left the states. Up to now, I am PAINFULLY ALONE !!! My fiance' is alone in the Philippines and both our life is PAINFUL for being separated. I cannot go home for now but I wish I could get her soon. THIS IS TOO UNFAIR FOR LIFE!!!!! If there's anybody who could help me,please email me at cyberdj143@hotmail.com. Thank you.

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September 12, 2000

Id like to be as breef as possible. Im an immigrant from mexico and ive been living here for five years already. I feel that the immigration laws have affected me in a very bad manner. When i came here I was "helped" by an exfriend born in mexico too. He helped me to come into the country but he betrayed me. He has a newspaper and i started working with him as a photographer. I was very enthusiast. Ive always wanted to learn as much as i could. When the opportunity was present, I started learning computer graphics in the macintosh platform. In less than 3 months I knew how to manage and troubleshoot the operating system. All I know about computers Ive learnt it by my self, without going to school. But this ex friend really took advantage of the situation, and never help me to get a working permit. He paid me $8/hr while i was working around 12 hrs per day, without paying me extra hours. I started being in charge of everything in the newspaper, that is proofreading, photocorrection, layout and even taking it to the printer! After two years, I had to notice that I was in a dead end, and I abandon the situation. Since then, Ive worked as a cook, sander in a woodshop, customer service in insurance, typesetting, etc. But after this long 5 years, my situations hasnt changer, and Im very dissapointed and depressed. Idont know what else to do. Im very sad about the "illegal" stamp that we have just for the lack of a stupid piece of paper. Before I came here, the lack of jobs and the lack of another piece of paper, that is a diploma, prevented me to get a job, and know the same in here. Even without a diploma, I consider my self a professional. I like say Im a graphic designer. Im alone, I dont have family here, though I havent been able to fix my legal situation. I tried to do it with another employer, a publishing house, and didnt work. I even have the dream of going to school to study 3d animation, but if i dont have a stable job, i dont think i will able to do it. Wright now im trying to start a business teaching english and spanish. I just star a month ago, but seems that nobody is interested. The time is passing, im getting old and Im very tired. Im just hoping that it will be an amnesty some day... I dont like the idea of getting married to get the paper, and anyway I havent meet anyone to do it. I dont want to get robbed. I hope you read this and at least drop me a line to tell what you think. Thanks.

cesar
graphicman1060@lycos.com

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September 1, 2000

Hello, I would like to take a moment of your time. I am facing the same harsh penalty laws that this new law describes. My little brother, whose family and children are here, is being deported to a country where he last visited when he was 4 years old. He is being deported due to crimes he committed, and Amman Jordan is the last place he should be sent to. They look harshly and addicts and people with drug laws, and I would like suggestions from you on what to do. Maybe we can have him sent to another country for instance somewhere in Europe or Canada. The resaon for this is tough laws and penalties served to criminals. He may face jail time when transferered back to Jordan, with situations much worse than the jails here in the U.S. Basically the death sentence would have been a lighter sentence, because he would of at least died in his homeland. Not knowing the language and culture of people in Jordan, and being separated from his family and children, would be a devestating blow. If he had applied for his citizenship, everything would be ok, but now, it is too late. The separation from him and his daughter may be unbearbale to both parties, for him and for his little girl. At least send him somewhere closer to his family and closer to the cultures of the U.S. If there are any changes in the law, or anything we can do or people to contact, please give us an email or phone call as soon as possible 408 252 5611. Email is Jamal Hemeidan@aol.com. If there is anythign we can do in the meantime any research or contacts we can get in touch with, congressman people against this law please tell us as soon as possible Thank you very much Jamal Hemeidan

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August 21, 2000

My husband will be released from prison in February after serving a seven year sentence. I as well as my 18 year old son and 10 year son are US citizen by birth. My husand arrived from Mexico at age 3 with a passport. We have been married 18 yrs. His crime was a burglery. When he is release he will be deported to Mexico. He has no family and can say only a few spanish words. I am very concerned for him and my family. I feel this is double jebroedy. He served his punishment and has attended all the counseling classes as well has job training that has been offered to him. Why must he be punished as well as myself and children for a punishment my husband already served? This does not make sense. What is the double punishment for every one else.

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Received August 14, 2000

I am a US Citizen that have served 12yrs in the Marine Corps, and have lived here all my life. I met a women from Barbados and we got married in 1996. We have a case in Federal Court as I speak, where they are trying to deport my wife. There is also a article published in the N.Y. Times, by Anthony Lewis in the OP section. and in the local news paper here. I also have a website with a news article from the local paper here in Phoenix Az.

http://www.geocities.com/Heartland/Pointe/6367/news.html.

To make a long story short, My wife Helped INS put someone away that was posing as a lawyer. They gave her an extension to stay in the country. During that time I met my wife and we got married. We also have premature twins, that was born three months early and weighted 1.4 and 1.9 oz. I file for citizenship for my wife, in Apr 1996 It took the INS over two years to even look at it. When we went to applied for another extension to wait on our papers, we was told my wife was a flight risk, and I had to put up a 5,000 bond on her. Which INS still holding to this day. They locked my wife up in front of my two kids, and did not release here until I came up with the money. When I came up with the money, they drilled me as if I was a some kind of crook. Plus they still charged me another $115.00 to file the paperwork on top of that. They kept my wife passport, (which is property of Barbardos) and took her driver lic. They told my wife to come back that Friday and let them know if she plan to take the kids with her. But what they was really planning was to lock her up. We file a suit in Federal the next day, and won a stay. My wife when to INS the next day with our lawyer, and it was a good thing that she did. They did not know about the stay, was was going to lock her up. Even though they had $5,000 of my money. My lawyer told them if they continue she would file another case in Federal court. We later received a letter from the INS lawyers stating that the 1996 law was passed because the aliens are a drain on American resources and that the INS was contesting our case. My wife has never committed a crime, and she is not on welfare. I am a computer programmer, that support my wife solely. We advised INS that our kids was under constant doctor care and it would be a hardship to breakup my family. They advised me, that didn't matter, they can get medical help in Barbaros. The Lawyers when as far as to go to my website, and state, since I said that my children are doing fine, that there is nothing wrong with them, and that my wife should be deported. I was only using a "figure of speech " to state that they are not going to die soon. There is a lot more to this story that I can put in this column. My wife and I have been married for over 4yrs, I own my home, been employed for over 10yrs, Served my country for 12yrs, and my wife do not have as mush as a traffic ticket. They claim that the 1996 immigration law make her deportable.

I can be reached at bsa@uswest.net

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Received August 8, 2000

I need help, guidance on ways in which to have my husband freed from having to serve prison time for the crime of what is in my opinion, of wanting to be with his family that he loves very much. On 7-14-00 my husband was apprehended by immigration agents who man handled him as he was getting gas at a gas station all due to a phone call from an "anonymous" tip. They were going to leave our three year old daughter in the pick up where it was stopped and in 90 degree weather at that. If it were me, I'd be in jail for child abuse, but agents can do what they want? They later brought her to me and asked if she was my daughter and if not, they'd take her as an illegal as well. Seemed as though they would've got the picture seeing where they brought her as my workplace is a tribal court and I as well as daughter are enrolled members of a federally recognized tribe of the United States. While it's true my husband was convicted of a crime he was forced to plea bargain a few years back, he's paid his debt to society and is here to start a new life with me and the daughter we share. We were in process of obtaining an attorney to adjust or attempt to reinstate his status if possible or at very least get a waiver for him to at least be classified as visitor but this has hindered that project. I believe he deserves a second chance as he has never done anything that I'd be suspicious of I read in these same web pages of illegal who avoided deportation last year and were pardoned by the Governor of that state for pete's sake and an illegal who took another life and was pardoned. The guy in Oregon was a child rapist and when pardoned, did it again! What is justice anyway when my husband isn't anything close to that...I need help on how he can get out of this and be given that "second" chance to make things right with his life which is what we were doing...this has been extremely devastating on our daughter emotionally as well as with me and I believe his deportation would cause great hardship on our emotional well-being as well as our finances. I mean, he was gaining financial security with credit agencies once again and his credit record was improving from ten years ago. I need help!!

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Received July 31, 2000

AMERICA: Land Of The Free... Boy what a misnomer. Hearing experiences from others that dealt with immigration here has been nothing but a big letdown filled with hopeless advice

"Looks like you're outta luck and I can't help (unless you have loads of money for me then maybe we can talk)" -lawyers
"Thanks for your application... NEXT!" - INS representatives
"It's very hard to get a working permit, and you most likely won't get yours" - A multinational employer

It looks like America's immigration concern is more occupied with legal/illegal immigrants with criminal backgrounds and not caring for the countless innocents who struggle daily hoping one day to grasp the brass ring known as the American Dream. I'm not saying immigration should shift focus from the criminal element, but rather take light to those that are here and want to come here to further better their lives and in becoming a

productive citizen. Why do you think they come here in the first place... to go to Disneyland and forever live in the Magical Kingdom? Of course they do! Those that come to America are the ones willing to sacrifice many facets of their lives to live in a country filled with promise, joy and prosperity. They are the ones who willingly give their blood, sweat and tears knowing that their investment will hopefully become a fruitful one.

The laws of '97 are pretty much cut and dry laws, actually more like a "How to" guide book to get depressed. There really is no gleam of hope when one reads it as it is nothing but consequences if any of these laws are violated. These laws then subjects those promising immigrants in a "free for all" mindset, where they are more vulnerable to stray into the shady side of society. Why should legal/illegal immigrants care what is right and wrong if they know that their outcome will most likely be that they will end up going back to their country? Obviously this doesn't help but compound the problems that already exists in our overpopulated jails. Its interesting to know that the free-est (sp?) country in the world also happens to have the highest incarcerated population in the world, but that's another story, and the laws of '97 does nothing but add fuel to the fire to attract innocent immigrants to the underworld.

So what's the solution to this immigration law? I really don't know if there is a definitive solution, but enacting harsh laws won't help a lot, it just gives those immigrants in a bind to further exercise their options into a problem that America doesn't want to further get into. Sure there are many honest immigrants out there struggling daily, but it will be a matter of time before America makes it a deportable offense when an immigrant drives 35mph on a 55mph zone.

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Received July 31, 2000

I have a friend who is an Argentine citizen serving time in a state prison. I believe she will be deported without any consideration of her circumstances. She came to this country as a 1-year-old infant and lived as a Legal Resident for 35 years. From what I understand, she will be deported to her "country of origin" despite the fact that she has no conscious awareness of that origin, doesn't speak Spanish, has no connections to anyone there, paid taxes exclusively here, went through our public schools, etc. This seems incredibly wrong to me. What is disturbing is, prior to 1996, judges could exercise discretion when applying the law, make distinctions between cases like this and less-similar cases. Today, there is no distinction between the equities she has in this country (and we in her) and someone who has been here a year or two. There's no distinction between her being unable to compare her country of origin to this country, and someone who could return to theirs and resume where they left off. She has an elderly grandmother and disabled mother who are on public assistance. She would be returning to support them, but instead will find herself destitute and homeless in a country she never knew. What complicates this story is that she was convicted of manufacturing a controlled substance. That's a serious if not detestable crime. It can be hard to have sympathy

compared to simple possession. It's easy to confuse complaints regarding one-size-fits-all deportation rules with being "soft on crime." However, if two people plead guilty of the same crime, willfully serve their time, take advantage of all the programs to better themselves, and maintain perfect records in prison, why would one need additional punishment in order to be "tough on crime" while the other need no additional punishment? Obviously the topic of non-discretionary deportation rules has very little to do with the underlying crime that makes an alien deportable. The issue is whether all deportable aliens are the same, if they have the same equities, we have the same responsibilities to them, etc. This is not an unusual position to take since 1) it's what we did 4-5 years ago, and 2) we still do it for deportable crimes which are not defined as "aggravated felonies." It seems unbelievable to me that this country would deport people without judicial discretion. I don't see how we can deport someone to a country they don't know anything about, due to them having spent the first year of their life there. I don't see how that fact can be noticeable, but everything else about their situation and what has been an entirely American life can't be noticeable. I don't see how it can be even remotely just to require that we view her as entirely the same as someone who came here as an adult and spent two years. Someone who knew what they were leaving, what the opportunities were here, and actively chose a course of action leading to deportation.
It seems to me that an argument could exist that when we admit young children (and more so infants), we implicitly enter into a relationship with that person knowing full well at the time of admission "country of origin" is absurd in their case. I don't see how we can admit such a person, let them reside 35 years, go to public schools, be assimilated, pay taxes, and then turn around and say we are prohibited from considering any differences between this person and anyone else. It seems like our own actions imply a commitment which doesn't exist in other, adult cases.It could be said that such people should have sought naturalization. I agree. I wish she would have. However, if not seeking naturalization is a negative and reduces everything said above about this case, then it seems like we should require naturalization or terminate green cards. It still gets back to us entering into a relationship with an infant, and letting it proceed for 35 years without any requirements. It would seem odd to now say she should have done something when we didn't require anything. If we were a party to a contract involving a minor (infant no less), and we let that contract continue for 35 years, I don't see how we can say the other party of the contract was expected to do something and this absolves us of the implications of our involvement, admittance, and public schooling, accepting taxes, etc. At a very minimum it seems very reasonable that a judge should (as they always did) have discretion to apply justice rather than treat everything the same. I just learned how this works. I am stunned. Her 80-year-old grandmother has a bad heart and is barely surviving. She believes her granddaughter will bail out of deportation hearings and have three years to demonstrate she has put her life together. She doesn't know how much worse and unjust (if not cruel) this is. I fear it will be more than she can bear. The mother can't survive alone and will undoubtedly be institutionalized if the worst happens. What is especially stunning is that the changes to the law were part of the 104th "Republican Revolution" Congress. That was the group which was supposed to implement smaller, fairer and smarter government. As a definition of smaller or fairer government, the above story leaves something to be desired.

A picture of me visiting the person in prison can be seen at
http://www.primenet.com/~mfuller/

Mark Fuller

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Received July 27, 2000

After living in the U:S for over 40 years , I have been educated and raised a family. I had the misfortune of running agaist the law in which my case was referred to Federal court. Being a law abiding citizen allof my life I was forced to make a deal with the government in which <I agreed to plead guilty of purchasing Sudafed for illegal intentions. I was guaranteed by the attorney I hired that if I plead guilty I would probably only get probation and a fine, I was also told that the maximum sentence could be 10 years. Well , I got ten years and on top of that I will get deported . I feel thatit is unfair for the Federal government District courts not to advice defendants of the collateral punishment that they will be getting if they choose tpo plead guilty. both my attorney and the Judge failed to inform me , the judge stated that he did´t have to inform me. I feel that if most of the states can warn you about deportation, and make it mandatory why can the federal government do the same , because this is totally going to destroy me and my family.

I feel that that when the collateral punishment is worse than the punishment the defendant should be admonished prior to pleading guilty.

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Received July 27, 2000

My name is Carolina and I am also affected by the 1996 law,but ins didn't have to deport my son.Marcelo is my son name,we went to Chile in 1997 because my mother was terminally ill,I stayed overthere for 3 months .My son decided to stay longer tobe with his grand mother more time she was de one that help me to raise him up,and he love her alot.When my mother passed away my son had a break down,since he has a mental illness (squizophrenia) and could not arrange his return back to USA.I could not travel to assist him right away.I travel again to Chile in June,1999.When we went to the United States Consulate in Chile for a re-entry visa,we did all the paper work asked for,and pay also,after 5 months the visa was denied on the grounds that he has a felony and for his mental illness.WE came to USA in 1988, my son was 12 years old.As you can imagin this have very painful for me,but I am not giving up,so far I have written to my state representatives,but they are not interested in help,I also wrote to the president with not answer yet,if I have one.I want to tell you that every time that I recive a negative answer I feel more strengt to continue doing things that would help my to get my son back home again,where he belongs.I am also a United States Citizen,and I believe that there is somebody in some place that can help only we have to find who that person is.I also

beliefe that union is important,people is power when work together.I do not speak or write a good English but this is not going to stop me.I do not want to cry anymore,I do not want to wait years and years in silent.My son life is in danger and something can happens to him.I WANT ACTION. My E-MAIL is C_HORMAZABAL@HOTMAIL.COM Thanks for give me the chance to tell my story Carolina.

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Received July 25, 2000

Hello,

I am a US citizen and i am married to a Mexican national. We were married only 3 months when he was arrested. he turned himself in. The crime was committed in 1997. he was convicted of conspiracy this year and is serving a 19 month sentence. i recently heard somewhere about a law that Janet Reno approved regarding deportation of felons. does any one know anything about this law? My husband has been in this country since the age of 3. he went to school here and attended college. does any one know if this will help him? I have two children from a previous marraige who consider him their father.

You can e-mail me at onebluetoe@yahoo.net

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Received July 24, 2000

Please contact your congressman/woman and ask them to support:

BILL HR 3272 BY NEW YORK BOB FILNER

BILL HR 1485 BY MASSACHUSSETS BARNEY FRANK

Please call the Senate Immigration Committee at 202-224 9102 and ask to please support the above bills.
It is an election year , so there is practically no chance for any of this to be even looked at, but we need to let the representatives know that we exist , and that we are in a lot of pain.
These bills do not sponsor drug trafficking or violence, they bring back the notion of what is fair and take away the inhumane aspect of the IIRIA .

tHANKS AND GOD BLESS YOU ALL.

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Received July 23, 2000

I AM AN AMERICAN CITIZEN WHO WONDERS HOW WE WHO FIGHT AGAINST WORDWIDE INJUSTICES ALLOW INJUSTICE IN OUR OWN COUNTRY AGAINST IMMIGRANT. WHERE ARE THE CIVIL RIGHTS GROUPS WHEN IT COMES TO ALLOWING FAMILIES TO BE SEPARATED FOR YEARS .

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Received July 22, 2000

July 22, 2000
I am writing in regards to my Husband who entered the United States at the tender age of two. He has been a permenent lawful resident for 28
years. He was born in the Bahamas. The United States is the only country he knows. He has never left this country since he entered. He went tt day care, grammar school, high school, and graduated college in this country. While in college, he was involved in bad checks scandal which happened in 1994. He was convicted in 1997 for the crime of conspiracy to committ bank fraud and given three years probation. He never served any time in jail at all. The amount he was charged with was $34,000 which in INS law considered him an aggravated felon. The question most commonly asked is why didn't he ever get citizenship? Well if this the only country you know and you are not taught any better then you too would consider yourself to be a U.S. citizen if you were raised in this country all your natural life. Well, while serving one year of Probation he was arrested by INS and that was June 16,1999 where he remains today. We have tried everything but it seems everything has failed. The crime was in 1994 and INS is going back retroactive which is totally wroing in the first place. This aggravated felon crap is a total scam by the Government. I am a working class U.S. citizen who is tierd of the Government in which I live hurting families and destroying children lives. It is a sad day in America. My Husband deserves a second chance. He is being punished double and it is not fair. he has been ordered deported to a country he has no family and has no knowledge of. It is a sad day in America!!! Please help us this has gone on to long. We have been ripped off by attorneys. We are loosing every thing we worked so hard for. It is so sad. Our children are suffering without thier father. He qualifies for 212(c) relief if it is such thing, If any one has any News on any to laws or reports please email me at forbjac34@JUNO.com

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Received July 18, 2000

We need to thank the immigration lawyers as well as all the organizations and individuals that are trying to help us with this nightmare.
If you are a us citizen, please call your congressperson and ask them to support the immigration bill:
HR 3272 BY Bob Filner of New York.
Call the immigration subcomittee and ask them to pass HR 3272. Their number is 202-224-6098.

Fax the immigration subcomitte and ask them to pass HR 3272. Their fax number is 202-228-4506.
Call the offices of Senator Dianne Feinstein and Senator Abraham , they are very powerful voices of the immigration commitee. Ask them to support HR 3272 by Filner. Thanks.

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Received July 15, 2000

My husband was deported under the IIRAIRA in September 1998 after being apprehended for a parole violation stemming from the 1980's. He was an immigrant to this country as a 15-year-old in 1981. His family, from the Tonga Islands, choose Inglewood, Ca. as their new home. Comming from a country of under 100,000 people and the only pacific island group never colonized by the europeans to this vast country of 260 + million people had to be overwhelming to say the least. Being a teenager and not speaking the language, as well as living in the heart of gang territory in L.A. was a frustrating and confusing introduction to this complicated, racist society. In the middle eighties he was caught up in the gang lifestyle, intoxicated by the money, drugs, and whatever other "glamerous" attributes it held for him. He had come in and out of prison three times by 1989 for armed robbery and assault. I met him in 1991 when he had chosen to skip out of his parole and come to Oregon, as he felt that in order to serve out his parole and stay in California meant he was to stay in the same environment that he was getting into the trouble he was in in the first place, and to stay in that environment meant that he would either 1) be back in prison in no time flat, or 2)be killed as a result of the lifestyle. He ostensibly made a wise move by common sense, however, because of the rigidity (to be polite) of the parole system, he was in violation. Period. When I met him I recognized him for who he was: a troubled person that I happened to fall in love with who had the potential to be put back on track. I recognized that this was no small task, but I was willing to take him on. We had a daughter in 1992, and another in 1993. We were married in February of 1996, which did not affect his status because he had been greencarded since 1981. In November of 1997 I had an incident with him in which he was drunk and slapped me once. The police were called and he was arrested for the "domestic assault", and having a tiny amount of marijuana. He was taken to the inverness jail in Portland, then sent in December of 1997 back to California to serve out the parole violation. At this time he simply "blipped" off the radar screen, as the violation sentence was being carried out under an assumed name from the original violation that I had no knowledge of. The next three months were spent looking for my husband, now completely "lost" in the correctional system. I did not find him until late February or early March, despite the fact that he had informed the officials that he was married and the whereabouts of his wife and children. I was working on a comprehensive plan of "rehabilitation" with the D.A. and defense attorneys in our case, and my husband had agreed to it. My husband was due for release in July. I had lied to my girls this entire time about where Daddy was because I did NOT want them to know that he was in prison. In July we prepared for him to have his parole transferred back to Oregon, but I suspect that because of a letter that I had written to the California Men's colony expressing my

frustration with the system not regarding the family's needs in any way, that 1) they refused to release my husband to parole back to Oregon so he could get treatment for his current issues, and 2) referred him straight to the INS. INS apprehended him from the CMC on his July release date and transferred him to the San Pedro facility, with a hearing scheduled for August 18th. However, he was not informed of the hearing until only a day or two before it actually occured, and as I was still reeling from the original incident that kicked this whole series of events into motion,I was comming out of a situation of being on public assistance, having no money, and was severely depressed. I wanted to advocate for my husband in the immigration hearing, but there was no way I could have appeared as it was in Los Angeles and I had no way to travel. Immigration NEVER CONTACTED ME to inform me of my husband's status (though they had my name and address-he supplied it), never gave me the opportunity to speak on his behalf, to state that because I had been unwell he was the primary wage earner at the time, that we needed him with us, despite our problems (do we not all have our problems?!). He was escorted back to the Islands on September 6, 1998. I was now faced with a choice. Go to Tonga (a third world country-and certainly no democracy!) or divorce him, lose all the personal work we had accomplished, lose the father of my children, lose and important source of domestic support. I sold everything that I owned and the girls and I moved to Tonga in January 1999. We have just returned on June 22, 2000. I won't say that it was all horrible, and there were many great experiences, but it was overall the most traumatic experience in my life. I gambled and lost everything that I had worked for to try to keep my marriage together because it was and is the right thing to do. We returned because the educational system in that country is shameful, the national hospital is - I can't even come up with words to describe it - health care is non-existent and the royal family (yes, it is the only remaining feudal kingdom in the world) are crooks and thieves who take the utmost advantage of the institutionalized ignorance that they so actively promote in their country. I now sit here writing this on my mother's computer, as I have no place to live, no car, no money, Public assistance is stalling me (where else do you start from with zero?!). There are no words to describe my anger, my bitterness, my hurt. Today I read on one of the websites that because my husband was put out under "aggravated felony" he will probably not be able to re-enter until 2018, 20 years after his deportation. He can not live here and because of the health and education we cannot live there. I have learned that indeed there is such a thing as the grace of God only because we are living by it and the kindnesses of others at this very moment. I have no computer, no EMAIL (because after all, I have at this point nothing), but I beg at this point that my share of grace continues and there are interested and involved people out there who can keep me informed of any and all issues about the deportation of long time permanent residents. ABOVE ALL WE NEED A CLASS-ACTION CIVIL LAW SUIT AGAINST THE U.S. GOVERNMENT FOR CONSTITUTIONAL VIOLATIONS ON THE PART OF OURSELVES, OUR CHILDREN, AND THE IMMIGRANTS THAT HAVE BEEN WRONGED THROUGH THESE FASCIST LAWS. MY NAME AND C/O ADDRESS IS BELOW. PLEASE KEEP ME INFORMED!!!! MY HEART GOES OUT TO ALL OF YOU WHO ARE IN MY POSITION, COMMING OUT OF IT, OR ARE CONSIDERING LEAVING THIS COUNTRY. MY CONGRESSMAN DID NOT LISTEN, THE PAROLE SYSTEM DID NOT LISTEN, THE INS CERTAINLY DID NOT LISTEN. WE NEED TO MAKE AMERICA LISTEN, BEFORE THE SWASTIKA

TAKES THE PLACE OF THE EAGLE AS OUR NATIONAL SYMBOL. I AM NOT AFRAID TO MAKE MYSELF KNOWN ON THE SIDE OF WHAT IS RIGHT. PLEASE WRITE ME.

LYNDA K. NGAUE
C/O 5404 NE 121st AVE.#85
Vancouver, Wa 98682

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Received July 13, 2000

I am a US citizen married to a Mexican. He is in this country five years and was able to be here because he was granted political asylum by a US
Court. That was in May, 1997, but to date he still doesn't have his papers for permanent residency and there is no telling how much longer he'll have to wait. The lawyers initially said after he was granted asylum he could be on a "fast track" to full citizenship within five years, but at this rate it will be at least a decade before he is naturalized. The government is excruciatingly slow on these matters. All people who have the legal right to be in this country should have their cases expedited.

By the way, I would like to respond to the handful of people in this forum who are pleading for the release of relatives who were convicted of drug smuggling or other crimes. The US does not want them, period! Nor should law-abiding citizens be forced to have them around. I am sorry that your relatives are where they are, but troublemakers are neither wanted nor needed here. There are already far too many US citizens who are unproductive and waste far too much of the federal government's money just trying to keep them away from the rest of us. We have the right to demand they be safely locked away, and that alien criminals be deported. They have no legal right to endanger others' lives.

One person wrote, "If (my relative) had known how harsh the penalties were, he never would have done it." In other words, if the penalties were lighter, then it would have been okay for him to do it? Instead of spending time pleading to lighten the criminals' sentences, why not go and comfort your relatives' victims? They are the ones who deserve your pity, not your relative.

There is no question that the US needs immigration reform. There is a great need for hard-working, law-abiding people in this country and their presence should be welcomed and encouraged. As for the rest, we need stiffer laws and enforcement to make sure they leave, stay away, and never darken our borders again.

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Received July 13, 2000

The Immigration and Naturalization Service pending review of his appeal to overturn a deportation ruling are detaining my brother. My brother is a Ghanaian citizen who came to this country when he was 17 years old. He is now 31 years old and has been married to an American citizen since 1994. He has lived in Montgomery County, Maryland for the past 14 years. He is very hardworking, owns a house, a car and pays taxes regularly. He has never had any trouble with the law. In essence my brother has been a model citizen except for the fact that he was never granted a Green Card (he had a Work Permit). His application for a Green Card was denied and was sent a deportation letter about a week ago. He was never given the opportunity to voluntarily depart the country. He put in a motion to appeal, went to the deportation office yesterday (with a copy of the motion) and was detained. The Detention and Deportation department of the INS told us that he would remain in custody till the Litigation department (which could take over 6 months) reviewed the motion. Since my brother is not a criminal and has led an exemplary life, we would like to petition the INS to allow him out on bound pending review of the motion. I'll therefore need advice on how to go about it and if there's anything you can do to help me. Thank you very much in advance for your support. Anyone person with advice can also contact me at elsabrobbey@aol.com

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Received July 11, 2000

I am the spouse of deported immigrant . My husband was deported back to Mexico in May of 1999. He was originally convicted of delivery of controlled substance in 1993, he was sentenced to 10 years probation of which he only served 5, due to his exceptional behavior and steady employment. In 1996, he was picked up by U.S. Border Patrol after checking in with his probation officer, and was sent to an immigration camp in El Paso, Tx , where he spent two weeks, more time than he spent in jail (he spent only one night in the local jail). He was finally released on a $5000.00 bond and spent the next few months going back and forth to hearings. In February of 1997, my husband was ordered deported back to Mexico, but our lawyer filed an appeal, which was denied and we received notice of this denial in December 1998. We were devastated. We have three children and we concerned as to how they would take the news. When we told them, our daughter, who is the oldest, took the news very hard. She could not understand why the country of her birth, whom she loved, did not want her father to be with her. My son was only 6 at that time did not really understand but he cried knowing that things would not be the same. Our youngest child had just turned 3 and did not understand what was going on. We were living on the hope that the deportation letter would not arrive too soon, but it finally did the first week of May 1999.
My husband turned himself in to immigration authorities on May 10, 1999. He cannot return at anytime because of his drug conviction. My husband has been in Mexico for one year now. My children and I have moved from our home to a small town on the Texas/Mexico border in order to have somewhat of a normal marriage and family. I went from being the supplemental income of our marriage , to being the sole provider. My husband works in Mexico, but he barely earns enough to support himself. As a citizen of the United States, I feel betrayed by our lawmakers and feel that my husbands rights as a

human being did not matter.
He was stereotyped as a aggrevated felon, without being given a second chance to prove that he has reformed. When this law was put into effect, it was to punish the person that comitted the crime, but what it has turned into is a punishment for the whole family.

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Received July 11, 2000

I am an American Citizen, I am married to a Panamanian national and we have four children. I was enlisted in the US Air Force and stationed in Panama. Their I meet my wife fell in love and was married. My wife was convicted of a crime in the Panamanian court system (aiding in the soliciting of a controlled substance), on the word of an US informant. This informant never appeared in court and the case was extended over and over while awaiting his appearance. She entered the Carcel de Mujers in March of 1996, with the help of her family I was able to continue working, and provide for her and my children. In June of 1996, I received orders to change my duty station I left Panama with my four children one son (7 yrs) and three daughters (6,4 and 3 yrs old). I was not allowed to remain in Panama due to the military draw down of troops. My children have gone thru hell, having seen their mom handcuffed and taken to jail, having to visit their mother in prison, and then facing a sentence of solitude, having no mother available to help raise them. I had to seek an early discharge from the military due to financial hardship, I work as a Network Administrator, and the pay I received from the US Air Force was not sufficient to support my family in the states, and provide for my wife who was still incarcerated in the Panamanian women’s prison. I spoke with a lawyer and various embassy officials and was told that the charges against her would not affect her immigrating to the states. She was released in December of 1997 and I flew to Panama to help my wife get her papers together for her trip to America. We received word from the embassy that her visa application was denied due to the type of crime she was convicted of and the time spent in prison. We were crushed, and our dream of reuniting our family was smothered in bureaucracy. 2000 came and after writing countless letters and email there seems to be no relief in site. I left the military in July of 1999 and now work as and Information Systems Consultant, the provides a small measure of comfort, but having to maintain two households (one in US, one in Panama) is a constant strain financially. I should be saving to buy a house, or putting money away for my kids to go to college, instead I strive to ensure my wife has a place to live and decent medical care. (My insurance does not provide care in Panama). The effect on my children is devastating, the have periods of depression and struggle in school. They did not understand the why their mother is not with us, and as they grow older I explain to them why, and what can be done. My youngest daughter has not seen here mother for half of her life. Being a single parent puts a strain on me and some days I feel as though my head is going to explode. I save money to get airfare to take my kids to see their mother, but that goal is still far away. Stress is taking a toll on all of us. I am now looking for work in Central or South America, if the only way to reunite my family is to leave the US, then so be it. Having read the letters that proceed mine, I am sadden be the pain and suffering felt by many who have no voice in government. When I approached

my congressman to see if he would sponsor a bill to allow my wife entry, I was told that he could not be seen as endorsing drug trafficking. He would not be endorsing drug trafficking, he would be endorsing family unity, something all of the folks in Washington talk about, but do so little. Someday my family will be reunited, lets pray that it is and occasion of happiness and joy.

Gregorio

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Received July 7, 2000

My husband, A British Citizen was brought to the U.S. by a well known Silicon Valley Firm thirteen years ago to act as their Director of International Business Development/Marketing/Sales. July 1997, we married and left on an extended European Honeymoon. Upon on re-entry into the U.S. in September of 1997, my husband was detained by the INS due to IIRAIRA. His first court date was not until June of 1999. His final hearing will be August 11, 2000 and the outocme does not look promising according to our attorney Frank Sprouls of san Francisco. The good news is his record was expunged by a Municipal Court Judge truly understood our hardship. However, this may not be good enough for the INS Judge on 11 August. Hardship? Where do I begin? Firstly, the key phrase here is INTERNATIONAL.....if you are under a deportation order, you can not perform your job as outlined. This was my husband's case. At first the company was understanding, but they soon had to offer him a separation package. This resulted in six months of unemployment and the search was not fruitful as his CV/resume clearly demonstrated his expertise was in the INTERNATIONAL marketing. He was forced to accept a position in which he performed 20 years ago. Quite a blow to one's self esteem. This severely impacted our finacial status as his earnings were lowered. This snow-balled and we were forced to leave our homw in Saratoga and obtain a modest apartment, which severely impacted his job performance as he is supposed to maintain a home office in the silicon valley for an east coast firm. To add insult to injury, our landlord has decided to ride the wave of real estate increased value. She gave us notice....rent will be $4,200 with an option to buy as a co-op/condo or move. Moving is a problem in June/July as families move during school vacation and housing is at a premium to begin with. We must move on 15 July and still have not found a place to live. My husband will definitely lose his job as he must maintain a regional office. One can not do this out of a hotel room. Besides, the firm agreed to the first move in January of 2000, but they will not absorb the expense of a second move on 15 July. They have invested a great deal in advertising, websites, business stationery, ISDN/DSL, phone, fax, radio modem lines, etc. The expense is astronomical. Medically, the stress of this LIMBO has taken the most severe and inhumane toll on my husband, myself and our families. My husband's family resides in England. His father became terminally ill and died and he was not allowed out of the U.S. to visit and/or attend the funeral. His 72-year old Mother was brutally assaulted in broad daylight as she strolled on the beach. He was not allowed to travel to her side. His only brother married in England, we did not attend the wedding. Leaving the U.S. would result in self-deportation,further jeopardizing my

husband's career and our financial status. Then there is the other side of the coin. As an American Citizen who served her country honorably in the U.S. Military, I must now apply for my Immigration to England and leave my family. I am an only child with parents who are 74 and 70.
I could go on and on with the other hardships, but I believe the point has been made. I have written to the BBC and various U.S. Networks, radio and tv talk show hosts, magazines, newspapers, govt. officials, congressman, INS judges, anyone and everyone remotely involved. We are so distraught, depressed and hopeless. Many alternatives cross our minds. Hey...maybe we should build a raft and set sail in San Francisco Bay????Maybe the INS, Janet Reno and the media would cover that event? Or perhaps I can just hurl my U.S. passport at the INS....hey, what could they do...DEPORT ME TOO?

(Response July 31, 2000 To the lady who posted the letter on July 7, with a spouse of british citizenship, please leave an email address or phone number , I live in santa clara, and I would be glad to help. thanks. )

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Received June 28, 2000

I am an American Citizen, but my parents are from Mexico. They came here to make a better living for their selves about 25 years ago. A few years ago my mother was charged with transporting two pounds of marijuana into the United States which was not true, she was charged with a crime she did not commit, but still has to pay the price for it. I feel as if I to committed a crime because I have lost my mother, she was deported back to Mexico. There isn't a day that goes by that I am not scared. I live a life with fear, fear because I worry that I will not see my mother again. My mother is being punish for something she did not do, but because of her race no one seems to care. No one cares that my sister and I have to live a life without the presents of our mother. It's hard not being able to see my mom or her spending time with our children. My mother has no family or means of support in Mexico and is unable to buy her medication for her high blood pressure. !
I do not understand how people can be so cold and touch their hearts. My mother has always been a hard working woman who only wanted to live a better life. This has caused my family a lot of pain and tears. No one who how it feels to have the most percious thing in life taken away from you. There is no words to explain the pain I feel inside. I have had to seek couseling for this as well as take medication for my depression. As an American I grow up believing that everyone was equal and had the same opportunities, but as I grow older I learned that it was true. I wish things could be different,maybe one day everyone will be treated fairly. Please contact me if you wish, I hope that there may be something you can help me with or I can help you with. Corina Minjarez c_minjarez@hotmail.com

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Received June 27, 2000

To all concerned,

Let all unite now! I'm trying to organize an "e-mail Congress day" in which all persons affected by these stupid laws will send and email and or letter to Congress and the President asking for these laws to be changed. They cannot ignore thousands of letters coming in all at once. Hopefully they will pay attention. If anyone is interested please write me at:

orin_walters@hotmail.com

Together we can overcome!! Let's take action now!

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Received June 20, 2000

Hi

My name is Karla and I just wanna tell all of you my storie and how this law has changed my life and it seems to me that is gonna be like this forever, because are been 4 year since this law was aproveed and nothing nobody have done nothing, everybody complain but still nothing, or there is some changes that I don´t know´please please I would like to hear, I gonna make my long storie a short storie, I have a beautifull babygril,10 months old, she is U.S Citizen, her dad is or was I don´t know how I should said a Legal resident for 10 years,When he was in high school He had a Problem he had a fight and he was put on probations,a that time he plead guilt, that was what the lawyer told so he wouldn´t go to do time in prison he never thougt that have done a thing like that would make him deportable " some day ", 15 months ago he had a accident and he didn´t have insurense at the time was his fault so. they took him to jail,and since then Everthing has been a Nightmere, because you know a inmigration official went to see him a told him under this law he would be deportable... for what he have done time ago.., I was in mexico, We had plans for a life toghedar but I´not Legal for staying in Mexico,I only have visa, all my pregnacy I was alone without his support, I´m a professional in my contry, and I work for a very important company in mexico,(I meet him when I went there for learn English) When I was off of work because my maternity I when to see him, and was when my baby was born..so I came back to my country to back to work,a month later when my baby was ready for her first check up I was trying to take her back and try to show her to his fahter that was in a jail,I was informed for one border agent that I couldn´t take the baby back to where she was born, because the hospital bill wasn´t totally paid yet( my mother in law is paying and she is legal resident) and I tried to explain the situation but they didn´t care, i explined that she needed her innmunize shot but they said that they don´t care, and came back util the bill be totally paid, They told me and a very humilliating way that was happening me because I did a porpuse let my baby born in the US because I didn´t have insurense in my country of course he was wrong I can prove that isn´t true I can have

medical assistance because my work in my country, even if could be true her dad already paid his taxes por more the 10 year but they said that they don´t care, So far my husband don´t know his baby and my baby couldn´t have his medical check up, I was going to paid for that,but I don´t know very much about this law or the american laws, but why the children have to pay this stupid law, I wanna ask the american congress how they would feel if some law dont´t let them see his own childs because something that they did in the past, because no body here is perfect, because perfect only one is and all us Know who us:JESUS, and would like to ask them too if all the us citizen never ever fhigt when they were young, or if they never used drugs when they were young, if they never did mistakes when they were young... I´m not saying that is right but it happen just because they are human beans like everybody and only just for that can make mistakes, so please don´t try to blame for all what is happening in the US the inmigrant people I´m asking you if the history don´t show us anything or what, because what they are doing is exactly what Hitler did in the past, so please wake up!!, this is not right, no just because happen to me, today is this what is next... the gas´s cameras or what,also how come are they going to punish you twice and for something that you didn´t know was wrong at the point to take you out of the place where you have been lived the half or you life and where all you family are, how come are they gonna take you to you " homeland " where you don´t know anybody or a place where you don´t even speak the lenguaje anymore!!!, If you are doing something that could help me please let me know, I will aprecciete that, and I´m so glad that I found this page, but I think is time to stop complain and start to do something now, God bless all those people that are doing something if they are doing and I don´t know.
Thank you for this page...

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Received June 18, 2000

To: All that are being affected by the new immigration law IIRAIRA, My name is Kathryn Gorman and my family and I are being deeply affected by this law. The only way that we can make changes to this law is for all of us affected by this Un-American law, to band together and express our disgust and opposition towards this New Immigration Law IIRAIRA of 1996. I am a representative of an organization named CIEJ. Citizens and Immigrants for Equal Justice. We are comprised of families and friends of victims of this law. Large numbers are powerful. We need to band together and become one voice. We must raise awareness of this injustice happening in this country. Many American people are unaware that this law even exists!! I know that you are probably ver angry about how this law has affected many families in this country, even your own. Take that anger and put all that energy to help fight against this law that is unjust and unconstitutional. We can make a difference if we unite and stand together. If you are being affected in any way by this law, come out of the wood work and please contact me at kathgorman1@aol.com.

Let's restore the freedom in this country.....together!!

With warmest regards,
Kathryn Gorman
CIEJ

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Received June 11, 2000

My husband and I are very much in love. I honestly do not know what I would do without him. Unfortunately, my husband entered the United States in 1995 without a visa. I knew this when we got married in December of 1999 after a two-year courtship. I also was familiar with the 1996 change to immigration law requiring immigrants without a visa to leave the country for up to ten years before they can receive an immigrant visa. Not knowing what our future held, but having faith in God, our love, and in justice, we got married. Now, if my husband is forced to leave the U.S., I am forced to leave. I am forced to leave because I made a vow when I we were married. I am forced to leave because according to my religion, I will stay by my husband’s side, and I am forced to leave this country even though I am a law-abiding, US citizen. We are interested in hearing from anyone who is in a similar situation. Please email me at tmclaurin@hotmail.com

Thanks.

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Received June 9, 2000

We have just recently found out from personal experience how devastating the IIRAIRA law is. Like most Americans we sit back and expect our elected officials to make laws that reflect our moral and honest opinions but with this one they have ruined the lives of some speecial people. Our daughter, Jane Elizabeth Frick met and fell in love with a young Mexican man, Jose Jesus Ayala Morales. Janie left her job of 16 years as an Interior Designer here in Chattanooga, TN. with the promise that it would be hers when she returned. Janie and Jesus married April 23,1999. When they began the legal process to come to the US they found that because he had claimed to be an American citizen when trying to come here that he can NEVER come here. All their dreams have been dashed...as well as ours. Please advise us on what we can do to help this terrible wrong. We have contacted our Senator and Congressmen.

Thank you,
Jerry and Sue Frick

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Received June 7, 2000

The best way to tackle this problem is to call OR write to the congrssmen from your district to act on the following BILLS. If action is taken on those two the rest will be HISTORY
I have been living here for the past seventeen year, for a little mistake I made years ago I now live under siege of fear for the past five years and I spent a lot of of money on the minor case and it never ends. Nowadays I pray everyday like I never prayed before for the senseless law to be changed

Copy and paste the following BILLS and send it your US Representative to act on the issue before it is too late.

HR.1485 by FRANK, BARNEY (D-MA) -- Rights for Certain Long-Term Permanent Resident Aliens, Permission
A bill to permit certain long-term permanent resident aliens to seek cancellation of removal or waiver of inadmissibility under the Immigration and Nationality Act, and for other purposes.
Cosponsors: Currently 77

S.173 by MOYNIHAN (D-NY) -- Immigration and Nationality Act, Amendment
A bill to amend the Immigration and Nationality Act to revise amendments made by the Illegal Immigration Reform and Immigrant Resposibility Act.

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Received June 4, 2000

Thank you to the person who posted their story on April 23rd mentioning our organization CIEJ. I do want to clearify that we are Citizens & Immigrants for Equal Justice, a grassroots coalition of American/Legal resident families who are in deportation proceedings because of the 1996 acts, AEDPA, and IIRIRA. By standing together, we hope to make our voices heard, and save our families. Check out our website at www.ciej.org. for more information. I understand what everyone is going through. My husband, a legal permanent resident for 43 years won a 212(c)waiver hearing in 1993, only to have it taken away from us because it was still pending in appeal by the INS 3 years later when the Attorney General ruled that the AEDPA would be applied retroactively. We are still fighting our case, but no matter how much of a toll it takes upon us, financially, emotionally, and physically, we will not give up. This is our home. My husband paid for his mistake (and didn't hurt anyone when he made it), and has resumed a law-abiding life. He doesn't deserve to be deported, nor do I deserve to be betrayed by my government.

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Received June 1, 2000

My brother-in-law got a residency interview in January of 1999 at the U.S. Consulate in Guatemala. At that time they saw that he had been deported from the U.S. for being an illegal and he had to seek a pardon from the U.S. He did. The pardon cost around $400.00. The Consulate kept putting him off on a decision about his elibigility. He is still waiting in Guatemala for his papers, a year and nearly six months after his initial interview. I have contacted our state representative, Heather Wilson, and her office has contacted the U.S. Consulate numerous times, but still no word. How hard is it for them to make a deciscion. I think that the whole process is backwards and needs to be redone. The amount of money that the family has spend trying to get this brother-in-law to the U.S. is now around $1,000.00. There has to be a better way. At the time of his interview, his brothers here in the U.S. had a job waiting for him. Needless to say, the job is no longer waiting since we have no idea if, or when he will be able to come here. This is so frustrating and has really made me bitter toward the U.S. government.

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Received June 1, 2000

I have personally been affected by the 1996 immigration Law. I have been separated from my beloved husband for 12 months now due to this law. In fact, my husband has an appeal to reopen his case before the Board of Immigration Appeals which is still pending. However, today 5/31/2000, at approximately 4:30a.m., my husband called my for BFDF, New York where he is detained to tell me that he was afraid that by tonight or tomorrow, INS will be deporting him. I do not see how this can happen when he has a case pending before the courts. I am glad to know I am not alone in this tragedy. I need someone to talk to. Please someone talk to me. I am afraid, anger, tired, and I want something done about this. Change comes in numbers and I am ready and prepared to act. My family, just like other families, is torn apart due to this harse law.

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Received May 26, 2000

Thank you to the person that posted the message on April 25, 2000, that mentions CIEJ. I would like to clairfy just one thing. We are Citizens & Immigrants for Equal Justice (CIEJ), not Committee for Justice Immigrants. We are a grassroots coalition of American/Legal resident families who have been put into deportation proceedings because of the 1996 Immigration laws. If you or your family or friends have found yourselves in the same situation or you're a concerned citizen who would like more information please don't hesitate to contact us. Our email address is CIEJTX@aol.com. Thank you.

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Received May 25, 2000

My best friend of 20 years fell in love with a wonderful guy while teaching an English class at our local church. He was in the US illegally and when they decided to get married he returned to Mexico so that they would have a chance to live in the US at some time in the future. She moved there also and they have been happily married for 2 years. During this time she cannot work or even communicate with most people where she lives because of the language barrier. They have been trying to get him a visa to come and live in the US. After almost 2 years of trying they have now been told that they will never be able to live in the US because of this law. The reason? He lied one time and said he was a US citizen when he tried to cross the border. We can put rapists, killers, etc.. on the street because our jails are overcrowded, we will let children starve to death in our own country, etc... But we won't let one of our own citizens bring her husband back to live in her country because he told a lie? Once? It makes you wonder what we stand for - life, liberty, and the pursuit of happiness? I don't think so anymore. It seems to me that our decision-makers have lost their perspective and forgotten why this country was founded in the first place.

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Received May 19, 2000

My name is Maria and I moved to the US from England nearly 25 years ago. I am legal resident alien with a greencard. The last time I returned from a short trip abroad I was apprehended at JFK and my passport and green-card were taken from me. I have an order-to-appear on the 22nd June. At that time I will probably (if I am to believe the attorneys from whom I have sought advice) be thrown into a detention-center and deported. All this because I had the mis-fortune of being arrested 18 years ago for possession of a tiny amount of cocaine and one qualude. I was given 18 months probation and 100 hours community service which I deligently completed. Adjudication of guilt was deferred. Apparently this means nothing and now I will be punished twice over. Since my probation (in Florida) I have since moved to New York where I have worked as a nanny to many famous and high-profile people, always paying my taxes and keeping out of trouble. Recently I decided to go back to University for a degree in Social Work. What does the INS expect to gain by disrupting peoples lives in this way?

The whole thing makes me so angry I would like to get involved in trying to make more people aware of what is going on. Even if it is too late to save myself perhaps my experience will help in getting the law changed.

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Received May 18, 2000

I, U.S. Citizen, have no words that could possibly describe the fear I am feeling in my heart. On November 7, 1996, only a month and a week after the IIRAIRA law was passed, my brother was arressted and incarcerated for for trafficking and possession with intent to deliver of a non-narcotic substance (5-50g). He was sentenced to 3 years

mandatory, 1 year TIS. He has completed his sentence on good time and was released on May 3, 2000 to INS officials. He is currently being detained for deportation. I am writing this to advise you that my brother may be deported to Colombia, S.A. He has been raised in the U.S.A. as of the age 6. His separation from this country and his family will cause hardship on us all. He and I had a very traditional sibling relationship. He was my mentor, my advisor, a great supporter and a much-needed protector. As we both grew, our relationship has grown stronger. My brother is a very responsible, honest and dedicated person. His educational records will show that he is very intelligent and strong-minded. His character is sensitive, yet sensible. He is a very reliable and trustworthy person. He is a person with a family who relies on him for support and family stability. He is an only son, an only brother, and an only uncle. He has a very special relationship with our mother. To separate them would be hardship on them both. My trust and my belief is so deep that my husband and I chose him to be our only daughter’s Godfather. Him and my daughter have also grown very close. Although he has spent most of her life in the correctional facility, my daughter has grown to love her uncle as a confidant. I see her receiving the same love and devotion from him as an equal of a parent. My daughter has grown very close to her uncle/godfather. She is now very understanding of why he is in a correctional facility, but has grown very confused and depressed at the news of his possible deportation. My daughter still holds memories of the time she and him spent together at age two. She kept a calendar in her room, counting down the days until May 3, 2000, when she thought she would see him again. Through mail, telephone and periodical visits, they have developed a relationship equal to that of a parent and child. My daughter has stated several times that she is relying on reliving their memories. Only at a tender age of six, my daughter is very hurt and angry with the laws of her country, which are threatening to separate her from her uncle. He has no family in the country of Colombia. His parents, siblings, niece, grandparents, aunts, uncles, friends and companion are here in the United States. Sending him to a country, where he lacks of their education, at the age of 30 would be sentencing him to death. Colombia is a country that is full of violent drug wars, a corrupt government and dangerous guerilla warfare. My husband, my daughter and I visited this country in 1997. Our experience led us to a conclusion that we would never revisit that country again. The situations and status in Colombia have only grown worse since then. While on our two week vacation, as we were traveling to the Central Commercial City for a simple day of shopping, I was advised to remove my jewelry, including my wedding and engagement rings, because I would be robbed and if I refused, I would be killed for them. This is my confusion as to the absolute irony of this whole situation. This is my brother's first offence and it was a grand mistake that he, in his own words, has stated that he is fully regretful of. Of course, had he known the harsh consequences or the severity of the crime as he does now, I believe he would never have taken that path of destruction. I believe he is completely remorseful and regretful of what he did. I believe he is in a state of total rehabilitation. He has completed many programs and educational and spiritual courses while incarcerated to achieve this goal. To throw him away in a country where violence, drugs and destruction is thriving, and taking precedence, will not only be destroying the hard work he has produced for his own benefit in rehabilitating himself, but it would be destroying his life and the people who love him so much. My brother does not deserve a death sentence. He will die in that country alone. I have seen criminals in this country serve less time and

easy punishment for murder, physical and sexual abuse. People serving only months for the murder of their own children. This is what you call fair? A judge sentences a criminal with his own judgement of the legnth of time for rehabilitation and correction. If my brother poses such a threat to our society, then why did that judge not sentence him a longer sentence? My brothers crime does not deserve a life sentence. He has done his time. It is time for him to be released to continue his education and life with his family!

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Received May 13, 2000

hello, everyone I just want to say this law is a very destructive one, and it affects us all, in many different ways. This law affects my when I married my wife for about 2 yrs and we have a baby together but in this law that doesn't matter see, she's an illegal alien so that means under the law she has to leave for about 10 yrs before we can be together to be a family. She can't see her mother or father she can't work, So I pay all the bills provide for everything, which is hard we live alone, I only make 10$ an hr for the 3 of us, and what's evil is to INS that all doesn't matter she will still have to leave at the expense of my son's welfare, and interests, and there is no legal recourse just the consulate some thousands miles away in another country in the hopes he will give you mercy all he see's of your life is through a pile of papers and applications gee he will be real sympathetic, at best of what I've heard they are cruel. So you see, so many people are hurting from this law please do something about it before it happens to you or someone else. Thank you very much

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Received May 10, 2000

Hello,

I have only recently become aware of the 1996 IIRAIRA law signed in by President Clinton. I read the papers and watch the news and still can't believe I was unaware that this law has been in practice without my knowledge. The Citizens I speak to are also completely unaware of law. Please, make everyone you know aware of this new law and the effects it has on legal immigrants, some who have lived here for the majority of their lives. The idea of someone being punished by DEPORTATION for a minor crime committed BEFORE the law was enacted is unthinkable. I also have to question the power of the INS. What happened to checks and balances of power? Suddenly the INS has the only power? I would like for those who are responsible for this law to stand in front of a mirror, ask themselves if they could stand up to the scrutiny of this law. Most likely the answer would be "no". I want Mr. Clinton to give his definition of "moral turpitude" ~~~ Americans and Immigrants have a lot of work to do. Make sure everyone you know is informed of the new law. Write letters to your local and State Reps. Do all you can. If anyone finds themselves, a loved one or a friend a victim of the 1996

IIRAIRA, do all you can to get media coverage. There is power in the people.. but the people must be informed.

Fight to change this unfair law! Nothing worthwhile is easy.

An immigrant of almost 40 years.

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Received May 9, 2000

I am the US Citizen wife of a foreigner who had been out of status for a period of a few years before we got married. We have been married since fall of 1999. We live in Southern California where it can take up to 36 months to adjust one's status to permanent resident (one of the slowest timelines in the country) and until then, my husband is unable to go home and visit his family since he is not eligible for advanced parole. If he were to leave the US before his AOS is complete, he would be abandoning his application for adjustment of status and be subject to a ten year ban from coming back into the United States, even though we are legally and legitimately married and I am a US citizen who has lived her entire life in this country. In the early spring of 2000, my husband's father passed away suddenly and unexpectedly. He desperately wanted to return to his home country to be with his mother as he is an only child and wanted to attend his father's funeral. We contacted the INS, the White House, our Congressman, and every government office we thought might be able to help my husband get around the ban and be able to return home just to be there for the funeral and to help his mother who was all alone and to still be able to return to the US and resume his life here. After being given the "run around" by various government agencies, it became clear that there was no way for my husband to leave the United States without being subject to the ten year ban. We decided that he would stay behind and I instead went to help his family. I have never heard of anything so cruel as to keep an only child away from the funeral of one of his parents. There is no room for compassion in this law. If someone is going to have to wait 3 years for permanent residencey (not citizenship!) because the government is slow, they should at least be allowed to travel home for a funeral without having to suffer such consequences. I am truely embarrased that our government would create such a cruel and heartless law that does not take any special circumstances into consideration.

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Received May 8, 2000

Did anyone catch Dateline NBC yesterday(Sunday, May 7, 2000).You can read the story at: http://www.msnbc.com/news/399454.asp Sentenced to five years: http://www.msnbc.com/news/404019.asp#BODY This is the story of an Army Colonel's wife, both were stationed at the U.S. Embassy in Colombia. The wife, Laurie Hiett, a known cocaine-user was OK'd to accompany her husband on his mission as the Head of the U.S. Troops battling drug smuggling between Colombia & the U.S. She used the U.S.

mail at the embassy to smuggle $700,000 worth of cocaine to New York and was eventually caught. Colonel Heitt claimed he didn't know what was going on but enjoyed spending the money. Laurie Heitt received five years her husband is yet to be sentenced. I mention this story only to point out the fact that there's a lot of people involved in drug smuggling to the U.S. and it's not all immigrants. U.S. citizens in high positions are involved in this but these two just happened to get caught. A lot of immigrants are facing deportation for simply possessing drugs. A lot have drug problems like Laurie Hiett did. But rather than getting them help, they want to separate them from families that can be supportive of their treatment.

There's definitely a double standard in this country.

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Received May 8, 2000

My husband has been a legal permanent resident since 1977. I am a U.S. citizen and we've been married since 1985 and have three children. He's not perfect and made some mistakes in the past. One was a conviction in 1989 for possession of marijuana (the state added "with intention to distribute") but the marijuana was his own personal usage. However they decided to drop other charges if he pleaded guilty to the "intent" charge and he received 6 mos. suspended for probation. He also got into two fights. The INS now calls these aggravated felonies. Keep in mind, he has never done jail time for any of these charges. Yet, he is locked up as what they call an "INS DETAINEE" and he is being held in a federal prison with rapists, murders, etc.

Like I said he's not perfect, but neither am I. I smoked pot back in the 70's during my college years and you can bet the majority of the people on Capitol Hill as well as our senators and legislators have too. Have you ever had to defend yourself in a fight, but was the one arrested? I can understand deporting murders, rapists, child molesters and the like. The INS won't give him bail because they consider him a threat to society. However I know murderers and rapists get bail, what do you call them?

Its very hard on me and my children. If he gets deported, I'll probably lose my home and everything I own because I won't be able to afford it as we've always had two incomes.

How can American justice be like this. I can not believe that this is happening in America. He has no family whatsoever back in his homeland.

How can they tear families apart, who have worked hard, pay taxes, etc.

I ask that you pray for me and my family and I pray that God will keep me strong through all of this.

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Received May 7, 2000

I am so happy that I found this site. I am an american who fell in love with and married a mexican citzen we have a baby and are trying to make a good life here.The only thing he ever did wrong was to go looking for a better life for himself and his family in Mexico. He entered without inspection and When I tryed to file to get his papers I was told that we would have to go live in Mexico for at least one year and just hope to be granted a waiver of the 10 year ban. Even then I was told the only way that would happen was in cases of extreme need( Financial and family unity are not considered extreme need). I pray every day that the law makers see the error of 96. I dont want my family to be broke up. Every time I hear that someone that we know is being deported, or every time I see an INS van I feel sick. When my husband is later getting home from work I almost start panicing because I dont want him to be deported. It really lifts my spirts to read the other stories of people who are going through my same struggle together I know we can make a difference and FIX96. Thanks

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Received May 5, 2000

To whom this may concern, I am currently 27 years old and residing in Seattle Washington. I came to the United State when I were just 3yrs old with my grandfather and uncles. Throughout my childhood life it wasn't easy, being "asian" in America without both parents also without a good roll modle to look up to. Sometim I feel that I am a tragety of the Vietnam War. Through out my High School years I have been invole in crimes and has been convict of a felony "know known as INS as Aggravate felon" and can be deport back to Vietnam. A country which that I don't have any knowledge of and only horror movie image about VietCon tourchering american soldier. I feel that it's extremely unfair for the government to make to the law which that allow the INS to deport imagrant like myself to a land which that HATE America so much.

In 1990 Both my parent immagrate to the U.S. ever since than I have not been invole with any crime and even setting moral standard high then I have expect of myself. But know that I am stuck in a situation which that....No matter what I do or so hard to accomplish in my life one day it'll just come tumbling down if I get deported. I have eating more hamburger than rice, 90% of my friend are American, I pay the same amount of taxs which any one else is paying. I strongly feel that the law which that allow INS to deport immagrants back to there country is wrong!!!!!!!!!!! It'll tear up the inner part of America down to it soul. This country was built on the hard working immagrant since 1700's

what has gone wrong? why is this country treating immagrants like a "aliens" from a hostile UFO movies! Does anyone who pass this law ever think that.... There great ancestor where an immagrants too?????

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Received May 1, 2000

I am an American Citizen and have two Natural Born American son. Their bioligical father was deported. I was left alone to struggle and try to succeed in life. My husband never committed a crime. He just recieved a call from his brother asking him for a favor. And for that favor he was deported for being in the wrong place and the wrong time. Yes the 1996 Reform Immigration Act is harsh! When my husband was deported, I was left all alone to struggle! Alone when Hurricane Andrew hit with my sons. My husband was suppose to be around for one of his sons operation that he needed and his father was suppose to be there for his son blood tranfusion. His father was the only one in the family who's blood type matched for his son. Immigration remark was "I do not care"! Not even this was taken into consideration. I went through Hurrican Andrew and the following day my son was rushed to the emergency room phasing surgery or he would of died on me. My husband deported, then Hurricane Andrew and then I almost lost my son! All alone! To top it of the operation was performed under emergency back up generators. What elese can I say! Immigration policy discriminates and if someone starts a class action please notify me so I can join. Till this day my family still suffers, cries especially my sons! You see for the last eight years Christmas and their birthdays has been spent with out their dad and there is not one year that passes where these two inportant days come and my sons cry. And they say this only happens in Cuba! But the bottom line is it is happening in the United States! Not to may people know about this law until it happens to them! We need to inform the public and start writing letters by thousands to congress! I have not lost my hope yet! But I have changed my mine on the freedom of this Country! If we all ignore it and think it will never happen to you---your wrong! Do not wait to become a victim and lets jion together and stand up for your rights!

I made a web-page please visit it and vote under mini-quiz! All the best to everyone and lets not give up hope!

http://expage.com/page/civilrights4all

Thank you,

Mari

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Received May 1, 2000

It is discusting to know that even thou we pay taxes in this Country that Congress and President Clinton can pass a harsh, discriminated law as they did. Also, How is it that a "Communist Man" from Cuba have more rights then tax payers, American Cititzen, American Children and Permanent Residents that contribute to our Country. That man is "Juan Miguel Gonzalez"! Just look at where he is staying and he is not even from this Country! What is going on in America? My suggestion is that we all start writing letters! Not just a couple, thousands! Society is not inform clearly on this issue, not until it

happens to one of their friends or a family member. This is the election year and we must use this time to get our point across. We need to start writing to Congressmen & Congresswomen that represents our areas. Fix 96! Also those that were deported under that law should be allow to return to their families here in the United States regardless of what they say. No hearing regardless! Just let them back in! The damages have been done and most of them are still paying for one mistake twice! The damages have been done not only to them, also to their American children and American Spouses as well as Legal Permanent Residents! If Congress will not change this law that is against our Constitution. Why not advertise and start a class action law suit among all of the families that have been torn apart! After all this has created permanent damages to many of us especially our childrens, whom have had to be separated from their father or mother during Xmas and their special day their "Birthdays"

Thank you

Maria

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Received April 30, 2000

I would like to tell of how the "IIRAIRA LAW SIGNED IN 1996" has had an impact on my families life. This is a horrific, evil, law that is decimating American families. It is an anti-immigrant-biased law destroying everyones lives. It is a law without Mercy and thus inhumane.

This law has had an impact in our lives to say the least. Two weeks ago my brother was picked up from his home early in the morning as he was going to work in front of his wife and children by police officers and INS officers. He was hancuffed and treated as a criminal. We were all in shock because he had not committed any crime and now was being detained. Then we were informed of the evil immigration law of 1996 which is retroactive. What a shock we were totally in disbelief. We could not conceive that the United States could pass such an inhumane law which could only be compared to Nazism. Instead of rounding up the Jews like Hitler did the United States is rounding up the immigrants. This law is definetely unconstitutional regardless of what congress states.

My brother was immediately sent to Maryland and last week after spending almost two weeks in a correctional facility was released on a $10,000.00 bond. He is now in New York where his lawyer will fight the case on Retroactivity.

My brother entered the United States in 1965 with my parents as a permanent resident at the age of six. Unfortunately, as a teenager growing up in the mean streets of Harlem, New York he succombed to the wrong crowd. In 1975 at the age of 17, he was accused of a crime and sentenced to 15 years to life in maximum security penitentiaries in New York State. He was dealt a hard blow of reality and quickly reformed his life inside the penitentiary. My brother ascertained his GED(high shool equavalent) and continued his

rehabilitation while inside. He was released on parole after 15 years due to good behavior in 1990. My brother immediately became employed by ZZZ Carpentry where he began as a laborer and now is a finished carpenter. He was determined to make it. Indeed my brother is a SUCCESS STORY, A MAN WHOM SHOULD BE A SPOKESMAN AT HIGH SCHOOLS AND PENITENTIARIES, SO THAT PEOPLE COULD LEARN FROM HIS LIFE AND NOT HAVE TO EXPERIENCE IT. He is a law-abiding permanent resident, taxpayer, father of two young children, husband, advisor to young children, and most of all a success story who has no bias towards anyone.

He has served 15 years in maximum security and 10 years of parole which he successfully completed one month ago today due to his exceptional behavior and accomplishments. He has served society so why are they trying to punish him again. This happened 25 years ago and he has paid for this tragedy. How much more must he and our family endure??? God help us all.Let's fight this evil law that is causing astrocities to us all.

I urge everyone to write to your congress person, senator and representative and let them know of the havoc that this law has caused you.

This law should only apply to repeated offenders but not to rehabilitated people whom as young teenagers committed on grave mistake in their lives. We must forgive and recognize their accomplishments and not the crime that was caused years ago.

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Received April 30, 2000

I and my family have been in the United States of America for about 12 years. We came here Legally through a visitors visa but over stayed. My father was more Legal then us because he was involved in the SAW program but was the few who were unsuccesful getting legal.

THANKS to GOD this DAY we have everything. A very good house, Excellent credit ratings, 3 cars, a family income 75,000+ year, except legal documents the only thing we can not do is go out of the country and come back and becuase of the Stupid Law mr. clinton and congress passed things are not looking good of us getting legal. with the Illegal immigrant Population rising i hope the goverment have some sort of way to legalize us.

Thank you.

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Received April 29, 2000

This is the start of no more rights for any of us. We all pay taxes and are part of this Country. I am an American Citizen and do agree with enforcing strong laws as long as they are not unconstitutional. I have read articles on how Immigration enacts a new law. They say that one way is with the "Constitution"! I do not think that the "Constitution" was even considered.New laws are ok with one exception----They should not in anyway be made retroactive at all. No one can change their past. This law is terrible. This law is harsh in everyway and was intended to be hatred, unjustifiable and discriminating Immigrates in all ethnic background. It has created a big impact on many people including myself and both of my natural born American sons. It just tore us a part, when they deported their father back to the Dominican Republic. These changes made in the immigration laws in 1996 meant that my husband who had committed a crime years ago-----by being in the wrong place and the wrong time----a crime that was not considered deportable at that time---and served his debt to society, was about to be punished again (double jeopardy) against our "Constitution". No one can change the past and no one should ever have to pay twice for any reason unless you are a danger to society. Congress destroyed my family and separated my sons who are American from their father! But they reunited "Juan Miguel Gonzalez" a communist member said by him on national television with his son Elian. I am happy they are together, but what about the children of American and the American Spouces that Congress did not consider in the best interest of our American Families? Where did our rights go? We deserve the same right that was provided to "Juan Miguel Gonzalez" because we are from this Country----The United States and have more rights then a communist member. I want my husband be allowed to re-enter the United States and be reunited with me and his biological sons, that is what is in the best interest of my sons and the American Children. Remeber Janet Reno said repeatly "We are wroking in the best interest of the boy Elian" So now why don't Congress and Janet Reno including our President Clinton work in the best interest of our American Children? Bring back all the Father's and Mother's that were deported because of this law that they applied retroactive and give us back our families.

Thank you

Maria

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Received April 27, 2000

To all affected,

Which means everyone who calls themselves and American. Why? Because these immigration laws are not only an attack on immigrants and their families, but a violation of our founding principles of fairness and justice in our law. What happened to our constitution? Since when has two punishments for one crime been seen as justice? Be very concerned with the fact that the INS has so much power, it is above the law since judicial review has been all but eliminated in immigration cases. What happened to our system of checks and balances?

I urge all Americans to take a stand! Take back our country! Restore the fairness and justice to our legislative system that makes this country the best in the world.

If you are reading this then you have a powerful tool to fight these wrongs. Use the internet to contact your congressman and senators. Write the President and urge him to address the need to correct the mess he helped create. But please, please, do something! become involved! take action today!

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Received April 26, 2000

To Whom this may concern, My father "Charles T. Thoennes came to America from Cuba with his mother when he was 5 years old. His mother died and he was in put into a Catholic foster home in Chicago, than he was taken into the Thoennes family in Chicago area where he lived till he was old enough to go into the US Army. He was in the US Army for 4 years and held a High Level security Clearance and he took part in the atomic test over in the Pacific Islands and Arizon sites. When he servered his time in the Army he got out and joined the work force for over 50+ years, he has a Social Security card, he has voted. My father just recently turned 65 and when he went to collect his Socail Security benefits he was refuse because he could not provide citizenship papers such as a birth certificate. We have talk to our Representative "Barbara Boxer, Woolse, and Fienstein" but then were none responsive. I find this unacceptable because he has served his country in time of war and he has been outstanding member of society. We are not sure what we will do next, this is why I am expressing myself in this email...

Thanks you,

Peter J. Thoennes

PO Box 445

San Anselmo, CA 94960

petert@globeres.net

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Received April 26, 2000

hi, my name is maribel sanchez, i am currently a sophomore at the university of texas at san antonio. i am pursuing a career in biology, pre-med. of course, i never would have thought i would come to this point in my life. you see, my mother ran away to give bith to me because my mother's parents disapproved of her because she was unmarried. so by working through as a cleaning lady at motel 6 and even as a carpenter, my mother was able to substain herself and i was eventually born on oct. 29, 1979. my dad who is from

mexico, was informed of my birth and saw me on and off. it wasn't until i was 7 years old that my parents officially reunited and got married. so here i am never knowing how it felt to have a father, i had a real hard time accepting him, but eventually i did and it was great. life was hard. both my parents don't have an educational degree so they worked full time jobs that paid minimum wage. as much as they worked, it was bearaly sufficient. life grew worse. my grandmother died and my mom developed diabetes, and my dad turned to alcohol. it was down the hill from there. i remember waking up in the middle of the night in my bugs bunny pajamas, having to pickup my father from jail because he was caught with d.w.i again. here i was an 8 year old girl standing in sandals and rugged old pajamas staring at my parents who were fighting. every night it was one thing or another. i eventually reached high school and learned about my potential. i loved to study and participated in extracurricular activites. i had a goal and pursued it to the fullest and eventually i became the valedictorian of my school. my mom was so proud of me. then it happened. i went to my father and told him, "i was the valedictorian of my class", he was in awe. throughout my life he never really had a real clue about my life friends, school, thoughts. from that day on he stopped drinking. just like that! i can't tell you how healthy my family is now. my mom and dad seem like they have fallen in love all over again. me and my dad talk. did you hear that talk! he takes me fishing, he takes my mom out to eat. he cares about my education! I FEEL LOVED! of course, this joy will soon come to an end. due to the new illegal immigration and immigrant responsibility act he will soon get deported for his dwi offenses. you can't even imagine how my heart is sunken. i just feel that he had learned his mistakes and he has served his time already. i mean isn't this what are country is trying to enforce, do the crime, pay the time. are we not trying to obliviate crime, through counseling and other factors. I ASSURE YOU THERE ARE GREATER OFFENSENS THAN MY DAD'S THAT HAVE NOT BEEN SOLVED. a majority of them who are AMERICAN CITIZENS. does the constitution not protect my dad. we are talking about people not citizens that the constitution enforces. this law will cause pyscholigical effects on my family, and i'm sure to the many other familes out there. please don't deprive them of this. they are humans not strangers.

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Received April 25, 2000

Mr lamar smith the author of the draconian law said that the problems of the 1996 law are by the hundreds and not thousands (i.e people with petty offenses being deported), I think the situation is otherwise send an email to the president and vice president telling them to work on passing the Family reunification act here is the email add: http://www.whitehouse.gov/WH/Mail/html/Mail_President.html

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Received April 25, 2000

I am a lawyer and a concerned family memeber unfortunately, I am involved in a situation where a loved one has been wrongly accused of a crime, wrongly convicted

because of juror laziness and incredible prosecutorial misconduct. My loved one is currently incarcerated and was only incarcerated because he refused to admit to a crime he did not commit. Unfortunately we are living a dateline/ story for thepast 4 years. With this conviction, he faces deportation and has already been served with a notice to appear. our family has been in this country since early 1979 and of course there is not criminal record. we have dedicated our lives to helping people and now find ourselvesin a situation that is devastating. I wish to be more involved and wish to assist in any way I can to help change these laws. I have been able, through my contacts, to speak with several congressman and can have them assist us and work with us. Please contact me a a rdave@lawyer.com. I wish to be involved.

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Received April 25, 2000

The only hope to solve the IIRAIRA is through changing the laws. There are 2 bills in congress, so if you are a US citizen, call and write your representative ( congressman anad senator) to sponsor one of the two following bills.HR 1485 : The family reunification bill, written by Mass FRANK BARNEY. HR 3272 : written by New York rep. BOB FILNER. There is also a lady that is working constantly to change the law. She has been travelling to Washington Dc , see congress, looking for support from anybody that she can get help from, all on her own. She has created a group, CIEJ,( a committee for justice for immigrants.) Her name is Laurie Kozuba and her email address is ciejtx@aol.com If you can donate anything, please do so, she has never asked for anything , but I know she is trying tirelessly to help all people with the present retroactive deportation problems. Another organization is trying very hard to help immigrants too. They can be found at www.immigrationforum.org Again, they are trying their best, if all of us give them even $10.00 , they will have more funds, to hire people that will lobby for the immigrants. You can also fax a letter to support Barney's bill HR 1485, to the Judiciary committee in Congress, they are the people that deal with immigration changes in the law. Their fax number is 202-225-7682 ( in Washington dc.) We need to keep the pressure onto Congress, as this is not a priority for them. Barely anyone in congress realizes the horror of this 1996 law. They just signed the law and let INS take care of the deportations.

If you are a US citizen, you have all the powers that we immigrants do not have. Help for the sake of your family, friends, and humanity.

Thanks

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Received April 23, 2000

Hello:
I have been a witness to a terrible crime on human rights this morning. A little boy's family home in Miami was violated on their religious sacred week. There was no warning. INS officials,

that acted like soldiers came in with masks and automatic weapons. This child was well and healing from losing his mother to a shipwreck in shark infested waters and was again traumatized, but now while he was in his home.

The child was horrified at the site of armed men. They grabbed him and sprayed many civilians with tear gas and pepper spray. One man was hit with a can of some gas and suffered a huge rash all over his body. This would have not happened if more people would care that this child was in an healthy environment, but too many wanted him with his "dad." Not enough seemed to understand that his dad might have been forced himself. But, what matters is that Elian wanted and, if now not pressured, wants to be in America. If sent back to Cuba, he will be submitted to shock treatments to forget his memory of the US. This is not a cultural difference this is a matter of human rights. This child was sacrificed and no one knows what he's going through at this time. His Miami-branched family member flew to D.C., but were denied to see if the child was harmed.For five months now, America has been divided by the Elian Gonzalez Case. I believe it to be the fault of the media, because their opinion and screened material was at most times different and indifferent to what average people like myself see and know. The case here is that Elian Gonzalez has the right that all refuges should have: the right to ask for asylum. He is here, not in Cuba. The law said nothing about his age being unfit for him to ask for asylum, it can just be interpreted that way. But, if it would have, it would be wrong. Cuba is governed by an oppressive regime. The UN has reported for the umpteenth time that Cuba has violated human rights and it does so horribly. The USA GOV links go in detail about how locals are in danger of going to jail just for talking to reporters and tourists. But, communism in Cuba is to wide a matter to go into detail here so I invite everyone to visit my site at www.miamibulletin.com/truth/ so you can read what I have to say, some links on what witnesses and what US investigation says. I believe we should all sign a petition to have Janet Reno, Doris Meissner and Bill Clinton impeached for violating human rights in the eyes of our nation and the world. I believe they should be investigated for being UN-AMERICAN. This is the saddest day that our nation has endured from our own civil servants. I believe that they should be asked for their resignation and also be charged with criminal charges and infant abuse. Our President has smirked his way into telling us that violence is acceptable in the case of parental rights and that parental rights go above human rights. This is disturbing. If there isn't a law that would protect us from these sadists, there should be. I know that if we accept communism/oppression in the world today, our children will accept it as their government tomorrow.

Filled with grief,
Celia A. Escalante
www.MiamiBulletin.com

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Received April 20, 2000

My wife is an illegal immigrant, our 3 children are citizens, as am i . When we first tried to apply for a change of status, we coould not afford the filling fee, and penalties becuase i was a student.Upon graduation from school, i found that all the laws had changed and was told my wife would have to leave the country in order to get her papers legal, what hurt me was when we were told that she would have to waite 10 yrs before she could come back! I alomost died of shock, my wife was raised here and someone tells her that she must leave this country she knows as home, this would totally disrupt our kids lives, we were told that the kids could stay here with me while she was gone, or that they could go live with her in a foreiegn country. Is this country come to splitting up families? I did not serve my country in the Gulf War, to come "home" to see my family ruined by some

people who have no common sense! How can any good come from sending my childrens mother away or making them miss thier father due to some idiotic law that denies people what this country was founded on ? This law violates all i hold dear to life.... freedom, I can say without hesitation that this law is absurd ! It does not account for the people who have been here most of their lives, or for the people who are trying to make life better, I honestly do not know what to do or where to turn for help in my own personal case, if anyone could give me advise or steer me in the way of help i would most certainly appriciate it. I have tried to get help from my congressman but that was like getting help from a wall !!!!

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Received April 20, 2000

I am an American citizen married to an illegal immigrant. I have researched these horrid laws and read some of these unbelievable stories. We need to stand up and be heard. Restoration of 245(i) in immigration law is the key to our happiness. Let's not let the government take away our right to love whom ever our hearts desire. Their new laws give no room for appeals and punish everyone who comes into question, despite who it affects in the process. I can't believe our own gov. passed these laws! I was ignorant to these laws, only until after I got married. I still wouldn't change a thing. With elections this year, everyone this affects needs to make a verbal push for h.r.1841, the bill brought forth to Congress that would fully restore Section 245(i) and save countless families from the cruelty of INS. Contact all members in Senate and in the House via E-mail and express your approval of h.r.1841 and Section 245(i) Restoration. Call your Representative in the House, please do all you can. Every voice counts.

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Received April 18, 2000

I like many of you writing in this fourm am an U.S. citizen by birth, and an greatly effected by this unfair and unjust law. I have met and fallen in love with a beautiful young lady from Mexico. She first came to this country about 10 years ago when she was only 14. She came to escape a forced marriage and an abusive husband. At the time she was pregnant with her first child. Her daughter was born in this country and by law is a U.S. citizen She later had another child who is also a U.S. citizen. I had the chance to meet her when she needed the police and I was the officer that responded to her call. At the time I was seperated from my wife and going through a nasty divorce. I began dating her and fell in love. After everything was settled in my life I asked her to marry me. It was only then that she had the courage to tell me that she was here illegally. After much discussion, she returned to her home in Mexico, leaving her two U.S. citizen children in my care, and I filed the fiancee petition with INS. It was aproved in only two weeks and that's where the nightmare began. The petition was sent to the American Consulate in Cuidad Juarez, Mexico. Following the instructions provided by INS, I attempted to contact the consulate about the petition I kept getting the official run around from its not

here to no one who could speak English enough to understand my questions, to that office is closed now call later.

Finally after about four months the petition was located, and the package sent out to me, but not her. I was able to go to Mexico and take the paperwork to her. She completed the paperwork and went to the consulate for her first interview. It was there that her visa was denied because the consular staff did not believe the validity of our relationship. After providing what should have been proof of our relationship her visa was again denied because she had previously been stopped and returned to Mexico for unlawful entry into the U.S. Their claim wa also she made false statements of citizenship. Now under this new law she is considered excludable.

After many meetings with attorneys and contacting my elected members of Congrss I have been told nothing can be done to help. I have also been advised that if I want to be with her that much I should move to Mexico and get a job there.

I find this attitude offensive, not only are my rights to due process being violated, but also the rights of her two children. It's sad when as a police officer, I see real criminals given more rights and consideration, and mercy than hard working tax paying citizens who need the help of their government. I have served my country in the United States Marine Corps, serve my community as a police officer, sworn to support,and defend the Constitution of the United States. Honestly believing the words etched into my mind from our Declaration of Independence by our founding fore fathers escaping from overbearing govenment, speaking of our "inalienable rights among those to life liberty, and the pursuit of happiness". While this new law is in force I can find none of mine rights granted to me by our law.

To everyone else, good luck, may may the lord watch out for us and provide us that one ray of hope that we all need

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Received April 18, 2000

His illegal journey to El Norte: Alejandro lopez is a 27 year old native of Mexico, he has entered the United States illegally by crossing the Rio Grande with several of his amigos. Alejandro said his journey was not an easy one and is one he will always remember. He recalls being deported 6 times and one of his amigos drowned in the process of crossing the river. The fear and fustration you feel is indescribable. Alejandro did not come to America looking for handouts. He has a job and is a very self-sufficient person like many other illegals and U.S. citizens. He strongly disagrees with the following statements being made: Illegal immigrants are taking jobs from U.S. citizens. We are working the jobs that U.S. citizens refuse to work. I work 10 to 12 hours every day for $8.50 per hour, sometimes in 100 degree weather. For the average American that's not enough money for their labor, but to me it is a blessing. With the money I make I can send money home to my mother who is 54 years old and unable to work. She needs medical care, which I try

to pay for. I also pay for youngest my sister's education. Illegals immigrants are not paying their share in taxes? I am paying into the system. Taxes are being withheld from each of my paychecks such as medicaid tax, social security tax, federal and state taxes. And I am not eligible for any of these benefits because of my illegal status. Where do my tax dollars go along with millions of other illegal immigrants' tax dollars? Who is really losing out?

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Received April 16, 2000

WHEN I MADE UP MY MIND TO HAVE A CHILD I PROMEST TO HEM I WILL DO THE VERY BEST TO GAVE HEM ALL MY WHANT'S!!! I NEVER IN MY MIND EVER BE IN A SITUATION LIKE THIS, MY OLDER SON TELL'S ME ON THE PHONE THAT MY LITTLE JOSH HAD SED THAT WHEN HE GROW'S UP HE WILL BET UP THE PEAPLE WHOM TOOK ME A WAY!!!. YOU SEE HE IS ONLY 4 YEARS OLD!. MY WIFE AND KID'S LIVE IN CHICAGO IL. AND I LIVE IN MONTERREY MEXICO IS MORE THEN 2000 MILES A WAY I'M A ELECTRICAL CONTRACTOR, MASTER ELECTRITIAN, PRODUCTION MACHINE ESPECIALIST, 2 SCHOOL'S DEGREES AND 14 YEARS OF EXPERIENCE BILINGUAL TWO MORE YEARS AND I GET MY ENGEENIRING DEGREE, I WAS A YMCA BASCKETBALL COUCH VOLUNTEER AND BOUY'S SCOUT'S VOLUNTEER, WE WHENT TO CHURCH ALMOST EVERY SONDAY MY KID'S HAVE BEEN IN CATHOLICS SCHOOLS EVEN TODAY I SEND THEM MONEY FOR THAT!. NICK IS 10 YEARS OLD AND JOSH IS 4 , MY WIFE IS A COMMPUTER PROGRAMMER AND SHE CAN TYPE 75 WORD PER MINUTES WE WERE OK FOR THE AMERICAN STANDARD, BUT ONE DAY I CAME BACK HOME FROM WORK AND TWO MANS WERE WAITING FOR ME OUT SIDE MY HOUSE, THEY SHOW ME THERE CREDENTIALS AND I AGREE TO GO TO IMMIGRATION OFICCE NOT KNOING I WILL BE DEPORTED THE VERY NEXT DAY ALL THE WAY DOWN TO MEXICO MY WIFE WAS IN SHOCK!! SO WERE MY KID'S MY FAMILY MY WIFE'S FAMILY! EVERY ONE WAS TACKING BY SORPRICE! A LAWYERTOLD MY WIFE HE COULD'NT DO ANY THING I LEFT HER WITH A APARTMENT TWO KID'S AND NO MONEY FROM ONE DAY TO ANOTHER. YOU SEE I WAS ARRESTED WITH COCAINE IN ME BUT I WAS 20 YEARS OLD AND ONLY STAY THREE MONTHS IN JAIL SON AS I GOT OUT LEFT TO CHICAGO TO START OVER AND I DID!! I THINK I DID VERY GOOD! NOW IN MONTERREY MEXICO I OWN MY OWN BUSSINESS I'M DOING VERY GOOD DOWN HERE BUT YOU SEE, I HAVE EVERY THING BUT I DONT HEVE NOTHING WITH OUT MY KID'S I MISS MY KID'S AND WIFE AND TO TAP IT ALL OUT I CAN'T GO BACK BECOUSE THEY SAY IF I DO I WILL GO BACK IN JAIL UP TO 20 YEARS, FOR WHAT!! BECOUSE I WHANT TO BE WITH MY FAMILY, NO WAY !! I STAY HERE IN MEXICO DO THE BEST I CAN AND TO HOPE AND PRY THAT I CAN BE BACK WITH MY KID'S. THANK YOU ! FOR READING THIS!! AND YOU HAVE MY PERMISSION TO USE MY STORY ANY TIME!!

EFRAIN GARCIA .

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Received April 15, 2000

My husband entered the U.S. without inspection 7 years ago, but we met & married this last summer within 6 weeks’ time. He is the love of my life and I know God made us one for another. I sought the advice of my father about immigration paperwork, because he works in a Law Enforcement Training Center. He put me in touch with an

INS investigator in the city where we live. This man met with us and gave me a bunch of forms. I filed all the forms and evidence painstakingly having no idea we were applying for a benefit we could have no hopes of receiving. We applied for Adjustment of Status here in the States, which apparently "sunset" on Jan. 14, 1998. I did learn this about 2 months before our interview was scheduled, but what could I do? Two weeks before the interview, I panicked when I heard he could be arrested on site and sought a lawyer. We feared the worst and upon our AOS interview,
knew they could possibly deport him. Thanks to everyone who prayed and the overwhelming mercy of God, he not only did NOT get arrested, he did not get put in deportation proceedings either. He has NEVER had any encounters with the law or the INS, and maybe they decided to focus on the "bad guys." The adjudicating officer gave us the I-130 (visa) approval on the spot, and put the approval in an envelope for the National Visa Center right there. He also gave us a copy of the approval letter. But, he told him he cannot work any more (we had applied for and received an EAD with the I-485 AOS), and to high tail it down to Juarez to pick up his visa at the Consulate. But the sick thing is, the second my husband steps outside the US border, he becomes subject to the 10-year-ban imposed in for those who have been in the US without legal status for an aggregate period of greater than one year. So of course, the approval is no good. But yet, we have to play this charade and get together a police certificate (proving no criminal record) from his hometown in Mexico, a military letter of liberty (which of course he doesn't have because he has been here since 18) and a new passport. Then we have to go the the interview in Ciudad Juarez just to be told he is ineligible. Only then can we file for a waiver of "extreme and unusual hardship to his US Citizen spouse". Apparently those waivers are taking 8-10 months just to get a "yes" or "no" answer on. And since they have already established that there is nothing extreme or unusually hard about 10 years of separation from the other half of your soul, your life, your spouse, or even US born children,what have we?My husband is such a good worker, his boss told him he was worth the investment and he had a job when he came home. my husband actually teared up a little. It was very touching. The side note is, our house is a benefit of his job. If he can't come home soon - like end of summer at the latest- I will have to move. I am working to support both of us here. The money is dwindling down to nothing already and he has only been gone a few weeks. I had to put a lien on our other car to pay for his ticket and give him money to take. Now I have to pay the lien also. My heart is in Mexico City. I am here. As my husband says, "Why? WHY?" And I never have an answer and I don't even try anymore. We cry on the phone and he desperately wants to come back here. I have anxiety attacks and live in a state of the oddest sense of loss. The Lord gave me someone who loved me, just as I am, finally after years of waiting. My husband is the most precious man- through all the language barriers, the cultural differences, and normal marriage adjustments, we have such a profound love.
Because he was born on the other side of the line in the dirt and never asked for anything- no handouts- we suffer. And I know many suffer more than us. The only things we have against us are the EWI (entry without inspection) and possible work history (before our marriage). I'm NOT saying what he did is OK. Believe me, we have gone round, and round, and round about that one. I know why he came, and in his place, I probably would have too. I also know why it’s wrong.
But I don't think we should have to pay with 10 years of our lives - and I truly believe in

my case- my whole life. My education, everything I have built here and pulled myself up from my bootstraps will be trashed and useless. We are only 25 years old- what about the babies we so desperately want? I have an education and a good job. We would never be on welfare or take anything from anyone. But I would rather scratch my dinner from the dirt with the man I love. Except I don't even have the choice to become poor! Get this: my education loans. If I leave, I will have to default. (Pesos will never pay what I owe!) That is now considered a FELONY offense. And they cannot be included in a bankruptcy if they are federal monies. I had finally gotten out of debt- years of working 90 hour weeks since I graduated- to what? Pick between my husband and becoming a felon? What kind of a choice is that? I also have some serious medical conditions. We feel countryless- betrayed by both. And wouldn't you know, my degree was in Political Science! I love my husband with all that is in me and I would rather die than be separated from him if they ban him. There's so many complications. Where will I live? How will we make it? How can I live and walk and breathe and work normally to support us when I feel like I am going to die without him? I know many, many others have suffered untold times more than this. As my mom pointed out, many women's husbands have gone to war over the years. And as my sister says, at least he's not been diagnosed with cancer. But there's something about this that is just DIFFERENT. We're not fighting a war and he's not ill. I can understand those things, though I doubt they'd hurt less. This is senseless and without reason. Please, please tell me how I can help. And I would like to help others. If anyone has any similar experiences and would like to share or can help with any insight- please write me at: balvarez@nwrain.com

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Received April 14, 2000

Dear Friend,

My name is jennifer ventura I'm in united states navy my husband came to this country when he was 17 years old, undocumented but his countries government won't help people like him becase he was poor and could not finish school on account of his parents had 14 kids so he was forced to quit school and get a job to help feed his family, we have been together almost four years now we will have our 2nd wedding annaversary the 17 april 2000 and our appointment with immigration is also this month the 26th, in cuidad juarez mexico, and due to the new harsh laws they will make him stay in mexico and we also have filled a hardship waiver and we also have a 3 month old little baby girl. but most likely they will say no to that to, my lawyer said that they could tell us it will take 8 months to get the waiver approved or longer if they even accept it and i was to call my congressman to see if he could help to get things expedited but i all ready asked them and they said that they won't help me. I cry every day and i don't know what i'm going to do if he's not allowed to stay i don't know who will take care care of my baby either because being in the navy i'm going back to a ship in june i guess I'll probably lose her too. My husband and i are very much in love and we have a special relationship that most married peopple don't have. This is totally unfair and inhumane, I have so very badly stressed over this whole deal it's affecting my health and the rest of my family. Why won't anybody help? all i want is my family, to live a normanl life like anyother. Well i

better get back to work thanks for setting up this web site, if you would wish to respond back to me, I hope you will my email is venturajennifer@hotmail.com. Thank you concerned friend.

Sincerely,
Jennifer Ventura

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Received April 10, 2000

I am a Legal Permanent Alien that is very concerned about the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.
I was arrested and convicted for credit card theft in 1994 for goods of one thousand dollars. I served fifteen days in Jail and three years probation. While on probation I complete my BA in Computer Information Systems and I am a success full engineer. I have also since married and American and I have a six-month-old son. This law was applied to my case retroactively. I find this unfair and inhuman. I am currently undergoing depuration hears. The INS wishes to send me back to Somalia, my country of birth. I have no memory of Somalia because I have been in the United States since I was five years old. If they are successful in their case, I will not be sent to Somalia because the United States does not have a depuration agreement with that country. Instead I will find myself in jail for an undetermined time. I will lose my job home and cost tax payers thousands of dollars. For years I have been a productive member of society following my conviction. All I ask is
for an opportunity to live my life in peace. Please contact your Lawmaker and make a differance of humanity.

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Received April 8, 2000

I've been in this country leagly since I was 3 or had been until iiraira, now I'm 47. I have been married for 20 years to an American born wife and have to boys 12 and 16 both born here in Fresno CA., both are in excelerated programs in there schools, I can't express how proud I am of both of them. 11 years ago I plea bargined to a what is now concidered an agavated felony and an fighting deportation. I had beem hearing that law makers like Smith and Lee were working to fix the the law so that it would not apply to cases prior to the law. But so far I haven't seen any thing to show that its going to happen any time soon, and I have just about run out of time, I am the primary bread winner for my family and always have been, I,m not sure how they will be able to get alone with me. I have never asked the govt. for a dime to raise or support my family, but I'm deported they will then become wards of the state, and lose our home for sure since I have been fortunate enough to have worked our way to a lower middle class standard of living. So much for family values and caring about the children.My family all Americans will be the true victums of this ruthles law, since I am in good health, have a modest education, and have a trade skill, I beleave I will be able to work my way back up to a

middle class equivilant. In Mexico as I have here, I will never be able to replace family. I can't begin to tell you how this has efected my wife, she has been a complete "mess", We havn't told our children yet hopping for a miricle.

Thank You for a chance to tell our plight.

Juventino Hernandez & Family

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Received April 7, 2000

From what I am reading on the Internet, looks like the FIX 96 campaign has taken a backburner, this is an election yr and we should do something to get the harsh consequences of IIRIRA in front of the media (CNN and other talk shows), any suggestions are welcome. Stories from this website should be sent to the media.

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Received March 24, 2000

I as an illegal immigrant has been living in this country for the past seven years. I have made several attempts to legalize my status but due to the 1996 laws it's impossible. I have been married to an American citizen for one and a half years we"ve been together for almost 4 years. We have a baby together and this makes it very hard to leave the country for such a long time. We recently went to a lawyer to see if my status could be changed and were told that the new laws made it even more difficult for illegal immigrants.I was so disappointed because I cannot work without a social security number or even go to school. Even though my husband supports me it's pretty frustrating not being able to be productive. My husband doesn't want me returning home before I met him I was planning on returning to my country. He convinced me to stay assuring me everything would be ok but as it turns out matters only got worse.It is not that easy now I have a newborn, it would !
break my heart to leave/be deported and leave my child and husband behind. It is a situation now where one just watches and waits and hope and pray that these laws change.If you have any information about any changes please I'd appreciate some feedback. Thanks for your time.

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Received March 20, 2000

My son is a 19 years old boy that has been living in this counry since he was 5 years old. We both entered this country iligally and got our green cards though a Law that is called Suspension of Deportation. This is based on time and good moral character. I took us 8 years to become legal residents. So he became legal resident at the age of 13. To get his

citizenship we had to wait 5 more years. However, my son committed a stupid crime of shoplifting at the age of 17, just before he was 18 and almost 5 years after he received his green card. At the moment of that mistake, he had to wait almost 8 months to apply for his citizenship. The 8 months passed and he applied. But, as young and living in a country where young people become some how irresponsible, he went to college and there he learned all the "good things" students know. At his age he think he knows everything, and made the mistake of smoke you know what. he was counght ane sent to jail. He stay there for three hours. but according to the new law, he wont be able to became a citizen after 5 years more have passed. However, immigration officials at the moment of the interview have the whole power to grant or deny the citizenship, though based in the law. But, according to the Law, he is deportable for this mistakes that even those who make the law have also made. I, as a mother, I'm going crazy. My son is a good boy. good student and son. I wish that those who are affected and non affected by these Law of Hatred, do something to change these law. I know that law are neccesary to keep balance and order. But, some times, power is abused and laws are only for the weak. Let's do something.

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Received March 16, 2000

I am an American Citizen by birth. My husband is a citizen of Somalia, but has been in the United States for over twenty years. He is 26 years old and is a very knowledgeable engineer. We have a wonderful 6-month-old son who adores his father. We are very excited about our future. However, there is a problem. Six years ago my husband stole a credit card. He was young and stupid. He got caught and served five years of probation. After this incident occurred he made major life changes. He graduated from college, got a good job, and has had no further problems with the law. Three months after we married, the INS arrested him. We were able to get him out on bond. Currently, we are fighting this in appeals court.

This is a sad situation for anyone to be in. If my husband is sent back to Somalia he may be killed. I've always believed that the United States is a great country. Sometimes laws are not always fair. But they can be changed. This law must change!!! Is there anyone out there interested in protesting or doing something to pressure lawmakers. I know many of you have sent letters to representatives. I don't think they are listening. The mass media must cover this issue. It would embarrass them if the public knew what was going on. I have seen brief stories on CNN. Nightline devoted a whole hour to this. But we need more!!! Americans should be scared. This type of thing could happen to them too. The fact that any law could be made retroactive is shameful. Furthermore, my heart goes out to the immigrants being detained in prison right now. How can this happen? How can we allow this to happen?

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Received March 15, 2000

My stepson also has been detained because of this draconian law that the President and Congress passed in 1996. I went to a lawyer and was told there was nothing I could do. Seems the rights of due process,and the fifth ammendent are only for those lucky enough to be born on U.S. soil. What has happened to my son and thousands of hard working TAX paying residents of this country is a moral outrage! I support Bob Filner in his effort to change these UNJUST and ILLEGAL laws. I had as many people from my work E-Mail Mr. Filner about my son's problem. The power of the internet can be an advantage to us. Take a few minuets from your day and E-Mail your representatives and let them know your views. Mandatory Detention can not continue to destroy the lives of people. The real crime is being commited by a government whose very foundation is based on justice and freedom. DEMAND THAT ALL PEOPLE BE TREATED EQUAL.

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Received March 13, 2000

We adopted a boy from Mexico, not knowing that we should do this before age fifteen. Now he is 25. We have tried everything possible to get his citizenship. This is heart breaking for my husband and I. He is in every way our son. He came here and worked to send money back to Mexico at age 15. Does anyone know of any options that we might have? We are desperate. We adopted him at age 23. He has been with us since he was 16 years old. We own a ranch, which he will inherit. I can't believe that the laws are this way and would deport him and tear our family apart.

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Received March 7, 2000

IM WRITING IN BEHALF OF MY SON FERNANDO RIVADENEYRA, AUR DRAMA STARTED IN OCT 1996,WENT MY SON REVOKE HIS PEOVETION. MY SON IS CURRENTLY FACING DEPORTATION TO A COUTRY THAT HE DONT EVEN KNOW OR HAVE ANY BODY OR FAMILY,HE DONT SPEAK ANY SPANISH AND DONT HAVE ANY IDEA OF LIMA PERU,WHAT INS IS DOING TO ALL THIS GOOD PEOPLE IS CRUEL AND UNJUSTICE.I FEEL SO SAD FOR EVERYONE THAT IS GOING TROUGH THE HARSH LAW OF 1996. THIS LAW VIOLATE FUNDAMENTAL PRICIPLES OF LAW, JUSTICE AND FAIRNESS,THEYRE DENY PEOPLE THEIR DAY IN COURT BECAUSE IMMIGRANTS ARE DEPORTED WITH NOT APPEALS, AND COURT CAN NOT REVIEWS INS DECISITION. THE LAW DENY A PEOPLE A SECOND CHANCE BY DEPORTING THEM FOR A MINOR OFFENSES FOR WHICH THEY HAVE ALREADY PAID. THE LAW CHANGE THE RULES MID GAME BY BEING RETROACTIVE.AS A RESULTS OFFENSES THAT WERENT GROUMDS FOR DEPORTATION NOW ARE . THE LAW TEAR FAMILIES APART, MANY GOOD PEOPLE HAVE BEING DEPORTED , HAVE BEEN IN THE USA SINCE THEYRE WERE SMALL CHILDRENS MANY HAV!
E MERRED AMERICAN CITIZENS AND THEYRE CHILDRENS ARE

AMERICANS. FINILLY THE LAW HIT THE WRONG TARGETS. THEYRE WERE MEANT TO TARGET CRIMINALS AND TERRORIST, BUT LAW ABIDING WORKERS AND TO MANY INTELIGENT PEOPLE HAVE BEEN DEPORTED . TO FINISH MY LETTER I WILL TELL YOU ABOUT MY SON. WE CAME TO USA FROM PERU IN 1976, I WAS A SIGLE WOMAN WITH THREE CHILDRENS, ID MERRY MY HUSBAND IN PERU, HE IS A USA CITIZEN, WE MEED IN PERU WENT HE WAS WORKING FOR AN OIL COMPANY IN MY HOME TOWN, NOW WE ALL LEAVE IN TEXAS IN A NICE HOME, AND WE ALL ARE USA CITIZENS, MY SON IN 1988 COMITED A FELONY THAT WAS NOT AGRAVATED,AND FOR THIS REASON HE WILL BE DEPORTED.RIGHT NOW WE HAVE HIS CASE IN A FEDERAL COURT HEAVES CORPUS APPEAL. MY QUESTION IS? THE COUNTRY OF PERU HAVE ASYLUM POLITIC,DO YOU THING THAT MY SON WILL BE ALLOW FOR THIS? PLEASE HELME. MY SON GRADUATE WITH HONOR AND HAVE TWO YEARS OF COLLEGE EDUCATION, IT WAS A MISTAKE WHAT HAPPEN ELEVEN YEARS AGO . WE ALL ARE WITH HIM AND WE ALL ERE SUPPOTING THE CHANGE OF THIS EVIL LAW! PLEASE YOU CAN WRITME TO MY E MAIL. atoler@tgn.net THANK YOU SO VERY MUCH AND GOD BLESS YOU ALL. ANITA TOLER HOUSTON TX.

Received March 2, 2000

I WENT TO LIVE IN USA WHEN I WAS 16 Y\O,WITH NO FAMILY,NO FRIENDS.I WAS HOMELESS. ONE TIME I HAD TO SLEEP IN A CAR IT WAS SNOWING AND COLD AND I WAS AFRAID THAT INMIGRATION COULD FIND ME,BUT ALWAYS TRYING TO WORK ALLWAYS THINKING ABOUT THE AMERICAN DREAM,CLEANINIG OR DOING AS MUCH AS I COULD.I WAS AND ILLEGAL ALIEN AND I HAD TO DEAL WITH WITH PEOPLE THAT HIRE ME BUT KNOWING MY SITUATION THEY ABUSED AND TKE ADVANTAGE OF THE SITUATION .THANK GOD I FOUND A GOOD JOB, I WENT TO HIGH SCHOOL,LEARNED SOME ENGLISH, I DID NOT GRADUATE,BUT I WANTED TO GO TO THE UNIVERSITY AND TOOK MY GED TEST I PASS,UNFORTUNATELY I WAS AND ILLEGAL ALIEN AND THEY TOLD ME I COULD NOT GO. THINGS WERE TOUGH,I WAS WORKING TWO JOBS, ALWAYS AFRAID OF INMIGRATION HAVING NIGHTMARES DAY BY DAY THAT THEY COULD ARRESTME.ALWAYS HOPING THAT MAY BE INMIGRATION WILL HELP WITH A NEW AMNESTY OR MAY BE THE TIME WILL BE ON MY SIDE,ALLWAYS BEEN TREATED LIKE GARBAGE WITH NO RIGHTS,OR IGNORANT OF THE LAW ALLWAYS AFRAID TO ASK. SEVEN YEARS PASS BY I LEARNED MORE, BECAME THE MANAGER OF A FEW PLACES I HELP A COMPANY TO GO BACK IN BUSINESS,BUT THERE WAS AGAIN INS WITH NEW LAWS,I HAD TO QUIT MY JOB. THEN SOME BODY TOLD ME ABOUT GETTING A PUERTO RICAN BIRTH CERTIFICATE,THAT COULD HELP ME FIND A GOOD JOB WITHOUT BEEN AFRAID OF INS AND TO GET A PASSPORT TO GO BACK AND VISIT MY FAMILY,AND I DID I PAY A LOT OF MONEY TO MAKE THE WORST MISTAKE.I WAS WORKING AND ONE

DAY I RECIVED A CALL FROM MY COUNTRY MEXICO, LETING ME KNOW THAT MY MOM WAS VERY ILL, AND SHE WAS ASKING FOR ME.ALL THIS YEARS I WAITED BECUOSE I WAS AFRAID TO LOOSE WHAT I ALL READY BUILT HERE, AND TO COME BACK AND TRY TO CROSS THE BORDER,I WAS DESPERATE AND THE PERSON THAT SOLDME THE CERTIFICATE TOLD ME TO GET A PASSPORT,THE WORST THING THAT CUOULD HAPPEN IS THAT IF THEY REJECT YOUR APLICATION,AND THEY AREN'T GOING TO SEND YOU THE PASSPORT, I BELIVED EVERYTHIG. THE TIME PASS AND MY MOM GOT RECOVERED FROM HER ILLNESS,AND I FORGET ABOUT THE PASSPORT. I HAD A FRIEND, WE BECAME BOYFRIENDS AND GOT MARRIED, HE WAS A PERMANET RESIDET WAITING TO BECOME A US CITIZEN AND HE FILED FOR THE I-30 FORM,AND WE WERE HAPPY,UNTIL THEY ARRESTME,FOR FALSE STATEMENT FOR A PASSPORT,I DID NOT KNOW THAT I COMITED A REALLY BAD CRIME AND I PAY FORIT, I SPENT THE WORST SIX MONTHS OF MY LIFE IN COUNTY JAIL AND INS JAIL,AND MY WORST NIGHT MARE CAME TRUE, I HAD TO DEAL WITH INS.
I WAS HUMILATED ABUSED AFRAID OF THE INMATES.MY HUSBAND PAY FOR ATORNEYS BUT AT THE END THE NEW INMIGRATION LAW OF 1996 WHICH SAY,THERE IS NO WAIVER TO ANY BODY WHO REPRESENT HER OR HIM SELF AS A US CITIZEN, MY ATORNEY TOLDME THERE IS THREE OF THE WORST CRIMES FOR INS,ONE IS VIOLENT CRIMES,DRUGS AND REPRESENT YOUR SELF AS A US CITIZEN. I WAS DEPORTED AND I NEVER GOING TO BE ALOWED IN THE US AGAIN. I WAS ABLE TO DEPART VOLUNTARLY,AND I DID A WAS POSTED A BOND OF $500dls WHICH INS DONT WANT TO REFUND,MAKING EXCUSES NOW THAT IM HERE IN MEXICO.THANK GOD I EXPLAIN TO MY EMPLOYEE MY SITUATION AND IN GRATITUD FOR HELP HIM TO SUCCED WITH HIS COMPANY,HE SEND ME TO TIJUANA AS A CEO OF HIS NEW COMPANY IN TIJUANA I'M GOING TO SCHOOL TO LEARN MORE ABOUT THE BUSINESS,AND THANKS TO THIS I CAN SEE MY HUSBUND MORE OFTEN IS SAD AND VERY DIFICULT BUT WE ARE GOING TO BE TOGHETHER SOME DAY.GOD KNOWS I'M NOT A BAD PERSON, I DID LIE AND MAKE A MISTAKE,AND I'M NOT SAYING WHAT I DID WAS RIGHT,BUT I'M HUMAN
PLEASE HELP TO CHANGE THIS LAWS THAT AFECT EVERY BODY, WE ALL MAKE MISTAKES AND DESERVE A SECOND CHANCE.

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Received March 1, 2000

I am an ESL teacher in a high school in Houston. I have an idea that if we could offer amnesty or a visa or something to our undocumented students when they graduate from high school, that would be an incentive for them to stay in school. We loose so many of our Hispanic students between freshman and senior year - it's heartbreaking. I had a 13 year old come to me yesterday, with tears in his eyes, saying he wanted papers and would I help him. I am compelled to help. I am going to write every organization I can find to

try to find a solution. The fact is if a student has completed high school they have proven many things. First, they have to ahve learned English. Second, they have to have passed all their subjects and TAAS (Texas mandated exam - in English). They also have proven they are educable and hard working. Please send me any resources or ideas you may have on where I can begin this long journey to find some solution for this, and other students.

Thank you merbar_2000@yahoo.com

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Received March 1, 2000

Yesterday, February 29, 2000, My brother was denied any form of relief from removal proceedings from the INS. He has been in this country since he was a small. He is a resident alien but also has a record from ten years ago. Since then he had gotten married and now has a three year old son and lived a normal life in New Jersey. In the end of January of this year he went on vacation with his family to the Philippines and upon his return home to the US, he was detained in the port of entry in Newark NJ by the INS because of the IIRAIRA reform which he was not aware of at the time. He has since been incarcerated in the worst county facility in New Jersey and he is amongst the general population of the correctional facility. We are planning to appeal his case, we also discovered on the same day that he was also denied parole, in other words the INS will not allow him to go home to await his appeal. His wife is an Italian-American United States Citizen and his son is also a United States Citizen. This amendment to this law that was passed in '96 has devastated my family. My brother has been stripped of his rights. Is this America?? Does anyone at INS have a clue as to what the statue of liberty stands for?? If anyone has any advice that they can give to help us or suggest an angle or new strategy or aware of any counsel that would benefit this case, please advise. Thank-you. Kathryn Gorman kathgorman1@aol.com

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Received February 27, 2000

the new law has also given the ins officers unprecendeted power to make bad judgements and poor decisions, to the detriment of their image, and they seemingly are not fair when they deal with those who are not in a financial position to hire attorneys.

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Received February 27, 2000

Hello Everyone,
My uncle came to America from Romania. He entered illegaly through Canada because there was no other way for him to get in. He is in his mid-twenties, and almost all of his family, except for his older brother, is here in America. Romania is a communist country

and becasue of that, it is very hard to liver there. I have visited a few times myself and the conditions there are bad. A regular income for a family of 6-7 children is about 30-35 dollars a month. My uncle came here because
1. He was oppresed by the communism
2. He wanted a better life
3. It is very hard to survive there
and a lot of other reasons.
Mu uncle was caught a couple months ago while he was coming from southern california with another uncle of mine. He has gone to court a couple of times, but this thursday (3-2-00) he was ordered to go to court and they will decided now whether he is to be sent back to Romania. What are the chances that he will not be sent? Can anyone help.
Thank you in advance.
P.s. He also left because of the problems in Kosovo because Romania is very close to the conflict there.

(later, same day)

I was the one that wrote about mu uncle from Romania. I forgot to include my address, so here it is. Angelbaby2121@Hotmail.com if anyone can help, please, please write to me. Thanks you so much.

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Received February 27, 2000

hello my name is niina,im a 21 yr. old american citizen.i have been married to my husband,a pakistani man,for almost 2 years now.he was deported and told to be out of the country by feb.17 2000.he left like he was instructed,and ever since it has been very very hard on me and my daughter.united states is trying to lower the amount of people on welfare but for taking my husband away from me they are about to put two more people on it.it makes me sick how they treat people!i am a u.s. citizen and tax payer(so i guess i pay their bills)my husband has owned over 3 businesses in the u.s.a. which also payed taxes,and employed other u.s. citizens,he never once commited a crime,and unlike most of the men in america my husband took awsome care of our daughter and all the ins can do is make another case of a child not being able to have her father around.now he atleast gets a chance to reenter and be with me but what about all these other people suffering,my heart goes out to them and i wanna do whatever i can to help.

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Received February 25, 2000

I am looking for my humanly right to be with my husband. The U.S says he can't come here. Canada "now" says I can't go ther, even though I was just there four months ago. He has done his time for his crime, then he was deported. He wavied his rights to fght

deportation because he had just done three years and he was ready for his freedom. He didn't want to have to sit and wait for who knows how long and still be deported. He deeply regrets waiving his rights now. He is forty-two years old. His family moved here (U.S), from Canada when he was three years old. They still reside here. Along with myself (his wife), a twenty-one year old daughter, a 19 year-old son, from a previous marriage, and our thirteen-year old daughter and twelve-year old son. He was released from prison in October of 97, (for drug charges), deported to his "birthplace" only, not his "home", not knowing a single soul. He didn't even get his gate money because he was pulled from prison and taken to INS. So he entered Canada, penniless, homeless, and all alone to fan for himself. The two federal agents who met him at the airport, each gave him $2.00 and wished him luck. He ended up coming back to the U.S.(home) to be with his family, only to get caught for being here, and did eight more months in prison for parole violation and was deported once again in July of 99. I myself have two misdemeanor drug charges. I was allowed to enter Canada in September of 99, for a visit. Then the 10th of February 2000, my son and I drove 720 miles one way to see my husband, only to be denied (inadmissable) because of my misdemeanors. Yet I was allowed through only four months ago. I was also told not to try and come through for three years.
As of now my husband is working full time, is doing great for himself, yet we can't get together from either side of the border. Where do we go from here? Maybe you can refer me to someone who can direct us in the right direction to fight for our family reunification.

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Received February 22, 2000

On Jan. 30th, my husband, 3 yr. old son and I were returning from a short trip to the Phillipines (my husband's homeland). He was detained at the airport, told that because of a 1991 conviction, he could not go home and would face deportation. In 1991, my husband was going through a rough time with his parent's divorce...this was before we met. He began having a casula relationship with a minor (he was 21 and she was 15). When the girl's mother found out, she charged my husband with sexual assault. In the end, he was convicted of criminal sexual contact and was sentenced to out-patient counselling and probation...NO JAIL TIME. Since that time, he has been an honorable and upstanding citizen, paid his taxes, gas been gainfully employed and most importantly, has been the best father to our son. My husband came to the US when he was 9 yrs. old. He played football and baseball in high school like any American kid. How can the INS fathom tearing a family apart? And because he was picked up at the entry point, he is subject to mandatory detention? I just don't get it....not only our emotional turmoil, but now we are faced with defaulting on our mortgage, which will leave my son and myself where? I agree that there are some people that are TRUE threats to society, but why can't INS use their authority to use discretion in certain cases? People who are truly criminals will continue to commit crimes, but people like my husband who made a mistake years ago and has never done anything else but what is good and honest, are NOT CRIMINALS.

If anyone can help overturn this law, please do.....we are desperate.

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Recevied February 21, 2000

My name is Judy Perez, my father has been incarcerated by INS since January 21, 2000. He is facing deportation for mistakes he made 21 years ago. I do not understand how people can be so inhumane and tear families apart without blinking an eye. How can this be happening in America? This country critizes other countries about the way they treat people and yet they are doing the same if not worse. My father has been in this country since 1968. He is now 61 years old and suffering from diabetes and high blood pressure. Currently he is being detained in Gadsden, Alabama, the third jail he has been to since his apprehension by INS officials in January. They have treated him worse than a terrorist. How can this be? We have all types of criminals walking the streets everyday. The criminal have more rights than the people being held by INS. My dad is suffering a great deal, not to mention my mother. I see her pain everyday. I hear the pain in my father's voice when he calls. Where is the logic in this law? What right do they have to make people pay for mistakes they've already paid for? Where is democracy? Congress and Bill Clinton need to know that they have, by approving this law, devasted the lives of the individuals they have taken as well as the lives of their families. They must change this law. It doesn't make sense to tear people apart for errors they committed in the past and for which they have paid for. Any information or assistance you can offer to help me free my father would be greatly appreciated. Right now, all we want is for my dad to be home until he has his hearing and his situation is resolved. INS does not care about this, but my family and I will not give up.

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Received February 19, 2000

Hi I am an Permanent Resident Alien and have lived in the U.S. for the past 19yrs. I am currently 21. I submitted my petition for naturalization in 1999 and went for my interview in Jan/2000. I passed the english and history portion, and when asked about prior arrests I stated that I had been arrested for petty theft shoplifting in 1995 when I was 17yrs. old. Because of this arrest, I was denied my naturalization and the Chief Adjudications Officer is reviewing my case to see if it is a deportable offense. I am really scared because I have never lived in Mexico since I came over here 19yrs ago. I am 21, a college graduate, pursuing my Master's degree in Int'l Relations at Minnesota State University. I am in the process of starting a not-for-profit organization dedicated to helping the Hispanic community of Mankato, MN. I have been law-abiding and it is crazy that this one act that I commited when I was 17 might take away all that I have accomplished. I shoplifted 2 jeans, a shirt and a belt (total $102.00). I didn't spend any time in jail, paid a $300 fine and that was it. Now five years later it could be the deciding

factor whether I can pursue my dreams of working with the State Dept. as a Foreign Service Officer, which is what I have always dreamed of, or be deported. It is just sad that this country will be deporting someone who loves America and the democratic values for which it stands. Not only that, but I know that I would be able to contribute so much to this country.

Please don't deport me...

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Received February 14, 2000

My name is Ellen I am a U.S. citizen age 25. After reading some of these horror stories I hope that perhaps some one could help give me some adivse. Back in the fall of 99' I met a man from morocco and have now fallin in love with him. We want to get married. I never dreamed in all my life that getting married would be so much trouble! His visa has been exspired for 90 days and he enter the U.S. with a crewman visa. It has been suggested that he go back to morocco and I file for a fiance' visa. The problem is I do not meet the income requirements. We are afraid that if he goes back he will not be able to get back into the U.S. Even if we marry we still have to meet the income requirements. So what do we do? I have read and heard the stories about couples being seperated for years. So if anyone has any advise or suggestion please help!

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Received February 14, 2000

To Everybody Who Might Come Across This Letter:
I just stumbled across this website while I was taking it easy in my office today
and am very saddened by what I have read.
As a foreigner/ethnic minority myself, I feel very strongly about the cruelty, discrimination,
and racism that immigrants experience in this country.
I believe that what breeds these negative attitudes in this country is ignorance. Intolerance is an offshoot of
this ailment. For example, I look back in amazement
at my American high school education. In English class, all we ever read were books by white
Western Europeans and Americans, most of them male, and most of them written ages ago. I think
that the treatment of immigrants, who have much less power than the natives here
would be so much more improved if not only the INS officials but the whole
country were aware of the difficulty of immigrant experiences and of
ethnic minorities, especially about people whose economic and social status
make them more vulnerable.
Are there organized efforts to bring the reality of this diverse American

experience into the larger consciousness of Americans?
I would really like to see a powerful movement to this end. It is my prayer, and I think it would really change this country.
-Eri

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Received February 12, 2000

My boyfriend, Alain, left the U.S. around this time last year. The waiting around for the INS to come for him was killing him inside. Alain is now 26, and lived in the U.S. since he was eleven. When he was a senior in (1993) high school he got into some trouble with the law, he went to court, and did his time. Years later after taking courses abroad Alain returns home to the U.S. to be taken and questioned by the INS. We had no idea of this law ... i mean how can you make a law retroactive. We do not try U.S. citizens for the same crime twice, but because Alain and others like him are not citizens they can be charged for the same crime twice. i have written my state representative and the response i get is they are working on abill, or janet reno is working on some bill, but how come we never hear about this bill ... or how it's coming along. this law has changed my lifelong plans, to marry the one i love, to live here in the U.S together. not only has it hurt me and my family, but it's torn his parents apart. Alain is now living in a country he hasn't lived in since the age of eleven. he built a life here in the states and it's only fair that the retoactivity of the 96 law be abolished, so that ALian, and others like him, can come home.

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Received February 10, 2000

I am a native-born US citizen (actually a WASP) who is engaged to a very nice women from a Central American nation. I am currently going through the long, painful, process of obtaining a financee visa. While my story certainly doesn't have the tragic proportions of many of the stories here (I expect a happy ending), I have been deeply shocked an disturbed by how little respect my government has for my civil rights and the rights of my future wife. It is offensive that I must fill out mounds of papers, deal with an inaccessible and insensitive bureauacracy, and be kept waiting for unreasonable lengths of time because the US Congress and Executive Branch combined have so effectively emasculated the INS' service functions that routine bureaucratic procedures drag on for months. We are both well-educated, financially solvent professionals who in no way can be considered suspicious or a threat to the security or cultural stability of this great nation. My fiancee will become a productive member of society the minute she sets foot on US soil. Of course we understand that certain checks must be made to prevent illegal immigration, marriage fraud, and mail-order bride abuse, but do these checks really require upto six months of waiting? Is it unreasonable to expect the INS to provide enough qualified people to answer our questions over the telephone? My experiences can only lead me to the conclusion that IIRAIRA is a threat to the fundamental rights of

every American. Who we marry, when we marry, where we marry should be our decision. The US government has elevated itself to the arrogant position of deciding whether a US citizen can or can't marry a foreign national, and worst of all, it takes a completely unreasonable amount of time to make the decision. I have come to the conclusion that the function of the INS is "to prevent legal immigration". This bill has made victims of people who want to work within the system while having a dubious effect on illegal immigration. Indeed, it probably encourages a lot of people to break the law who might otherwise work within the system.

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Received February 8, 2000

I've entered and been living legally in the U.S. for a little over 8 yrs now. As a citizen of a (middle Eastern) country that I have never lived in (I was born and raised to immigrants to a country other than the U.S.), this new law makes me a "deportable Alien" now - as I was told by an immigration officer during the denial of my citizenship application.

In 1995, I had a misdemeanor 2 nd degree arrest ("open carrying weapon" = my husband's registered gun was accidentily in the car). It feels to me that as long as I'm deportable, I'm inelligable for citizenship, and vice versa.

There must be a way to "rehabilate" or proof that one is not inelligable or deserving of deportation only. Samstag@aol.com

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Received February 8, 2000

My wife was brought to this country from Mexico when she was a young girl, she went to school here and then her parents divorced. She went back to Mexico until she was 18, it was then that i met her. We have been together now for 10 yrs, we have 3 children, but when it was time to file to get her papers, i was a full time student( and a disabled veteran)we simply could not afford the INS fees to process the paperwork.I went through the DAV and they in turn put me in touch with Congreessman Martin Frost's office, his office helped me get the original filing fee waived, we were told it could take 6 months to a year before we would hear from INS. We waited and when we hadn't heard anything we called INS, i was told they they didn't have anything on my wife, so we went back to MrFrosts office and tried again, we were told the same thing, so we waited , this is when the new law took effect in 96. I had no idea about the change in law now we have been told that if she tries to get her papers, she would have to leave this country for up to 10 yrs. We have three children, how can it benefit any family member if they send her back to Mexico? I would have to quite my job to take care of my kids (10,4,1 1/2) or they would have to go with her, they are US citizens and be away from me. To me this is unacceptable !! If anyone can offer me some help i would deeply appriciate any advice given !!!!

I was told that INS doesn't process files unless all money is included, i do not know if this is true but why else would they not have a record?? If any one has any info i would gladly correspond, my case is a bit more involved but this is it in a nutshell, please contact me if you have any advice. Thank You cklove77@hotmail.com

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Received February 8, 2000

My son was adopted from Brazil when he was 8. When he was a month from becoming 18 a filed fro hime to become a citizen this included $80.00 fee.About three months after we filed he was told now taht he is 18 he must fiel a different form. He got in trouble for selling drigs and never filed. He was to be deported i talked to the Brazial Embassadores office and they are not allowing him travel papers. Now the real problem is he can spend years in jail. The government has funds for everything I can't afford a good attorney so he will sit. Any help would be appreicated.

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Received February 7, 2000

My husband, Huber A. Gil was deported in June of 1999 for an infraction that happened in 1992. My life has been a living hell ever since May 21,1999 when Immigration took my husband and detained him for deportation. I would never have thought something like this could happen in America. My husband and I love each other very much and we both feel like we are dying without each other. This law is so unjust and is only destroying lifes and families,there is no justice in it. The sad thing is that Immigration is using this law to deport human beings that are coming to them trying to do the right thing. Most of the human beings ( not file #'s, as my husband has been referred as, so many times)have made mistakes and turned their lifes around and become productive parts of society. Immigration is not doing the leg work tp get the real criminals , they are getting the individuals that are coming to them to do the right thing. I will be graduating in may with a BA in Education and my prayer is that my husband will be there to see me graduate. The sad thing is we were planning to start a family after I graduated and this is now on hold. Under all the stress I still managed to make the President's list last semester with a 4.0. This is also become a physical, mental and financial strain.Our lifes have been put on hold ,but are passing us by at the same time. We are missing out on some much that we should be sharing together. Our 3rd year Anniversary was October 26 and we spent it alone without each other, not by choice ,but because of the american Government and this uncostitutional law. I have so much to tell about what has happened to me and my husband since May 21,1999 it is just to much to write, but I want our story told. The american people need to be made aware and they should be very scared of this law. Ilove my husband and nothing can keep us from loving each other. We may not be together, but we are always in each others hearts. I will never stop fighting for my husbands return or to get this unjust law changed. Me,My family and our friends stand behind my husband and support him 100% and if you could meet him you would understand why.

Sincerely,
Lisa C. Gil

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Received January 31, 2000

To everyone affected,

I know all to well the harsh effect of the immigration laws enacted in 1996. I stand to lose my family, friends, and identity. I urge everyone that reads this letter to direct their efforts toward congress. We can change the laws if we work together. Just read some of the stories here, most people affected don't have a clue as to what is going on. Become informed, research the laws, and follow the bills in congress. Most importantly, take action and voice your opinion. Already the tide is turning, we can not afford to let up our efforts now! Stop sulking in self-pity, denial, or what ever it is that is stopping you from making a difference! Keep God in your hearts and be persistent. A very special thank you to all those men and women fighting this attrocity at the front lines. They are not just fighting for mine and your family, but for truth and justice. Thank you to Micasa Su Casa for giving us a forum from which we can fight these wrongs. To the AILA, ACLU, CIEJ, and to the Immigration Forum for fighting for our cause. And to all the others whom I didn't mention I'm sorry, and God Bless you.
TAKE ACTION NOW! FIX 96!

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Received January 29, 2000

We are a family of 4 , 3 of us are US citizen and my wife is from Venezuela . We have 2 kids one 9 years old and one 5 years old . We were married 6 years ago . When this "GREAT INVENTION" of the Immigration Law procedures were more easy to follow in order to have the pertinent documents done . As today 29 jan. 2000 my wife is under deportation procedure in the next 20 days . Because our layer failed to place her documents in the proper office at the proper time . We have a son ( Andres 9 years old ) that is a patient of ADHD (Attention Deficit Hyperactivity Disorder)that needs his treatment and medication that is going to suffer all this if he has to leave to Venezuela with his mother and sister . We were married in Puerto Rico where we have our home and a very stable family relationship but the INS insist in deporting my wife even having our son condition indicated as an extreme hardship by health proffesional fron the government and the private sector .
As you can see we need all the help we can get on this one . You can agree with me that Venezuela in not the proper place to establish the residence of my family . First his condition in not known in this country and the madication needed is not available . His Constitutional Rights are being violated by the INS when they are forcing my wife to

leave Puerto Rico . There are no word that can describe how I feel deep inside . Any advice can be sent to hiramkaliman@yahoo.com
HELP ME ...our lawyer fail..and he does not want to accept his reponsability ..I feel lost and stranded in the desert of a tangle burocracy that has no way out .
It is unfair to deal with immigrants this way ...HELP

---

Received January 18, 2000

Dear members,

I write to you because my life is about to change, not only because of the new law enacted in 1996, but also because of the means by which it is used to cover up racist practices throughout the country. My brother was accused of a crime two years ago. He was appointed a public defender, who had cheated him, lied to him, used his naive, innocent adolescent soul to purposefully kick him out of the United States. He is innocent, but plead guilty to second-degree sexual assault by advice of his attorney. He did not know anything about the new law, nor was the possibility of deportation explained to him. He was given nine months in jail, but was released after one month. INS picked him up, and he is now being held nine hundred miles away from his family in Oakdale, Louisiana pending deportation hearings. He has not yet given legal representation because his family cannot afford legal services from that distance. We cannot even visit him. All we ask for is a chance to get into the court room again and have a trial for his case. Due to this law, he was be sent back to Jamaica when all of his family is here. I do not know what we can do now. I plea for your support to help him.

Gervan Williams
Poughkeepsie, NY

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Received January 18, 2000

my husband has been locked up since feb 2nd,1999 due to the immigration act of 1996.he traveled out of country with a valid passport and alien card, on his way back the ins officer told him that he was not suppose to be out of country because of offense of 1994 which does not have a jail term or jail suspension. he was placed on a two years probation. he left the country for 10days. when he appeared ar hearing on 2/2/99 he was placed in removal status by the ins judge.myself and 4children are US citizens . i have seriuos health problem which need an immediate attention, i could not go for the therapy because i will be home for at least 6months but the is no financial help from anyone including morgage any many other expenses.my husband filed a habeas corpus in nov,1999 and it's still pending. he previously applied for citizenship twice and he was denied due to the same reason. bia denied him as well.it very frastrating after spending over $10,000.00 to the attorney.

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Received January 18, 2000

My local school district - Woodridge Illinois-- has looked up each student's birth certificate, and has identified all immigrants. They have sent a letter to all immigrant parents stating:

1) the school district does not have your child's visa
2) if you don't have a visa- contact INS
3) Otherwise, bring in your visa immediately
4) if you fail to provide a visa, you child will not be allowed to enroll for the 2000-20001 school year.

Can they do that? They are singling out immigrants for threats with exclusion from education based on the child's race/color/national origin, while they are not making the same threats to children who happended to be born in the states. A couple of examples show how ludicrous the district's policy is. First, imagine that a child was born in Mexico, or England, and came here at age 8, and his parents became citizens so that he also became a citizen-- that child must produce a visa or be expelled. Consider a second example. Imagine that a child was born in the U.S., the parents moved to England or Mexico, and the child became a naturalized citizen there. If that child comes back to the U.S. on a tourist visa, or other any other visa, that child can enroll in school and is not asked to prove visa status. What is the differece in the two examples? The only difference is where the child was born. Is this not National origin discrimination? Can anyone offer help in getting my school district to see the discrimination they are committing. If you have help, or advise, please e-mail me at dmanjarres@rosenschan.com Thank you.

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Received January 18, 2000

many people from certain parts of africa are more affected more than other ethnic groups. myself and five american children have been suffering since feb,1999, when husband had locked up by the INS for something that happened in 1994. he was never sent to jail nor jail suspension he was placed on 2yrs probation that he completed without any violation. I believe people from certain parts of africa are been disciminated against. when will americans forgive other people.especially people that are surrounded by many american citizens.it a same that president clinton could signed a bill that is affecting many american born children by foreign parents.no one is a saint the country preached humanity but they are not practising it.it is time to forgive all these people that are locked up and let them be with their families. someone like me is severely suffering from this bill. what messages is this country sending to the affected american children?.please change this law,!
many good citizens are affected.

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Received Jamuary 17, 2000

On September 18, 1999 I was called to appear as a witness on behalf of a Nicaruguan national incarcerated at the Mira Loma detention facility in Lancaster California. I was shocked and ashamed to find that indigent aliens facing persecution, torture and execution if returned to Nicaragua are routinely denied the effective assistance of counsel in INS removal proceedings. As I sat in the back of the courtroom I saw indigent aliens forced to act as their own attorney. It was pathetic and repugnant to watch highly trained professional government lawyers engage in "legal combat" with desperate indigent aliens with limited English skills in a clearly lopsided adversarial administrative hearing. The INA mandates a "full and fair procedural hearing" for aliens in Witholding of Removal hearings. I do not understand how an indigent alien can be afforded procedural due process without the assistance of a qualified lawyer. I have been in contact with the indigent Nicaraguan alien for several months and he is now in the process of preparing a Board of Immigration appeal by himself without any legal assistance.

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Received January 16, 2000

I AM AN AMERICAN CITIZEN MARRIED TO A MEXICAN. HE WAS CAUGHT IN 1990 without ANY PAPERS AND WAS ORDERED TO GO TO COURT IN ATLANTA. HE DID NOT GO TO COURT AND THE JUDGE ORDERED HIM DEPORTED. HE HAS LIVED AND WORKED IN THE SAME TOWN FOR THE PAST NINE YEARS.WE WERE MARRIED IN 1996. WE WENT TO IMMIGRATION AND FILED ALL THE PAPERS AND PAYED ALL THE FEES AND FINES THAT WE WERE SUPPOSED TO. WHEN WE WENT FOR OUR INTERVIEW IN JANUARY OF 1999 WE WERE TOLD THAT WE WOULD HAVE TO WAIT AND SEE WHAT THEY WERE GOING TO DO ABOUT THE PREVIOUS ORDER OF DEPORTATION. WE RECEIVED A LETTER FROM THE NATIONAL VISA CENTER SAYING THAT HE WAS APPROVED FOR A VISA IN APRIL. IN SEPT. WE RECEIVED A LETTER FROM INS SAYING THAT HE WAS DENIED RESIDENCY BECAUSE HE WAS ORDERED DEPORTED. WE ALSO RECEIVED A LETTER FROM THE VISA CENTER ASKING WHERE WE WANTED TO GO AND GET HIS VISA. WE WENT TO THE IMMIGRATION OFFICE IN CHARLOTTE NORTH CAROLINA TO SEE WHAT TO DO ABOUT HIS WORK PERMIT THAT WAS ABOUT TO EXPIRE AND THEY ARRESTED HIM AND DEPORTED HIM TO MEXICO.HE HAS BEEN GONE FOR THREEE MONTHS AND I NEED TO KNOW WHAT I CAN DO. I HAVE HIRED A LAWYER AND I NEED FOR THINGS TO MOVE MORE QUICKLY THAN THEY ARE. PLEASE TELL ME WHAT I CAN DO ABOUT MY CREDITORS BECAUSE WE HAVE A MORTGAGE AND CREDIT CARDS AND I HAVE CHILDREN. I AM INTERESTED IN DOING WHATEVER I CAN TO HAVE THIS UNFAIR LAW CHANGED.

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Received January 14, 2000

I just recently married the father of my child, who is from Honduras. Before I met my husband I was completely unaware and consequently unaffected by immigration laws. Now this issue has consumed a great deal of my time and energy. My husband and I are in the process of trying to secure legal immigrant status for him and we have just come upon one brick wall after another. I have no idea where to go from hear and I wish there was sincer and affordable help for our cause.

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Received January 13, 2000

I am writing on behalf of my brother Nelson Pires, who is currently facing deportation. My brother was taken into custody by a community sweep that was adminstrated by the Boston Police and INS back in January, 1999. I contacted the INS immediately after the arrest to find out why Nelson was being detained. I knew that my brother had not committed any crime. No logical explanation could be given for his arrest and detention. Of course, the Boston Police and the INS would discover they had no new charges to press against Nelson, however, under the INS Reform Act of 1996, Nelson could be charged with and be deported based on prior cases, even if they had been dismissed at the local courts. Much to my surprise, my brother is being held for deportation under these circumstances.

It sounded ludicrous to me that the INS could do such a thing, but it happens to hundreds of people everyday. Nelson has been held at the Hillsborough County Jail in New Hampshire since the day of his arrest in January, 1999. The facility is located at 445 Willow Street, Manchester, NH 03013. Lack of cooperation at the local courts and at the INS has made it impossible for me to help my brother. These matters combined with the fact that I do not speak English very well and have no knowledge of the legal system has left me hopeless.

If there is anything that this organization can do to help me in this matter, I would truly appreciate. I am determined to see the current immigration law changed.

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Received January 10, 2000

It pains me greatly to see the great injusice of this law which to me is mindless as it is cruel.This law to begin with was both irresponsibly drafted without a thought to the familes that would be greatly wounded,broken, and shaken by these 1996 immigration laws.I honestly do not know how these individuals who passed these laws can go to sleep at night no doubt the same way they drafted these laws with there eyes closed.The

families of these detained immigrants are left with scraps and crumbs to pick up the peices of there lives after the American INS system gets done with these detainees.I do hold Clinton and congress responsible for using Anti-immigrant sentiment and rhetoric as a way to use the immigrant populas as a scapegoat as the means for the 1996 welfare reform.If you look hard enough you do start to see the Government agenda in the way they viciously and aggressively go to the extreme to get there immigrant.Clinton and Congress gave power to the INS to do just about anything you can think of to find an immigrant deportable,they can and do upgrade civil counts that have already been paid for according to the American way.None of that counts for anything anymore were an alien is concerned whether legal or ilegal an Attorney cannot defened his client screaming "Double Jepordy" even though honestly what it is.They stick these poor immigrants in mandatory detention.They are shuffled around day to day to local county and city Jails,and prison facilities,where they are forced to co-mingle with Americas most hardened crimminals.They are subjected to unspeakable cruelties there are no partisians the same inhumane ghastly treatment for all INS detainees.There is alot of needless suffering going on with this very bias and Dinoursour age mentality of a law.Tihs law is a evil mockery of our American constitution.Evil because it diminishes our own American principles when we stomp on someone elses in alienable rights technicaly because they are not American Citizens on paper.Whatever Happened to every man was endowed equally by our creator?(Inalieinable rights )we don't stop being human because we were not all were born in the same countries.There has been too much hurt and devestion brought about from these evil 1996 immigration laws America is a country that shout "Family Unity "and is deep groos negligence of ripping Families apart.The INS is way over crowded they are up to there eye balls with immigrants and you already Know American Jails are over crowded now what that means early release for Ameriacas hardened crimminals because the INS wants to get there immigrant man anyway they can and stupidiously keep All the wrong people locked up !!!!ENOUGH IS ENOUGH it's time for change.My name is Diana I am the Administrative Director of Illinois for the group CIEJ(Citizens and immigrants for equal Justice)#1-630-942-0956 fax1-630-942-0956 E-mail CIEJ@YAHOOIL.COM

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Received January 6, 2000

Dear Friend,
I am writing because this law has effected my life. I am an american citzen married to a illeagal alien , and because he enter the U.S. ILLEGAL HE IS NOT ALLOWED to recieve a greencard. we hired a lawyer to help him to apply for legal papers ,so that he can live and work in the U.S. because of the 1996 bill ,he was approve by the INS based on being married to a u.s. citizen, but he was not egible for adjustment of status. this kind of law really upsets me,because we
call this country land of the free and freedom of rights. if that is true than were is my rights. my husband and i have a three year old daughter together,what about her rights. if her father cannot get his paper,then one day he may be deported if caught here illegal. how will i be able to support our daughter.i love my husband very much and i dont think

that this is fair.

sincerely,
linda

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Received January 4, 2000

On Tuesday, December 28, 1999, I was waiting for my fiance to return home from his recent visit to Mexico. He had gone to celebrate Christmas with his family because he hadn't been able to do this in 20 years. This is the first year, since he's been in the United States, that he had one full weekend off for the holidays. He is a very hard-working person, who wakes up every morning at 5:00 a.m. to get to work so he could provide for his family. I waited, and waited for him to get home. The time kept passing by. Finally I received a phone call from him telling me that he had been arrested and was going to jail. I then asked him why. He said it is because of my past DWI's. We have been together for almost 5 years and during that time, he has been so responsible, that he won't even drink at home anymore. I then left to Del Rio, TX to pick up his truck, from there I immediately went to San Antonio to try to contact a lawyer, or to see what I could do so that we could spend the New Year together, well, to my surprise, I found out that there was not much I could do until the judge decided to have a hearing. As of right now, I'm still trying to find a way to get him out. I feel this is so injustice. We were supposed to get married soon. I am a teacher for the state of Texas. It is sad to have to think that my future is on hold right now because of this law. It's sad to think that everything I have worked for may be lost because of this law. I just wish there was some form of justice in this case. What happened to Equality? I just pray to God that everything will be ok, and that we will be able to remain here in the United States to live a happy, peaceful life,like it should be.

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Ms. LOFGREN. Those bells and whistles indicate that we have one vote on the floor of the House. So we will go take that vote, and I ask Members to come back, and we will hear the testimony of the remaining witnesses.

Thank you. We are in recess until that time.

[Recess.]

Ms. LOFGREN. The House will have still another vote in the near future and because of that we have all had access to your written testimony, We have two Members, which is under the rules and I understand Mr. King is on his way, and I am sure he will not mind if we proceed so that we can get this testimony officially taken by the Committee.

And so I think we had just finished your testimony, Mr. Kuck. And we will now turn to Mr. Nugent's.

**TESTIMONY OF CHRISTOPHER NUGENT, SENIOR COUNSEL, COMMUNITY SERVICES TEAM, HOLLAND AND KNIGHT, LLP**

Mr. NUGENT. Thank you, Madam Chair. It is a privilege and honor to be invited to testify at this very important hearing on a very important piece of legislation.

I want to commend Sheila Jackson Lee for her trail-blazing, visionary leadership in crafting a bill that will fix a fundamentally broken immigration system by both providing increased access to status but while particularly using smart immigration enforcement tools.

And my remarks are going to focus on sections 621, 622, 1201 and 1202, concerning detention and secure alternatives and fairness in asylum and refugee proceedings.

Section 621. We have a crisis with immigration detainees. Taxpayers are spending $945 million a year to detain over 200,000 people at 325 facilities. This detention is civil, but they are actually detained, the vast majority, in jails, commingled with America's finest convicts. Recently there was a hearing held on medical care in immigration custody, and since 2004, 66 detainees have died from inadequate medical care being provided.

So section 621 reforms this system, because it will have the Office of Civil Rights and Civil Liberties responsible for monitoring compliance of the detention standards as they currently exist. And that is very necessary, because the current monitoring done by DHS has been haphazard and inadequate and has been criticized by even the Federal court in the Orantes litigation.

622(b) is very important to deal with increased detention. It creates a secure alternatives program to detention whereby vulnerable populations—families with children, the mentally retarded—could be placed outside of detention and not at taxpayer expense. There is a precedent for this: the Intensive Supervised Release Program that is currently being funded at $43.6 million a year.

Secure alternatives only cost the Government $14 a day. Immigration detention costs taxpayers $95 per day. We can do the math and see there is an incredible cost savings. But for purposes of law enforcement, the beauty of this provision is that it allows DHS to detain as many people and then put them through secure alternative programs so that it will end catch-and-release and lead to catch-and-return. And the compliance rate for Intensive Supervised

Appearance Program is a record 94 percent, so people are complying and showing up when they are required to do so.

So this creates a great efficiency for the system and creates more increased enforcement but more safe and humane confinement. So I think it is optimal and definitely should be supported and very innovative.

And it actually, after the introduction of this bill, it has appeared in many other bills, including Senator Lieberman's Safe and Secure Alternatives to Detention bill. And I think it is a needed improvement to the STRIVE Act, because the STRIVE Act lacks rigorous criteria for participation in the program. And I would say that this provision actually fleshes out the criteria and should be incorporated into STRIVE.

Finally, I wanted to mention the situation of mentally retarded children abroad whose parents are granted asylum or granted asylum here in the United States but are over 21, or refugees granted asylum abroad. They are unprotected. The parents are granted asylum, but the mentally retarded children have no way of coming to the United States if they are over age 21 and they are in need of these caregivers. So you are having refugees coming to the United States, we are leaving their mentally retarded children over age 21 abroad. Or you are having the asylees being granted with mentally retarded children, and they can't bring them in because the Child Status Protection Act didn't provide for age-out protection for these people.

And Congresswoman Sheila Jackson Lee is to be commended for actually recognizing this discrete class that is in desperate need of protection. And we are not talking about hundreds of thousands of mentally retarded children of asylees or refugees. I would estimate it would be in the hundreds at most. But it puts people in a very painful predicament of leaving their children abroad and not having status.

So I think we definitely want to support and advocate for these very important changes. And I thank the Committee for your time and welcome your questions.

[The prepared statement of Mr. Nugent follows:]

PREPARED STATEMENT OF CHRISTOPHER NUGENT

Madame Chair and honorable Members of the Subcommittee, my name is Christopher Nugent. It is a privilege and honor for me to testify before you today at this important hearing on H.R. 750, the *"Save America Comprehensive Immigration Act of 2007"*. I am a full-time *pro bono* Senior Counsel who works exclusively on domestic and international immigration law and policy issues and individual client cases with the international law firm of Holland & Knight LLP. I have two decades of experience in immigration law dating back to summer, 1987 when as a college student and volunteer paralegal at a non-governmental organization in Indiantown, Florida, I had the privilege to help hard-working rural farm-workers legalize their immigration status under the Immigration Reform and Control Act of 1986. I have worked extensively in the area of immigration detention since 1990 including as a Director of the American Bar Association Commission on Immigration Policy, Practice and Pro Bono from 1998 to 2000 where I had the exceptional opportunity to help Legacy Immigration and Naturalization Service finalize and implement Detention Standards which govern access to counsel and fair and humane treatment of detained aliens. In my current capacity, I am privileged to act as counsel to many non-governmental immigration and refugee organizations (NGOs) working for positive changes in governmental policy and practices in the area of immigration proceedings and detention involving vulnerable populations including but not limited to the Women's Commission for Refugee Women and Children, the Rights Working

Group and the National Immigration Law Center. The statements, opinions, and views expressed today however are my own.

H.R. 750 represents a precedent-setting piece of legislation carefully crafted by Congresswoman Sheila Jackson lee to effectively fix a fundamentally broken United States immigration system through providing both increased access to immigration status while fortifying enforcement through the use of "smart" immigration enforcement measures. My remarks today will be limited to focus on the innovative provisions of Sec. 621 concerning oversight and Sec. 622 concerning secure alternatives to detention and Secs. 1201 and 1202 concerning fairness in asylum and refugee proceedings.

In FY 2007, United States taxpayers funded the Department of Homeland Security (DHS) at a record 945 million dollars to detain a daily average population of 27,500 aliens at more than 325 facilities nationwide. The annual DHS detainee population exceeds 261,000. While this detention is intended to be civil and not punitive since the detainees are being held for civil immigration removal proceedings, the vast majority of detainees, including non-criminal asylum-seekers, are detained in actual prisons and thus unfortunately commingled with America's finest criminal convicts. In this regard, DHS only owns and operates 9 civilian detention facilities. Thus, the vast majority of private prisons contracted by DHS operate for profit, as well as state and county jails, given that DHS' per diem cost is higher than their actual cost of detention. Average DHS daily detention cost per detainee is $95 per day or $34,765 annualized (which would apply to asylum-seekers and others in DHS custody).

Sec. 622(a)(3) of the Save America Act provides a positive means to redress the dysfunctional, hazardous and quasi-punitive status quo for immigration detainees. Conditions of confinement for immigration detainees have been the subject of mounting criticism from a variety of quarters including the U.S. Commission on International Religious Freedom, an independent, bipartisan federal agency in their report "Asylum Seekers in Expedited Removal" (2005); Federal Judge Margaret Morrow of the Court for Central District of California in *Orantes-Hernandez v. Gonzales,* 504 F.Supp.2d 825 (C.D. Cal. 2007), finding systemic facility non-compliance with DHS' own Detention Standards; the United States Governmental Accountability Office in its report Alien Detention Standards (GAO 07–875, July 2007); and DHS' own Inspector General in "Treatment Of Immigration Detainees Housed at Immigration and Customs Enforcement Facilities" (OIG–O7–01, December 2006). Sec. 621 of the Save America Act would mandate that the Office of Civil Rights and Liberties (OCRCL) monitor *all* facilities that are being used to hold detainees for more than 72 hours including evaluating whether the facilities are in compliance with the Detention Standards. This innovation is welcome and salutary considering that the OCRCL has only been sporadically engaged detention oversight issues on either an as needed or ad hoc basis given their currently limited staffing and competing demands. Engaging OCRCL is essential to reinforcing reform of conditions of confinement for detainees whether OCRCL reports are ultimately made available to the public or not—the preference being within DHS that OCRCL resolves problems internally albeit without any public or Congressional oversight.

As regards Sec. 622(b) of the Save America Act concerning secure alternatives to detention, this provision provides necessary reform to a detention system which to date has failed to provide any national binding criteria and guidance prosecutorial discretion as to who needs to be detained. *See, e.g.,* "Immigration Enforcement: ICE Could Improve Controls to Help Guide Alien Removal Decision Making" (GAO–08–67, October 2007). Sec. 622(b) of the Save America Act creates a secure alternative detention program to be designed with reputable NGOs and academic institutions intended for the most vulnerable populations in DHS custody who present neither a risk of flight or danger to the community and can be integrated into the community and comply with removal orders. Sec. 662(b) of the Save America Act prioritizes the most vulnerable in detention for eligibility including alien parents detained with their children; aliens with serious medical or mental health needs; aliens who are mentally retarded or autistics; pregnant alien women; elderly aliens who are over the age of 65; and aliens placed in expedited removal proceedings after being rescued from trafficking or criminal operations by Government authorities. The provision exempt aliens such as unaccompanied alien children subject to release to sponsors under *Flores v. Ashcroft,* Case No. CV85–5455 RJK

(C.D. Cal. 1996); as well as aliens seeking asylum who have passed credible fear interviews, positing the clear law that they are eligible for bond redetermination hearings before the Executive Office for Immigration Review (EOIR) when they are

placed in removal proceedings under Sec. 240 of the Immigration and Nationality Act.[1]

Sec. 622(b) of the Save America Act will promote optimal efficiency and effectiveness of the federal government in its detention capacity to enforce the United States border. The Department currently lacks adequate or sufficient facilities to hold *all* aliens subject to expedited removal until removal is effectuated. Sec. 622(b) of the Save America Act provides a safety valve to allow people who have every safeguard in place to comply with removal orders be released pending their actual removal so that Customs and Border Protection (CBP) can continue to arrest and detain the maximum numbers of immigration violators at the border. Otherwise, CBP has scant incentive to arrest *all* aliens if Immigration and Customs Enforcement (ICE) lacks bed-space to house them. Sec. 622(b) provides the teeth for DHS' catch and remove approach. Additionally, most notably, Sec. 622(b) does not create any independent right or legal review of the implementation of the program exception through a report to Congress which is Congress' preeminent and essential prerogative in exercising its oversight function of executive branch agencies.

Sec. 622(b) will be particularly instrumental if and when expedited removal is to be invoked system-wide including the interior under Section 235(b) of the Immigration and Nationality Act (INA) and not only within 100 miles of land borders of the United States as under current policy.

The sheer innovation of Sec. 622(b) is that it allows a wide variety of alternatives to detention conferred to DHS discretion including individual placements to sponsors, group homes to facilities under armed guard at the perimeter—as had appeared in its initial incarnation as an amendment offered by Representative Sheila Jackson Lee to the Border Protection, Antiterrorism and Illegal Immigration Control Act (H.R. 4437). Through this program, the Department will thereby have a range of humane and more cost-effective alternatives besides prisons and jails to ensure an alien's appearance before immigration officials for their removal. This program is based on the best practices utilized by the Appearance Assistance Program of the Vera Institute and DHS' Intensive Supervision Appearance Program which have achieved remarkably high compliance rates for aliens including a 94 percent appearance rate at final removal hearings. Additionally, the program will be implemented by NGOs in order to achieve a cost-savings for DHS. With this provision, catch and detain can truly become catch and remove with the most vulnerable in safe and secure situations pending removal.

By focusing on DHS' arrest and detention capacity constraints and prioritizing key vulnerable populations, Sec. 622(b) differs materially from Sec. 177 of the STRIVE Act of 2007 (H.R. 1645). Sec. 177 of the Strive Act establishes a secure alternatives program for aliens without specifying rigorous criteria for participation such as vulnerable populations who pose no flight risk or danger to the community and triggered by detention capacity constraints. Sec. 177 further does not designate as extensive options of alternatives under Sec. 622(b) including, for example, facilities under armed guard at the perimeter. Given the chronic state of deplorable conditions of confinement for immigration detainees under DHS mismanagement, immigration detainees obviously would prefer *any* non-penal facility run by a reputable non-governmental organization as a preferable and viable alternative to detention—even if there were a guard posted at the perimeter for security purposes. The STRIVE Act would benefit from incorporating these pragmatic considerations from The Save America Act into its provision concerning secure alternatives to detention.

Turning to Secs. 1201 and 1202 of the Save America Act, under current law, children of refugees or asylees are eligible for derivative status when their parents are granted asylum or refugee status. If, however, the child is over age 21 at the time of the parent's approval, the child is no longer consider a "child" for immigration purposes under the INA and is not eligible for the derivative status. The Child Status Protection Act (CSPA), Pub.L. 107–208 (Aug. 6, 2002), provided age-out protection for children included on parents' applications filed before the child has attained age 21. CSPA however failed to address the unique and compelling predicament of children over age 21 who have aged out of protection but are mentally disabled and dependent on their parents as caregivers despite their chronological age. Secs. 1201

[1] *See, e.g.,* Matter of *X-K-, Respondent,* 23 I&N Dec. 731 (BIA 2005) finding bond eligibility for "certain other aliens" (not arriving aliens), who are "physically present in the U.S., without having been admitted or paroled following inspection by an immigration officer at a designated port-of-entry, who are encountered by an immigration officer within 100 air miles of any U.S. international land border, and who have not established to the satisfaction of an immigration officer that they have been physically present in the U.S. continuously for the 14-day period immediately prior to the date of encounter."

and 1202 would correct this injustice by facilitating the admission of refugee and asylee children who are severely impaired by mental retardation, autism, or some other disability of that type who have aged out of classification as a "child." While this may appear to be a small class, it is among the most vulnerable of asylees and refugees and warrants redress through this legislation.

I personally recall meeting an unaccompanied refugee child in a camp in Guinea suffering from severe mental retardation. The camp had no specialized services to offer him and he remains in Guinea now as an adult with no prospect for any future besides becoming a beggar. Secs. 1201 and 1202 protection will allow such vulnerable children to reunify with the parents or legal guardians as refugees or asylees in the United States to receive the care they need and deserve to become productive, contributing members of the United States. I thank you for your consideration and look forward to your questions.

Ms. LOFGREN. Thank you very much.

And now you, Ms. Gandy, with an important perspective.

**TESTIMONY OF KIM GANDY, PRESIDENT, NATIONAL ORGANIZATION FOR WOMEN**

Ms. GANDY. Thank you.

Madam Chair, Committee Members, thank you for inviting the National Organization for Women Foundation to testify before this Subcommittee as you consider H.R. 750, the "Save America Comprehensive Immigration Act."

The NOW Foundation and our sister organization, NOW, have worked for decades to promote and advance women's equality. And we thank the Honorable Sheila Jackson Lee for including in H.R. 750 some very important provisions affecting immigrant women in the United States.

We are here today because there is a drumbeat of anger across this Nation aimed at immigrant workers and their families, with little regard for the truth about the lives and livelihoods of millions of people who live and work among us. As our Nation and this Congress works to clarify our residency and citizenship laws, improve our security and safeguard our communities, we must not forget the needs and rights of immigrant women and children whose concerns are too often overlooked and underplayed.

Last year we took a leadership role in convening the National Coalition for Immigrant Women's Rights and gathered together grassroots and advocacy organizations nationwide, with the goal of defending and promoting equality for immigrant women and their families living in the United States.

But this kind of equality can only be attained when immigrant women can live free of discrimination, oppression and violence. So it is imperative that policies promoting comprehensive immigration reform also support fair and just policies that protect the rights of these vulnerable immigrant women and their children.

Economic issues affecting undocumented immigrant women are basic. Their work is not valued or counted. That is why we strongly support the inclusion, in any comprehensive immigration reform, legislation that would offer a path to permanent residency and citizenship for the undocumented who are living in the United States, and particularly for children who are addressed by H.R. 750, a special path for those who came to the United States as children.

These women and children are more likely to be exploited. And if they can come out of hiding, apply for residency, seek employment in the general labor market, earning at least the Federal

minimum wage, and be eligible to contribute to and receive Social Security and unemployment benefits as others do, it will dramatically change their outlook and decrease their dependency.

Contributing to the low average wages of immigrant women, dramatically low compared to even other women—who are already earning low wages in this country—it is attributable in great part to the fact that they are employed in the service industry. Forty 2 percent of private households services are provided by immigrants under arrangements that are often informal and prone to abuse and exploitation.

And yet domestic service, in particular for those in private households, remains excluded from and unregulated by our country's employment protections and labor laws. And this applies to domestic workers who are and are not immigrants, whether documented or not. These women do not have the right to organize, the right to bargain for wages. They are not protected by title VII against sexual harassment and discrimination. And they are excluded from the Fair Labor Standards Act and from the Occupational and Safety Health Act.

So it is important as part of any reform to recognize the kind of employment that immigrants are working in and the impact that our treatment of those categories has on all of our workers, immigrants and not.

H.R. 750's alternatives to detention programs is extremely important, as other witnesses have testified, bringing some humanity to what is undeniably an unjust and reckless approach to resolving the issue of illegal immigration, and also H.R. 750's provisions regarding the Sex Offender Registry, designed to reduce the possibility or likelihood of abuse of women and children that those on the registry might bring into the country. And we also appreciate H.R. 750's addition of gender-based persecution as grounds for asylum or refugee status.

In our written testimony, we offer a number of things that we hope the Committee will consider, and the broader Congress, in any kind of comprehensive immigration reform. And we would appreciate you examining that, considering our recommendations. And we thank you for listening to this testimony and hope that you will carefully consider the rights and the needs of immigrant women and children in crafting this reform, ensuring their safety as well as a responsible path to legalization and citizenship, as well as a humane law enforcement system that does not rely on illegal and immoral raids or inhumane detention and deportation without legal redress.

[The prepared statement of Ms. Gandy follows:]

PREPARED STATEMENT OF KIM GANDY

Thank you for inviting the National Organization for Women Foundation to testify before this subcommittee as you consider H.R. 750, The Save America Comprehensive Immigration Act of 2007. NOW Foundation and our sister organization NOW have been working for decades to promote and advance women's equality.

Today we are here because there is a drumbeat of anger across this nation aimed at immigrant workers and their families, with little regard for the truths about the lives and livelihoods of millions of people living and working here among us. As our nation, and this Congress, works to clarify our residency and citizenship laws, improve our security and safeguard our communities, we must not forget the needs

and rights of immigrant women and children, whose concerns are too often overlooked and under-played.

Last year, we took a leadership role in convening the National Coalition for Immigrant Women's Rights, and gathered together grassroots and advocacy organizations nationwide with the goal of defending and promoting equality for immigrant women and their families living and working in the United States.

We integrate human rights principles into our work and believe that immigrant women's rights are both civil rights and women's rights. We believe that comprehensive immigration reform must include fair and non-discriminatory implementation of our immigration and enforcement policies, and that must include economic, legal and social justice for immigrant women.

Equality for immigrant women can only be attained when immigrant women can live free from

discrimination, oppression and violence in all their forms. It is imperative that policies promoting comprehensive immigration reform also support fair and just policies that protect the rights of immigrant women. Millions of immigrant women's lives are at stake and we hope that this hearing is the beginning of a national dialogue that brings immigrant women's concerns out in the open and up for discussion.

For the record, there are 14.2 million foreign born women in the United States. Five and a half million are naturalized citizens, another five and a half million are documented and 3.2 million are undocumented. Women make up over 30% of the over 10 million undocumented immigrants in the United States today. Another 1.6 million are children under 18. And HALF of all undocumented immigrants originally came here with legitimate paperwork or visas and they have simply overstayed their time and are now undocumented, many lined up to renew their paperwork while they work at our colleges, in our businesses and pay taxes in our communities

Each year, half of all immigrants entering the United States are female—women and girls. However, public policies regarding immigrants do not reflect the impact that being female has on immigrants' lives in the United States. This applies to both documented and undocumented women.

The economic issues affecting undocumented immigrant women are basic: their work is not valued or counted. That is why NOW strongly supports the inclusion of provisions in any immigration reform legislation that would offer a path to residency and citizenship for the undocumented living in the United States. Undocumented women will benefit significantly economically, and be less subject to exploitation, if they can come out of hiding, apply for residency and seek employment in the general labor market, earn at least the federal minimum hourly wage and be eligible to contribute to and receive social security and unemployment benefits as other workers do.

The economic reality of immigrant women and children today is disheartening. According to the Pew Hispanic Center, 31% of family households headed by foreign-born women live in poverty today as compared to 27% of native born women-led households. 16% of all those who are foreign born live in poverty compared to 11.8% of the native born. One of the reasons for the higher number of foreign-born women in poverty is the fact that foreign-born women who are full time workers make less than their native born counterparts. For example, the median income for foreign-born women age 16 and over who are year-round, full time workers is $22,106 while the median income for native born women is $26,640.

Among the factors affecting low wages is the high percentage of immigrant women, both documented and undocumented, working in the service industry, primarily in domestic work. Forty-two percent of private household services are provided by immigrants under arrangements that are often informal, prone to abuse and exploitation. Domestic workers are the lowest paid of all major occupational groups tracked by the US Census. The true numbers are unknown for the most part due to the fact that many of these workers are not reported by employers, are not on anyone's official payroll, and are paid "under the table."

Protections for domestic workers must be included in any immigration reform legislation. Domestic workers, in particular undocumented immigrant women, are faced with extremely low wages, working 60–70 hours per week or more for as little as $200 per week. This is exploitation, sometimes amounting to servitude or even slavery, under the most hostile conditions.

And yet, domestic service, in particular for those living in private households, remains excluded from and unregulated by our country's employment protections and labor laws. These women do not have the right to organize, strike or bargain for wages. The protections against sexual harassment in the workplace (through Title VII which applies to employers of 15 or more employees) are not available to domes-

tic workers. They are similarly excluded from the Fair Labor Standards Act overtime provisions and from the Occupational Safety and Health Act. These omissions must be corrected through comprehensive immigration reform legislation. Domestic service is a category of work that must be addressed, not ignored and excluded from labor standards and protections afforded to other workers.

H.R.750's alternatives to detention programs, exempting certain individuals based on age, health, children, victims of trafficking and sexual abuse is a good step towards bringing some humanity to what is undeniably an unjust and reckless approach to resolving the issue of illegal immigration.

On the whole, as you discuss H.R. 750 and other proposed immigration reform, we urge you to consider the following:

- An end to discriminatory, militaristic and inhumane immigration enforcement practices that destroy the families, homes and communities of immigrant women
- Freeing immigrant women from mental, physical and emotional violence at the hands of traffickers, smugglers, intimate partners, employers, family members and others who exploit immigrant women's legal and economic vulnerability. Our immigration and criminal justice systems must ensure that immigrant women and their children are protected from gender-based violence, and must not perpetrate the cycle of violence by failing to provide adequate remedial measures that promote their safety and physical integrity.
- A responsible path to citizenship, which must allow immigrant women to obtain work permits, to travel internationally and access higher education and federal financial aid. Immigrant women must have viable options that will permit them to be full contributors to the U.S. economic and societal landscape. We can no longer afford to lose these valuable contributions.
- Protections for all immigrant women workers from exploitation and abuse in the workplace by providing fair wages and safe working conditions.
- Acknowledgement of the need for public awareness, education, and understanding of the fundamental and pivotal role immigrant women play in the familial, cultural and social spheres of the United States.
- The elimination of all forms of human trafficking through a survivor-centered advocacy model that opposes all forms of exploitation.

In closing, NOW and our coalition partners thank you for your consideration and hope that you will carefully consider our request to address the rights of immigrant women, help ensure their safety and a responsible path to legalization and citizenship and create a humane system of law enforcement that does not rely on illegal and immoral raids, inhumane detention and deportation without legal redress.

Ms. LOFGREN. Thank you very much.

Mr. Bonner, we now turn to you.

## TESTIMONY OF T.J. BONNER, PRESIDENT, NATIONAL BORDER PATROL COUNCIL OF THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

Mr. BONNER. Thank you, Chairwoman Lofgren, Ranking Member King and Congresswoman Jackson Lee, for the opportunity to talk about important provisions in H.R. 750.

My comments will focus on title VI, the border security provisions. However, before I get into that, I would just like to briefly touch upon a couple of other provisions, one of which needs to be incorporated into this bill, which is H.R. 98, cosponsored by Congressman Reyes, who testified here earlier, which would establish a secure form of employment verification, which would solve many of the problems that we deal with at the border.

We know why most people come across the border. The issue has been studied to death. Father Hesburgh, the late Barbara Jordan, both chaired commissions that came to the same conclusion: The employment magnet is what draws most people to this country.

Conversely, we are most concerned with those criminals who are slipping in under the cover of those millions of people who are sneaking across our borders illegally. Those are the ones who are going to do us most harm—criminals, terrorists. And yet, because of the massive influx of people coming across, the Border Patrol and other law enforcement agencies find themselves overwhelmed.

And it is very difficult to distinguish between criminals and other people coming across. We don't know until we actually physically put hands on people what their intentions are. Then we run the best checks that we have available. Sometimes they work; sometimes they don't. Sometimes people slip through the system, and we send them back home, only to find out later that they were wanted for crimes in the United States and should have been held on to. We are getting better at that, but not nearly good enough.

Instead of having to deal with millions, literally millions, of people coming across the border every year, we could deal with thousands of people, all of whom would be criminals because the employment magnet would be turned off.

There is a growing consensus that we need a lot more Border Patrol agents in order to secure our borders. And we have legislative proposals, and we have this Administration calling for 18,319 agents in place by the end of December of next year. That is a very ambitious goal. Currently, we have about 15,000 agents on board. And with the attrition rate of 12 percent now, that means that 1,800 employees will walk out the door in 1 year. So in order to meet that goal, they will have to hire somewhere between 6,000 and 7,000 people in the space of a year.

Now, how do we hang on to those people? Some of the provisions in title VI provide the answers to that.

Congresswoman Jackson Lee approached me and my organization a couple of years ago after we had completed a study, a survey of frontline Border Patrol agents and immigration inspectors, asking them a number of questions. And one of the most troubling answers was we said, "Do you feel that you have been given the tools, training and support necessary to stop terrorism?" fully two-thirds of them said, "No, we don't believe we have."

So Congresswoman Jackson Lee asked us to put together a list of what it would take to give these agents and officers the tools, training and support necessary. And we came up with a package, which has been incorporated initially in a stand-alone bill, and now it has been folded into this as title VI. And I note that many of these provisions were also adopted in Congressman Shuler's bill that was just recently introduced, although there are some glaring omissions.

It has been said that imitation is the sincerest form of flattery. Portions of this bill are in his, and others are in the Flake-Gutierrez bill, and others are in Senator Kerry's bill.

So it is good to see a recognition that it can't just be about hiring Border Patrol agents. We have to provide them with the tools, the training and support that they need. We need to figure out ways to hang on to Border Patrol agents. A 12 percent attrition rate is unacceptable. And things such as increases in pay and fair treatment of the employees who are out there on our front lines are es-

sential if we expect not only to attract people into Federal service, but if we expect to hang on to them.

Because it is a very competitive world out there in law enforcement now, not just at the Federal level, but we see a lot of States coming up with very lucrative compensation and benefit packages. And if we don't compete, we will lose the opportunity to attract and hang on to the best and brightest. We don't want to become a training ground for other law enforcement agencies.

And I see that my time is up, and I would be more than happy to answer any questions, because there is obviously a lot more to the provisions of this bill that I have not had the opportunity to touch upon.

[The prepared statement of Mr. Bonner follows:]

PREPARED STATEMENT OF T.J. BONNER

STATEMENT OF THE

NATIONAL BORDER PATROL COUNCIL
OF THE
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
AFL-CIO

BEFORE THE

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

COMMITTEE ON THE JUDICIARY

UNITED STATES HOUSE OF REPRESENTATIVES

HEARING ON H.R. 750, THE "SAVE AMERICA
COMPREHENSIVE IMMIGRATION ACT OF 2007"

PRESENTED BY

T.J. BONNER
NATIONAL PRESIDENT

NOVEMBER 8, 2007

On behalf of the 12,000 front-line Border Patrol employees that it represents, the National Border Patrol Council appreciates this opportunity to share its views concerning H.R. 750, the "Save America Comprehensive Immigration Act of 2007."

The United States of America has a long and proud history of welcoming immigrants from all corners of the globe. Every year, more than a million people legally immigrate to this country. At the same time, at least the same number come here in violation of our immigration laws. The large number of people in the latter category undermines the rule of law, and also poses severe homeland security risks. Although the overwhelming majority of illegal aliens are simply seeking to improve their economic lot in life, a small percentage of them are career criminals, and there are also undoubtedly a handful of terrorists taking advantage of our lax border security.

Over the years, numerous solutions to this problem have been suggested, and a few have been attempted, but none of them have managed to stem or even slow the tide of illegal immigration. The reason that these measures have failed is quite simple: None of them have eliminated or even significantly reduced the employment magnet that lures millions of impoverished people to our country annually. The only way to achieve that goal is to provide employers with a reliable means of determining who is eligible to work in this country, at the same time discouraging unscrupulous employers from ignoring or circumventing the law by imposing stiff penalties. It is clear that none of the various electronic employment verification systems or proposals hold any promise, as they are all vulnerable to widespread identity fraud. In order to be feasible, an employment verification system must utilize a single, counterfeit-proof document. H.R. 98, the "Illegal Immigration Enforcement and Social Security Protection Act of 2007," contains this essential element, which must form the cornerstone of any immigration reform package. The 1986 Immigration Reform and Control Act failed because it allowed the use of numerous counterfeitable documents to establish employment eligibility. At the same time, its provisions granted legal status to nearly three million illegal aliens, many of them through fraudulent means. Predictably, this exacerbated the problem. Twenty-one years later, the number of illegal aliens in our country has grown

exponentially, with current reliable estimates of the illegal alien population starting at twelve million. Rewarding those who have violated our laws before addressing the weaknesses in the system that encourage and facilitate such illegal behavior is comparable to replacing the carpet in a house with a leaking roof every time it rains instead of first fixing the roof. While many Americans are at least somewhat sympathetic to the plight of illegal aliens who have resided in the United States for a long period of time, there is little public appetite for another program that adjusts their immigration status before effectively dealing with the underlying causes of illegal immigration.

Of course, even if the employment magnet were eliminated completely, it would do nothing to stop criminals and terrorists from crossing our borders. It would, however, allow the Border Patrol and other law enforcement agencies to concentrate their scarce resources on those significant threats to homeland security. While technology is useful in detecting illegal intrusions, cameras and sensors are incapable of effectuating arrests. Likewise, fences and barriers merely slow people down, but do nothing to stop them. The need for additional personnel is quite obvious, and there are currently a number of legislative proposals that mandate the hiring of additional Border Patrol agents. Sadly, very little thought has been given to the need to retain employees in order to avoid a perpetual high-volume cycle of recruitment and training. The overall annual attrition rate in the Border Patrol is now close to 12%. In other words, about 1,800 of the current 15,000 agents leave every year.

The Border Security Provisions contained in Title VI of the Save America Comprehensive Immigration Act of 2007 are a refreshing exception to the aforementioned narrow focus. These measures are the result of close collaboration between the sponsor of this legislation and the National Border Patrol Council. In addition to supplying dedicated employees with the tools, training and support that they need to accomplish their mission, the provisions in this part of the bill would create an environment that is conducive to recruiting and retaining highly-qualified people to serve on the front lines of our Nation's domestic efforts to combat terrorism and crime.

Under Subtitle A of Title VI, the Border Patrol's fleet of helicopters, power boats and police-type vehicles would be increased substantially, providing it with greater capability to detect and apprehend those who cross our borders illegally. Portable computers would be placed in all vehicles, allowing Border Patrol agents to access critical information in real-time. Additionally, radio communications would be enhanced, and all agents would be issued a hand-held global positioning system device and have access to state-of-the-art night vision equipment. These measures would greatly increase operational effectiveness as well as officer safety. Border Patrol agents would also be issued high-quality body armor and uniforms, and provided with reliable and effective weapons commensurate with the threats that they face.[1] Additionally, the Border Patrol would be afforded complete administrative and operational control over all of the personnel and assets necessary to accomplish its mission. Many people are surprised to learn that this common-sense measure is not already in place. This subtitle would also facilitate the rapid deployment of up to one thousand additional Border Patrol agents to any border State that declares an international border security emergency. It would also put an end to the ineffective and nonsensical practice of deploying Border Patrol agents in fixed positions and not allowing them to pursue violators of our laws.

Subtitle B would increase the number of beds available for detaining illegal aliens by 100,000, ensuring that those who are arrested for violating our immigration laws are not released for lack of detention space. It would also establish improved oversight mechanisms to ensure that the detention program is administered effectively and humanely.

The provisions of Subtitle C mandate significant increases in the number of immigration law enforcement personnel. The Border Patrol would be required to have more than 30,000 agents on duty by the end of fiscal year 2012, an increase of about 12,000 over the Bush Administration's goal of 18,300 agents by the end of calendar year 2008. It would re-establish the Border Patrol's Anti-Smuggling Unit,

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[1] During the fiscal year that just concluded, there were 986 documented assaults against Border Patrol agents. On average, an agent was assaulted every nine hours. This is an increase of 24% above the previous fiscal year.

and immediately staff it with at least 500 employees chosen from the ranks of the Border Patrol, periodically adjusting that number upward in accordance with workload requirements. The Department of Homeland Security would also be required to restore specialized inspectional occupations for immigration, customs, and agriculture, and to augment the immigration inspection workforce by 5,000 officers over a five-year period. The number of DHS employees assigned to guard and transport detainees would also be increased by 500 annually for five years. Subtitle D would add at least one thousand criminal investigators to handle cases involving fraudulent schemes, including benefit application schemes, and fraudulent documents used to enter or remain in the United States unlawfully.

Subtitle C would also ensure that the Chief of the Border Patrol is required to have considerable field experience in that organization, and would also transfer all recruitment, selection, and appointment authority for Border Patrol agent and other law enforcement positions within the organization to the Chief of the Border Patrol. These measures would result in a more effective and cohesive organization. Moreover, it would require that all of the Border Patrol's training and operational facilities be well-equipped and sufficiently spacious and modern to enable all of the personnel assigned to such facilities to efficiently accomplish the agency's mission. It would also increase the maximum dollar amount for student loans that the government can repay in order to aid recruitment and retention efforts. The Secretary of the Department of Homeland Security would also be required to ensure that the existing statutory authority to pay recruitment, relocation, and retention bonuses is exercised to the fullest extent allowable in order to encourage people to choose careers in the Department. It would also repeal the DHS Human Resources Management System, a failed experiment that has been ruled illegal by a District and an Appellate Court. Even the prospect of working under such an unfair and draconian system has had an extremely detrimental effect on morale and productivity.

Additionally, Subtitle C would provide law enforcement retirement coverage for inspection officers at Ports of Entry and other employees who enforce Federal laws, correcting a long-standing inequity and aiding efforts to recruit and retain employees in these critical occupations. It would also establish specialized Criminal Investigator occupations in the fields of immigration, customs, and agriculture laws. It would establish career paths for employees with three years of field experience to move into Criminal Investigator positions. This would yield more experienced and qualified candidates, as well as aiding retention efforts. The base pay of all journey-level Border Patrol agents and inspectors at the Ports of Entry would be increased in order to make those occupations more competitive and attractive. Finally, it would require the application of the Fair Labor Standards Act with respect to all overtime worked by employees at or below the second level of supervision, ensuring fair and adequate compensation for all such hours.

Subtitle D would mandate foreign language training for all DHS officers who come into contact with illegal aliens, and streamline the process for paying incentive awards to law enforcement officers who possess and make substantial use of one or more foreign languages in the performance of their official duties.

Immigration is a complex issue, and instituting and administering a system that is fair and comprehensible will require a multi-faceted approach. First and foremost, the rule of law must be re-established. This cannot be accomplished without adequate numbers of dedicated and properly trained and equipped employees. Taken together, the aforementioned provisions would provide Border Patrol agents and numerous other DHS employees with the tools, training and support necessary to accomplish the agency's vital mission. At the same time, they would transform the agency into a model employer capable of attracting and retaining highly-qualified employees. In today's competitive environment, where a number of law enforcement agencies at all levels of government are offering lucrative incentives to convince a new generation to serve their country and communities, we cannot afford to accept anything less.

Ms. LOFGREN. Thank you very much, Mr. Bonner, for your service as well.

Our final witness is Ms. Kirchner.

**TESTIMONY OF JULIE KIRCHNER, EXECUTIVE DIRECTOR, FEDERATION FOR AMERICAN IMMIGRATION REFORM**

Ms. KIRCHNER. Thank you, Madam Chair, Ranking Member King and Congresswoman Sheila Jackson Lee. Thank you very much for this opportunity to present the position of the Federation for American Immigration Reform with respect to the Save America Comprehensive Immigration Reform Act and the immigration policy concerns behind it.

My name is Julie Kirchner, and I am the executive director of FAIR. FAIR is a public-interest nonprofit organization advocating a just immigration policy guided by the national interests and the interests of American citizens. Our organization has over 300,000 members and activists in 49 States and works with over 50 organizations across the country.

Madam Chair, for 2 years, supporters of amnesty have tried to pass so-called comprehensive immigration reform. They have tried both under the Republican Congress and under the current Democratic Congress. They have tried both comprehensive bills and piecemeal approaches. Each time, however, they have failed. They have failed because the American public rejects immigration reform proposals that do not respect the rule of law and only further strain our immigration system.

Madam Chair, the Save America Comprehensive Immigration Act does the exact opposite of what the American public wants. With several amnesty programs and a doubling of the number of family-based immigrant visas, the bill is structured to overwhelm an immigration system that is already at the breaking point. Indeed, granting amnesty to illegal aliens will not solve our immigration crisis. It simply motivates more illegal aliens to come here seeking amnesty. Amnesty sends a message to people worldwide that America no longer cares about the enforcement of its laws. Moreover, it sends a terrible message to legal aliens that their respect for our laws is irrelevant to how they will be treated.

Consider, for example, the difference in how the Save America Act would treat aliens who have committed Social Security document fraud. If this legislation were passed, a legal alien who had committed Social Security document fraud would be charged, prosecuted, tried, convicted, would receive a criminal record and would be deported. Meanwhile, an illegal alien who had committed Social Security document fraud would not be charged, not be prosecuted, not be tried, not be convicted, would not receive a criminal record, would be allowed to stay in the U.S. and would be issued a valid Social Security number. Madam Chair, there is no justice in this outcome.

In addition to the inherent unfairness of amnesty, the Save America Act further strains our immigration system by doubling the number of family-based immigrant visas and encouraging more migration.

Madam Chair, FAIR has already supported the reunification of nuclear family members, but chain migration is a problem that

must be addressed. And the Commission on Immigration Reform, headed by Representative Barbara Jordan, agreed with the FAIR. In fact, the Commission recommended that Congress prioritize nuclear family members and eliminate preferences for extended family members. The remaining family preference categories, the Commission said, should have a cap of 400,000 per year. The Save America Act, however, ignores these recommendations and increases the family-based visa cap to 960,000 a year, and again takes U.S. immigration policy in the opposite direction of what Americans want.

And although the bill does contain promising border security provisions—and we just heard about those from Mr. Bonner here—it fails to adequately support the interior enforcement of our immigration laws.

For example, section 1402(b) of the Save America Act repeals one of our most effective and popular enforcement tools, the 287(g) program. Madam Chair, the 287(g) program has shown tremendous potential. As of September 2007, ICE had entered into agreements with two U.S. cities and had trained police officers who were responsible for over 25,000 arrests. In addition, there are currently 74 jurisdictions that have applications pending, 18 of which are in North Carolina alone.

It is ironic, Madam Chair, that the Save America Act would place one of the few immigration programs the Federal Government is running effectively on the chopping block, and would do so in the name of reform.

In addition to the step backward, the Save America Comprehensive Immigration Act does nothing to advance worksite enforcement. There is no mandatory use of the E-Verify Program, and there is no increase in employer sanctions for illegal employment practices. This is a gaping hole in any immigration bill that calls itself comprehensive.

I would like to note that even the Bush-Kennedy bill did have mandatory use of E-Verify. Some of the other bills that are going through Congress at this point also have it. It is absolutely necessary that we mandate the use of E-Verify to stop illegal employment practices.

Madam Chair, looking at the devastating impacts these provisions would have, FAIR believes the passage of the Save America Act would only catapult our immigration system into further crises, and we urge the Committee to reject this proposal.

Thank you, Madam Chair. I would be pleased to answer any questions that you have.

[The prepared statement of Ms. Kirchner follows:]

PREPARED STATEMENT OF JULIE KIRCHNER

Testimony of
Julie Kirchner
Executive Director
Federation for American Immigration Reform
Submitted For
SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY AND INTERNATIONAL LAW
COMMITTEE ON THE JUDICIARY
Thursday, November 8, 2007

Regarding H.R. 750, the "Save America Comprehensive Immigration Act of 2007"

**This statement addresses the effectiveness of the Save America Comprehensive Immigration Act as a legislative response to illegal immigration and border security in the United States.**

**Introduction**

Madam Chair, thank you for this opportunity to present the position of the Federation for American Immigration Reform with respect to the Save America Comprehensive Immigration Act and the immigration policy concerns behind it. My name is Julie Kirchner, and I am the Executive Director at FAIR. FAIR is a public interest organization advocating a just immigration policy guided by the national interest and the interests of American citizens. Our organization has over 300,000 members and activists in 49 states and works with over 50 organizations across the country. FAIR does not receive any federal grants, contracts or subcontracts.

Madam Chair, for two years, supporters of amnesty have tried to pass so-called "comprehensive immigration reform." They have tried both under a Republican Congress and under the current Democratic Congress. They have tried both "comprehensive" bills and piecemeal approaches. Each time, however, they have failed.

Madam Chair, these efforts to pass amnesty legislation failed because the American public rejects immigration reform proposals that do not respect the rule of law and only further strain our immigration system. For years, the American people have watched the borders violated *en masse*, the illegal alien population skyrocket out of control, and

employment prospects and wages erode as employers hire illegal alien workers to increase their profit margin. The American people are frustrated with our immigration system and want meaningful change, not disregard for the rule of law.

Public opinion polls confirm that Americans have rejected all types of amnesty. A June Rasmussen Reports poll shows only 22 percent of Americans supported the comprehensive immigration reform bill considered by the Senate earlier this summer.[1] The same polls show that 57% of Americans do not support a strategy that focuses exclusively on legalizing the status of undocumented workers, but 69% of Americans would support an immigration bill that focuses exclusively on reducing illegal immigration and enforcing the borders. And, just two weeks ago, another Rasmussen Reports poll found that a majority of Americans oppose giving amnesty to students under the DREAM Act.[2] Madam, Chair, this is just a sampling of poll data, but there are many more polls that have similar results. The point is, in the marketplace of ideas, amnesty is an idea that no one is buying. Americans do not oppose immigration, but they want it to come through a system that operates with integrity and at a rate America can absorb.

Madam Chair, the Save America Comprehensive Immigration Reform Act has several major components that impact legal immigration, illegal immigration, border security and interior enforcement. The impact of these provisions would indeed be severe and continue for generations to come. Below, I will briefly summarize the provisions of this legislation and set forth FAIR's objections to them.

**Legal Immigration**

The first and obvious change the Save America Act makes to our immigration system is a dramatic expansion of family-based immigration to the United States. It does this by

[1] See Rasmumssen Reports at:
http://www.rasmussenreports.com/public_content/politics/current_events/immigration/just_22_favor_stalld_immigration_bill

[2] See Rasmussen Reports at:
http://www.rasmussenreports.com/public_content/politics/current_events/immigration/senate_heeded_public_opinion_by_rejecting_dream_act

doubling the annual number of family-based immigrant visas from 480,000 to 960,000. Madam Chair, FAIR has always supported the reunification of nuclear family members. However, the preferences for *extended* family members built into our immigration laws have created the problem of chain migration, by which extended family members enter the country and are then able to petition for the entry of *their* extended family members, and the cycle repeats itself. Immigration thus grows at an ever-increasing pace and the ability of Congress and the American people to set annual caps or limits is effectively eliminated.

Furthermore, as chain migration grows, it inevitably leads to backlogs and pressure builds to continue raising the visa caps, as this bill demonstrates. This process means immigration runs on auto-pilot. It is the immigrants themselves who decide who comes, not the American people. Indeed, the very nature of chain migration forecloses our ability as a people to select immigrants based on skill, diversity, or other factors that serve the nation's interests. Ultimately, the problem of chain migration will have no end unless Congress is disciplined. By doubling the number of family-based immigrant visas, the Save America Act simply ignores the need for discipline and instead takes the very steps that will exacerbate this problem.[3]

The United States currently admits approximately 1.2 million legal immigrants each year—equivalent to a city the size of Dallas. All told, the Save America Act would expand this number by at least 535,000, leading to an annual admissions rate of 1.8 million. This is almost the population of Dallas and Fort Worth combined.

**Border Security**

Madam Chair, the Save America Act has several promising border security provisions. This legislation would increase the number of border patrol agents by 15,000 over the

[3] In addition to doubling the number of family-based immigrant visas, the Save America Act doubles the number of immigrants admitted under the visa lottery program. The Act also grants family members who are the beneficiaries of a pending immigrant visa petition can receive non-immigrant visas if they have waited more than six months for approval of the petition.

next five years. It would also provide border agents with improved technology to apprehend illegal border crossers. It would also add 1,000 new inspectors at airports and land crossings each year between 2008 and 2012. And, the number of detention beds would be increased by 100,000, so that those aliens who the Border Patrol apprehends entering the country illegally or who Immigration and Customs Enforcement (ICE) find illegally present in the country can be detained and processed appropriately. Finally, it gives the governors of border states the authority to bring 1,000 border patrol agents to bear on particular areas where there are "international border security emergencies."

**Interior Enforcement**

Unfortunately, these border security provisions are overshadowed by the complete failure of the legislation to support the interior enforcement of our immigration laws. For example, Section 1402(b) of the Save America Comprehensive Immigration Act repeals of one of our most effective and popular enforcement tools, the 287(g) program. The 287(g) program was created in 1996 when Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) adding Section 287(g) to the Immigration and Nationality Act (INA). This section authorizes the Department of Homeland Security (DHS) to enter into immigration enforcement agreements with state and local law enforcement agencies. These agreements allow designated officers to perform immigration law enforcement functions, pursuant to a Memorandum of Agreement (MOA), provided that the local law enforcement officers receive appropriate training and function under the supervision Immigration and Customs Enforcement (ICE) officers.[4]

Madam Chair, this program has shown tremendous potential and its popularity is growing rapidly. As of September 2007, ICE had entered into 287(g) agreements with 28 cities and had trained 484 police officers who were responsible for over 25,000 arrests.[5] In addition, there are currently 74 jurisdictions that have applications pending, 18 of which

[4] See Immigration and Customs Enforcement webpage on Law Enforcement Partners at: http://www.ice.gov/partners/287g/Section287_g.htm.
[5] Id.

are in North Carolina alone. It is ironic, Madam Chair, that the Save America Act would place one of the few immigration programs the federal government is running effectively on the chopping block—and would do so in the name of "reform."

In addition to this step backwards, the Save America Comprehensive Immigration Reform Act does nothing to advance worksite enforcement. There is no mandatory use of the E-Verify Program (formerly called Basic Pilot) and there is no increase in employer sanctions for illegal employment practices. This is a gaping hole in any immigration bill that calls itself "comprehensive." Even the Bush-Kennedy Amnesty Bill (S.1639) debated in the Senate this summer contained such provisions.

**Amnesty**

Madam Chair, on top of all this, the Save America Act effectively contains four amnesty provisions. The first such program is the "Earned Access to Legalization Program," described in Section 501 of the bill. Under this program, an illegal alien would receive lawful permanent resident status if he or she has: been physically present in the United States for five years; good moral character; never been convicted of a crime; completed a course on reading, writing and speaking English; accepted the values and cultural life of the United States; and completed 40 hours of community service. The program waives various grounds of admissibility for participation in the program. These include waivers for illegal aliens who have engaged in document fraud.

The second amnesty program is a modification of the failed DREAM Act that would legalize "children" who have met certain educational requirements. This program is a rolling amnesty, allowing not only an uncapped number of children currently in the country to obtain amnesty, but also granting amnesty to children who enter the U.S. in future years.

The third amnesty can be found in Section 503 of the Save America Act, which makes changes to the Registry Statute. The Registry Statute, found in INA § 249, lets the

government create a record of legal status for aliens who have been in the United States for a lengthy period of time, but for whom there is no record of lawful entry. Currently, this remedial "house-cleaning" statute lets the Secretary of Homeland Security create a record of lawful entry for any person who entered before 1972, and is generally neither a terrorist or engaged in criminal activity. The Save America Act would move the date of entry up to 1986, letting those who could not qualify for the amnesty granted under the Immigration Reform and Control Act to obtain amnesty twenty-one years later. It is hard to see why we should permit people who could not qualify for amnesty the first time to receive it now.

The fourth amnesty can be found in Section 805 of the Save America Act, which restores Section 245(i) of the INA. Section 245(i) allowed illegal aliens to become legal residents without leaving the country if they married a U.S. citizen or resident. This provision was clearly incompatible with the intent of Congress in 1996 to penalize those who violated our immigration laws by imposing on them a penalty of foreign residence before they would be eligible to return to the United States as legal residents. Section 245(i) was phased out in 2002 because it encouraged widespread marriage fraud and rewarded illegal aliens with amnesty. During the several years that this provision was in force as an exceptional measure, hundreds of thousands of illegal aliens took advantage of it to gain legal status and remain here. It became the avenue of last resort by an alien facing deportation. Restoring this provision would only encourage more fraud and more illegal immigration.

**Policy Considerations**

Madam Chair, granting amnesty to illegal aliens will not solve our immigration crisis—it simply motivates more illegal aliens to come here seeking amnesty. The American people are looking to Congress to break the cycle of this flawed approach, one which is sadly becoming our de facto American immigration policy. Amnesty sends a message to people worldwide that America no longer cares about the enforcement of its laws. Moreover it sends a terrible message to *legal aliens* that their respect for our laws is

irrelevant to how they will be treated. Consider the difference in how the Save America Act would treat aliens who have committed social security fraud. If this legislation were passed, a *legal* alien who had committed social security fraud would be charged, prosecuted, tried, convicted, would receive a criminal record, and would be deported. Meanwhile an *illegal* alien who had committed social security fraud would not be charged, not be tried, not be prosecuted, not be convicted, would not receive a criminal record, would be allowed to stay in the U.S. *and* would be issued a valid social security number. Madam Chair, there is no justice in this outcome.

In addition to the inherent unfairness of amnesty, the Save America Act further strains our immigration system by encouraging more chain migration. In 1995, the United States Commission on Immigration Reform, headed by Representative Barbara Jordan, recommended that Congress prioritize immediate family members over extended family and limit family-sponsored immigration to only the spouse and minor children of U.S. citizens and legal permanent residents and to the parents of U.S. citizens. These categories, the Commission said, should have a cap of 400,000 per year. It also recommended eliminating preferences for extended family members.[6] The Save Act ignores these recommendations and takes U.S. immigration policy in the exact opposite direction.

Madam Chair, as our population grows, our ability to accommodate it becomes increasingly stretched. Consider, for example, the public highways. A 2007 study by the Texas Transportation Institute found that California claims five of the top twelve spots when it comes to traffic congestion.[7] The reason: too many people in too little space. Rapid increases in population make it hard for urban centers to keep up with growth by adding infrastructure. One of the largest contributors to urban growth is immigration.

As population grows we are also beginning to use up water supplies. For example, in 2002, California water officials predicted that California would fall between 2.4 million

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[6] U.S. Commission on Immigration Reform, *Legal Immigration: Setting Priorities* (1995).
[7] David Schrank and Tim Lomax, *The 2007 Urban Mobility Report* (Texas Transportation Institute 2007).

and 6 million acre-feet of water short of the amount needed to sustain the population of the state by 2020. This would yield between 5 and 12 million families without water or a significant proportion of the state's crops left to wither on the vine.[8] Each newcomer to the state adds a demand of about 140 gallons of water every day to the already depleted supply. Atlanta's ongoing water shortage has as much to do with its concentration of population as it does with the drying of the Chattahoochee water basin. As global warming makes the country ever more parched, our ability to sustain large and growing population centers will decrease.[9]

Madam Chair, massive population growth also threatens our environment. As we spread out, our sprawl consumes land, water, and habitats, all the while creating a rising outflow of environmental waste. According to the Environmental Protection Agency, between 1982 and 1997, developed land increased in the United States by 34.1 percent. This development was undertaken to satisfy a population that had increased by 15.6 percent.[10] The United States population is currently growing at a rate of over 2.8 million each year, forty percent of whom are legal immigrants. As the rate of immigration grows without limit, so does development and the impact on our environment. America simply cannot sustain perpetual growth in finite places with limited resources. Our immigration policy must recognize this truth. The Save America Act does not

**Conclusion**

Madam Chair, for all of the reasons above, FAIR believes that the Save America Act compounds, rather than eases, the problems of our broken immigration system. By granting amnesty to illegal aliens, Congress rewards those who openly break our immigration laws and encourages more illegal immigration. By more than doubling legal immigration, the bill exacerbates the problem of chain migration and adds to the stress of

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[8] Kathleen Sweeney, "California Water Officials Plan for Future Droughts," *Daily News of Los Angeles,* January 27, 2002.
[9] See the *Los Angeles Times* (November 4, 2007) at: http://www.latimes.com/news/nationworld/nation/la-na-drought4nov04,1,7556560.story?coll=la-headlines-nation.
[10] See the Environmental Protection Agency website at: http://www.epa.gov/watertrain/smartgrowth/states_set.htm

an ever-growing population. Looking at the devastating impact these provisions would have, FAIR believes passage of the Save America Act would only catapult our immigration system into further crisis.

Thank you, Madam Chair. I would be pleased to answer any questions you or your colleagues may have.

Ms. LOFGREN. Thank you very much.

And thanks to all of our witnesses.

Now is the time in our hearing when we have an opportunity to pose questions to our witnesses.

And I would like to begin with you, Mr. Kuck. I am very interested in your testimony relative to the very high standard for waiver on the 3- and 10-year bar provision.

You know, I had concerns, and actually did not vote for the 1996 act because of some of these concerns, and also because we would end up punishing would be American citizens under this provision. I am not suggesting that we would want to necessarily eliminate the provision, but to provide for, in appropriate cases, on a case-by-case basis, some appropriate remedies.

For example, recently a group of Americans came to visit me, and there was a woman who looked just like me from Florida who was just outraged. Her daughter had married a fellow who was from a Latin American country. They have three children, her grandchildren. And when her daughter went to petition for her husband, they found out that he had been in an unlawful status as a child, and her grandchildren now have to live in another country. And she was pretty irked about it. That is totally unreasonable.

Would you suggest that particular items be listed in the code or just the standard be changed? What is your thinking on that?

Mr. KUCK. Well, thank you for the question.

It is quite clear that the current standard—that is, extreme hardship—is too high. Too many people, like the woman that you talked about, simply have their spouses denied re-entrance into the United States because the standard in the actual law simply says "extreme hardship." It is not defined by any measure of financial status, emotional impact. Any other type of formative relationship issues simply cannot be considered. The act itself, as proposed by Congresswoman Jackson Lee, has a very interesting standard, that of having a humanitarian level of hardship.

And the one thing good about this law is that it requires people who have been here to leave. That is not a problem. But it is the issue of when they can come back. If you can show hardship, if you can have the U.S.-citizen spouse, if you have children, create a standard by which children are considered under the hardship standard.

Ms. LOFGREN. What about employees? I know of a case where somebody was subject to the bar, and all of the Americans who worked for his business got laid off because the business had to close.

Mr. KUCK. It is a very common situation, and we hear this every single day from individuals who simply cannot fix the immigration status of some of their key employees. By changing the standard, we will literally save millions of American families and businesses.

Ms. LOFGREN. Let me ask you another question on two things, the false claim to citizenship and convictions for an offense.

There is no real waiver provision, and I am wondering—certainly, you don't want people to make false claims as citizens.

I was mentioning to Ms. Jackson Lee, as we walked back from the last vote, about a woman I knew when I was growing up. She

was married to a friend of my father's, and they were married for 25 years. And for their 25th wedding anniversary, they were going to go on a cruise. So she went down to get her passport and found out for the first time that she was not a citizen of the United States. She had been raised by an older brother, and they told her that she had been born in the U.S. and she believed that she was. And she lived in our neighborhood, and they had three children. She was stunned, as you can imagine.

Under the current law, there would be no remedy for her, would there?

Mr. KUCK. Not only no remedy, but she would be deported and never able to come back the rest of her life.

Ms. LOFGREN. On criminal offenses—obviously, we don't want criminals to get residence, but I will give you an example, and you can tell me whether there is a remedy. This is an actual person who I met.

This person, when they were 18 years old, they were charged with a drug offense, and they didn't have any money, and they were advised to plead guilty and they would get time served, which they did. This person is now 58 years old. He owns a business, and he has, like, hundreds of employees been very successful, and made millions of dollars in revenue. He went out on a business trip, and when he came back, he was put in jail.

I don't really know if there is a remedy for a guy like that? I mean, that was a long time ago.

Mr. KUCK. Unfortunately, under our current law, time is simply not relevant. If that conviction was for anything other than less than 30 grams of marijuana, he is permanently barred from immigrating to the United States.

There is a waiver available for nonimmigrants to come and temporarily work in the United States, but nothing to solve the situation permanently.

That is a very common situation. It happens all the time, particularly now that the folks at the border have the databases available to them with the information about prior criminal convictions,

Ms. LOFGREN. So you wouldn't want to make a blanket rule—I know my time has expired.

You might want a judge to say, you know, take a look at something like that, maybe.

Mr. KUCK. I think giving the judges some discretion again, which was just simply taken away from them in 1996, giving it back to the judges, you won't increase the workload, but it is still going to be in proceedings. But you give the judge the ability to use his discretion, his analysis of the facts to give somebody back their status.

Ms. LOFGREN. My time has expired and I would like to recognize the gentleman from Iowa, the Ranking Member, for 5 minutes.

Mr. KING. Thank you, Madam Chair.

And I do thank all the witnesses for your testimony.

Just going right to it. I wanted to point out a message here that I am not sure that this panel was particularly attentive to, this language from Ms. Kirchner's testimony. And I would ask you if you could speak to the substance of that distinction between a legal alien who has committed Social Security fraud and an illegal alien

under this bill, who has committed Social Security fraud and the injustice in the outcomes.

Ms. KIRCHNER. I thank you for the question.

The issue is that under the bill, under the amnesty provisions, document fraud in various forms is waived for admissibility purposes. And so what you have is—many illegal aliens who are currently in the country do have false documents, do use Social Security numbers of other people, real Social Security numbers of real people who are victims of identity theft.

And the difference is, a legal alien would be prosecuted and an illegal alien would not. And I think it is an important distinction to make. A lot of people who are looking at the immigration issue think, what is the difference of fairness between illegal aliens who come here to work—and they may be very hardworking; no one has to say they are not hardworking. But what is the difference between those hardworking illegal aliens and hardworking legal aliens?

And I think the issue we need to look at when deciding what a really important, effective immigration reform bill is, is what kind of system do we want? Do we want it to be transparent? Do we want it to apply equally to everyone, legal and illegal?

That is the reason I made that point. I think it is a very important one.

Mr. KING. And the distinction is that if a legal alien commits document fraud—say, Social Security fraud—then they would presumably, under the law, be tried, prosecuted and convicted and deported, but an illegal alien would get amnesty under this bill——

Ms. KIRCHNER. Amnesty and a valid Social Security number.

Mr. KING. Yes. And a path to citizenship, I might add. And I thank you for that observation.

Then I would also ask you—and I know I asked you this question earlier. I know it is one that is a judgment call, one that would be awfully hard to analyze. But of those illegal aliens that are felons in this country, would it be your estimation that more or less than half of them would get amnesty under this bill? Because this bill really does give amnesty to some felons.

Ms. KIRCHNER. It does, Mr. Smith, it does.

I think the issue is how many categories are waived under the inadmissibility grounds in the amnesty provisions. And there are all sorts of provisions that are waived for document fraud for those who are illegally in the country; and that may include illegal aliens who have reentered, and that is a felony. So that would certainly include a great number of people.

There are also various provisions in the bill that deal with waivers in terms of drug offenses. They would most likely allow more people to come in under the amnesty program. So there is certainly a good number of felons who would be allowed in through these provisions.

Mr. KING. Thank you.

And I turn to Ms. Gandy. You had cited a study done by the Pew Center and I would just ask you, is that adjusted in the income statistics that you gave us on dollars per year on a native-born, American, female worker versus that of an immigrant? Are those ad-

justed for age or education or job skills? Or are they just simply all rolled in together?

Ms. GANDY. They are accumulated, but they are based on only full-time year-round employment. It does not take into consideration people who are working part-time or seasonal.

Mr. KING. And beyond that, it doesn't take into consideration age or job skills or education. Is that something that you think you might be able to get an answer for this Committee, to adjust that for those reasons? Because we have had testimony here before this Committee about the differences between age, job skills and education as far as a contribution would be concerned.

And I ask you also——

Ms. GANDY. There have been studies like that, for example, on the male/female wage gap.

Mr. KING. And then you are familiar with what I am looking for with the distinctions between the females in these categories that you have testified. And I would ask you if you have had a chance to review Robert Rechter's study of the Heritage Foundation on households headed by high school drop-outs, and if you have an opinion on that.

Ms. GANDY. I generally read everything from the Heritage Foundation, but I am not familiar with that study.

Mr. KING. I thank you.

And I quickly turn to Mr. Bonner. Mr. Bonner, you have often testified before this Committee on the need to shut off the jobs magnet, and I would ask you a couple of things. Does H.R. 750 shut off the job magnet; and do you believe that this bill gives amnesty to criminals?

Mr. BONNER. Based on my knowledge, it does not shut off the job magnet. And I was heartened to hear Congresswoman Jackson Lee portray this bill as a complement to other legislation that is out there.

And as far as whether it gives amnesty to criminals, yes, I believe it does; and it gives it to a number of other people. I think that most Americans have a soft spot in their heart for someone who has been here for a long time; you know, an example that comes to mind is someone who came here illegally 20, 25 years ago, has several children who speak nothing but English.

But I think before we can engage in a meaningful debate over whether we should give amnesty to which class of people, we really need to address the problem, because as long as people keep coming across the border illegally, the big question in everyone's mind is, when will it stop?

If we grant amnesty to this next wave, because we did it back in 1986, and if we do it again, people will say, well, when does it end? And I think that we really have to come to grips with that and finally solve it once and for all before we can engage in a meaningful debate over how we deal with the people who are here illegally.

Mr. KING. I thank you, Mr. Bonner. And I agree with you.

And I thank all the witnesses for your testimony. I regret I have no more time to ask any further questions, but I yield back to the gentlelady.

Ms. LOFGREN. Thank you.

And before I recognize Ms. Jackson Lee, I just wanted to say something I neglected to say in the example of the gentleman, who took the advice of his public defender when he was 18, is that he actually was a legal, permanent resident, a green card holder. It was when he went out and came back in, that is when he was arrested.

So he wasn't in an illegal status, but he got in trouble.

Ms. Jackson Lee is now recognized for 5 minutes.

Ms. JACKSON LEE. Thank you very much, Madam Chair.

And to the witnesses, let me apologize. I will be talking like the bionic woman in terms of speed. And the reason is, I would like to get all of the witnesses who have been so able, to answer a question; and I will submit others in writing. So if your answers can be succinct.

But let me also thank the Chairwoman and the Ranking Member for this hearing and note, in particular, her example that many of these individuals who are in the criminal justice system are, in fact, documented and therefore separated from their families, businesses collapse; and so we are talking about a fix that involves legal immigration as well.

And to my good friends who use the term "amnesty" as well, you know that I raise an opposition to that because I believe it is putting criteria in place to allow people to enter through a process that works.

Let me, first of all, thank Dr. Spriggs, Gregory Siskind, Charles Kuck, Christopher Nugent, Kim Gandy, T.J. Bonner, and certainly, Ms. Kirchner. But I thank you, the witnesses, very quickly.

And I do acknowledge Jeff Kuck, who hopefully will write some good legislation for us.

I am going to ask quickly one question per person.

Quickly, Dr. Spriggs—and thank you for your research; I would like to get some more on it—the Save America Comprehensive Immigration bill calls on employers to make extensive searches for American workers. It has retention and training. But I want to know how that kind of process—it says make extensive searches for workers in low-wage occupations. Explain how requiring employers to do that can protect U.S. workers.

And I need a quick answer as I am going down. And I will ask other questions of you in writing. Thank you for your economic perspective as well.

Mr. SPRIGGS. Well, I think as long as we put in regulations how that would be done so that all workers would have access to the process that they were using, we would open up the labor market. All markets work better if there is an equal sharing of information. And that is how it would help all workers, native and legal immigrant workers, if we had a low-wage labor market that had open information on, how do I get a job.

Ms. JACKSON LEE. And in the bill—when we talk about comprehensive immigration reform, Dr. Spriggs, you believe a parallel effort to deal with American workers is important?

Mr. SPRIGGS. Yes, because the job training portion will take the supply of low-skilled American workers and reduce it. And that is an important step in addressing the problem of all low-skilled workers.

And so the job training portion is an important counterpoint to what the bill would do.

Ms. JACKSON LEE. Thank you.

Mr. Siskind, can you quickly talk—I think the bill is based on family-based visas. I think there is some question about employer-based visas and the need thereof. And, you know, you might just expand very quickly on a consulate interview and how that undermines, maybe, the process of legal immigration.

Mr. SISKIND. I think people are surprised at how little there is in an interview. The process itself is usually only a couple of minutes, maybe 5 minutes. It is oftentimes standing up with an officer behind a window which is itself a somewhat intimidating process.

The officer may be asking legal questions that the individual doesn't understand. And even though the officers are trained in the foreign language and are supposed to be fluent, oftentimes there is still something lost in translation; and an immigrant doesn't have a lawyer present with them.

A lot of this, as far as what we know happens, is basically what our clients tell us because lawyers rarely get to attend an interview and they can't have a translator and they can't have the citizen-sponsor available to them. And these same issues arise in the employment context as well, where you may have somebody that is waiting years.

Ms. JACKSON LEE. How will this legislation help or what do you think needs to be added?

Mr. SISKIND. The legislation, I think, on the family side is great, and it provides a process that has been needed, as I mentioned, probably for decades.

I would like to see employment-based green cards added, as well, to that process. I mean, in an ideal world it would be all non-immigrant cases as well, but if you have to start somewhere, I would start on the immigrant visa side. And the same issues arise in the employment-based green card context where you may have——

Ms. JACKSON LEE. That would diminish the extent of illegal immigration because there would be a process?

Mr. SISKIND. Yeah. I think so.

Ms. JACKSON LEE. Thank you and forgive me.

Mr. Kuck, you made a valid point about how much we could eliminate illegal immigration if we expanded some of the provisions that you spoke to. Could you just point on that quickly? Because that is what everyone is listening to, the whole question of illegal immigration. We have made that case because of where we stand today.

Can I ask for an additional 1 minute to try to get through my——

Ms. LOFGREN. The gentlelady is granted an additional minute by unanimous consent.

Mr. KUCK. It is quite clear from the numbers that we see that if we want to truly eliminate the issue of illegal immigration in the United States, it is going to be impossible to deport 12 million people. You can begin to reduce that pool with people that have strong ties to the United States and, in fact, are married to U.S. citizens and take literally, instantaneously, 3 million people out of the ille-

gal immigrant pool. It is going to be much easier to handle those that are left over.

This bill, in fact, would do that, and we strongly support its passage for that reason.

Ms. JACKSON LEE. Thank you. And I am going to quickly ask the questions of the last three witnesses and they can answer.

Mr. Nugent, you captured the way to stop "catch and never come back" as a full "catch and release and never come back" as opposed to "catch and release and return." So I am going to ask you to expand on that quickly.

Ms. Gandy, what do you think it is like to be a woman with a child and to be brought in by a registered sex offender and to be vulnerable, what this bill does on that issue?

Mr. Bonner, we have worked together on many issues and thank you for your insight on employee verification. But there are two Border Patrol agents that I think have suffered an injustice, and this bill talks about professional development and training. And, frankly, I believe that if management who made the initial decision, the initial assessment of these two line officers—I call them line officers—had a sense of professionalism and their own confidence and some structure which is dealt with here—training, compensation—that maybe this could have been handled in the field as opposed to the extent to which it went.

So if you can comment on this bill as it professionalizes the Border Patrol agents, and if you can quickly answer, I would appreciate it.

And I thank the gentlelady for her time.

Mr. Nugent, quickly.

Mr. NUGENT. Yes. I think what is innovative about section 622(b) is that it provides a safety valve for releasing vulnerable populations from detention into secure alternatives. And by doing so, DHS can continue to arrest and detain as many people as possible, but with a safety valve for vulnerable populations.

It also reduces liability for DHS for inadequate medical care and other violations that occur in the detention centers. And I would note that the bill actually authorizes an additional 100,000 detention beds. But you can have people going through a continuum to get to secure alternatives, and then with the 94 percent compliance rate, they will be deported ultimately if they have no relief.

Ms. LOFGREN. The gentlelady's time has expired. We are going to give it an additional 30 seconds so the remaining witnesses can very quickly answer, and then we will be able to——

Ms. GANDY. Thank you.

It certainly is extremely important that women and children who are brought into the country not be brought here for the purpose of abuse and exploitation; and the likelihood of that when they are brought into the country by a registered sex offender, is dramatically increased.

But I also think that although that is a wonderful provision, we need to even go beyond that to make sure that women and children are not brought in to this country for the specific purpose of exploitation.

Ms. JACKSON LEE. Thank you.

Mr. Bonner.

Mr. BONNER. Very quickly. The professionalism of the Border Patrol would increase under the provisions of this bill. Whether that would have helped those two agents, I am not so sure, because I think they are victims of a greater political agenda of a renegade U.S. attorney.

Ms. JACKSON LEE. I thank you.

I thank the Chairwoman. And I simply want to acknowledge Nolan Rappaport, who was very instrumental in gathering all the thought processes that generated in this bill. And I thank your staff very much for their assistance.

Ms. LOFGREN. Thank you very much.

And I would thank all the staff, and also note that Dr. Spriggs' students have been here, and we extend a welcome to them, as well, and thank all the witnesses.

We have 5 legislative days to submit any additional questions that Members may have. And if we do have such questions, we ask that you do your best to answer them promptly.

Again, we thank you for taking the time to share your expertise with us. A lot of people don't realize that the witnesses before congressional Committees are essentially volunteering their time to the country. And we do appreciate that you are—your willingness to do that.

And I, for one, have learned a lot in this hearing. So thank you very much and this hearing is adjourned.

[Whereupon, at 12:48 p.m., the Subcommittee was adjourned.]

# APPENDIX

## MATERIAL SUBMITTED FOR THE HEARING RECORD

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

In a hearing on September 6, our Subcommittee examined H.R. 1645, the "Security Through Regularized Immigration and a Vibrant Economy Act of 2007," otherwise known as the STRIVE Act. Today, we will review H.R. 750, the "Save America Comprehensive Immigration Act of 2007." Both bills contain the necessary elements of comprehensive immigration reform to fix our broken immigration system. In addition the Save America Act contains several provisions that would complement the STRIVE Act.

I would like to commend our Subcommittee colleague, Congresswoman Sheila Jackson Lee, for not only drafting and introducing H.R. 750, but also for her service on behalf of comprehensive immigration reform and immigration in general in the 110th Congress and in many Congresses before the 110th, especially as the Ranking Member of this Subcommittee for many years. Since I can remember, Representative Jackson Lee has always been a tireless champion for immigration reform.

I was personally enormously disappointed when the Senate was unable to proceed on comprehensive reform this spring. We were prepared on the House side to tackle this important issue. But, because of Senate inaction, we didn't get the chance to proceed on hearings or a mark-up on comprehensive immigration reform.

The details matter, and today we will get information and details on the Save America Act. We can't know what the future will hold for comprehensive reform, but we can be armed with knowledge about legislation in the House to meet the immigration challenge.

Because this hearing is about Congresswoman Jackson Lee's bill, I would like to yield the balance of my time to my colleague from Texas so that she may properly introduce the subject of our hearing today.

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

I want to begin by thanking the Chair of this Subcommittee, Zoe Lofgren, for holding a hearing on my Save America Comprehensive Immigration Act of 2007, H.R. 750 (Save America Act).

Immigrants come to the United States today for the same reason so many millions came before them, in this century and last, from this continent and from every other. They come for the same reasons that many of our ancestors left the cotton fields of Mississippi and Alabama for the factories of Detroit and Cleveland, the packing houses and office buildings of Chicago, and shipyards of Philadelphia and Los Angeles and New York.

They come for the same reason families have always come to America: to be free of fear and hunger, to better their economic opportunities, to begin their world anew, and to give their children a chance for a better life. Like previous waves of immigrants, they too will wage all and risk all to reach the sidewalks of cities such as my home of Houston. Or Los Angeles. Or Phoenix. Or Chicago. Or Atlanta. Or Denver. Or Detroit.

As we did on the back roads of Georgia and Tennessee and Alabama, they will risk death in the desert; they will brave the elements, they will risk capture and crime, they will endure separation from loved ones.

And if they make it to the Promised Land of America, no job will be beneath them. They will cook our food, clean our houses, cut our grass, and care for our kids. They will be cheated by some and exploited by others. They work in sunlight but live in twilight, between the shadows; not fully welcome as new Americans but wanted as low-wage workers. Somewhere near the borders tonight, a family will cross over into the New World, willed by the enduring power of the American Dream.

First, I believe that an integral component of any comprehensive immigration reform is a component that ensures that at least some of the immigration fees be used for education and job training of Americans. That is why Title VII of my legislation requires a portion of the filing fees for temporary visas for guestworker visas and for the process of earned legalization should be set aside to establish a job training and job development fund. The fund would be used to establish employee training programs for American workers.

The training programs would afford a wealth of job opportunities for African American males and other underemployed populations. The fund also should provide job training for the middle-aged American workers who have been or are in danger of being replaced by foreign workers. The job development fund could also be utilized to encourage job development in low employment areas.

I would also like to address the misperception that immigrants are taking jobs away from American workers. This possibility is greatly exaggerated by those who would wish to gain our support with their anti-immigrant objectives. Among other things, the American economy does not have a fixed number of jobs. Economists describe the notion that the number of jobs is fixed as the "lump of labor" fallacy. Job opportunities expand with a rising population. Since immigrants are workers and consumers, their spending on food, clothing, housing, and other items creates new job opportunities. I expect this to become more evident when we finally get around to fixing our broken immigration system and the over 12 million undocumented immigrants in the United States no longer have to live in the shadows of society.

Everyone agrees that we need to reform our broken immigration system. The only disagreement is over how to do it. The most controversial question is whether we should provide access to legalization for the 12 million undocumented immigrants who are living in the shadows of our society.

In addition to the fact that many of them have earned access to legalization, it is not in the best interests of the country to let them remain in the shadows. Among other things, it is a security problem to have such a large population of immigrants in our country that we do not know anything about. I also know that immigrants cannot be equated with terrorists. Reducing the population of undocumented immigrants who are here to work would make it easier to find the people who are here to do us harm.

Opponents of immigration reform advocate an enforcement-first approach to dealing with our immigration problems. That approach would not work. Immigrants who want to work in the United States to make a better life for themselves and their families must have a legal way to do it, just as employers who need foreign employees must have a way to bring them to the United States. Otherwise, illegal immigration will continue to be problem.

The only effective solution is comprehensive immigration reform. I have introduced a bill that would provide such reform, the Save America Comprehensive Immigration Act of 2007. Let me note briefly a few of its provisions. It requires the Secretary of Homeland Security to impose a 10% surcharge on fees collected for employment-based visa petitions. These funds would be used to establish much needed employment training programs for our rural and urban areas.

It has three legalization programs. It would require the Secretary of Labor to conduct a national study of American workplaces on the exploitation of undocumented alien workers by their employers. It also provides the Border Patrol with the personnel, resources, and equipment that it needs to secure the border. Our borders will continue to be out of control until we have immigration reform that provides more opportunities for immigrants to come to this country legally.

In summary, the Save America Act covers a broad range of issues, many of which are not addressed by other bills. This has been recognized already by some leading Members of Congress. For instance, Senator John Kerry added the "Rapid Response Measures," in Subtitle A of the Save America Act, to the Senate's Comprehensive Immigration Reform Act of 2006, S. 2611.

The Rapid Response Measures would permit the Secretary of the Department of Homeland Security to deploy up to 1,000 additional border patrol agents to a crisis

area along the border if the governor of the border state has declared an international border security emergency, and the governor has requested the additional agents.

The Rapid Response Measures also would provide border patrol agents with 100 additional helicopters, 250 additional power boats, control of border patrol assets, one police-type vehicle for every three border patrol agents, portable computers for vehicles, effective radio communication, hand-held global positioning system devices, night vision equipment, body armor, and the weapons the border patrol need when they encounter heavily armed men guarding drug caravans.

These provisions are also included as "Rapid Response Measures" in Subtitle F of the Security Through Regularized Immigration and a Vibrant Economy Act of 2007, H.R. 1645 (the STRIVE Act).

Although I am pleased that my Rapid Response Measures are being used in other immigration reform bills, I believe that it is inadequate to incorporate them in only a piecemeal fashion which neglects other important provisions of this important legislation. The origin of those provisions was my Rapid Response Border Protection Act of 2005, H.R. 4044, and the rest of the provisions in H.R. 4044 are also necessary, such as the personnel provisions for addressing recruitment and retention issues at CBP. I included all of these important provisions in the Save America Act.

T.J. Bonner, the President of the National Border Patrol Council, provided invaluable information on the needs of Border Patrol agents when the Rapid Response Border Protection Act was being written. His testimony today will include an explanation of why the rest of the provisions from that bill are necessary.

Furthermore, the Save America Act has provisions to establish a Fraudulent Documents Task Force which could strengthen the fraud provisions in the STRIVE Act. The task force would collect information from United States and foreign law enforcement agencies on the production, sale, and distribution of fraudulent documents. In addition to distributing this information on an ongoing basis to where it is needed, it would maintain a database that would be available to the law enforcement community both here and abroad.

Although the STRIVE Act has good detention provisions to reduce the number of aliens who are detained in penal institutions, such as the T. Don Hutto Residential Center in Taylor, Texas, the Save America Act addresses the plight of detained aliens in a much more comprehensive fashion. The Save America Act would establish a Secure Alternatives to Detention Program under which children and other vulnerable populations would be released to the custody of suitable individuals or organizational sponsors who would supervise them, prevent them from absconding, and ensure required appearances. The program would be developed in consultation with non-governmental experts in the immigration and the criminal justice fields, with consideration given to the program developed by the Vera Institute and the DHS Intensive Supervision Appearance Program.

Chris Nugent, who will be testifying today, is an expert on detention facilities for families and other vulnerable populations. He provided valuable information when the Secure Alternatives Program was being drafted. He will testify about the program and explain how it would strengthen the detention provisions in the STRIVE Act.

Moreover, I do not think that an immigration reform bill can fix our broken immigration system without addressing the problems created by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Among other things, IIRIRA established a deportation ground based on aggravated felony convictions, redefined "aggravated felony" without regard to the seriousness of the criminal offenses being classified as "aggravated felonies," and made these changes retroactive.

Lawful permanent residents have been deported as aggravated felons for minor offenses that did not result in incarceration and were not deportation grounds when they were committed.

Charles H. Kuck, the National President-Elect of the American Immigration Lawyers Association (AILA), will testify about the need for IIRIRA fixes. He is an immigration law expert who has had extensive experience representing aliens who are victims of IIRIRA's harsh provisions.

Lastly, the Save America Act has provisions that would make it difficult for Americans who are on the National Sex Offender Registry to use our immigration laws to bring victims of sexual abuse into the country. These provisions would authorize the denial of a family-based visa petition for a spouse or child if (A) the petitioner is on the Sex Offender Registry for a conviction that resulted in incarceration for more than a year; (B) the petitioner has been given at least 90 days to establish that he is not on the registry or that he was not incarcerated for more than a year for the offense and has failed to do so; and (C) a finding has been made that grant-

ing the petition would put a spouse or child beneficiary in grave danger of being sexually abused.

Why is this necessary? I asked the General Accountability Office (GAO) to find out how many Americans on the national sex offender registry filed family-based visa petitions in FY2005. They found records of 398 American petitioners who filed family-based visa petitions were on the National Sex Offender Registry.

GAO was only able to ascertain the nature of the offenses for 194 of the 398 petitioners. These offenses included 119 convictions for sexual assault, 35 for child fondling, nine for strong arm rape, nine for carnal abuse combined with a sexual assault, seven for statutory rape, four for crimes against persons, three for indecent exposure, two for kidnapping, two for obscene material possession, one for exploitation of a minor with photographs, one for incest with a minor, one for sodomizing a boy, and one for restricting movement.

The Immigration and Nationality Act did not permit a denial of any of those visa petitions on the ground that approval could endanger the woman or child being brought to the United States. Since then, statutory provisions in criminal legislation have made it possible to deny visa petitions if the American sponsor has been convicted of any of a substantial list of criminal offenses. Aside from the absence of due process in challenging such denials, the provisions are not comprehensive enough with respect to sex offenders.

In addition, as the Chair of the Congressional Black Caucus Immigration Task Force, let me briefly describe what the Congressional Black Caucus thinks should be done.

The Congressional Black Caucus (CBC) recognizes the need for a comprehensive approach to immigration reform that includes increased security, protection against illegal immigration, immigration policies that have articulated objectives and fair administration of our immigration system. To that end, the CBC has adopted four principles to guide its deliberation regarding immigration reform.

**BORDER SECURITY:**

The federal government has the responsibility to protect, through border security and other means, against immigrants illegally entering the country and/or overstaying their authorized periods of admission. The CBC, therefore, supports funding for border security equipment, border patrol agents, enforcement and other resources as reasonably necessary to accomplish those objectives.

**ECONOMIC OPPORTUNITY AND FAIR WAGES FOR LEGAL WORKERS:**

All citizens and legal workers in the United States should be assured education and job training, non-discriminatory employment opportunity and a livable wage. The CBC, therefore, supports increased funding for education and job training utilizing fees generated from new immigration provisions and other resources and supports increased funding for enforcement of laws against employment discrimination, wage and hour violations, unfair labor practices and illegal hiring. The CBC also supports holding employers accountable for the legal status of their employees.

**DIVERSITY AND EQUAL TREATMENT:**

The CBC supports immigration criteria that will increase the diversity of immigration from countries that have historically been underrepresented, such as countries in the Caribbean and Africa, or treated unequally, such as Haiti.

It is important to keep in mind which groups bear the brunt of the bad policy proposals in the immigration debate. They are primarily people attempting to migrate from Africa, Haiti and the Caribbean, Latin America, China, and other regions. While African Americans did not cross the borders to the United States voluntarily, historically as now, people of color (immigrants of color) are scapegoats for the economic ills of the United States and subjected to exclusionary laws that African Americans have fought since slavery.

Equally important, we must not forget who benefits from current immigration crisis. It is neither immigrants nor native citizens, but corporations and businesses that thrive on a tilted economic system that exploits low wage workers, divides people who have common interests with 'us versus them' wedge politics, and hinders racial justice advocates from winning policies that promote living wages, economic mobility and equal opportunity for all members of our society.

**EARNED ACCESS TO CITIZENSHIP:**

Finally, the CBC supports earned access to lawful permanent resident status for persons currently in the United States that takes the following factors into account:

- Unification of immigrant families, which would include uniting immigrants with spouses, children or other close family members who are citizens or lawful permanent residents of the United States;
- Proven employment records through temporary and guest worker programs or other temporary residence programs; and
- Such reform of earned access to citizenship should also include a path to permanency for the undocumented already here.

We can and should distinguish between those who have come here out of their love for the United States and what it represents and the opportunities it affords for a better life from those who come because they hate America and wish to kill or injure Americans.

Surely, it makes more sense to concentrate our resources on the latter and persuade the former to come out from the shadows. We will not persuade them to come into the light if all we offer is an armed escort back to the place of economic or political hopelessness they fled. To paraphrase Edmund Burke, the original English conservative, we will not encourage undocumented workers to come out from the shadows if everywhere they look "they see nothing but the gallows."

Why not, instead, say to those undocumented workers who are working jobs most Americans will not take: come out from the shadows and earn the chance to apply for citizenship in this country? You broke the law to come here, and you must acknowledge that you did by going to the back of the line, paying a substantial fine, staying employed, learning our language, paying taxes, obeying our laws, waiting your turn, and earning the right to become an American.

I know that many Americans of goodwill have a different view of the problem and advocate different solutions to the immigration challenge facing America. That does not make them bad people. It simply means we must redouble our efforts to get our message out. It means we need to work harder at rebutting the disinformation that is spread by pundits, commentators, and politicians. As President John Kennedy famously noted:

"The great enemy of the truth is very often not the lie—deliberate, contrived and dishonest, but the myth, persistent, persuasive, and unrealistic. Belief in myths allows the comfort of opinion without the discomfort of thought."

I think we should welcome and embrace the opportunity to debate comprehensive immigration reform. Truth and right is on our side. We will win the debate if we stand up for what we believe and engage in meaningful dialogue. After all, that it what it is going to take to find the common ground necessary to solve the immigration problem and move America forward.

I thank Chairwoman Lofgren for convening this important hearing on my legislation and offering me an opportunity to summarize the unique and comprehensive approach to our immigration crisis offered by H.R. 750, the Save America Comprehensive Immigration Act of 2007.

Reforming the nation's immigration system so that it secures the borders, does not lower American living standards, reflects American values, and ensures that our country remains a beacon of hope and opportunity forever is a daunting challenge. I know this is hard and tiring work. But remember, as the Rev. Dr. Martin Luther King often said:

"We shall overcome because the moral arc of the universe is long but it bends toward justice. We shall overcome because Carlyle is right—no lie can live forever. We shall overcome because William Cullen Bryant is right—truth crushed to earth will rise again."

I also ask that proponents of comprehensive immigration not to be discouraged by the legislative challenges we face because the Scriptures tell us that "weeping lasteth for a night, but joy cometh in the morning." Let us march on till victory is won. Thank you very much, and I yield back the remainder of my time.

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PREPARED STATEMENT OF THE HONORABLE HILDA L. SOLIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

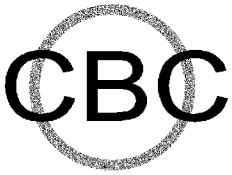
I would like to applaud the Subcommittee, under the leadership of Chairwoman Lofgren, for holding numerous hearings on the issue of immigration reform this past year. I am hopeful that these hearings will provide the framework to fix our broken immigration system.

I realize that immigration is a multifaceted issue. As the former Co-Chair of the Congressional Caucus for Women's Issues and the daughter of immigrants, one issue of great concern to me is the protection of immigrant women and children. Fe-

male immigrants, both documented and undocumented, often work in industries with low-wages, have little or no access to healthcare, legal assistance, or economic justice. In addition, approximately 8,000 children seek safety in the United States each year and many arrive unaccompanied by adults.

I am a cosponsor of H.R. 750, which among other things, has a strong focus on protecting immigrant women and children from registered sex-offenders who take advantage of the current family-based visa petitions to bring into the U.S. children and women from abroad. According to a recent Government Accountability Office (GAO) study, in fiscal year 2005, at least 398 of the citizen and legal permanent resident (LPR) petitioners who filed family-based visa petitions were on the National Sex Offender Registry that is maintained by the Federal Bureau of Investigations (FBI). We must take steps to protect women migrants from sex offenders and H.R. 750 does just that.

We cannot turn a blind eye to the injustices that are plaguing the immigrant community. I strongly support comprehensive immigration reform which provides for family reunification, earned legalization, educational opportunities, and honors our tradition as a nation of immigrants. I respect the difficult task which lies ahead and urge my colleagues to move forward with a solution that protects and enforces our borders while respecting the hard work and contributions of immigrants to our country.




**Congressional Black Caucus**
**of the 110th Congress**

**Change Course, Confront Crises, Continue the Legacy**

# IMMIGRATION REFORM

**The members of the Congressional Black Caucus (CBC) recognize the need for a comprehensive approach to immigration reform that includes increased security, protection against illegal immigration, immigration policies that have articulated objectives and fair administration of our immigration system. Consistent with this, the CBC adopts the following Statement of Principles.**

## 1. BORDER SECURITY

The CBC believes that the federal government has the responsibility to protect, through border security and other means, against immigrants illegally entering the country and/or overstaying their authorized periods of admission. The CBC, therefore, supports funding for border security equipment, border patrol agents, enforcement and other resources as reasonably necessary to accomplish those objectives.

## 2. DIVERSITY AND EQUAL TREATMENT

The CBC supports immigration criteria that will increase the diversity of immigration from countries that have historically been underrepresented, such as countries in the Caribbean and Africa, or treated unequally, such as Haiti.

## 3. ECONOMIC OPPORTUNITY, FAIR WAGES AND JOB TRAINING FOR LEGAL WORKERS

The CBC believes that all citizens and legal workers in the United States should be assured education and job training, non-discriminatory employment opportunity and livable wage. The CBC, therefore, supports increased funding for education and job training utilizing fees generated from new immigration provisions and other resources and supports increased funding for enforcement of laws against employment discrimination, wage and hour violations, unfair labor practices and illegal hiring. The CBC also supports holding employers accountable for the legal status of their employees.

## 4. EARNED ACCESS TO CITIZENSHIP

The CBC supports earned access to lawful permanent resident status for persons currently in the United States that takes the following factors into account:

- Unification of immigrant families, which would include uniting immigrants with spouses, children or other close family members who are citizens or lawful permanent residents of the United States;
- Proven employment records through temporary and guest worker programs or other temporary residence programs; and
- Such reform of earned access to citizenship should also include a path to permanency for the undocumented already here.

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**Congressional Progressive Caucus**

**Position on Immigration Reform**

**November 8, 2007**

**Labor**
• Include strong labor protections for all workers in the United States, regardless of immigration status.
• Ensure verification of a labor shortage by the Department of Labor through a labor certification process before seeking non-citizens.
• Provide a visa program that is transparent, tightly managed, and ensures there is a regularized flow across our national borders.
• Admit non-citizen workers through our immigration system with enforceable guarantees of internationally recognized worker rights payment of remittance, and a pathway to legalization.
• Include Ag Jobs or legislation that would provide agricultural employers with a stable, legal labor force while protecting farm workers form exploitative working conditions.

**Earned Citizenship**
• Enable the millions of hard-working, responsible undocumented workers already in the U.S., and their immediate families, to follow a well-defined, time-bound path to lawful permanent residence and citizenship.
• Ensure that any proposal to legalization be workable, consistent with economic needs and family unification and attainable fines.
• Support the DREAM Act or legislation that would restores states' rights to offer in-state tuition to non-citizen students residing in their state and that would provide a path to citizenship for hardworking non-citizen youth who want to contribute fully to our society.

**Family Reunification**
• Support a comprehensive immigration reform effort that espouses family values fundamental to our national ideals and reunites families to strengthen our communities.
• Reduce immigration backlogs to assist with family reunification and oppose eliminating any of the current family categories.
• Recognizing the importance of both employment-based and family based immigration ensure that any legalization and expansion of employment-based immigration does not come at the expense of our long-standing tradition of family-based immigration.
• Provide spouses and children of current and future workers with work visas and a pathway to legalization.
• Support immigration equality for permanent partners (UAFA/PPIA) or legislation that would remove the HIV bar.

**Due process**
• Provide due process protections to non-citizens.
• Eliminate retroactivity of deportation laws.
• Restore prosecutorial discretion, proportionality, and judicial review to our immigration system.
• Eliminate mandatory and indefinite detention of non-citizens.
• Provide standards for humane treatment of detainees and the conditions of detention, including a mechanism for an independent oversight of detention facilities.
• Eliminate the harsh bars to admission, particularly the 3 and 10-year bars for those who have been in the U.S. unlawfully.
• Modify the definition of "aggravated felonies" to include only felonies and violent or particularly serious crimes and be an equitable application and consistent with federal felony laws.
• Provide discretion to the immigration court to adjust the status of an individual granted deferred action

**Refugees/Asylees**
• Eliminate the one-year deadline to apply for asylum.
• Protect the U.S. refugee program from the unintended consequences of overbroad "material support" related bars on admission. Legislation should prevent groups that have supported the US or that the US itself supports from inadvertently being labeled "terrorist organizations" but should not affect the classification of current designated terrorist organizations whose members will continue to be barred from the United States.
• Ensure protection of victims of terrorism who were forced under threat of death or serious bodily injury into providing goods or services to armed rebels from being defined as "material support" of terrorism.

**Border Security and Law Enforcement**
• Uphold the Universal Declaration of Human Rights in immigration laws.
• Minimize the militarization of our border communities and respects local residents that live along the border.
• Oppose the use of state and local police for immigration law enforcement.
• Ensure immigration enforcement is humane and does not violate the human rights of our communities or tear families apart.
• Oppose ICE raids that unfairly target particular ethnic groups, violate basic due process principles, and negatively impact U.S. citizen children.

**Employers**
• Employers should not become immigration officers.
• Employers should be held responsible for hiring undocumented workers.
• Employers should show a good-faith effort to first hire citizens before hiring new or foreign workers.
• Employers will follow labors laws for all employees they have, including the National Labor Relations Act, ensuring both non-citizens and citizens alike have full ability to organize.

**Trade**
• Improve trade, investment, aid agreements and enforcement of applicable international and national laws to enable more people to live, work, and raise their families and living standards in their home countries.
• Ensure foreign aid, military, and trade agreements are sensitive to the impacts of potential immigration on the United States, and enhance the ability of nations to foster social and economic development within their borders.

**Administration**
• Ensure a fair and accessible naturalization process with an affordable fee schedule.
• Provide sufficient federal manpower, training, and resources to United States Citizenship and Immigration Services to eliminate our current unreasonable backlogs and achieve accurate and timely processing of all applications for immigration and related appeals, while increasing the number of available visas.
• Provide appropriate resources to the agencies involved (FBI, Department of State, USCIS, etc) and training and recruitment of immigration officers to adjudicate applications in a timely manner.
• Reduce the backlog on background checks by providing appropriate resources and prioritizing those applications

**Native Americans**
• Any legislation related to border security should enhance cooperation between the Department of Homeland Security and those sovereign Native American Nations that are divided by political international borders.
• Immigration reform legislation must take into consideration the unity of these border Tribes and communities.
• Legislation should allow tribal members and families to enter the U.S. to participate in cultural, religious, familial and tribal events, to work for their own tribal governments, and other tribal activities.

**TITLE IV of H.R. 750**
**Creating an Immigration System that Works to Prevent the Sexual Abuse of Women and Children Focusing on the Offender**

**Ms. Norma Hotaling**
**Executive Director and Founder**
**SAGE Project, Inc.**
**San Francisco, CA**
**08 November 2007**

*Norma Hotaling is the Executive Director and Founder of Standing Against Global Exploitation Project, Inc. (SAGE), the co-founder of the First Offender Prostitution Program (FOPP) and a partner with Cincinnati's United Bethel's Voices from the Heart Campaign The SAGE Project is a unique collaboration between social service providers, public health, private agencies and law enforcement that was created to shift local government's approach to prostitution, aiding women and girls to permanently exit the criminal justice system and escape prostitution and trafficking. SAGE's direct service programs often focus on the most exploited victims who are the highest users of the medical, social, mental health, and criminal justice systems. SAGE has achieved international recognition and has been the recipient of several prestigious awards. In 1998, the SF District Attorney's, SAGE's and the SFPD's restorative justice program for customers of adult prostitutes; First Offender Prostitution Program, won the Innovations in American Government Award sponsored by the John F. Kennedy School of Government at Harvard University and the Ford Foundation. In 2000, SAGE was the recipient of the Peter F. Drucker Award for Innovation in Non-Profit Management, and most recently, the Oprah's Angel Network Use Your Life Award.*

## I AM A SURVIVOR/PREVAILER

We are thankful and fully support Representative Sheila Jackson Lee's bill H.R. 750 aimed at preventing Undocumented and Legal Permanent Residents on the FBI's Sex Offenders Registry from abusing the immigration system to bring into the United States, women and children for the purposes of sexual exploitation and for her commitment to the women and children who are having their rights so brutally ripped away. They are left to fend for themselves as they grow into adults and become like me and the thousands of women, girls, men, and boys we serve every year at the SAGE Project in the San Francisco Bay Area. By societies standards, we become the "toss-aways," the 'throw-aways" and blamed for our own victimization. There are women and girls today in the United States, my sisters, my friends who are being abused in homes, establishments that feed the sex trade, group homes for youth, detention centers for youth, on the streets, or

missing, only to be found buried in shallow graves. Everyday we treat little girls and boys who are being recruited, trafficked, kidnapped, raped, beaten, tortured, killed and laying unidentified, unrecognized thus renamed as Jane Doe's in city morgues and in burial plots. The **"Black Number"** refers to the hundreds of thousands of children who are abducted or as it stands, legally taken by family and transported across state and international borders for the purposes of sexual exploitation. Thank you also for courageously stepping forward offering education, dignity, and light to an issue that hides in darkness.

I fully support the Save America Comprehensive Immigration Act of 2007 which Amends the Immigration and Nationality Act (INA) to provide increased protections and eligibility for family-sponsored immigrants.

- H.R 750.directs the Secretary of State to establish a Board of Family-based Visa Appeals within the Department of State.
- The staff at SAGE continually fined youth and adults in systems and homes that have entered the United States with false or legal visas and the purpose for their entry is for sexual exploitation and labor.
- H.R 750 authorizes the Secretary of Homeland Security (Secretary) to deny a family-based immigration petition by a U.S. petitioner for an alien spouse or child if: (1) the petitioner is on the national sex offender registry for a conviction that resulted in more than one year's imprisonment; (2) the petitioner has failed to rebut such information within 90 days; and (3) granting the petition would put a spouse or child beneficiary in danger of sexual abuse.

The Lakireddy Bali Case: A Families Criminal Conspiracy involving Sexual Slavery and Indentured Servitude in Berkeley, California

A vivid example of why H.R. 750 is so vital and essential is the case of Vijay Lakireddy, owner of a Berkeley computer software company called Active Tech Solutions, who was charged with helping his father bring the three teenage girls into the country under fraudulent circumstances in August 1999. Vijay was also charged with falsifying documents enabling the entry into the United States of many other illegal Indian immigrants. As a family of sons, led by their father, Lakireddy Bali, they conspired to forge documents, bring young women from India, sexually assault them and build an empire worth 100 million dollars. As the case proceeded, with all its twists and turns, Prasad Lakireddy (Reddy) would be charged with raping and beating the same young girls whom their father had raped and enslaved. The case broke on the eve of Thanksgiving Day in 1999 when two sisters suffered carbon monoxide poisoning in Reddy's downtown Berkeley apartment. A 17-year-old died, but her younger sister lived. Individuals came to the hospital representing themselves

as parents and family members to "claim the survivors." Many were the same as the victims; individuals with false documents and not the parent or even relatives.

Initial newspaper reports, based on stories spawned by Reddy and his cohorts, said the girls came to America with their parents in pursuit of immigrant dreams. Their father was an H1B visa-holder, the reports said, and since he had not found a suitable job after arriving in America, Reddy hired him to work in his restaurants. Reddy was the compassionate godfather, the stories suggested.

But soon the surviving sister and another roommate told police that Reddy smuggled them from Andhra Pradesh and that he regularly had sex with them.

The "parents" happened to be Reddy's agents. Reddy, arrested in early 2000, was released on bail of $10 million. His two sons and four relatives were also charged with illegally bringing about 50 foreigners to work in the Bay Area since 1986 for less than minimum wage at some of his 1,000 apartments and restaurants. His sons have spurned plea bargain offers and decided to fight the charges.

Reddy's younger son Vijay went into hiding before he was finally arrested. The police and concerned members of the public feared that he had escaped. However, for reasons unknown, he didn't flee, and the police were finally able to apprehend him.

Reddy's two sons -- Prasad and Vijay Lakireddy were charged with committing immigration fraud and importing Indian girls for 'immoral purposes,' which include rape and sex with a minor. They are also accused of traveling abroad to seek out the Indian girls for sexual activities. They were further charged with harboring, transporting and employing the illegal immigrants over a 14-year period, beginning October 1986. (Sexton, October 29, 2001, p. 1)

In the beginning of the trial, Vijay was also charged with visa fraud. They possessed **PRINTING PRESSES** used to make the forged documents. Meanwhile the father was charged with attempting to intimidate a witness. The Lakireddy brothers first plead not guilty. Jayaprakash Lakireddy, who has admitted to helping his older brother bring young Indian girls into the country to be sexually exploited, compared his offence to a minor traffic violation. The community in India looked at the Lakireddy's as Gods. The praise for the perpetrators was unending, while the victims were hated and scored to the point of fearing for their lives. In an unusual case, Lakireddy sent

money to the many families in India, built schools, paid for the souls and bodies of the young women. As the case broke, the young women in the US were threatened and disavowed if they cooperated with the authorities. Loyalty to their families and their communities in their homeland rose above bringing the perpetrators to justice under US law. Even the community advocates were disoriented and confused at all of the complexities of issues this case presented. Everyday revelations such as Reddy using Viagra and impregnating at least one young girl who died in an accidental carbon monoxide leak in an apartment owned by him in the university town of Berkeley came pouring out to a large South Asian community.

There is a belief that if Reddy's victims had been white girls who spoke English, his misdeeds would have been headline news across America. Many called for his deportation, but under what statues?

"Dollar talks and Reddy walks," read placards. Reddy's fortune was estimated over $10,000,000. He reportedly amassed this fortune over the last three decades importing slaves and using them to run his businesses and properties.

Everyone was unprepared and the Lakireddy's nearly escaped prosecution on numerous occasions due to the imbeddedness of the Lakireddy's in their native Indian community. As the civil remedies and governments cases preceded, the girls, women and their families pleaded, "we just want to go home." To this day, the civil litigator says "it was the most difficult and debilitating case he ever took to take to trial."

After a year and a half of going back and forth to court, Lakireddy Bali Reddy pleaded guilty to all four counts against him.

The day started off with Judge Saundra Brown Armstrong going over the charges against Reddy. She explained the "C" codes and the affects behind the charges of the counts. Count 1 included bringing people over to the US illegally. Count 2 and 3 was aiding and abetting minors for illegal sex, and knowing they were minors at the time. The last count had to do with false tax statements Reddy made in 1998, saying he didn't have any overseas bank accounts, later it was proven that he did.

In his own words, Reddy admitted to his crimes saying "I brought victims 2 or 3 and intended to have sex with them." "I said on my tax return I had no foreign bank accounts".

Jayashri Srikantiah an attorney for the ACLU's immigrant's rights project spoke on behalf of the victims in this case. She said the evidence they have is enough to prove Mr. Reddy has been organizing false visas, importing minors, and cheap labor in his businesses. A small portion of the two million dollars Reddy has to pay was distributed to the victims and their families. Srikantiah reminded the court that these girls came from low caste families and the families put their trust into Mr. Reddy to take them back to America.

After Srikantiah spoke; Armstrong read the counts to Reddy one last time and he said guilty to each one of them. Before the court adjourned Mr. Reddy asked to speak. He cried into the microphone and said, "I want to request I'm very sorry please excuse me". Vijay Lakireddy, Reddy's younger son broke down in tears. After the hearing, Reddy was transferred to federal custody, and from there he was sent to jail.

Michael Rubin who is filing a civil suit against the Reddy family on behalf of the victims and their families mentioned that today was a positive step for their side. Srikantiah said, "What is important today is that Mr. Reddy has been unmasked as a violent criminal offender, brings young girls and women to this country for unlawful sex, and he is being punished for that by serving time in prison and paying restitution from the victims prospective. That's what we won today." She went on saying how he claimed all along that he was running a legitimate business and now he has finally admitted to his wrongs.

Shaily Matani from ASATA (Alliance of South Asians Taking Action) spoke on behalf of the group. She commented that they were really glad that Reddy is being held accountable. Matani also pointed out that this case shouldn't reflect on all South Asians. These types of crimes are happening all over the Bay Area and worldly and it's not just Reddy and it's not a cultural issue.

## VICTIMS SUFFER

- Fear/Paranoia/Flashbacks,
- Inability to trust,
- Lack of eye contact,

- Can't answer verbal or written questions, specifically those that deal with violence and/or prostitution and exploitation,

- Somatization
- Unusual interest in or avoidance of all things of a sexual nature,
- Aggressiveness,
- Self-destructive behavior,
- Suicidal Ideation
- Multiple sexual, physical assaults
- Pregnancies, multiple abortions
- Hopelessness
- Defining characteristics of trauma and Post Traumatic Stress Disorders
    - Emotions and impulses are out of control
        - Unstable emotion
        - Difficulty controlling anger
        - Self-injurious behavior
        - Suicidal preoccupation
        - Inappropriate sexual behavior
        - Excessive risk-taking
- Body Symptoms
    - Digestive system upset
    - Sexual problems, complaints
    - Headache
    - Chronic pain
    - Heart/lung symptoms
    - Autoimmune disorders
- Changed feelings or beliefs about oneself
    - Ineffectiveness
    - Shame
    - Feeling damaged
    - Isolation: No one can understand me
    - Excessive guilt and responsibility
    - Minimizing: I am/it is not important
- Changed Perception of the Perpetrator
    - Distorted beliefs, e.g. "He's dead but I am still afraid he'll kill me"
    - Idealization of the perpetrator, e.g. "Parents are always right"
    - Preoccupation with hurting the perpetrator
    - Traumatic bonding with the perpetrator
- Changed relationships with others
    - Inability to trust
    - Victimizing others
    - Re-victimization

        - Re-enactment of trauma
- Changed Systems of Meaning
        - Despair and hopelessness
        - Loss of reasons to hope or future
- Traumatic memory is coded inside the brain differently than normal memory
        - Upsetting experiences that are not thoroughly "processed" in memory become the source of PTSD
        - Those memories repeatedly surface as if threat is still present

## TREATING TRAUMA

- Three stages
    - Stabilization
    - Processing traumatic memory and grieving
    - Actualization: re-integration into life after trauma

## STABILIZATION

- Goal is reliable self-care
- Focus is resource and skill-building to overcome:
        - Threats to safety
            - Inadequate food, shelter, safety
        - Biological instability
            - Mood unstable, mental health issues
            - Impulsive, self-destructive/dangerous behaviors
            - Life in crisis, untreated medical problems
        - Insufficient social/emotional support systems
            - Few or no intimate relationships
            - Unable to understand boundaries in relation to others
            - Minimally trusts helpers
            - Little or no engagement with social institutions
            - No reliable source of income

## PROCESSING AND GRIEVING TRAUMA

- Tasks
    - Digesting traumatic experiences
    - Decreasing problematic symptoms/behaviors which may have been adaptive in the context of the trauma
    - Grieving the loss of time and opportunities

- Goal
  - A coherent narrative of the person's life in which the trauma's significance is changed and memories of it are held functionally
  - Memories are connected with client's strengths
  - Goal
  - Client is able to use all personal resources, unencumbered by trauma, in:
  - Intimate and other relationships
  - Work/school life
  - Spiritual life
  - Engagement with the world
  - Transcendence (pursuit of personal mission)
  -
  - Clients may need support to make this transition

## CHALLENGES IN WORKING WITH SUVIVORS OF TRAUMA –WHY FOCUS ON PREVENTION?

- Bonding with the Perpetrator
- Disassociation
- Re-traumatization
- Psychological Paralysis
- Cultural considerations,
- Female roles in the culture,
- Rape myths,
- Shame and stigma,
- Mores regarding virginity, and
- Traumatic bonding with perpetrator

## BONDING WITH THE PERPETRATOR

- Believe if they even think a disloyal thought, exploiter will know and retaliate.
- Isolation increases bonding.
- Alternating violence and kindness increases bonding.
- Shame and stigma associated with prostitution, rape, losing virginity increases bonding
- Shows ongoing symptoms of trauma or PTSD.
- Exploited victim bonded to exploiter.
- Intensely grateful for small kindness
- Denies violence when violence and threats of violence are actually occurring.

- Rationalizes violence.
- Denies anger at exploiter, to others, self
- Hyper vigilant to exploiter's needs
    - Seeks to keep exploiter happy to decrease violence and increase meeting needs to increase staying alive.

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- The structural framework through which treatment takes its direction is provided by addressing relational distrust, emotional difficulties, impulsivity and other symptomology in context of prior exploitative relationships-and by fostering development of healthy relational capacities and ties.
- The foundation of treatment should identify:
    - Arrested, incomplete, or missed stages of development, which have occurred secondary to negative events in the girls life
    - Identify and deconstruct dynamics of abuse, coercion and control enlisted by CSEC perpetrators (pimps, johns, traffickers, recruiters) to prevent vulnerability to further victimization
    - Survival strategies and defense mechanisms that were necessary to protect and/or endure trauma and/or promote self-esteem

The centrality of relationship building is the primary cornerstone of each girl's connection to the world and the catalyst for stimulating and enabling each girl to work through her trauma.

According to a New York Times Article, January 25, 2004

"The border is very busy, lots of stuff moving back and forth," she said. "Say you needed to get some kids. This guy would offer a woman a lot of money, and she'd take birth certificates from the U.S. -- from Puerto Rican children or darker-skinned children -- and then she would go into Mexico through Tijuana. Then she'd drive to Juarez" -- across the Mexican border from El Paso, Tex. -- "and then they'd go shopping. I was taken with them once. We went to this house that had a goat in the front yard and came out with a 4-year-old boy." She remembers the boy costing around $500 (she said that many poor parents were told that their children would go to adoption agencies and on to better lives in America). "When we crossed the border at Juarez, all the border guards wanted to see was a birth certificate for the dark-skinned kids."

I founded SAGE Project 16 years ago, as I was exiting the criminal justice system. I had been going to juvenile halls, jails, psychiatric hospitals, emergency rooms and drug treatment programs since I was 12. No one ever asked me about my life, about being a victim of trafficking or the sex trade, being beaten, raped or kidnapped. I was just a whore, a dope fiend, and a criminal. How could I get out? No one ever treated me like a person. No one asked me if I hurt or why. I was trafficked into commercial sexual exploitation when I was a child.

Today I run a world renowned and recognized program and I proudly work with the extraordinarily dedicated team who comprise SAGE. SAGE is a survivor-run, human rights organization formed in 1992 to provide services to girls, women, men, and transgender individuals who have been exploited in and out of the sex industry the sex industry. SAGE seeks to effect change on two levels: (1) in the lives of the individual victims and (2) in the local, national and international community, by challenging societal attitudes that fosters ignorance and acceptance of sexual exploitation, trafficking of women and girls, while condemning them as criminals or "toss-aways." Additionally, SAGE provides training and technical assistance locally, nationally and internationally to build capacity in governmental and non-governmental organizations and enhance the implementation of effective, client-centered prevention, early intervention and treatment services in integrated, outcome-based trauma and sexual exploitation recovery programs.

.SAGE's programs have been replicated throughout the country and the world. Each week these programs host site visits, provide residence programs for other survivors from around America. We continually face financial deficits. These deficits drastically affect SAGE's ability to do its work and leave a void for the women, girls, boys and men we serve. Financial cuts put individuals at continued risk for more exploitation, sexual and physical violence, trafficking, drug use, entering back into the sex trade and possibly death. Now they once again have no place to run to, no place to heal. It will eliminate SAGE's ability to continue its national and international training center that has become so crucial for governments, service providers, and survivors.

Serving individuals in dire situations has given me and my staff the ability to serve. Thank you for the ability to educate this committee and please feel free to call on me or my staff for any further service.

ANSWERS TO POST-HEARING QUESTIONS FROM THE HONORABLE SHEILA JACKSON LEE POSED TO THE HONORABLE CAROLYN CHEEKS KILPATRICK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

1. My Save America Comprehensive Immigration Act has a provision for using a portion of application fees for a legalization program to set up inner city and rural job training centers. What type of training should these centers provide?

The type of training that these centers should provide should be flexible and determined by the municipality receiving these funds. These jobs should be career oriented positions that allow individuals to become wholly functioning individuals within the matrix of our employment network.

2. As leader of the CBC, can you share with us how and why the CBC has recognized the need for comprehensive immigration reform?

The Members of the Congressional Black Caucus recognize the need for a comprehensive approach to immigration reform, and the CBC as an organization has taken this issue very seriously. The CBC discussed immigration reform, during the first session of the 110th Congress, more than any other issue in 2007. Each and every Member of the CBC has been tasked by our constituents to find a reasonable, rational and reliable solution to the more than 12 million undocumented citizens who are within our borders. The challenge of immigration is one of the key issues facing Congress. As a result, the CBC understands that a comprehensive approach to immigration reform includes diversity and equal treatment, earned access to citizenship, economic opportunity and fair wages for legal workers, and border security – all aspects of the Save America Comprehensive Immigration Act.

3. The immigration reform debate has been controversial at best and exceptionally vitriolic at times. What is your personal assessment of how African Americans are reacting to the tone of the current debate?

Most African Americans are reacting to the tone of the immigration debate with intense care and concern. Most African Americans care about the least of their brothers. We understand that the vast majority of men, women, and children who come to our shores are driven by the cold, cruel and desperate economic or political reality of their home country. We are concerned that any immigration law not displace individuals who work, pay taxes, and obey the law. We want, and demand, equal treatment of all immigrants, especially those of African and Caribbean origin. Once again, the Save America Comprehensive Immigration Act provides a real and ready solution to the immigration care and concerns of most, if not all, Americans – including African Americans.

January 31, 2008

The Honorable Barbara Lee
2444 Rayburn House Office Building
Washington, DC 20515

Dear Representative Lee:

Thank you for your recent appearance before the Committee on the Judiciary's Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law. Your testimony was insightful and will assist the Subcommittee as it moves forward.

Enclosed you will find additional questions from members of the Subcommittee to supplement the information you provided at the November 8, 2007, hearing. Please deliver your written responses to the attention of Benjamin Staub of the Subcommittee on Immigration, Citizenship, Border Security, and International Law, 517 Cannon House Office Building, Washington, DC, 20515 no later than December 19, 2007. If you have any further questions or concerns, please contact Andres Jimenez at (202) 225-3926.

Sincerely,

Zoe Lofgren
Chairwoman
Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law

Enclosure

**From the Honorable Sheila Jackson Lee:**

1. My Save America Comprehensive Immigration Act has a provision for using a portion of application fees for a legalization program to set up inner city and rural job training centers. What type of training should these centers provide?

   **Answer:** Job training must focus not only on training people for higher skilled and better paying jobs, but also promote the pursuit of higher education. Assisting people in completing high school and college degrees will lead to more opportunity and higher lifetime incomes than vocational jobs programs alone.

   Additionally, I believe that there is a vital need for comprehensive job training and life skills training for the formerly incarcerated. The current system of probate officers and minimal assistance programs geared towards members of our communities who have recently completed prison terms are woefully inadequate and leave too many of our nation's young men and women on a revolving door back into our criminal justice system with no clear path out.

   With a fully funded commitment to real rehabilitation programs that include assistance with education, job training, job placement, food assistance and housing, we can provide a path to a life beyond the criminal justice system for the 95 percent of the incarcertated who will return home to their communities.

2. As a leader of the CBC, can you share with us how and why the CBC has recognized the need for comprehensive immigration reform?

   **Answer:** The Member's of the Congressional Black Caucus are not just the voice of African Americans in the Congress, but a voice for all Americans. The members of the CBC represent Americans of every race, ethnicity and national origin and we are committed to fostering understanding and cooperation between Americans of every stripe.

   We must not allow the current rhetoric that is aimed mostly at recently immigrated Hispanic Americans to create a racial divide in America. It is important to remember that America is a nation born of immigration and we must not turn our backs on that history now. The CBC must continue to work to remind America that immigration fosters the diversity that has made America strong and that fostering the continuing access to immigration, especially from historically underrepresented communities like the Caribbean and African nations is critical to America's continued success.

3. The immigration reform debate has been controversial at best and exceptionally vitriolic at times. What is your personal assessment of how African Americans are reacting to the tone of the current debate?

**Answer:** African Americans have been misled by the Republican messaging about immigrants "stealing" jobs, or even immigrants "doing jobs that Americans won't do." These are both simply distractions from the massive drain on jobs, especially those in manufacturing sectors, that so called free-trade agreements have caused.

African Americans must stand with other minority groups against the multinational corporations that continue to ship factories and jobs overseas and spread the myth of immigrants causing American job losses.

Allowing multi-billion dollar corporations unfettered access to international labor markets is the real root of the drop in real wages, benefits and lack of job security in the American middle class. Without including demands for reasonable safety standards, minimum wages, environmental regulations, and child labor and collective bargaining rights in trade agreements we virtually guarantee that American jobs will be shipped overseas in the millions.

As members of the CBC it is vital that we focus the message on the reality behind what really informs the broad scope of immigration issues and strive not to allow the African American, Hispanic American and Asian American communities to be split by scare tactics and a false tale of racial competition for scarce jobs.

**Answers from Rep. Silvestre Reyes**
**To additional questions from Rep. Sheila Jackson Lee**
**December 12, 2007**

*1) You are an original co-sponsor of the Rapid Response Border Protection Act. The provisions from that bill are also in the Save America Act. Which of these provisions do you consider to be the most important?*

As I mentioned in my testimony given at the November 8, 2007 hearing, I believe our land ports of entry require additional attention. They have been overlooked and underfunded, which in my opinion, is unacceptable. In the Rapid Response Border Protection Act, under the recruitment and retention section, there is a provision that calls for an additional 1,000 full time employees at our ports of entry.

I believe additional officers are crucial, and we also must provide the proper support personnel, technology and infrastructure in order to allow for the new recruits to reach their optimal level of performance.

2) *As a former Border Patrol officer, could you comment on the provisions in the Save America bill dealing with the recruitment and retention of Border Patrol officers?*

The section focused on recruitment and retention of Border Patrol agents is very detailed and touches on a number of issues. However, I have chosen a couple of subsections that I believe are particularly important. Section 634, focused on operational facilities, will ensure the agents out in the field have sufficient space and equipment to perform their job. By having higher quality and well-equipped facilities, agents would not be forced to work within tight quarters often causing frustration and the desire to go elsewhere. I also feel the section focused on recruitment and relocation bonuses and retention allowances will help convince agents to serve longer. I believe that any financial incentive to encourage people to begin or remain with a career in the Border Patrol is a step in the right direction.

November 26, 2007

William Spriggs, Ph.D.
Chairman, Department of Economics,
Howard University
2400 4th St, N.W.
ASB-B Bldg. Room 302
Washington, DC 20059

Dear Dr. Spriggs:

Thank you for your recent appearance before the Committee on the Judiciary's Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law. Your testimony was insightful and will assist the Subcommittee as it moves forward.

Enclosed you will find additional questions from members of the Subcommittee to supplement the information you provided at the November 8, 2007, hearing. Please deliver your written responses to the attention of Benjamin Staub of the Subcommittee on Immigration, Citizenship, Border Security, and International Law, 517 Cannon House Office Building, Washington, DC, 20515 no later than December 19, 2007. If you have any further questions or concerns, please contact Andres Jimenez at (202) 225-3926.

Sincerely,

Zoe Lofgren
Chairwoman
Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law

Enclosure

William Spriggs, Ph.D.
Page 2
November 26, 2007

**From the Honorable Sheila Jackson Lee:**

1. *In your testimony, you commend the Save America Act for, "calling on employers to make extensive searches for workers in low-wage occupations." Could you please explain how and why requiring employers to do such extensive searches protects U.S. workers?*

Current economic research shows that most low-wage workers find their jobs using networks of friends and family members. For workers with higher earnings, these networks appear to help them in getting jobs, and in finding jobs at higher wages. However, for most workers the effects of the networks appears marginal, either because their networks are also among low wage workers or because their networks are not sufficiently tied to those who make hiring decisions. But, work that I have done with Niki Dickerson (Rutgers University) points to an additional set of issues.

Employers who rely heavily on the networks of their existing workers to hire new workers can be lead to believe that hiring through the networks is inexpensive and that hiring workers outside the network would be expensive. This gives employers the impression that they face an upward sloping supply curve of labor, and that increasing their work force would mean ever increasing their wages for workers. Instead, if the labor market were operating in full and open competition, low wage employers would understand that they face a flat supply curve of labor, and they could hire all the workers they wanted at the same market clearing wage.

From the worker's perspective, the cost of leaving a job is perceived as very high because the worker does not think they can easily find jobs outside their network. The result is that workers are willing to settle for lower wages to stay with their employers than would be the case in a full and openly competitive labor market.

The work that Prof. Dickerson and I have done shows that to the extent that segregation by race and ethnicity can be a good proxy for how job networks can cut off job opportunities in low wage labor markets, there is a very significant relationship between rising levels of job segregation leading to lower wages for Black workers with less than a high school education and for native-born Hispanic workers who have a high school education or who have less than a high school education.

So, having a free and open competitive labor market is to the advantage of low wage American workers. And, employers would benefit if they had access to a greater pool of workers, since it would lower their costs of expanding their work forces. For the lay person, it stretches credulity to have almost one million Americans with less than a high school education looking for work and have employers claim that they cannot find workers.

Clearly, this is the result of market that is not transparent and is failing to match workers and employers, as we would expect of a competitive labor market.

2. *In your testimony, you observed that "Black and Hispanic college graduates are more likely to work in Information Industries than is true of college graduates in the U.S. work force as a whole." You also note that "while the drop [in the number of computer operators] was very mild for white males in the occupations, but very steep for women and Black women, in particular." Do you have any policy recommendations for addressing discrimination as an inefficiency in this important labor market?*

I believe it is vital that extra enforcement against discrimination is targeted at those key occupations and industries where opportunities are growing the fastest. I believe that means that firms that request H1-B visas must be held to higher standard than other employers. So, first, I would require that all firms, regardless of size of federal contractor status, be brought in line with all EEO reporting requirements. I would further modify the H1-B visa application to have the firm indicate the race and sex of incumbent workers at the firm when providing information of salaries, name and social security number of incumbent workers doing similar work. I would further modify the H1-B visa application to have the firm document specific outreach to the minority community, including copies of advertisements placed in minority publications, attendance at major minority conferences for the related skills and professions to verify their outreach for positions on a non-discriminatory basis. Second, I would direct that the Office of Federal Contract Compliance conduct reviews of firms requesting H1-B visas at a significantly higher rate than audits performed for other companies. And, require that the EEO review the documentation submitted by the firms requesting H1-B visas, and provide Congress with a report detailing the production of graduates from Historically Black Colleges and Universities and Hispanic Serving Institutions for the relevant skills, and the hiring of minorities by firms requesting H1-B visas.

3. *We know that education and vocational training are needed. What else can we do to help young people to find employment?*

We need to take advantage of having standardized schooling requirements, to do a better job of making sure that employers treat equally qualified applicants on an equal status. We can do that by issuing a high school certificate card to each student who graduates from high school, or earns a GED. That would allow the student to present evidence of their level of capability. We should require that all high schools conduct a job fair in April, and each school system conduct a job fair in May. Local employers should be given incentives to attend the fairs, even if they are small employers, to reach out and hire students. We need to maintain summer youth employment opportunities to broaden the job networks of young people, especially those who are wisely using their school time to focus on study and not be detracted by work requirements.

Again, thank you very much for the opportunity to share my input on these issues. I appreciate these questions giving me a chance to elaborate on my answers.

Greg Siskind's Responses to Questions from the Honorable Sheila Jackson Lee

Q1. What do you suggest to a client when one of his family members is denied a visa petition?

A1. The first step we will take when a visa is denied by consular officer is to try and learn why the application was denied. We normally will attempt to contact the officer to learn why the case was denied and if the basis for the denial is one that can be addressed and the officer is willing to re-examine the case, we will send the client back to the consulate or otherwise supply the needed information. Unfortunately, in many cases this is not possible because the officer will not accept phone calls and will not respond to emails, faxes, voice mails or letters. Or when they respond, they may only provide scant information or extremely vague details regarding the basis for the denial. Since the interviews only take five minutes or so in a typical case, it is not surprising that little information is provided to us since it is likely the officer has not spent very much time considering the case.

When we are unable to make any headway in addressing an improper visa denial, we really have no options other than to see if the Congressman or Senator representing the petitioner is willing to try and persuade the consular officer to have a second look at the case and possibly reconsider the initial decision. When that fails (and, unfortunately, members of Congress are frequently able to make little headway either), we usually have to give the clients the bad news that we will likely have no other options other than to re-file the case and potentially wait many years until the case is again ready for final processing.

Q2. You mentioned at the hearing that the Visa Appeals Board in my bill should have jurisdiction over employment-based visas as well as over family-based visas. Please explain why.

A2. Many of the exact same problems that face family-based immigrant visa applicants and which would be addressed by your bill also arise in the employment-based immigrant visa context. For example, applicants may have been waiting years for an interview because the employment-based preference categories have long backlogs and the labor certification process that served as the basis for the case may have also taken years to adjudicate. Employment-based immigrant visa applicants, like those in family categories, typically lack access to a lawyer and may be called upon in an interview to address complex legal questions that will serve as the basis for a case denial. Without the assistance of an employer or a lawyer, an applicant will often be ill-equipped to address the concerns of the consular officer. There is also the question of fairness. Applicants who have waited outside the US and gone through all of the legal channels to qualify for an employment-based green card will find himself or herself with no appeal right while someone in the US who may not have complied with the rules as fully will have a right to an appellate process even though the two applications are based on the very same rules of eligibility.

Q3. You mentioned IIRAIRA fixes in my bill that should be added to the INA. Are there other ones that you did not have time to discuss at the hearing?

A3. I very much support a number of provisions in Section VIII and Section IX regarding IIRAIRA. For example, Section 801 which provides for the right to counsel for immigrants in bond, custody and detention hearings is very sensible. The provision makes it clear that US taxpayers would not bear the burden and allowing for legal representation would certainly ensure that the immigrant has an understanding of his or rights and what options are available.

We have seen cases over the years where individuals could quite likely show that they were not deportable or that they had likely relief available from deportation and had families, often comprised of US citizens, that were completely dependent on them financially. Yet they ended up in custody for long periods of time. In many cases, the person was simply unable to communicate the law and the facts surrounding their case, something that a qualified lawyer could do.

Section 805's restoration of Section 245(i) is long overdue. This provision would likely have been extended on September 11th, 2001 when a vote was scheduled in Congress. The delay because of the disaster in New York and at the Pentagon has now gone on for six years and it is time to finally pass that legislation.

On a daily basis our firm hears from individuals who have sympathetic cases, but which there is little help we can provide because 245(i) is unavailable. A case in point is that of a nurse who filed her case in a timely manner to switch from a student visa to permanent residency. She was legal while the green card case was pending, but then received a request for a certification of her educational credentials from the Commission on Graduates of Foreign Nursing Schools (CGFNS). Because the credentialing agency was unable to supply the documentation in a timely manner, the case was denied by USCIS. Shortly after the denial, the nurse did receive the documents and re-filed the adjustment case under section 245(k) of the Immigration and Nationality Act which allows a person with a short status violation (less than 180 days) to still adjust status. Her lawyer properly filed the case because USCIS had always taken the view that 245(k) counted the time a person had a properly filed adjustment application as being in status. USCIS changed its position without warning (after many years of interpreting the law differently) and denied the second case saying that the time the first case was pending would NOT count toward being out of status less than 180 days for 245(k) purposes, even though the nurse was in legal status in all other regards. So suddenly she was deportable and subject to a ten year bar despite the fact that she was always diligent in following the law and the only reason she fell out of status is because of the failures of USCIS and CGFNS. 245(i) would have solved this problem by allowing the nurse to pay a penalty.

There are numerous other cases where a mistake by an employer or a lawyer leads to removal from the US and a bar on reentry. And there are thousands and thousands of cases where a person has a close American family members who will suffer if their

family member cannot remain in the US and process their green cards. 245(i)'s provision calling for payment of a penalty fee rather than facing a multiyear bar on reentering is humane and it does NOT provide any additional green cards or otherwise move someone ahead in the line.

The alteration of the waiver for drug offenses in Section 807 would bring back some sensibility to the process. As of now, possessing less than 30 grams of marijuana is the only drug offense for which waiver relief is available. Other minor drug offenses – those involving jail of less than one year – would now be eligible for relief as well. Frequently, these offenses may have occurred decades prior to an application being submitted and this expanded waiver will likely ensure that many deserving applicants are able to secure a visa. So, for example, if one who has been convicted of possessing a drug other than marijuana and did not even have to serve jail time and suppose the conviction occurred when the person was a teenager, a 50 year old long time green card holder could face a lifetime in exile because the law allows no flexibility. Deportation without a chance for a waiver is a punishment that certainly does not fit the offense and America is no better off because of the lack of flexibility.

The same logic applies to the extension of waivers for certain aggravated felony in Section 809. Under current law, no waiver is available for an aggravated felony. While the term sounds like it would only apply to the most serious crimes, the definition of aggravated felony has been expanded so much that less serious offenses are frequently covered as well. For example, depending on how a statute is worded, shoplifting, drunk driving, and "joy riding" can all rise to the level of an aggravated felony. One famous case involved a person in his 30s who pled guilty to statutory rape when he was eighteen and had sex with then 16 year old girlfriend. A waiver would be available for crimes for which there was less than a year of jail time if there are humanitarian factors in the case. Later sections of SAVE further set clear standards on which crimes are considered "moral turpitude" and "aggravated felony" offenses that are based on the length of the actual time served and not just the title of the offense. This will ensure that those who genuinely have committed less serious offenses do not get lumped in with more serious felons.

Finally, I am pleased to see a provision that bars future changes to the definitions applied retroactively as was the case in 1996 when the rules were dramatically toughened. It is fundamentally unfair to bar someone from relief based on a change of the definition of an aggravated felony that changed after the conviction occurred. In some cases, for example, a person may have accepted a plea deal rather than fight because they knew that they were safe from an immigration point of view and it was not worth fighting. Had deportation been a risk, a person might have chosen to fight to prove their innocence. Retroactivity means an innocent person twice suffers – by accepting a plea of guilty when they were, in fact, not guilty and then deportation based on that plea.

Q4. Do you have a sense of how many families – US citizen spouses and children – would be impacted if the standard for a waiver of the 3 and 10 year bars were changed to

better reflect the adverse impact that the deportation of a parent or a spouse would have on these US citizens?

A4. It is impossible to say how many families would be affected, but in our own law practice, we see many of these cases each year. Whatever the number, however, the people who will benefit are those that are already eligible under our current immigration system and are not asking to be moved ahead in the line – just to be able to stay in the line which they're already in.

Q5. Why should an immigrant ever be forgiven for making a false claim to US Citizenship? Shouldn't we teach a lesson to everyone who commits this offense?

A5. As in many areas of the immigration debate, we are presented here with the false choice that we either ignore a false claim to US citizenship or we require deportation. But there are other options for addressing the offense and we should consider them. Deportation is to an immigrant in removal proceedings what the death penalty is to a criminal defendant. It is the most extreme punishment we have for an immigration violation since a person faces permanent exile from this country.

While making a false claim to US citizenship is a serious offense, there are penalties short of deportation available and there are circumstances where a waiver may be warranted based on humanitarian grounds. While people often assume that the false claim is being made for something repugnant like attempting to vote unlawfully in a US election, most often it is the case that a person was making the claim solely to work and feed his or her family. While this is still illegal, it does not necessarily rise to the same level of immorality as other cases. And a person guilt of the offense may be facing permanent separation from an American spouse and children, thus ensuring that American members of the family suffer and just the immigrant. Perhaps requiring a stiff fine and a demonstration of hardship to a US citizen is the more humane and sensible approach particularly if the applicant shows remorse and has otherwise behaved responsibly.

One of the chief reasons for punishing a false claim to US citizenship is because the false claim may prevent someone from having been inspected prior to entering the US. This is certainly serious, but the implication of the claim varies significantly from case to case. A student who made the claim because he left his documents in his dorm room is not the same as a hardened criminal who was trying to avoid the discovery of her record. Some flexibility is needed in order to deal harshly with the second case and more humanely in the former.

Q6. The traditional standard for suspension of deportation – a form of relief for long-term undocumented immigrants – was "extreme hardship." In 1996, Suspension of Deportation was eliminated and replaced with Cancellation of Removal, a much more limited form of relief. The standard for Cancellation is "exceptional and extremely

unusual hardship." If Congress were to make the standard for Cancellation of Removal the same as it was historically for Suspension of Deportation, how would Courts be impacted by the change?

A6. The courts functioned for many years under the old standard and many would argue that immigration judges performed better when they had more discretion to grant relief than is currently the case. Immigration judges are all too often forced to deny relief in cases where a reasonable person would believe that the public would be better served by granting relief from deportation. Another key difference is that hardship to the alien could be considered under the old standard. Under the new standard, only hardship to family members counts.

November 26, 2007

Charles H. Kuck
President-Elect, American Immigration Lawyers Association
Adjunct Professor of Law, University of Georgia
8010 Roswell Road, Suite 300
Atlanta, GA 30350

Dear Mr. Kuck:

Thank you for your recent appearance before the Committee on the Judiciary's Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law. Your testimony was insightful and will assist the Subcommittee as it moves forward.

Enclosed you will find additional questions from members of the Subcommittee to supplement the information you provided at the November 8, 2007, hearing. Please deliver your written responses to the attention of Benjamin Staub of the Subcommittee on Immigration, Citizenship, Border Security, and International Law, 517 Cannon House Office Building, Washington, DC, 20515 no later than December 19, 2007. If you have any further questions or concerns, please contact Andres Jimenez at (202) 225-3926.

Sincerely,

Zoe Lofgren
Chairwoman
Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law

Enclosure

Charles H. Kuck
Page 2
November 26, 2007

**From the Honorable Sheila Jackson Lee:**

1. You mentioned IIRIRA fixes in my bill that should be added to the INA. Are there other ones that you did not have time to discuss at the hearing?

There are literally dozens of fixes to the IIRAIRA legislation that should be made in the interests of fairness and due process. Congress passed IIRAIRA partly as a response to the first World Trade Center bombings and partly as an effort to "crack down" on illegal immigration. This measure dramatically reshaped our immigration laws and the rights of noncitizens in this country. Adopting a false construct in which rights are pitted against security, these laws have denied noncitizens the fair treatment and due process that are hallmarks of our democracy. The 1996 laws provided for no second chances, changed the rules in the middle of the game, and denied people their day in court. Some of the most troubling provisions in IIRAIRA that should be changed (and could be with minimal legislative effort) include the following:

- Expansion of grounds of deportation: IIRAIRA greatly expanded the definition of "aggravated felony" for immigration purposes. This definition is unrelated to any criminal definitions and includes non-violent crimes such as shoplifting and check kiting. Individuals convicted of such crimes are subject to exceedingly harsh consequences from which virtually no relief is available.

- Retroactive application of the laws: Because these laws were made retroactively effective, thousands of legal immigrants face removal for offenses that occurred many years ago, some of which were not deportable offenses at the time they occurred. This is fundamentally unjust. Making laws retroactive is unconstitutional in criminal law, and should be prohibited in immigration law as well.

- Creation of a mandatory detention regime: The 1996 laws required that all individuals deemed to have committed an "aggravated felony," as that term of art was broadly expanded, be subject to mandatory detention even when a judge determines they pose no danger to the community or risk of flight.

- Elimination of discretionary relief: The 1996 laws terminated agency authority to consider the effect of deportation on the person seeking relief. They eliminated an immigration judge's discretion to consider the facts of a case, the length of time the person has lived in this country, or any evidence of rehabilitation. People who have resided in this country for many years should be given the opportunity to show the effects that removal would have on their lives.

- Stripping of federal court jurisdiction: These laws divested federal courts of the power to review many deportation decisions and other agency activities. The decision to deport is momentous, especially for refugees fleeing persecution and for those legal immigrants who have lived most of their lives in this country. Important issues of fairness and justice are at stake, and our system of checks and balances should apply to decisions that the agency makes.

- Establishment of expedited removal procedures: Low-level immigration officials were empowered to act as judge and jury by removing individuals seeking admission to the U.S. without any review process and subjecting such individuals to a five-year bar on reentry. Not only does this measure heighten the risk of erroneous, arbitrary decisions, it makes little sense from a security perspective. Instead of detaining individuals

suspected of posing a national security risk and investigating them further, we simply turn them around and send them on their way.

- As noted in my testimony, creation of 3-year, 10-year, and permanent bars to reentry: These bars, which are triggered by periods of unlawful presence in the U.S., serve only to divide and separate families, and force people underground. They do not fulfill their intended purpose of deterring people from overstaying their visas.

- Authorization to use secret evidence in immigration proceedings: The 1996 laws accorded the government unprecedented authority to deport or detain an immigrant based on evidence he or she has never seen and thus can't possible refute. Proceedings conducted out of sight of the accused and their attorneys are a feature of totalitarian governments, not of our own.

2. Do you have a sense of how many American families - U.S citizen spouses and children - would be impacted if the standard for a waiver of the 3 and 10 years bars were change to better reflect the adverse impact that the deportation of a parent or a spouse would have on these U.S. citizens?

   There are no exact studies revealing how many U.S. Citizens are married to individuals who are faced with the 3 and or 10 year bars, thus prohibiting them from adjusting status, and limiting their ability to obtain legal status (otherwise available) to them. The best estimates I have heard discussed range from 1 to 3 million individuals. These numbers are extrapolated from the number of individuals presumed to be in the U.S. illegally, times some factor based upon filing with the U.S. and with the U.S. consulates for permanent resident status. From personal experience as an immigration attorney, and through discussion with colleagues throughout the United States, I believe the higher of these estimates to be fairly accurate.

   These estimates do not include those families who have children born in the United States where both parents are undocumented. In those instances the children CANNOT serve as an immigration pathway for their parents, putting at rest the MYTH of the "anchor baby." Let me explain. Demographers tell us that there are literally millions of undocumented immigrants who have children who are U.S. Citizens. But we must remember what IIRAIRA did to this group of U.S. Citizens. Although a U.S. Citizen child can sponsor his or her parents under our current immigration system when the child turn 21 years of age, the waiver that currently exists for the 3 and 10 year bar does NOT allow for hardship to children to be considered when seeking the waiver. Thus, no immigration possibilities exist through this means for parents who entered the United States as undocumented aliens.

3. Why should an immigrant ever be forgiven making a false claim to U.S. Citizenship? Shouldn't we teach a lesson to anyone who commits this offense?

   These two questions make a good point. Perhaps there are some things that are so sacrosanct that they cannot be forgiven. Certainly Murder and Rape are among those crimes. But there are times when a false claim to citizenship is unintentional, or when it

is actually coerced from the individual by external influences. Let me give you but one example. A woman came into my office recently. She looked Latina, but spoke with a deep Southern accent. She had been adopted at 5 months by her parents, both of whom were from Colombia. At the time of her adoption, her father was a U.S. citizen, but her mother was a Lawful Permanent Resident who never became a U.S. Citizen prior to her death. As a result, the current waiver that exists in our immigration laws to forgive her for believing she was a U.S. Citizen (and those representing herself as such for her whole life) does NOT protect her! She is deportable without any right to a waiver and can never return to the United States, the only country she has ever lived in.

There are also numerous recorded instances of woman who suffered under the hands of abusive spouse who coerced their wives into using false U.S. birth certificates to cross the U.S. border. There are other times when circumstances arose that individuals made claims to U.S. citizenship that were not intentional or designed to seek immigration benefits, but which now doom them to a life outside the U.S. away from family, and for some away from the only life they have ever known. Simply put, forgiveness should be available. It need not be easy to obtain, nor available to everyone, but simply having an unforgiveable law is not worthy of our nation. This is not teaching someone a lesson. This is giving someone a life's sentence. In this situation, we should not equate a false claim to citizenship to murder.

4. The traditional standard for suspension of deportation - a form of relief for long-term undocumented immigrants – was "extreme hardship." In 1996, Suspension of Deportation was eliminated and replaced with Cancellation of Removal, a much more limited form of relief. The standard for Cancellation is "exceptional and extremely unusual hardship." If Congress were to make the standard for Cancellation of Removal the same as it was historically for Suspension of Deportation, how would Courts be impacted by this change?

The Courts are already handling the same number of cases that would be impacted by this change in standard, so the immigration court system would suffer under an increase in the number of cases by changing it. The Courts would simply be able to grant relief under this new standard; something they rarely if ever do now. Even with an annual limit of 4,000 grants under the Cancellation of Removal standard, in 2006 the Immigration Courts, nationwide, only granted 3,144. The current standard does nothing to meet the needs of the population it is intended to serve, U.S. Citizen and lawful permanent resident spouse and children. It deprives them of the presences of the father or mother, sometimes for years, sometimes permanently. Changing the standard would not increase the work of the court in the number of cases it sees or bring to trial, but it would certainly improve its effectiveness in terms of positively affecting the lives of those who appear before it.

**WITNESS CHRISTOPHER NUGENT**
**RESPONSES TO QUESTIONS POSED BY**
**THE HONORABLE SHEILA JACKSON LEE**

Question 1: You mentioned alternatives to detention programs currently administered by the Department of Homeland Security. Do you have information on the costs of such programs and the taxpayer savings they provide?

Answer: *In FY 2006, the United States Congress appropriated $28.5 million to the Department of Homeland Security ("DHS") for alternatives to detention programs. In FY 2007,DHS received $43.6 million from Congress, a more than 50 percent increase in funding which reflects Congress' keen interest in cost-effective alternatives to needless and costly detention of aliens who are not flight risks or represent any danger to the community. As stated in my testimony on November 8, 2007 before the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, the average daily detention cost per immigration detainee is $95 per day or $34,765 annualized. In dramatic contrast, according to recent data provided by DHS Immigration and Customs Enforcement Secretary Julie Myers to Senator Lieberman (I-CT), alternatives to detention represent a miniscule fraction of the cost of immigration detention. The Intensive Supervision Appearance Program (ISAP) contracted to Behavioral Interventions, Incorporated (BI), only costs taxpayers $14 per day per detainee or $5,110 annualized, which generates a remarkable cost savings to taxpayers of $81 per day or $29,655 annualized per participant over immigration detention. Even more significant, the DHS-operated Electronic Monitoring Program and Enhanced Supervision/Reporting Program only cost a maximum of $6.02 per day per detainee or $2,197 annualized and $10 per day per detainee or $3,650 annualized respectively, generating a cost savings to taxpayers of $89 and $95 per day or $32,598 or $31,115 annualized per participant over immigration detention respectively. However, despite Congressional directives for DHS' greater use of alternatives to detention and the significant cost savings, DHS currently only operates ISAP in nine cities with a capacity of 1,800 participants at any given time and anticipates a maximum 10,500 to be enrolled in the aforementioned alternative programs in FY 2008- representing but 4% of the annualized total of more than 260,000 detainees. During the pendancy of Congressional consideration of H.R. 750, The Save America Comprehensive Immigration Act of 2007, DHS can and should be encouraged to expand alternatives to detention to achieve a greater tax-payer savings over costly immigration detention.*

Question 2. Please elaborate on your comment during the hearing that secure alternatives to detention programs would have enforcement benefits.

Answer: *As referred to in my testimony, Sec. 622(b) of the Save Act Comprehensive Immigration Reform Act of 2007 (hereafter "Save Act") providing for secure alternatives to detention will allow Customs and Border Protection (CBP) to arrest and detain the maximum numbers of immigration violators at the border since CBP reportedly lacks incentive to do so as ICE lacks adequate bed space to house them and lets people enter the United States released on recognizance. In this regard, secure alternatives is a vital means to end catch and release and ensure catch and remove of all aliens apprehended at the border when members of vulnerable populations who are not flight risks or dangers to the community are channeled to safe and humane alternatives programs during the pendancy of the execution of their removal, which typically can take weeks to months given the need for travel documents from foreign governments. Through the use of secure alternatives, CBP and ICE will have the incentive to work in concert and arrest and detain all aliens at the border while funneling members of vulnerable populations to secure alternatives during the pendancy of their removal.*

Question 3: Last year, the T. Don Hutto Correctional Center in Williamson County, Texas, was re-designed to accommodate immigrant families who were being detained in ICE custody. However, the detention conditions at Hutto lead to litigation and settlement. What went wrong?

Answer: *Since DHS's expansion of expedited removal at the border in summer 2004, DHS had been separating family units apprehended by the Department, including separating nursing infants from their mothers. DHS placed parents in its facilities and then sent the children to the Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS).*

*As part of the FY 2005 DHS appropriations bill, in no uncertain terms, Congress ordered the Department to cease this practice of separating parents from their children, some as young as nursing infants, and directed the Department to use appropriate detention space to house families together, release them or use alternatives to detention such as the Intensive Supervised Appearance Program (ISAP). The 2006 appropriations bill again encouraged ICE to use alternatives to detention, or, if detention is necessary, to house these families together in non-penal, homelike environments until the conclusion of their immigration proceedings.*

*To date, two years after Congress's directive, ICE has not expanded the use of any alternatives to detention to families. ICE continues to use the Berks County Youth Center Family Facility in Berks, Pennsylvania where some asylum seeking families with young children have been held for as long as two years. In May 2006, ICE announced the opening of the T. Don Hutto Family Detention Facility in Taylor Texas and began detaining families together. The facility is a former*

*U.S. Marshals Service Prison, run by Corrections Corporation of America, a private prison corporation and surrounded by several layers on concertina wire. The facility holds up to 512 individual family members that wear prison uniforms and sleep in prison cells. Under no circumstances does this facility qualify as a "non-penal, homelike environment".*

*DHS' compliance with the Congressional intent concerning the detention and supervised release of family units is best achieved through a new specialized family care program which will be implemented by reputable non-profit organizations responsible for providing appropriate shelter for family units and supervising their appearance at all immigration-related appointments.*

*Despite the recently completed federal litigation over Hutto resulting in a consent decree, complaints persist by non-governmental advocates and attorneys over the families' conditions of confinement. DHS should opt to get out of the business of jailing families and instead contract out these functions to non-governmental organizations with expertise in working with families. Jailing families together tarnishes America's worldwide reputation as a beacon for human rights, humanity and safety for people including refugee families fleeing persecution and others seeking the American Dream.*

Question 4. We have military bases in the United States that are no longer being used. Is it feasible to convert these bases into appropriate places for housing families and other vulnerable populations?

*DHS currently owns and operates former military bases as civil detention facilities to hold detainable aliens known as Service Processing Centers (SPCs) including Florence, Arizona and Aguadilla, Puerto Rico. The key priority among immigrant and refugee advocates is to ensure that a secure alternatives program does not constitute a de facto quasi-punitive alternative form of detention. Advocates therefore emphasize the need for neutral, independent non-governmental organization administration of the program to ensure the trust, respect and confidence of the participants in the program to facilitate their compliance with the program. Advocates would thus prefer less restrictive settings than converted military bases for secure alternative programs since converted military bases have already been retrofitted to operate as DHS detention facilities. Even under the best of circumstances, converted military bases will consist of heavily populated group barracks for housing and extreme restrictions in freedom of movement contrary to the humanitarian spirit and letter of the secure alternative program posited in 662(b) of the Save Act. Conversion of such military facilities to become DHS owned- and operated-SPCs is preferable especially when considering the lamentable fact that DHS only owns and operates 9 SPCs nationwide and relies on over 300 private, state and local jails to detain aliens pending immigration removal proceedings. There are myriad less institutional facilities than converted military bases and reputable non-governmental organizations DHS can contract with for secure alternatives*

*which will not require an economy of scale to achieve positive and cost-effective results in compliance with removal proceedings.*

NATIONAL BORDER PATROL COUNCIL

of the

American Federation of Government Employees

Affiliated with AFL-CIO

January 16, 2008

The Honorable Zoe Lofgren
Chairwoman
Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law
Committee on the Judiciary
United States House of Representatives
517 Cannon House Office Building
Washington, D.C. 20515

Dear Chairwoman Lofgren:

Thank you for the opportunity to provide testimony and answer questions at the "Hearing on H.R. 750, the 'Save America Comprehensive Immigration Act of 2007'" held on November 8, 2007. The attached answers are submitted in response to the written questions posed by the members of the Subcommittee. If additional questions arise, please do not hesitate to contact me.

Sincerely,

T.J. Bonner
President
National Border Patrol Council
AFGE, AFL-CIO
P.O. Box 678
Campo, CA 91906

**RESPONSES TO ADDITIONAL WRITTEN QUESTIONS – T.J. BONNER**

**HEARING ON H.R. 750, THE "SAVE AMERICA COMPREHENSIVE IMMIGRATION ACT OF 2007"**

1. *In your letter endorsing the Rapid Response Border Protection Act, you stated that the National Border Patrol Council had co-commissioned a survey of 1,000 front-line Border Patrol Agents and Immigration Inspectors to solicit their opinions about various aspects of their jobs. You said that the most significant and disturbing finding of that poll was that nearly two-thirds of these employees indicated that they did not believe that they had been given the tools, training, and support necessary to be effective in stopping potential terrorists and protecting the country from terrorist threats.*

*Do Border Patrol agents today have the tools, training, and support they need? If not, what are they lacking?*

Unfortunately, very little has changed in the three-and-a-half years since that survey was conducted. Many employees continue to raise concerns about lacking the proper tools, training and support necessary to effectively carry out the core missions of the Department of Homeland Security. Most of the missing elements are provided in the Border Security Provisions contained in Title VI of H.R. 750, the "Save America Comprehensive Immigration Act of 2007."

2. *Do we need to give Border Patrol agents additional equipment and resources, even as fences and other barriers are constructed and state of the art technology is used to provide surveillance at the border?*

It is absolutely essential to provide Border Patrol agents with additional equipment and resources as additional fencing and barriers are constructed and more sophisticated surveillance technology is deployed along the border. Fences and barriers do not stop people from crossing the border — they merely slow them down, and only for a minute or two. Likewise, surveillance technology is incapable of apprehending people or contraband — it merely detects intrusions. If there are insufficient numbers of Border Patrol agents positioned to respond to such sightings, a high percentage of the illicit traffic will avoid apprehension. Additionally, if Border Patrol agents do not have the proper equipment that allows them to respond rapidly and interface with the sophisticated surveillance technology, their effectiveness will be significantly diminished.

3. *Is there equipment that the Border Patrol needs that would not be provided by the Save America Act?*

While the Save America Comprehensive Immigration Act of 2007 would provide most of the equipment that the Border Patrol needs at this point in time, evolving technology will undoubtedly result in more effective, as well as safer, means of securing our borders. As these technological advances are developed, they should be thoroughly tested and procured if proven useful for these purposes.

**NOW Foundation, Inc.**
1100 H Street, NW ◆ Third Floor ◆ Washington, DC ◆ 20005 ◆ (202)628-8669 ◆ FAX (202)785-8576

January 7, 2007,

Zoe Lofgren, Chairwoman
Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law
517 Cannon House Office Building
Washington, DC, 20515
Attention: Benjamin Staub Benjamin.Staub@mail.house.gov

Dear Chairwoman Lofgren,

It was a pleasure to appear before your committee and testify on behalf of immigrant women and children and to discuss the ways that H.R. 750 can promote their well being. We applaud you and subcommittee member Hon. Sheila Jackson Lee for your work to combine enforcement and fairness as you look at the immigration reform issue.

To answer Representative Lee's questions:

1. *Are there any provisions in my bill that you think would be beneficial? Which ones are they?*
   Enclosed is the complete testimony that we would like to have entered into the record. A technological glitch eliminated the very parts of our statement that addressed the sections of the bill that we believed would be beneficial:

   In reviewing H.R. 750, Title V, Sections 501 through 503, pertaining to Legalization for Long-Term Residents, provisions pertaining to Earned Access to Legalization for adults and children appear to be reasonable and complete. The basic requirements to be demonstrated by immigrants for formal consideration of applications for citizenship appear to be fair and complete. We hope that the procedures will not be overly burdensome for applicants when the attempt to show continuous residency for the immediately prior five years. Interpretation of Section 501, subsection (b), pertaining to Treatment of brief, casual and innocent absences during those five years (and its correlated subsection related to children's continuous resident and absence), should be broad enough to recognize that in many undocumented immigrant families parents and children may have returned to the home country for a brief period because of changed family economic circumstances or other serious family reasons. Many immigrants come from poor communities where grandparents and other family members take temporary responsibility for caring for children or ill relatives. Additionally, in demonstrating that the applicant has good moral character and has accepted the values and cultural life of the United States, we think that personal letters from employers, ministers, community leaders or teachers would be sufficient.

   We especially endorse subsection Sec. 501 (c)'s language dealing with Admission as Immigrant, where it removes a number of grounds for which admissibility could be denied. NOW believes that it is essential in any meaningful reform of our immigration laws to allow consideration of citizenship applications regardless of an applicant's possible failure to comply in those nine instances. These include removal of such grounds of inadmissibility as violating a labor

certification requirement, student visa abuser, failure to attend removal proceedings, and unlawfully present for more than one year. The sponsors of H.R. 750 correctly recognize that current inadmissibility grounds place unjustifiable and extreme limitations on otherwise good moral character, sincere and hard-working immigrants who wish to become citizens of the United States.

As to the enforcement of immigration laws, The National Organization for Women supports provisions in H. R. 750, **Title VI, Border Security Provisions, Subtitle B, Sec. 622** – Detention Pending Removal. However, we must make clear that we do not support the current policies of the Department of Homeland Security and its Immigration and Customs Enforcement unit on workplace and community raids as a method of identifying undocumented immigrants. There are currently an estimated 300,000 men, women and children being detained in over 400 facilities across the country awaiting deportation. Mothers and fathers have been separated from their US born children and many are being held without adequate medical care and in deplorable conditions inside the detention facilities.

2. What has been the effect of the recent increase in immigration raids on documented women, undocumented women, their families, and especially female-headed households?

According to the ACLU, nearly 300,000 men, women, and children are detained by U.S. Immigration and Customs Enforcement (ICE) each year, the majority of whom have no criminal history whatsoever.

An estimated 7,000 undocumented workers were arrested in 2007 through workplace raids. These raids result in the arrest of immigrants without regard to their family obligations and the well-being of their children. Many families have been separated from their children, even though many of those children are US citizens. Women and men are being sent away immediately to detention centers outside of their communities without the chance to find care for their children and dependent family members. In the New Bedford raid, many children were left at home or with babysitters, leaving them stranded for days.

Children can be separated from their parents for months as they await deportation or bond hearings. ICE is not obligated to provide for the children of the arrested undocumented workers under current standards.
The lack of standards at detention centers result in neglect, verbal and physical abuse, including sexual abuse of women detainees. Basic medical and sanitary needs are often not provided. There have been deaths of undocumented immigrants at ICE detention centers.

3. In your testimony, you state that 31% of family households headed by foreign-born women live in poverty.

Do you know the percentage of documented versus undocumented that live in poverty?

We don't have the breakdown of that number by documented versus undocumented, but we do have some information about the wage disparities. According to the Urban Institute, thirteen percent of immigrant women earn less than the minimum wage, compared with nine percent of foreign-born men and native women. Forty percent of immigrant women earn from 100 to 200 percent of the minimum wage, compared with 36 percent of foreign-born men and 31 percent of native women.

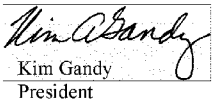
Undocumented women are less likely to be in the labor force (62%) than undocumented men or than women who are US citizens. Female immigrants – especially undocumented women – participate at lower rates because they are far more likely to be married and because they have more children on average than native born women. Weaker job market opportunities and limited access to child care may be partial explanations for lower employment among immigrant women.

Undocumented women often find jobs through friends or relatives and they work mainly in agriculture, construction, manufacturing, and hospitality as well as in cleaning and domestic services. Almost 40% report a period of unemployment lasting over a month and when working their median weekly earnings are only $300. Earnings are even lower for women who often speak no English and have no ID of any kind.

Undocumented women immigrants working in the US would be among the greatest beneficiaries of comprehensive immigration reform. Undocumented women workers are vulnerable under current immigration laws because they don't have access to social services and aren't protected by labor laws. It should also be noted that undocumented immigrants are ineligible for welfare, food stamps, Medicaid and most other public benefits, which adds to their poverty.

Again, we express our sincere appreciation to you for your work on these important issues and for including the viewpoints of the National Organization for Women Foundation in the hearing.

Sincerely,



Kim Gandy
President

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